

Kinshasa, le 14 Mai 2019

LRPS-2019-9148961

Appel d'offres pour l'identification de sociétés prestataires de services de manutention au niveau des dépôts pour signature d'accords à long terme (LTA) avec UNICEF en RD CONGO

Chère Madame / Cher Monsieur,

En vue de la signature des accords à long terme (LTA), l'UNICEF lance ce présent appel à proposition pour la sélection de sociétés de manutention disposant des compétences techniques et moyens nécessaires (matériels et humains) pour assurer les services de manutention au niveau de ses dépôts. Le (s) prestataire (s) qui seront sélectionnés à la suite de cet appel à proposition seront invités à signer un accord à long terme (LTA) pour une durée maximale de 24 mois renouvelable une fois pour une durée de 12 mois.

La soumission (qui comprendra une offre technique et une offre financière (distinctes) sera transmise par courrier ordinaire ou par courrier électronique au plus tard le **27 mai 2019 à 14h00 (heure de Kinshasa, GMT +1)** :

- Par courrier ordinaire : à déposer au Bureau de l'UNICEF à Kinshasa - Concession Immotex n°372, Avenue Colonel Mondjiba, Kinshasa/Ngaliema (RDC),
- Par courrier électronique à envoyer l'adresse mail: rdctenders@unicef.org.

Ce document d'appel à proposition est structuré en trois sections plus trois (3) annexes :

- A. Instructions aux soumissionnaires,
- B. Caractéristiques des offres et processus de sélection,
- C. Informations et considérations d'ordre général,
- D. Les Termes de Référence (TDR),
- E. Les annexes :
 - Annexe 1 : Format soumission offre financière,
 - Annexe 2 : Formulaire de soumission,
 - Annexe 3 : Profil Fournisseur,
 - Annexe 4 : Termes et conditions généraux des contrats UNICEF.

Les instructions dans la Section A de ce document doivent être scrupuleusement respectées au risque de voir la soumission rejetée.

Les conditions spéciales de la sollicitation feront partie intégrale du/des Bon(s) de Commande / LTA (s) / Contrat(s) Institutionnels établis comme résultat de cette sollicitation. Un / des contrat(s) sous la forme de Bon(s) de Commande / LTA (s) / Contrat(s) Institutionnel(s) pourra être attribué au fournisseur ou aux fournisseurs ayant soumis des propositions valides représentant le meilleur rapport qualité / prix compte tenu des éléments et critères d'évaluation inclus dans ce document de sollicitation.

Le Bureau de l'UNICEF Kinshasa remercie tous les soumissionnaires potentiels de l'intérêt qu'ils portent sur notre organisation et de leur contribution à l'accomplissement de nos fonctions de défendre les droits des enfants, d'aider à répondre à leurs besoins essentiels et de favoriser leur plein épanouissement, et attend avec intérêt leurs propositions.

Contract Specialist



A. INSTRUCTIONS AUX SOUMISSIONNAIRES

Pour répondre au présent Appel d'Offres les formalités et instructions à respecter sont celles indiquées ci-dessous.

Instructions aux Soumissionnaires	Exigences Particulières
Lieu et Adresse exacte où les propositions doivent être déposées/envoyées	Les propositions (technique et financière) pourront être soumises par courrier ordinaire ou par courrier électronique (internet) : ➤ Pour les offres soumises par courrier ordinaire : Les offres, EN DOUBLE EXEMPLAIRE et sous pli cacheté, devront être déposées à la Réception du Bureau de l'UNICEF à Kinshasa - Concession Immotex n°372, Avenue Colonel Mondjiba, Kinshasa/Ngaliema (RDC). N.B : Toute offre déposée par courrier ordinaire doit être enregistrée sur la fiche de dépôt correspondante disponible à la réception. Toutes offres non enregistrées seront susceptibles de rejet. ➤ Pour les offres soumises par internet : elles doivent être envoyées à l'adresse mail : rdctenders@unicef.org;
Date et heure limite de soumission des propositions	Les offres doivent être envoyées au plus tard <u>le 27 mai 2019 à 14 h 00 (heure de Kinshasa).</u>
Ouverture publique des plis et procès-verbal	☒ Non ☐ Oui Vu le caractère de cet appel d'offre il n'y aura pas d'ouverture publique des plis
Demande d'information complémentaire	Toute demande de clarification ou d'information concernant cet appel à proposition doit être envoyée à l'adresse mail : rdcinfoprocurement@unicef.org ; 48 h avant la date limite d'envoi des offres. Le Bureau de l'UNICEF Kinshasa répondra par écrit à toute demande d'éclaircissements relative à cet appel d'offres. Seules les demandes écrites auront une réponse.
Conformité des propositions	Toute proposition qui ne répondrait pas explicitement aux exigences du présent appel à proposition sera rejeté pour non-conformité et sans préjudice pour l'UNICEF.
Soumission des propositions. Nombre d'enveloppe et identification	➤ Pour les soumissions par courrier : Les plis contenant les propositions doivent être hermétiquement fermés dans une enveloppe, clairement marquée (sur l'extérieur) du numéro de la Demande de Proposition et doivent parvenir au Bureau de l'UNICEF au plus tard à la date et l'heure indiquées. Les plis devront être déposés dans la boîte prévue à cet effet se trouvant à la réception du bureau de l'UNICEF concerné. Veuillez-vous assurer que les enveloppes sont déposées à l'intérieur de la boîte.

Toute offre déposée doit être enregistrée sur la fiche de dépôt correspondante disponible à la réception. Toutes offres non enregistrées seront susceptibles d'être rejetées.

Toutes les propositions par courrier ordinaire devront être soumises de la manière suivante :

- Enveloppe extérieure (sans inscrire le nom de la société) portant les mentions suivantes :

LRPS 2019-9148961 – LTA services de manutention aux dépôts de l'UNICEF en RDC

- Enveloppe intérieure portant les mentions suivantes :
Proposition Technique (*une offre technique pour tous les zones d'intervention soumises*)

Nom de l'entreprise :

LRPS 2019-9148961 – LTA services de manutention aux dépôts de l'UNICEF en RDC

Zones d'intervention soumises:

- Enveloppe intérieure portant les mentions suivantes :

Proposition Financière

Nom d'entreprise :

LRPS 2019-9148961 – LTA services de manutention aux dépôts de l'UNICEF en RDC

Zones d'intervention soumises :

Les deux enveloppes intérieures contenant les propositions techniques et financière devront être placées dans des enveloppes scellées séparées et insérées dans l'enveloppe extérieure.

Toute offre qui sera déposée ouverte (non scellée) sera automatiquement rejetée.

➤ **Pour les offres soumises par e-mail :**

Les propositions devront être envoyées à l'adresse **rdctenders@unicef.org**

Les propositions par e-mail devront être envoyées en deux mails séparés conformément aux instructions suivantes :

- Un e-mail contenant la proposition technique avec comme objet : "LRPS 2019-9148961 – LTA services de manutention aux dépôts de l'UNICEF en RDC - Proposition technique",
- Un e-mail contenant la proposition financière avec comme objet "LRPS 2019-9148961 – LTA services de manutention aux dépôts de l'UNICEF en RDC - Proposition financière".

	Les pièces à joindre aux mails doivent être en format pdf ne dépassant pas 2Mo. En cas de fichiers lourds, scinder les envois. En cas de non-respect de ces instructions, le Bureau de l'UNICEF Kinshasa ne pourra en aucun cas être tenu responsable si la proposition est non identifiée ou pas prise en compte du fait que l'identification des emails n'est pas conforme aux indications ci-dessus et donc éliminée.
Contenu de l'offre technique	Elle doit comporter deux parties distinctes A et B : <u>Partie A</u> : Dossier administratif comprenant (copie légalisée) : - Registre de commerce - Identification Nationale - Attestation fiscale à jour (DGI) - Attestation de la Caisse de Sécurité Sociale (INSS) L'absence de l'un ou plusieurs des quatre (4) documents ci-dessus entrainera le rejet automatique de l'offre. <u>Partie B</u> : La proposition technique comprenant les détails énumérés au point "a. Offre technique, contenu et critères de son évaluation" des termes de références. <u>L'offre technique ne doit pas contenir d'information sur les prix proposés pour la prestation. Toute information financière retrouvée dans une offre technique / administrative entrainera automatiquement son rejet.</u>
Contenu de l'offre financière	Elle doit être en HT/HTVA, en dollars américain et comporter les détails nécessaires sur toutes les rubriques permettant une meilleure analyse et comparaison. L'offre financière doit comporter les éléments de détails indiqués au point "a. Offre financière, caractéristiques de prise en compte dans la notation" des termes de références.
Modifications des propositions	1. Aucune proposition ne peut être modifiée après la date et l'heure fixées pour la remise des propositions 2. Avant l'ouverture des propositions, les soumissionnaires peuvent modifier ou retirer leur proposition après notification écrite reçue par l'UNICEF. 3. L'email de retrait/modification devra indiquer la mention « MODIFICATION » ou « RETRAIT » 4. Une négligence de la part du soumissionnaire ne lui confère aucun droit pour le retrait de la proposition après l'ouverture. 5. L'UNICEF se réserve le droit d'écarter toute proposition présentant des effacements, ratures, surcharges, mentions complémentaires ou modifications portées principalement sur les textes originaux de l'ensemble des documents de l'appel à proposition.

Erreur dans la proposition et correction	Il est attendu que les soumissionnaires examinent soigneusement leurs propositions et toutes les instructions concernant la prestation ou la proposition et de s'assurer que les montants sont corrects.
Eclaircissements à apporter aux propositions	La demande d'éclaircissements sur une proposition et la réponse qui lui est apportée seront formulées par email à l'adresse suivante : rdcinfoprocurement@unicef.org ; et aucun changement du montant ou du contenu de la soumission n'est recherché, sauf si cela est nécessaire pour confirmer la correction d'erreurs de calcul découvertes par l'UNICEF lors de l'évaluation des soumissions. Tout amendement et/ou complément d'information relatif au document d'appel d'offres sera par ailleurs posté sur le site internet de l'UNICEF à l'adresse suivante : https://www.unicef.org/drcongo/agir/devenir-fournisseur ; Les demandes de renseignements reçues moins de deux (2) jours ouvrables avant la date de clôture ne seront pas prises en compte.
Droits de l'UNICEF	L'UNICEF se réserve le droit d'accepter ou de rejeter toute proposition, quelle qu'elle soit. L'UNICEF se réserve le droit d'annuler la procédure de l'AO et d'écarter toutes les propositions, à un moment quelconque avant l'attribution des marchés, sans recours de responsabilité quelconque vis-à-vis du ou des soumissionnaires concernés et sans être tenu d'informer le ou les soumissionnaires affectés des raisons de sa décision. L'UNICEF ne pourra pas être tenu responsable des dépenses que les soumissionnaires auront engagées pour préparer leurs réponses à l'appel à proposition.
Propriété de l'UNICEF	Pour cet appel à proposition, les demandes d'informations supplémentaires ainsi que les réponses et les propositions envoyées sont considérées propriété de l'UNICEF. Tout matériel soumis en réponse à cet appel à proposition reste propriété de l'UNICEF.
Langue de la proposition	☒ Français ☐ Autre : N/A Soumissionner dans toute autre langue que celles indiquées dans l'AO annulera la proposition soumise.
Devise de la proposition	☒ Dollars Américain ☐ Autre : N/A Soumissionner dans toute autre devise que celles indiquées dans l'AO annulera la proposition soumise.
Durée de la validité des propositions de prix à compter de la date de soumission	☒ 90 jours après l'ouverture des offres Dans des circonstances exceptionnelles, l'UNICEF pourra demander au soumissionnaire de proroger la durée de validité de la proposition de prix au-delà de ce qui est indiqué dans ce document d'appel à proposition. Le soumissionnaire devra alors confirmer par écrit la prorogation sans pour autant apporter des modifications sur la proposition des prix.

Calendrier indicatif du déroulement de la présente consultation	• Date d’envoi de l’avis de consultation : le 07 Mars 2019, • Date limite de réception des questions, demande renseignements : deux (2) jours travaillés avant la date limite de réception des offres, • Date limite de dépôt des offres : 15 Mars 2019 à 12 h 00 mn GMT (heure de Kinshasa -1h), • Date d’ouverture des plis : le 15 Mars 2019 à 12 h 30 mn GMT (heure de Kinshasa -1h), • Notification du marché, signature des accords à Long terme : dans les 20 jours qui suivront l’ouverture des offres financières.
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B. CARACTERISTIQUES DES OFFRES ET PROCESSUS DE SELECTION

1. CONTENU DES OFFRES ET CRITÈRES D'ÉVALUATION

Tout Soumissionnaire intéressé par le présent appel d’offres devra fournir suffisamment d’informations dans la proposition technique visant à démontrer la conformité avec l’exigence fixée dans chaque section. Les propositions devront inclure une proposition technique (pour l’ensemble de zones d’intervention soumissionnées) et une offre financière par zone d’intervention.

1.1. Offre technique

L’offre technique sera composée d’un dossier administratif et d’une proposition technique.

a. Dossier administratif

Il est constitué des documents ci-dessous :

- Registre de Commerce,
- Identification Nationale,
- RCCM
- Preuve de paiement d’impôts (DGI)
- Preuve de paiement de cotisation (INSS),
- Numéro d’immatriculation au portail mondial pour les fournisseurs des organismes des Nations Unies (UNGM). Nous vous demandons de bien vouloir vous inscrire, au minimum, aux étapes de base et de niveau 1. Pour l’inscription et les instructions sur la façon de procéder. Veuillez consulter le site UNGM : <https://www.ungm.org/Public/Pages/RegistrationProcess>

Le dossier administratif ne fera pas l’objet de notation mais de vérification. L’absence d’un ou plusieurs documents prouvant l’existence légale ou la conformité de l’entreprise avec l’administration congolaise peut entraîner le rejet pur et simple de l’offre du soumissionnaire.

b. Composition et évaluation de la proposition technique

La proposition technique comportera les éléments ci-dessous sur la base desquels elle sera analysée et notée :

#	Information/documentation	Nombre de points
1	<u>Une présentation de la société</u> - Forme juridique, historique de la société et capital social (3 pts), - Implantation géographique de la société dans les différentes provinces de la RDC (Préciser l'adresse de la société mère, le nombre, la taille et la localisation des différentes filiales, le lien entre la société mère et les filiales, etc.) (7 pts).	10
2	Compréhension de la mission (5 pts) et méthodologie de mise en œuvre y compris le planning de travail avec shifts d'équipe envisagés afin de respecter le temps de repos des manutentionnaires (10 pts).	15
3	<u>Moyens humains</u> -Une description du personnel (nombre, qualification, agent permanents et agents temporaire, ancienneté, etc., (4 pts) -Organigramme commenté de la société mère (et à joindre aussi) (3 pts), -Stratégie pour faire face à une augmentation spontanée de la demande de personnel (3 pts).	10
4	<u>Moyens matériels</u> Enumération et description des matériels et équipements de travail disponibles	5
5	<u>Expérience antérieure</u> Expérience démontrée dans le domaine et/ou la gestion de projets similaires avec des clients : - ne faisant pas partie des Agences du Système des Nations Unies durant les 3 dernières années (2016, 2017 et 2018) accompagnée des références des contrats/bons de commande et coordonnées des contacts (nom et prénom, numéro de téléphone, adresse e-mail) des personnes à contacter en cas de besoin de vérification (5 pts), - les Agences du Système des Nations Unies et ONGs Internationales durant les 3 dernières années (2016, 2017 et 2018) accompagnée des références des contrats/bons de commande et coordonnées des contacts (nom et prénom, numéro de téléphone, adresse e-mail) des personnes à contacter en cas de besoin de vérification (10 pts).	15
7	<u>Capacité financière</u> - Chiffres d'affaires 2016, 2017 et 2018 avec indication de nombre de clients pour chaque année (4 pts), - Description de comment l'entreprise préfinance les contrats et commandes qui lui sont passés avant paiement par ses clients (4 pts).	13
9	Formulaire de soumission en Annexe 3 renseigné, signé et cacheté	2
	Total	70

La proposition technique sera notée sur 70 points suivant la grille ci-dessus et la note minimale de qualification technique est fixée à 49 points sur 70. Les propositions techniques n'ayant pas obtenu le score minimum de 49 points sur 70 ne seront pas prises en considération pour la suite du processus de sélection et seront écartées dès ce stade d'évaluation.

1.2. Offre financière

a. Structure des prix

L'offre doit être soumise dans une enveloppe pour chaque Zone d'intervention choisie conformément au document intitulé "Format Offre Financière" en Annexe 1.

L'offre financière doit :

- Préciser le coût mensuel (hors taxes, hors TVA) qu'il facturera à UNICEF en USD par manutentionnaire permanent
- Préciser le salaire mensuel en USD que le soumissionnaire paiera lui-même à son tour au manutentionnaire permanent / salaire journalier net à payer au manutentionnaire occasionnel,
- Être non-modifiable pendant toute la durée de l'accord et les coûts communiqués fixes pendant toute la durée de validité de l'accord,
- Comporter un engagement écrit du soumissionnaire disant qu'il s'acquittera de toutes les obligations patronales et administratives de ses employés conformément à la réglementation en vigueur en RDC (cotisation INSS, impôt IPR, assurance maladies pour l'agent et sa famille, etc.) et est disposé à apporter à UNICEF les preuves de l'acquittement de ces obligations en cas de demande.

Une fois retenu le soumissionnaire aura l'obligation de respecter le salaire mensuel à payer par agent indiqué dans son offre financière et accepté par l'UNICEF au moment de la signature du contrat sur la base des standards par Zone d'intervention.

b. Notation des offres financières

L'offre financière sera notée sur un total de 30 points. Le maximum des points sera attribué à l'offre financière la moins disante et la note financière de chaque offre sera déterminée de la manière suivante :

Montant Offre financière la plus basse x 30

Montant offre financière concernée

Les prix offerts demeureront fixes pour toute la durée du contrat. La devise de la proposition doit être le dollar américain.

1.3. Détermination de la note finale et classement

La note finale de chaque soumissionnaire sera la somme de sa note technique et sa note financière pour la ou les zones d'intervention retenues. Les soumissionnaires seront classés par ordre de leur note finale par zone d'intervention.

1.4. Signature de l'Accord à Long Terme (LTA)

L'accord à Long Terme (LTA) sera signé avec un ou plusieurs soumissionnaires ayant obtenu les meilleures notes finales sous quinze (15) jours à compter de la date de notification aux soumissionnaires.

C. INFORMATIONS ET CONSIDERATIONS D'ORDRE GENERAL

a. Droit d'accepter, de rejeter les soumissions ou de les déclarer non conformes

L'UNICEF se réserve le droit d'accepter ou de rejeter toute soumission, de déclarer tout ou partie des soumissions non-conformes, et de rejeter toutes les soumissions à tout moment avant l'attribution du contrat, sans engager sa responsabilité ou être tenu d'informer le ou les soumissionnaires concernés des motifs de sa décision.

L'UNICEF vérifiera également si les soumissionnaires figurent sur la liste récapitulative des personnes et entités liées à des organisations terroristes de l'ONU, la liste des fournisseurs suspendus ou radiés du registre des fournisseurs de la Division des Achats du Secrétariat des Nations Unies, la liste d'exclusion de l'ONU et toute autre liste pouvant être établie ou reconnue par la politique de l'UNICEF en matière de sanction des fournisseurs, et rejettera immédiatement leurs soumissions le cas échéant.

b. Evaluation des soumissionnaires retenus

Les entreprises qui seront retenues pour la signature de l'Accord à Long Terme feront l'objet d'une autre évaluation pour laquelle il leur sera demandé les états financiers certifiés des années 2016, 2017 et 2019 ci-dessous :

- Le bilan
- Le compte de résultats / compte des pertes et profits
- Le compte de flux de trésorerie
- Le compte des variations des capitaux propres
- Les notes / annexes des bilans financiers si possible,
- Une inscription sur le portail mondial des fournisseurs des organismes des Nations Unies (UNGM) pour ceux qui n'ont pas déjà un numéro UNGM.

c. Garantie bancaire pour avance de démarrage

De façon générale, l'UNICEF ne paie pas d'avance sur contrats (autrement dit, des avances de paiement en amont de toute réalisation de prestation) mais paie sur les livrables. Dans le cas où le soumissionnaire sollicite une avance lors de la signature d'un contrat il lui sera demandé de fournir une garantie bancaire d'un montant supérieur ou égal à celui de l'avance demandée si la demande du soumissionnaire est jugée fondée et acceptée par UNICEF.

Le paiement pour le service rendu interviendra dans les 30 jours ouvrables à partir de la date de dépôt de la facture à l'UNICEF.

d. Caractéristique de l'accord à long terme

L'Accord à Long Terme sera d'une durée initiale de vingt-quatre (24) mois renouvelable une fois pour douze (12) mois sous réserve de prestations satisfaisantes selon les caractéristiques ci-dessous :

- Les prix proposés par le soumissionnaire seront fixes pour toute la durée de l'accord,
- Les spécifications et la qualité des services restent identiques pour toute la durée de l'accord,
- L'Accord viendra à expiration après la période de temps définie, sans prise en considération du volume d'achat effectué à cette date,

- L'Accord à Long terme est non exclusif et l'UNICEF se réserve le droit de sélectionner plusieurs Fournisseurs pour satisfaire ses besoins,
- L'Accord à Long Terme une fois établi pourra être partagé avec les autres bureaux UNICEF et/ou autres Organisations des Nations Unies et que les commandes/contrat qui en découleront seront basées sur les mêmes termes et conditions.

e. Droits de l'enfant et mines

Veillez noter qu'un certain nombre de services d'achat du système des Nations Unies ont décidé de ne pas travailler avec les entreprises ou l'une quelconque de leur filiales ou succursales qui s'adonnent à des pratiques contraires aux droits définis dans la Convention relatives aux droits de l'enfant concernant la protection des enfants qui travaillent, ou qui sont impliquées dans la vente ou la fabrication de mines antipersonnel, ou de tout composant de ces mines.

f. Corruption et manœuvres frauduleuses

S'il existe des raisons irréfutables portant à croire que l'Entreprise s'est livrée à la corruption ou à des manœuvres frauduleuses au cours de signature d'un Accord à long terme, de l'attribution ou de l'exécution d'un marché, UNICEF RDC peut, quinze (15) jours après le lui avoir notifié, résilier le Contrat et les dispositions des paragraphes ci-après sont applicables de plein droit.

Aux fins de ce paragraphe, les termes ci-après sont définis comme suit :

- (i) est coupable de **“corruption”** quiconque offre, donne, sollicite ou accepte un quelconque avantage en vue d'influencer l'action d'un staff de l'UNICEF RDC au cours de l'attribution ou de l'exécution d'un marché, et
- (ii) se livre à des **“manœuvres frauduleuses”** quiconque déforme ou dénature des faits afin d'influencer l'attribution ou l'exécution d'un marché de manière préjudiciable à l'UNICEF RDC. “Manœuvres frauduleuses” comprend notamment toute entente ou manœuvre collusoire des Soumissionnaires (avant ou après la remise de la proposition) visant à maintenir artificiellement les prix des propositions à des niveaux ne correspondant pas à ceux qui résulteraient du jeu d'une concurrence libre et ouverte, et à priver UNICEF RDC des avantages de cette dernière.

UNICEF RDC rejettera une proposition d'attribution s'il est avéré que l'Attributaire proposé est coupable de corruption ou s'est livré à des manœuvres frauduleuses pour l'attribution de ce marché.

UNICEF RDC exclura une entreprise indéfiniment ou pour une période déterminée de toute attribution de marchés sous sa responsabilité, s'il est établi à un moment quelconque, que cette Entreprise s'est livrée à la corruption ou à des manœuvres frauduleuses en vue de l'obtention ou au cours de l'exécution d'un Accord à Long terme ou d'un marché sous sa responsabilité.

D. TERMES DE REFERENCE

1. Contexte Général

En République Démocratique du Congo (RDC), l'UNICEF opère à partir d'un Bureau Central basé à Kinshasa et plusieurs bureaux de terrain répartis sur l'ensemble du territoire.

Pour la bonne marche de ses opérations et afin d'offrir un environnement de travail sécurisé à son personnel, l'UNICEF RDC envisage de contracter un(des) accord(s) à long terme (LTA) avec une ou plusieurs société(s) reconnue(s) et compétente(s) pour la prestation de service de manutention et en mesure d'opérer dans les zones d'intervention suivantes :

N°	Zone intervention
1	Kinshasa
2	Mbandaka
3	Kananga
4	Mbuji Mayi
5	Kalemie
6	Bunia
7	Kisangani

Les soumissionnaires intéressés peuvent soumettre leur offre pour une ou plusieurs zones d'intervention.

L'UNICEF en RDC souhaite conclure un Accord à Long Terme (LTA) avec une ou plusieurs sociétés spécialisées pour la mise à disposition d'agents manutentionnaires pour ses dépôts situés dans les zones d'intervention ci-dessus répertoriées.

1. Objectif

L'objet de la prestation est de mettre à la disposition de l'UNICEF une équipe permanente de manutentionnaires au dépôt de l'UNICEF à Kinshasa, Mbandaka, Kananga, Mbuji Mayi, Kalemie, Bunia et Kisangani de répondre aux besoins occasionnels de manutention dans les l'ensemble de ses bureaux.

2. Services attendus et responsabilité du prestataire

2.1. Service attendus

Les services attendus du prestataire :

- La mise à disposition d'agents manutentionnaires permanents pour l'entrepôt de l'UNICEF à Kinshasa, Kananga, Mbuji Mayi, Kalemie, Bunia et kisangani.

N°	Zone intervention	Besoins actuels en manutentionnaires à temps pleins
1	Kinshasa	16
2	Mbandaka	2
3	Kananga	2
4	Mbuji Mayi	2
5	Kalemie	2
6	Bunia	5
7	Kisangani	4

N.B Le nombre peut être revu à la hausse ou à la baisse en fonction du niveau d'activités.

- La mise à disposition d'agents manutentionnaires occasionnels pour répondre aux pics d'activités éventuels aux entrepôts de l'UNICEF à Kinshasa, Mbandaka, Kananga, Mbuji Mayi, Kalemie, Bunia et Kalemie.

Les agents manutentionnaires seront affectés aux tâches suivantes:

- Procéder aux opérations manuelles de chargement / déchargement des marchandises selon les règles de sécurité.
- Procéder aux opérations de manutention manuelle des produits et des colis vers les emplacements de stockage ou vers le lieu d'emballage, de conditionnement ou d'expédition.
- Procéder au contrôle qualitatif et quantitatif des marchandises.
- Assurer la vérification des conditions de stockage (poids sur les racks, relevé de température)
- Repérer et signaler des produits détériorés ou tout manquant
- Nettoyer et ranger les zones de travail (locaux, matériel, accessoires, ...).
- Les manutentionnaires seront amenés à effectuer des opérations simples : inventaire physique, emballage,) au moyen d'engins de manutention (Transpalette manuel, diable, ...) n'exigeant pas d'autorisation de conduite spéciale. Occasionnellement, procéder à la composition de kits sous la supervision du chef de dépôt
- Exécuter les tâches de comptage, identification dans le cadre des inventaires des actifs du bureau ou des bureaux de l'UNICEF (Mobilier, matériel ICT, etc...)
- Exécuter les tâches liées à la destruction des matériels et équipements déclassés.
- Appuyer l'équipe des nettoyeurs pour assurer la propreté des alentours et de la cour UNICEF
- Ranger les meubles et autres équipements dans les bureaux

2.2. Responsabilités du prestataire

Les responsabilités du prestataire sont les suivantes :

- Mettre à la disposition de l'UNICEF le nombre de personnel qualifié et/ à remplacer le cas échéant, dans un délai à convenir à la signature du contrat tout personnel indisponible.
- Assurer le remplacement d'agents jugés non qualifiés, ou non disciplinés
- Satisfaire les indicateurs de performance qui seront établi dans le cadre du contrat

- d) Assurer le respect par les agents des conditions de travail au sein des espaces et bureaux de l'UNICEF
- e) Souscrire aux polices d'assurance adéquates couvrant les risques liés à l'activité des agents manutentionnaires mis à disposition (accident de travail, dégradation et vol de matériel, etc...)
- f) Designier un interlocuteur agissant en qualité de point focal qui interagira avec les services techniques de l'UNICEF dans le cadre de la gestion du contrat et de l'activité des manutentionnaires. Le point focal sera joignable 7 jours sur 7 (weekend inclus).
- g) Assurer des conditions d'emploi (y inclus de rémunération) des agents manutentionnaires, qui sont :
 - i)-conformes la législation nationale en la matière
 - ii) d'un niveau tel à assurer un traitement digne et respectable des agents et une motivation maximale
- h) S'engager à répondre promptement aux modifications de services qui peuvent intervenir au jour le jour : besoins occasionnels d'agents supplémentaires, besoin d'agents au-delà des heures habituelles (heures supplémentaires) : dans de tels cas un ordre de service écrit et signé par le représentant habilité de l'UNICEF sera émis :
 - i) Assurer une coordination/encadrement du personnel en vue de s'assurer de leurs bonnes performances.
 - j) S'assurer que les mesures de sécurité et de protection sont observées à tout moment.
 - k) Fournir aux agents des tenues de travail (uniforme) et les équipements de protection (casque, chaussures de sécurité, gants, ...)
 - l) En cas de vol ou de perte des matériels / intrants dans l'entrepôt, une enquête sera conduite par le service habilité, et en cas de responsabilité, la partie responsable sera appelée à rembourser la valeur totale des matériels / intrants perdus ou volés.

3. Lieux d'exécution des prestations

Les prestations seront fournies aux lieux suivants :

- a) Entrepôt UNICEF à Kinshasa
- b) Entrepôt UNICEF à Mbandaka
- c) Entrepôt UNICEF à Kananga
- d) Entrepôt UNICEF à Mbuji Mayi
- e) Entrepôt UNICEF à Kalemie
- f) Entrepôt UNICEF à Bunia
- g) Entrepôt UNICEF à Kisangani

4. Qualifications régissant les agents

Tous les agents proposés par le prestataire doivent satisfaire aux conditions suivantes :

- Etre capables de porter de façon répétitive des charges lourdes (20 kilogrammes et plus et dans la limite du raisonnable)
- Etre formés aux règles et consigne de sécurité, aux gestes et postures de manutention
- Respecter les horaires de travail : **Du lundi au vendredi de 8h00 à 17h00.**

Les prestations pourront occasionnellement être requises au-delà des horaires ci-dessus. Dans cette éventualité, une notification sera adressée au prestataire par l'UNICEF.

5. Durée de l'accord à Long terme et évaluation des performances

L'accord à long terme (LTA) sera établi pour une durée de 3 ans. Les contrats initiaux seront toutefois émis pour une période initiale de un an (24 mois), avec possibilité de reconduction de un (01) an sous réserve de performances satisfaisantes de la part des prestataires.

Des évaluations de performances seront réalisées de manière régulière et toute performance insuffisante observée devra faire l'objet d'un plan d'actions correctives par les contractants. La défaillance du contractant à améliorer la qualité de ses prestations pourra être la source d'une interruption d'utilisation des services de l'agence en douane par l'UNICEF.

A noter que les contrats à long terme (LTA) sont à caractère non exclusif, et sont utilisés pour la fourniture ponctuelle de services aux conditions convenues à l'avance entre les parties. Ils ne constituent en aucun cas une obligation de l'UNICEF d'utiliser une quantité minimum de services, les demandes étant soumises en fonction des besoins réels.

L'UNICEF ne saura être tenu responsable de coûts du prestataire dans le cas où aucune commande n'est effectuée dans le cadre de la LTA (s). L'UNICEF se réserve le droit d'utiliser les services de toute autre agence en douane et de lancer un appel d'offres pour des projets spécifiques si nécessaire.

6. Accès des autres agences du Système des Nations Unies

Le(s) soumissionnaire(s) retenu(s) s'engage(nt) à offrir les mêmes conditions de services (technique et tarifaire) à toute autre Agence du Système des Nations Unies qui souhaiterait utiliser leurs services dans le cadre des accords qui résulteront de cette sollicitation.

7. Qualifications minimales du prestataire

Le prestataire devra satisfaire les conditions minimales suivantes :

- Etre une société légalement établie en République Démocratique du Congo
- Etre affiliée à l'Institut National de Sécurité Sociale
- Etre enregistré à la Direction Générale des Impôts
- Avoir une expérience démontrée d'au moins trois (03) ans dans le domaine / prestations antérieures.
- Etre engagé aux respects des normes internationales relatives à l'emploi, notamment la non utilisation des enfants et la non-exploitation des travailleurs.

Annexe 1 - FORMAT OFFRE FINANCIERE, Manutention Zone N°
(Compléter, signer et retourner dans l'enveloppe de l'offre financière)

A. Prix proposés à UNICEF par agent

Description	Unité	Nombre	Montant hors taxes, hors TVA en US\$) par mois
Manutentionnaire Permanent	Personne	1	
Manutentionnaire Temporaire	Personne	1	

B. Montant salaire que le soumissionnaire paiera par agent

Description	Montant mensuel / journalier en US\$
Manutentionnaire Permanent	
Manutentionnaire Temporaire	

C. Engagement du soumissionnaire à s'acquitter de ses obligations patronales et administratives

Je soussigné (Nom et prénom) (titre).....m'engage à m'acquitter correctement et dans les délais de toutes les obligations patronales et administratives de mes employés engagés dans le cadre contrat (s) de manutention signé avec UNICEF RDC conformément à la réglementation en vigueur en RDC (cotisation INSS, impôt IPR, assurance maladies pour l'agent et sa famille, etc.) et suit disposé à apporter à UNICEF les preuves de l'acquittement de ces obligations à n'importe quel moment sur à sa demande.

Nom et fonction du soumissionnaire :

Cachet du soumissionnaire:

Signature:

Date:

Annexe 2 : FORMULAIRE DE SOUMISSION

Ce formulaire de PROPOSITION doit être rempli, signé et inclus dans la proposition technique soumise à l'UNICEF.

TERMES ET CONDITIONS DU CONTRAT

Tout Contrat ou Agrément à Long Terme résultant de cet appel d'offres (AO) contiendra les provisions contractuelles, les Termes et Conditions Généraux de l'UNICEF ainsi que tout autres Termes et Conditions Spécifiques détaillés dans cet AO.

PROPOSITION

Le soumissionnaire, après avoir lu les Termes et Conditions figurant dans le présent appel d'offres numéro LRPS - 2019-9148961 - Identification de sociétés de manutention dans le cadre d'accords à long terme, s'engage à exécuter les services spécifiques dans le présent document pour les zones d'intervention suivantes

(Cocher les cases correspondantes) :

N°1 - Kinshasa	☐	N°2 - Mbandaka	☐	N°3 - Kananga	☐
N°4 - Mbuji Mayi	☐	N°5 - Kalemie	☐	N°6 - Bunia	☐
N°7 - Kisangani	☐				

Signature et cachet : _____

Date : _____

Nom et Titre : _____

Société : _____

Adresse Postale : _____

Tel/Cell Nos: _____

E-mail : _____

Validité de la proposition : _____

Monnaie de l'offre : _____

Veuillez préciser après avoir pris connaissance des Termes de Paiement de l'UNICEF énoncés dans ce document, quelle est la remise proposée en fonction du délai de paiement :

Paiement a 10 jours : _____%, a 15 jours : _____%, a 20 jours : _____%, a 30 jours : _____%

Autre rabais commercial proposé : _____

Section 2: Renseignements Financiers

18. Volume annuel des Chiffres d’Affaires pour les 3 dernières années :

Année ____ USD ____ million

Année ____ USD ____ million

Année ____ USD ____ million

19. Volume annuel des Exportations pour les 3 dernières années : **(Si applicable)**

Année ____ USD ____ million

Année ____ USD ____ million

Année ____ USD ____ million

20. Banque :

B.P. :

Adresse physique:

RIB :

21. Num. Compte Bancaire :

22. Veuillez produire une copie du Rapport Annuel ou du Rapport Financier pour les 3 dernières années dûment audité.

Section 3: Capacités Techniques et Renseignements sur les Marchandises / Services Offerts

23. Certificat de la qualité (ex. ISO 9000 ou l'Equivalent) (veuillez produire la copie du dernier Certificat) :

24. Bureaux Internationaux/Représentation (Pays où la Société a des bureaux /Représentation) :

25. Pour les marchandises, est-ce que celles livrées pour les approvisionnements sont conformes aux normes Nationales/Internationales ?

OUI

☐

NON

☐

Si **OUI**, laquelle?

26. Listez ci-dessous jusqu'à dix (10) Marchandises/Services qui forment le noyau des produits offerts

N / S	Description	Norme de qualité Nationale/Internationale à laquelle l'article est conforme
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Section 4: Entrepôts / Logistique

27. L'entreprise possède-t-elle un entrepôt ? ☐ OUI ☐ NON

A quelle adresse?

Taille de l'entrepôt (m2)

28. L'entreprise possède-t-elle des stocks ? ☐ OUI ☐ NON

29. Y-a-t-il un inventaire fait régulièrement? ☐ OUI ☐ NON

Section 5: Expérience

30. Contrats récents avec les Nations Unies et/ou autre Organisation d'Assistance:

Organisation	Valeur	Années	Marchandises / Services rendus	Destination
_____	USD _____	_____	_____	_____
_____	USD _____	_____	_____	_____
_____	USD _____	_____	_____	_____
_____	USD _____	_____	_____	_____
_____	USD _____	_____	_____	_____

31. Vers quels pays votre entreprise a-t-elle exporté et/ou géré des projets les 3 dernières années ?

Section 6 : Autres Informations Générales

32. Est-ce que votre Entreprise possède une Déclaration écrite de sa Politique environnementale (Manuel des procédures de gestion)?

OUI ☐ NON ☐

Si OUI, veuillez joindre une copie

33. L'entreprise est-elle impliquée dans le travail des enfants? ☐ OUI ☐ NON

34. L'entreprise est-elle impliquée dans la production de mines anti-personnelle? ☐ OUI ☐ NON

35. Veuillez citer toute transaction que votre entreprise aurait réalisée avec l'UNICEF les 3 dernières années :

36. Veuillez citer toute Corporation Nationale et/ou Internationale ou Organisation Professionnelle dont votre entreprise est membre.

37. Le vendeur a lu et accepte les termes et conditions générale de l'UNICEF? ☐ OUI ☐ NON

38. Authentification :

Je soussigné, reconnais avoir accepté les termes et conditions Générales des Unicef, dont une copie m'a été remise et garantis que les informations contenues dans ce formulaire sont exactes et que tout changement d'un quelconque détail me sera notifié aussitôt que possible :

Nom:

Fonction:

Signature et Cachet

Date:

Annexe 4 - GENERAL TERMS AND CONDITIONS OF CONTRACT (Services)

Definitions and UNICEF Supply Website

1.1 In these General Terms and Conditions (Services), the following terms have the following meaning:

- (a) “Affiliates” means, with respect to the Contractor, any of its corporate affiliates or associates, including parent entities, subsidiaries, and other entities in which it owns a substantial interest.
- (b) “Confidential Information” means information or data that is designated as confidential at the time of exchange between the Parties or promptly identified as confidential in writing when furnished in intangible form or disclosed orally, and includes information, the confidential or proprietary nature of which, is or should be reasonably apparent from the inherent nature, quality or characteristics of such information.
- (c) “Contract” means the services contract that incorporates these General Terms and Conditions of Contract (Services). It includes contracts for services issued by UNICEF, whether or not they are issued under a long-term arrangement or similar contract.
- (d) “Contractor” means the contractor named in the Contract.
- (e) “Deliverables” means the work product and other output of the Services required to be delivered by Contractor as part of the Services, as specified in the relevant section of the Contract.
- (f) “Disabling Code” means any virus, back door, timer or other limiting routine, instruction or design, or other Sénégalais, illicit or similar unrequested code that may have the consequence (whether by design or unintentionally) of disrupting, disabling, harming, circumventing security controls or otherwise impeding in any manner the normal operation or performance of (i) any software or service or (ii) any UNICEF information system or network.
- (g) “End User” means, in the event that the Services or Deliverables involve the use of any information systems, any and all UNICEF employees, consultants and other personnel and any other external users collaborating with UNICEF, in each case, authorized by UNICEF to access and use the Services and/or Deliverables.
- (h) “Fee” is defined in Article 3.1.
- (i) “Host Government” means a Government with which UNICEF has a programme of development cooperation, and includes a Government of a country in which UNICEF provides humanitarian assistance.
- (j) Contractor’s “Key Personnel” are: (i) Personnel identified in the proposal as key individuals (as a minimum, partners, managers, senior auditors) to be assigned for participation in the performance of the Contract; (ii) Personnel whose resumes were submitted with the proposal; and (iii) individuals who are designated as key personnel by agreement of the Contractor and UNICEF during negotiations.
- (k) “Parties” means the Contractor and UNICEF together and a “Party” means each of the Contractor and UNICEF.
- (l) Contractor’s “Personnel” means the Contractor’s officials, employees, agents, individual sub-contractors and other representatives.

- (m) “Security Incident” means, with respect to any information system, service or network used in the delivery of the Services or Deliverables, one or more events that (a) indicates that the security of such information system, service, or network may have been breached or compromised and (b) that such breach or compromise could very likely compromise the security of UNICEF’s Confidential Information or weaken or impair UNICEF’s operations. Security Incident includes any actual, threatened or reasonably suspected unauthorized access to, disclosure of, use of or acquisition of UNICEF Data that compromises the security, confidentiality, or integrity of the UNICEF Data, or the ability of UNICEF or End Users to access the UNICEF Data.
- (n) “Services” means the services specified in the relevant section of the Contract.
- (o) “UNICEF Data” means any and all information or data in digital form or processed or held in digital form that (a) are provided to the Contractor by, or on behalf of, UNICEF and/or End Users under the Contract or through UNICEF’s and/or End Users’ use of the Services or in connection with the Services, or (b) are collected by the Contractor in the performance of the Contract.
- (p) “UNICEF Supply Website” means UNICEF’s public access webpage available at http://www.unicef.org/supply/index_procurement_policies.html, as may be updated from time to time.

1.2 These General Terms and Conditions of Contract, UNICEF’s Policy Prohibiting and Combatting Fraud and Corruption, the UNICEF’s Policy on Conduct Promoting the Protection and Safeguarding of Children, the UN Supplier Code of Conduct and UNICEF’s Information Disclosure Policy referred to in the Contract, as well as other policies applicable to the Contractor, are publicly available on the UNICEF Supply Website. The Contractor represents that it has reviewed all such policies as of the effective date of the Contract.

2. PROVISION OF SERVICES AND DELIVERABLES; CONTRACTOR’S PERSONNEL; SUB-CONTRACTORS

Provision of Services and Deliverables

2.1 The Contractor will provide the Services and deliver the Deliverables in accordance with the scope of work set out in the Contract, including, but not limited to, the time for delivery of the Services and Deliverables, and to UNICEF’s satisfaction. Except as expressly provided in the Contract, the Contractor will be responsible at its sole cost for providing all the necessary personnel, equipment, material and supplies and for making all arrangements necessary for the performance and completion of the Services and delivery of the Deliverables under the Contract.

2.2 The Contractor acknowledges that, other than as expressly set out in the Contract, UNICEF will have no obligation to provide any assistance to the Contractor and UNICEF makes no representations as to the availability of any facilities, equipment, materials, systems or licenses which may be helpful or useful for the fulfillment by the Contractor of its obligations under the Contract. If UNICEF provides access to and use of UNICEF premises, facilities or systems (whether on site or remotely) to the Contractor for the purposes of the Contract, the Contractor will ensure that its Personnel or sub-contractors will, at all times (a) use such access exclusively for the specific purpose for which the access has been granted and (b) comply with UNICEF’s security and other regulations and instructions for such access and use, including, but not limited to, UNICEF’s information security policies. The Contractor will ensure that only those of its Personnel that have been authorized by the Contractor, and approved by UNICEF, have access to UNICEF’s premises, facilities or systems.

2.3 The Contractor will use its best efforts to accommodate reasonable requests for changes (if any) to the scope of work of the Services or time for provision of the Services or delivery of the Deliverables. If UNICEF requests any material change to the scope of work or time for delivery, UNICEF and the Contractor will negotiate any necessary changes to the Contract, including as to the Fee and the time schedule under the Contract. Any such agreed changes will become effective only when they are set out in a written amendment to the Contract signed by both UNICEF and the

Contractor. Should the Parties fail to agree on any such changes within thirty (30) days, UNICEF will have the option to terminate the Contract without penalty notwithstanding any other provision of the Contract.

2.4 The Contractor will neither seek nor accept instructions from any entity other than UNICEF (or entities authorized by UNICEF to give instructions to the Contractor) in connection with the provision of the Services or development and delivery of the Deliverables.

2.5 Title to any equipment and supplies which may be provided to the Contractor by UNICEF, will remain with UNICEF. Such equipment and supplies will be returned to UNICEF at the conclusion of the Contract or when no longer needed by the Contractor in the same condition as when they were provided to the Contractor, subject to normal wear and tear. The Contractor will pay UNICEF the value of any loss of, damage to, or degradation of, the equipment and supplies beyond normal wear and tear.

Non-conforming Services and Consequences of Delay

2.6 If the Contractor determines it will be unable to provide the Services or deliver the Deliverables by the date stipulated in the Contract, the Contractor will (i) immediately consult with UNICEF to determine the most expeditious means for delivery of the Services and/or Deliverables; and (ii) take necessary action to expedite delivery of the Services and/or Deliverables, at the Contractor's cost (unless the delay is due to force majeure as defined in Article 6.8 below), if reasonably so requested by UNICEF.

2.7 The Contractor acknowledges that UNICEF may monitor the Contractor's performance under the Contract and may at any time evaluate the quality of the Services provided and the Deliverables to determine whether or not the Services and Deliverables conform to the Contract. The Contractor agrees to provide its full cooperation with such performance monitoring and evaluation, at no additional cost or expense to UNICEF, and will provide relevant information as reasonably requested by UNICEF, including, but not limited to, the date of receipt of the Contract, detailed status updates, costs to be charged and payments made by UNICEF or pending. Neither the evaluation of the Services and Deliverables, nor failure to undertake any such evaluation, will relieve the Contractor of any of its warranty or other obligations under the Contract.

2.8 If the Services or Deliverables provided by the Contractor do not conform to the requirements of the Contract or are delivered late or incomplete, without prejudice to any of its other rights and remedies, UNICEF can, at its option:

- (a) by written notice, require the Contractor, at the Contractor's expense, to remedy its performance, including any deficiencies in the Deliverables, to UNICEF's satisfaction within thirty (30) days after receipt of UNICEF's notice (or within such shorter period as UNICEF may determine, in its sole discretion, is necessary as specified in the notice);
 - (b) require the Contractor to refund all payments (if any) made by UNICEF in respect of such non-conforming or incomplete performance;
 - (c) procure all or part of the Services and/or Deliverables from other sources, and require the Contractor to pay UNICEF for any additional cost beyond the balance of the Fee for such Services and Deliverables;
 - (d) give written notice to terminate the Contract for breach, in accordance with Article 6.1 below, if the Contractor fails to remedy the breach within the cure period specified in Article 6.1 or if the breach is not capable of remedy;
 - (e) require the Contractor to pay liquidated damages as set out in the Contract.
- after the final resolution of such dispute.

2.9 Further to Article 11.5 below, the Contractor expressly acknowledges that if UNICEF takes delivery of Services or Deliverables that have been delivered late or otherwise not in full compliance with the requirements of the Contract, this does not constitute a waiver of UNICEF's rights in respect of such late or non-compliant performance.

Contractor's Personnel and Sub-Contractors

2.10 The following provisions apply with regard to the Contractor's Personnel:

(a) The provisions of Article 7 (*Ethical Standards*) will apply to the Contractor's Personnel as expressly stated in Article 7.

(b) The Contractor will be responsible for the professional and technical competence of the Personnel it assigns to perform work under the Contract and will select professionally qualified, reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.

(c) The qualifications of any Personnel whom the Contractor may assign or may propose to assign to perform any obligations under the Contract will be substantially the same as, or better than, the qualifications of any personnel originally proposed by the Contractor.

(d) At any time during the term of the Contract, UNICEF can make a written request that the Contractor replace one or more of the assigned Personnel. UNICEF will not be required to give an explanation or justification for this request. Within seven (7) working days of receiving UNICEF's request for replacement the Contractor must replace the Personnel in question with Personnel acceptable to UNICEF. This provision also extends to Personnel of the Contractor who have "account manager" or "relationship manager" type functions.

(e) If one or more of Contractor's Key Personnel become unavailable, for any reason, for work under the Contract, the Contractor will (i) notify the UNICEF contracting authority at least fourteen (14) days in advance; and (ii) obtain the UNICEF contracting authority's approval prior to making any substitution of Key Personnel. In notifying the UNICEF contracting authority, the Contractor will provide an explanation of the circumstances necessitating the proposed replacement(s) and submit justification and qualification of replacement Personnel in sufficient detail to permit evaluation of the impact on the engagement.

(f) The approval of UNICEF of any Personnel assigned by the Contractor (including any replacement Personnel) will not relieve the Contractor of any of its obligations under the Contract. The Contractor's Personnel, including individual sub-contractors, will not be considered in any respect as being the employees or agents of UNICEF.

(g) All expenses of the withdrawal or replacement of the Contractor's Personnel will, in all cases, be borne exclusively by the Contractor.

2.11 The Contractor will obtain the prior written approval and clearance of UNICEF for all institutional sub-contractors it proposes to use in connection with the Contract. The approval of UNICEF of a sub-contractor will not relieve the Contractor of any of its obligations under the Contract. The terms of any sub-contract will be subject to, and will be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

2.12 The Contractor confirms that it has read UNICEF's Policy on Conduct Promoting the Protection and Safeguarding of Children. The Contractor will ensure that its Personnel understand the notification requirements expected of them and will establish and maintain appropriate measures to promote compliance with such requirements. The Contractor will further cooperate with UNICEF's implementation of this policy.

2.13 The Contractor will supervise its Personnel and sub-contractors and will be fully responsible and liable for all Services performed by its Personnel and sub-contractors and for their compliance with the terms and conditions of the Contract.

2.14 The Contractor will comply with all applicable international standards and national labor laws, rules and regulations relating to the employment of national and international staff in connection with the Services, including,

but not limited to, laws, rules and regulations associated with the payment of the employer's portions of income tax, insurance, social security, health insurance, worker's compensation, retirement funds, severance or other similar payments. Without limiting the provisions of this Article 2 or Article 4 below, the Contractor will be fully responsible and liable for, and UNICEF will not be liable for (a) all payments due to its Personnel and sub-contractors for their services in relation to the performance of the Contract; (b) any action, omission, negligence or misconduct of the Contractor, its Personnel and sub-contractors; (c) any insurance coverage which may be necessary or desirable for the purpose of the Contract; (d) the safety and security of the Contractor's Personnel and sub-contractors' personnel; or (e) any costs, expenses, or claims associated with any illness, injury, death or disability of the Contractor's Personnel and sub-contractors' personnel, it being understood that UNICEF will have no liability or responsibility with regard to any of the events referred to in this Article 2.14.

3. FEE; INVOICING; TAX EXEMPTION; PAYMENT TERMS

3.1 The fee for the Services is the amount in the currency specified in the fee section of the Contract (the "Fee"), it being understood that such amount is specified in United States dollars unless otherwise expressly provided for in the fee section of the Contract. Unless expressly stated otherwise in the Contract, the Fee is inclusive of all costs, expenses, charges or fees that the Contractor may incur in connection with the performance of its obligations under the Contract; provided that, without prejudice to or limiting the provisions of Article 3.3 below, all duties and other taxes imposed by any authority or entity must be separately identified. It is understood and agreed that the Contractor will not request any change to the Fee after the Services or Deliverables have been provided and that the Fee cannot be changed except by written agreement between the Parties before the relevant Service or Deliverable is provided. UNICEF will not agree to changes to the Fee for modifications or interpretations of the scope of work if those modifications or interpretations of the scope of work have already been initiated by the Contractor. UNICEF will not be liable to pay for any work conducted or materials provided by the Contractor that are outside the scope of work or were not authorized in advance by UNICEF.

3.2 The Contractor will issue invoices to UNICEF only after the Contractor has provided the Services (or components of the Services) and delivered the Deliverables (or installments of the Deliverables) in accordance with the Contract and to UNICEF's satisfaction. The Contractor will issue (a) one (1) invoice in respect of the payment being sought, in the currency specified in the Contract and in English, indicating the Contract identification number listed on the front page of the Contract; and (b) provide a clear and specific description of the Services provided and Deliverables delivered, as well as supporting documentation for reimbursable expenses if any, in sufficient detail to permit UNICEF to verify the amounts stated in the invoice.

3.3 The Contractor authorizes UNICEF to deduct from the Contractor's invoices any amount representing direct taxes (except charges for utilities services) and customs restrictions, duties and charges of a similar nature in respect of articles imported or exported for UNICEF's official use in accordance with the exemption from tax in Article II, Section 7 of the Convention of the Privileges and Immunities of the United Nations, 1946. In the event any governmental authority refuses to recognize this exemption from taxes, restrictions, duties or charges, the Contractor will immediately consult with UNICEF to determine a mutually acceptable procedure. The Contractor will provide full cooperation to UNICEF with regard to securing UNICEF's exemption from, or refund of amounts paid as, value-added taxes or taxes of a similar nature.

3.4 UNICEF will notify the Contractor of any dispute or discrepancy in the content or form of any invoice. With respect to disputes regarding only a portion of such invoice, UNICEF will pay the Contractor the amount of the undisputed portion in accordance with Article 3.5 below. UNICEF and the Contractor will consult in good faith to promptly resolve any dispute with respect to any invoice. Upon resolution of such dispute, any amounts that have not been charged in accordance with the Contract will be deducted from the invoice(s) in which they appear and UNICEF will pay any agreed remaining items in the invoice(s) in accordance with Article 3.5 within thirty (30) days after the final resolution of such dispute.

3.5 UNICEF will pay the uncontested amount of the Contractor's invoice within thirty (30) days of receiving both the invoice and the required supporting documents, as referred to in Article 3.2 above. The amount paid will reflect any discount(s) shown under the payment terms of the Contract. The Contractor will not be entitled to interest on any late

payment or any sums payable under the Contract nor any accrued interest on payments withheld by UNICEF in connection with a dispute. Payment will not relieve the Contractor of its obligations under the Contract and will not be deemed to be acceptance by UNICEF of, or waiver of any of UNICEF's rights with regard to, the Contractor's performance.

3.6 Each invoice will confirm the Contractor's bank account details provided to UNICEF as part of the Contractor's registration process with UNICEF. All payments due to the Contractor under the Contract will be made by electronic funds transfer to that bank account. It is the Contractor's responsibility to ensure that the bank details supplied by it to UNICEF are up-to-date and accurate and notify UNICEF in writing by an authorized representative of the Contractor of any changes in bank details together with supporting documentation satisfactory to UNICEF.

3.7 The Contractor acknowledges and agrees that UNICEF may withhold payment in respect of any invoice if, in UNICEF's opinion, the Contractor has not performed in accordance with the terms and conditions of the Contract, or if the Contractor has not provided sufficient documentation in support of the invoice.

3.8 UNICEF will have the right to set off, against any amount or amounts due and payable by UNICEF to the Contractor under the Contract, any payment, indebtedness or other claim (including, without limitation, any overpayment made by UNICEF to the Contractor) owing by the Contractor to UNICEF under the Contract or under any other contract or agreement between the Parties. UNICEF will not be required to give the Contractor prior notice before exercising this right of set-off (such notice being waived by the Contractor). UNICEF will promptly notify the Contractor after it has exercised such right of set-off, explaining the reasons for such set-off, provided, however, that the failure to give such notification will not affect the validity of such set-off.

3.9 Each of the invoices paid by UNICEF may be subject to a post-payment audit by UNICEF's external and internal auditors or by other authorised agents of UNICEF, at any time during the term of the Contract and for three (3) years after the Contract terminates. UNICEF will be entitled to a refund from the Contractor of amounts such audit or audits determine were not in accordance with the Contract regardless of the reasons for such payments (including but not limited to the actions or inactions of UNICEF staff and other personnel).

4. REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION; INSURANCE

Representations and Warranties

4.1 The Contractor represents and warrants that as of the effective date and throughout the term of the Contract: (a) the Contractor has the full authority and power to enter into the Contract and to perform its obligations under the Contract and the Contract is a legal, valid and binding obligation, enforceable against it in accordance with its terms; (b) all of the information it has previously provided to UNICEF, or that it provides to UNICEF during the term of the Contract, concerning the Contractor and the provision of the Services and the delivering of the Deliverables is true, correct, accurate and not misleading; (c) it is financially solvent and is able to provide the Services to UNICEF in accordance with the terms and conditions of the Contract; (d) it has, and will maintain throughout the term of the Contract, all rights, licenses, authority and resources necessary, as applicable, to provide the Services and deliver the Deliverables to UNICEF's satisfaction and to perform its obligations under the Contract; (e) the work product is and will be original to the Contractor and does not and will not infringe any copyright, trademark, patent or other proprietary right of any third party; and (f) except as otherwise expressly stated in the Contract, it has not and will not enter into any agreement or arrangement that restrains or restricts any person's rights to use, sell, dispose of or otherwise deal with any Deliverable or other work resulting from the Services. The Contractor will fulfill its commitments with the fullest regard to the interests of UNICEF and will refrain from any action which may adversely affect UNICEF or the United Nations.

4.2 The Contractor further represents and warrants, as of the effective date and throughout the term of the Contract, that it and its Personnel and sub-contractors will perform the Contract and provide the Services and Deliverables (a) in a professional and workmanlike manner; (b) with reasonable care and skill and in accordance with the highest professional standards accorded to professionals providing the same or substantially similar services in a same industry; (c) with priority equal to that given to the same or similar services for the Contractor's other clients; and (d) in accordance with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract and

the provision of the Services and Deliverables.

4.3 The representations and warranties made by the Contractor in Articles 4.1 and 4.2 above are made to and are for the benefit of (a) each entity (if any) that makes a direct financial contribution to UNICEF to procure the Services and Deliverables; and (b) each Government or other entity (if any) that receives the direct benefit of the Services and Deliverables.

Indemnification

4.4 The Contractor will indemnify, hold and save harmless and defend, at its own expense, UNICEF, its officials, employees, consultants and agents, each entity that makes a direct financial contribution to UNICEF to procure the Services and Deliverables and each Government or other entity that receives the direct benefit of the Services and Deliverables, from and against all suits, claims, demands, losses and liability of any nature or kind, including their costs and expenses, by any third party and arising out of the acts or omissions of the Contractor or its Personnel or sub-contractors in the performance of the Contract. This provision will extend to but not be limited to (a) claims and liability in the nature of workers' compensation, (b) product liability, and (c) any actions or claims pertaining to the alleged infringement of a copyright or other intellectual property rights or licenses, patent, design, trade-name or trade-mark arising in connection with the Deliverables or other liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property provided or licensed to UNICEF under the terms of the Contract or used by the Contractor, its Personnel or sub-contractors in the performance of the Contract.

4.5 UNICEF will report any such suits, proceedings, claims, demands, losses or liability to the Contractor within a reasonable period of time after having received actual notice. The Contractor will have sole control of the defence, settlement and compromise of any such suit, proceeding, claim or demand, except with respect to the assertion or defence of the privileges and immunities of UNICEF or any matter relating to UNICEF's privileges and immunities (including matters relating to UNICEF's relations with Host Governments), which as between the Contractor and UNICEF only UNICEF itself (or relevant Governmental entities) will assert and maintain. UNICEF will have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.

Insurance

4.6 The Contractor will comply with the following insurance requirements:

(a) The Contractor will have and maintain in effect with reputable insurers and in sufficient amounts, insurance against all of the Contractor's risks under the Contract (including, but not limited to, the risk of claims arising out of or related to the Contractor's performance of the Contract), including the following:

(i) Insurance against all risks in respect of its property and any equipment used for the performance of the Contract;

(ii) General liability insurance against all risks in respect of the Contract and claims arising out of the Contract in an adequate amount to cover all claims arising from or in connection with the Contractor's performance under the Contract;

(iii) All appropriate workers' compensation and employer's liability insurance, or its equivalent, with respect to its Personnel and sub-contractors to cover claims for death, bodily injury or damage to property arising from the performance of the Contract; and

(iv) Such other insurance as may be agreed upon in writing between UNICEF and the Contractor.

(b) The Contractor will maintain the insurance coverage referred to in Article 4.6(a) above during the term of the Contract and for a period after the Contract terminates extending to the end of any applicable limitations period with regard to claims against which the insurance is obtained.

(c) The Contractor will be responsible to fund all amounts within any policy deductible or retention.

(d) Except with regard to the insurance referred to in paragraph (a)(iii) above, the insurance policies for the Contractor's insurance required under this Article 4.6 will (i) name UNICEF as an additional insured; (ii) include a waiver by the insurer of any subrogation rights against UNICEF; and (iii) provide that UNICEF will receive thirty (30) days' written notice from the insurer prior to any cancellation or change of coverage.

(e) The Contractor will, upon request, provide UNICEF with satisfactory evidence of the insurance required under this Article 4.6.

(f) Compliance with the insurance requirements of the Contract will not limit the Contractor's liability either under the Contract or otherwise.

Liability

4.7 The Contractor will pay UNICEF promptly for all loss, destruction or damage to UNICEF's property caused by the Contractor's Personnel or sub-contractors in the performance of the Contract.

5. Intellectual Property and Other Proprietary Rights; Data Protection; Confidentiality

Intellectual Property and Other Proprietary Rights

5.1 Unless otherwise expressly provided in the Contract:

(a) Subject to paragraph (b) of this Article 5.1, UNICEF will be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how, documents, data and other materials ("Contract Materials") that (i) the Contractor develops for UNICEF under the Contract and which bear a direct relation to the Contract or (ii) are produced, prepared or collected in consequence of, or during the course of, the performance of the Contract. The term "Contract Materials" includes, but is not limited to, all maps, drawings, photographs, plans, reports, recommendations, estimates, documents developed or received by, and all other data compiled by or received by, the Contractor under the Contract. The Contractor acknowledges and agrees that Contract Materials constitute works made for hire for UNICEF. Contract Materials will be treated as UNICEF's Confidential Information and will be delivered only to authorized UNICEF officials on expiry or termination of the Contract.

(b) UNICEF will not be entitled to, and will not claim any ownership interest in, any intellectual property or other proprietary rights of the Contractor that pre-existed the performance by the Contractor of its obligations under the Contract, or that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract. The Contractor grants to UNICEF a perpetual, non-exclusive, royalty-free license to use such intellectual property or other proprietary rights solely for the purposes of and in accordance with the requirements of the Contract.

(c) At UNICEF's request, the Contractor will take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them (or, in the case, intellectual property referred to in paragraph (b) above, licensing) them to UNICEF in compliance with the requirements of the applicable law and of the Contract.

Confidentiality

5.2 If the Contractor receives a request for disclosure of UNICEF's Confidential Information pursuant to any judicial or law enforcement process, before any such disclosure is made, the Contractor (a) will give UNICEF sufficient notice of such request in order to allow UNICEF to have a reasonable opportunity to secure the intervention of the relevant national government to establish protective measures or take such other action as may be appropriate and (b) will so advise the relevant authority that requested disclosure. UNICEF may disclose the Contractor's Confidential Information to the extent required pursuant to resolutions or regulations of its governing bodies.

5.3 If the Contractor receives a request for disclosure of UNICEF's Confidential Information pursuant to any judicial or law enforcement process, before any such disclosure is made, the Contractor (a) will give UNICEF sufficient notice of such request in order to allow UNICEF to have a reasonable opportunity to secure the intervention of the relevant national government to establish protective measures or take such other action as may be appropriate and (b) will so advise the relevant authority that requested disclosure. UNICEF may disclose the Contractor's Confidential Information to the extent required pursuant to resolutions or regulations of its governing bodies

5.4 The Contractor may not communicate at any time to any other person, Government or authority external to UNICEF, any information known to it by reason of its association with UNICEF that has not been made public, except with the prior written authorization of UNICEF; nor will the Contractor at any time use such information to private advantage.

Data Protection and Security

5.5 The Parties agree that, as between them, all UNICEF Data, together with all rights (including intellectual property and proprietary rights), title and interest to such UNICEF Data, will be the exclusive property of UNICEF, and the Contractor has a limited, nonexclusive license to access and use the UNICEF Data as provided in the Contract solely for the purpose of performing its obligations under the Contract. Except for the foregoing license, the Contractor will have no other rights, whether express or implied, in or to any UNICEF Data or its content.

5.6 The Contractor confirms that it has a data protection policy in place that meets all applicable data protection standards and legal requirements and that it will apply such policy in the collection, storage, use, processing, retention and destruction of UNICEF Data. The Contractor will comply with any guidance or conditions on access and disclosure notified by UNICEF to Contractor in respect of UNICEF Data.

5.7 The Contractor will use its reasonable efforts to ensure the logical segregation of UNICEF Data from other information to the fullest extent possible. The Contractor will use safeguards and controls (such as administrative, technical, physical, procedural and security infrastructures, facilities, tools, technologies, practices and other protective measures) that are necessary and sufficient to meet the Contractor's confidentiality obligations in this Article 5 as they apply to UNICEF Data. At UNICEF's request, the Contractor will provide UNICEF with copies of the applicable policies and a description of the safeguards and controls that the Contractor uses to fulfil its obligations under this Article 5.7; provided that any such policies and description provided by the Contractor will be treated as the Contractor's Confidential Information under the Contract. UNICEF may assess the effectiveness of these safeguards, controls and protective measures and, at UNICEF's request, the Contractor will provide its full cooperation with any such assessment at no additional cost or expense to UNICEF. The Contractor will not, and will ensure that its Personnel will not, transfer, copy, remove or store UNICEF Data from a UNICEF location, network or system without the prior written approval of an authorized official of UNICEF.

5.8 Except as otherwise expressly stated in the Contract or with UNICEF's express prior written consent, the Contractor will not install any application or other software on any UNICEF device, network or system. The Contractor represents and warrants to UNICEF that the Services and Deliverables provided under the Contract will not contain any Disabling Code, and that UNICEF will not otherwise receive from the Contractor any Disabling Code in the performance of the Contract. Without prejudice to UNICEF's other rights and remedies, if a Disabling Code is identified, the Contractor, at its sole cost and expense, will take all steps necessary to: (a) restore and/or reconstruct any and all UNICEF Data lost by UNICEF and/or End Users as a result of Disabling Code; (b) furnish to UNICEF a corrected version of the Services without the presence of Disabling Codes; and (c) as needed, re-implement the Services.

5.9 In the event of any Security Incident, the Contractor will, as soon as possible following the Contractor's discovery of such Security Incident and at its sole cost and expense: (a) notify UNICEF of such Security Incident and of the Contractor's proposed remedial actions; (b) implement any and all necessary damage mitigation and remedial actions; and (c) as relevant, restore UNICEF's and, as directed by UNICEF, End Users' access to the Services. The Contractor will keep UNICEF reasonably informed of the progress of the Contractor's implementation of such damage mitigation and remedial actions. The Contractor, at its sole cost and expense, will cooperate fully with UNICEF's investigation of, remediation of, and/or response to any Security Incident. If the Contractor fails to resolve, to UNICEF's reasonable satisfaction, any such Security Incident, UNICEF can terminate the Contract with immediate effect.

Service Providers and Sub-Contractors

5.10 The Contractor will impose the same requirements relating to data protection and non-disclosure of Confidential Information, as are imposed upon the Contractor itself by this Article 5 of the Contract, on its service providers, subcontractors and other third parties and will remain responsible for compliance with such requirements by its service providers, subcontractors and other third parties.

End of Contract

5.11 Upon the expiry or earlier termination of the Contract, the Contractor will:

- (a) return to UNICEF all of UNICEF's Confidential Information, including, but not limited to, UNICEF Data, or, at UNICEF's option, destroy all copies of such information held by the Contractor or its sub-contractors and confirm such destruction to UNICEF in writing; and
- (b) Will transfer to UNICEF all intellectual and other proprietary information in accordance with Article 5.1(a).

6. Termination; Force Majeure

Termination by Either Party for Material Breach

6.1 If one Party is in material breach of any of its obligations under the Contract, the other Party can give it written notice that within thirty (30) days of receiving such notice the breach must be remedied (if such breach is capable of remedy). If the breaching Party does not remedy the breach within the thirty (30) days' period or if the breach is not capable of remedy, the non-breaching Party can terminate the Contract. The termination will be effective thirty (30) days after the non-breaching Party gives the breaching Party written notice of termination. The initiation of conciliation or arbitral proceedings in accordance with Article 9 (Privileges and Immunities; Settlement of Disputes) below will not be grounds for termination of the Contract.

Additional Termination Rights of UNICEF

6.2 In addition to the termination rights under Article 6.1 above, UNICEF can terminate the Contract with immediate effect upon delivery of a written notice of termination, without any liability for termination charges or any other liability of any kind:

- (a) in the circumstances described in, and in accordance with, Article 7 (Ethical Standards); or
- (b) if the Contractor breaches any of the provisions of Articles 5.2-5.11 (Confidentiality; Data Protection and Security); or
- (c) if the Contractor (i) is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent, (ii) is granted a moratorium or a stay, or is declared insolvent, (iii) makes an assignment for the benefit of one or more of its creditors, (iv) has a receiver appointed on account of the insolvency of the Contractor, (v) offers a settlement in lieu of

bankruptcy or receivership or (vi) has become, in UNICEF's reasonable judgment, subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.

6.3 In addition to the termination rights under Article 6.1 and Article 6.2 above, UNICEF can terminate the Contract at any time by providing written notice to the Contractor in any case in which UNICEF's mandate applicable to the performance of the Contract or UNICEF's funding applicable to the Contract is curtailed or terminated, whether in whole or in part. UNICEF can also terminate the Contract on sixty (60) day's written notice to the Contractor without having to provide any justification.

6.4 As soon as it receives a notice of termination from UNICEF, the Contractor will take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum, and will not undertake any further or additional commitments as of and following the date it receives the termination notice. In addition, the Contractor will take any other action that may be necessary, or that UNICEF may direct in writing, in order to minimise losses or protect and preserve any property, whether tangible or intangible, related to the Contract that is in the possession of the Contractor and in which UNICEF has or may be reasonably expected to acquire an interest.

6.5 If the Contract is terminated by either Party, the Contractor will immediately deliver to UNICEF any finished work which has not been delivered and accepted prior to the receipt of a notice of termination, together with any data, materials or work-in-process related specifically to the Contract. If UNICEF obtains the assistance of another party to continue the Services or complete any unfinished work, the Contractor will provide its reasonable cooperation to UNICEF and such party in the orderly migration of Services and transfer of any Contract-related data, materials and work-in-process. The Contractor will at the same time return to UNICEF all of UNICEF's Confidential Information and will transfer to UNICEF all intellectual and other proprietary information in accordance with Article 5.

6.6 If the Contract is terminated by either Party no payment will be due from UNICEF to the Contractor except for Services and Deliverables provided to UNICEF's satisfaction in accordance with the Contract, but only if such Services and Deliverables were required or requested before the Contractor's receipt of the notice of termination or, in the case of termination by the Contractor, the effective date of such termination. The Contractor will have no claim for any further payment beyond payments in accordance with this Article 6.6, but will remain liable to UNICEF for all loss or damages which may be suffered by UNICEF by reason of the Contractor's default (including but not limited to cost of the purchase and delivery of replacement or substitute Services or Deliverables).

6.7 The termination rights in this Article 6 are in addition to all other rights and remedies of UNICEF under the Contract.

Force Majeure

6.8 If one Party is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations under the Contract, the other Party may terminate the Contract on the same terms and conditions as are provided for in Article 6.1 above, except that the period of notice will be seven (7) days instead of thirty (30) days. "Force majeure" means any unforeseeable and irresistible events arising from causes beyond the control of the Parties, including acts of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism or other acts of a similar nature or force. "Force majeure" does not include (a) any event which is caused by the negligence or intentional action of a Party; (b) any event which a diligent party could reasonably have been expected to take into account and plan for at the time the Contract was entered into; (c) the insufficiency of funds, inability to make any payment required under the Contract, or any economic conditions, including but not limited to inflation, price escalations, or labour availability; or (d) any event resulting from harsh conditions or logistical challenges for the Contractor (including civil unrest) associated with locations at which UNICEF is operating or is about to operate or is withdrawing from, or any event resulting from UNICEF's humanitarian, emergency, or similar response operations.

7. ETHICAL STANDARDS

7.1 Without limiting the generality of Article 2 above, the Contractor will be responsible for the professional and technical competence of its Personnel including its employees and will select, for work under the Contract, reliable individuals who will perform effectively in the implementation of the Contract, respect the local laws and customs, and conform to a high standard of moral and ethical conduct.

7.2 (a) The Contractor represents and warrants that no official of UNICEF or of any United Nations System organisation has received from or on behalf of the Contractor, or will be offered by or on behalf of the Contractor, any direct or indirect benefit in connection with the Contract, including the award of the Contract to the Contractor. Such direct or indirect benefit includes, but is not limited to, any gifts, favours or hospitality.

(b) The Contractor represents and warrants that the following requirements with regard to former UNICEF officials have been complied with and will be complied with:

- (i) During the one (1) year period after an official has separated from UNICEF, the Contractor may not make a direct or indirect offer of employment to that former UNICEF official if that former UNICEF official was, during the three years prior to separating from UNICEF, involved in any aspect of a UNICEF procurement process in which the Contractor has participated.
- (ii) (ii) During the two (2) year period after an official has separated from UNICEF, that former official may not, directly or indirectly on behalf of the Contractor, communicate with UNICEF, or present to UNICEF, about any matters that were within such former official's responsibilities while at UNICEF.

(c) The Contractor further represents that, in respect of all aspects of the Contract (including the award of the Contract by UNICEF to the Contractor and the selection and awarding of sub-contracts by the Contractor), it has disclosed to UNICEF any situation that may constitute an actual or potential conflict of interest or could reasonably be perceived as a conflict of interest.

7.3 The Contractor further represents and warrants that neither it nor any of its Affiliates, or Personnel or directors, is subject to any sanction or temporary suspension imposed by any United Nations System organization or other international inter-governmental organization. The Contractor will immediately disclose to UNICEF if it or any of its Affiliates or Personnel or directors, becomes subject to any such sanction or temporary suspension during the term of the Contract.

7.4 The Contractor will (a) observe the highest standard of ethics; (b) use its best efforts to protect UNICEF against fraud, in the performance of the Contract; and (c) comply with the applicable provisions of UNICEF's Policy Prohibiting and Combatting Fraud and Corruption. In particular, the Contractor will not engage, and will ensure that its Personnel, agents and sub-contractors do not engage, in any corrupt, fraudulent, coercive, collusive or obstructive conduct as such terms are defined in UNICEF's Policy Prohibiting and Combatting Fraud and Corruption.

7.5 The Contractor will, during the term of the Contract, comply with (a) all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract and (b) the standards of conduct required under the UN Supplier Code of Conduct (available at the United Nations Global Marketplace website - www.ungm.org).

7.6 The Contractor further represents and warrants that neither it nor any of its Affiliates is engaged, directly or indirectly, (a) in any practice inconsistent with the rights set out in the Convention on the Rights of the Child, including Article 32, or the International Labour Organization's Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No. 182 (1999); or (b) in the manufacture, sale, distribution, or use of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.

7.7 The Contractor represents and warrants that it has taken and will take all appropriate measures to prevent

sexual exploitation or abuse of anyone by its Personnel including its employees or any persons engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, will constitute the sexual exploitation and abuse of such person. In addition, the Contractor represents and warrants that it has taken and will take all appropriate measures to prohibit its Personnel including its employees or other persons engaged by the Contractor, from exchanging any money, goods, services, or other things of value, for sexual favours or activities or from engaging in any sexual activities that are exploitive or degrading to any person. This provision constitutes an essential term of the Contract and any breach of this representation and warranty will entitle UNICEF to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

7.8 The Contractor will inform UNICEF as soon as it becomes aware of any incident or report that is inconsistent with the undertakings and confirmations provided in this Article 7.

7.9 The Contractor acknowledges and agrees that each of the provisions in this Article 7 constitutes an essential term of the Contract.

(a) UNICEF will be entitled, in its sole discretion and at its sole choice, to suspend or terminate the Contract and any other contract between UNICEF and the Contractor with immediate effect upon written notice to the Contractor if: (i) UNICEF becomes aware of any incident or report that is inconsistent with, or the Contractor breaches any of, the undertakings and confirmations provided in this Article 7 or the equivalent provisions of any contract between UNICEF and the Contractor or any of the Contractor's Affiliates, or (ii) the Contractor or any of its Affiliates, or Personnel or directors becomes subject to any sanction or temporary suspension described in Article 7.3 during the term of the Contract.

(b) In the case of suspension, if the Contractor takes appropriate action to address the relevant incident or breach to UNICEF's satisfaction within the period stipulated in the notice of suspension, UNICEF may lift the suspension by written notice to the Contractor and the Contract and all other affected contracts will resume in accordance with their terms. If, however, UNICEF is not satisfied that the matters are being adequately addressed by the Contractor, UNICEF may at any time, exercise its right to terminate the Contract and any other contract between UNICEF and the Contractor.

(c) Any suspension or termination under this Article 7 will be without any liability for termination or other charges or any other liability of any kind.

8. FULL COOPERATION WITH AUDITS AND INVESTIGATIONS

8.1 From time to time, UNICEF may conduct inspections, post-payment audits or investigations relating to any aspect of the Contract including but not limited to the award of the Contract, the way in which the Contract operates or operated, and the Parties' performance of the Contract generally and including but not limited to the Contractor's compliance with the provisions of Article 7 above. The Contractor will provide its full and timely cooperation with any such inspections, post-payment audits or investigations, including (but not limited to) making its Personnel and any relevant data and documentation available for the purposes of such inspections, post-payment audits or investigations, at reasonable times and on reasonable conditions, and granting UNICEF and those undertaking such inspections, post-payment audits or investigations access to the Contractor's premises at reasonable times and on reasonable conditions in connection with making its Personnel and any relevant data and documentation available. The Contractor will require its sub-contractors and its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to provide reasonable cooperation with any inspections, post-payment audits or investigations carried out by UNICEF.

9. PRIVILEGES AND IMMUNITIES; SETTLEMENT OF DISPUTES

9.1 Nothing in or related to the Contract will be deemed a waiver, express or implied, deliberate or inadvertent, of any of the privileges and immunities of the United Nations, including UNICEF and its subsidiary organs, under the Convention on the Privileges and Immunities of the United Nations, 1946, or otherwise.

9.2 The terms of the Contract will be interpreted and applied without application of any system of national or sub-national law.

9.3 The Parties will use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to the Contract. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation will take place in accordance with the UNCITRAL Conciliation Rules then in force, or according to such other procedure as may be agreed between the Parties. Any dispute, controversy or claim between the Parties arising out of the Contract which is not resolved within ninety (90) days after one Party receives a request from the other Party for amicable settlement can be referred by either Party to arbitration. The arbitration will take place in accordance with the UNCITRAL Arbitration Rules then in force. The venue of the arbitration will be New York, NY, USA. The decisions of the arbitral tribunal will be based on general principles of international commercial law. The arbitral tribunal will have no authority to award punitive damages. In addition, the arbitral tribunal will have no authority to award interest in excess of the London Inter-Bank Offered Rate (LIBOR) then prevailing and any such interest will be simple interest only. The Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

10. NOTICES

10.1 Any notice, request or consent required or permitted to be given or made pursuant to the Contract will be in writing, and addressed to the persons listed in the Contract for the delivery of notices, requests or consents. Notices, requests or consents will be delivered in person, by registered mail, or by confirmed email transmission. Notices, requests or consents will be deemed received upon delivery (if delivered in person), upon signature of receipt (if delivered by registered mail) or twenty-four (24) hours after confirmation of receipt is sent from the addressee's email address (if delivered by confirmed email transmission).

10.2 Any notice, document or receipt issued in connection with the Contract must be consistent with the terms and conditions of the Contract and, in case of any ambiguity, discrepancy or inconsistency, the terms and conditions of the Contract will prevail.

10.3 All documents that comprise the Contract, and all documents, notices and receipts issued or provided pursuant to or in connection with the Contract, will be deemed to include, and will be interpreted and applied consistently with, the provisions of Article 9 (Privileges and Immunities; Settlement of Disputes).

11. OTHER PROVISIONS

11.1 The Contractor acknowledges UNICEF's commitment to transparency as outlined in UNICEF's Information Disclosure Policy and confirms that it consents to UNICEF's public disclosure of the terms of the Contract should UNICEF so determine and by whatever means UNICEF determines.

11.2 The failure of one Party to object to or take affirmative action with respect to any conduct of the other Party which is in violation of the terms of the Contract will not constitute and will not be construed to be a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

11.3 The Contractor will be considered as having the legal status of an independent contractor as regards UNICEF. Nothing contained in the Contract will be construed as making the Parties principal and agent or joint venturers.

11.4 The Contractor will not, without the prior written consent of UNICEF, assign, transfer, pledge or make other disposition of the Contract, or of any part of the Contract, or of any of the Contractor's rights or obligations under the Contract.

11.5 No grant of time to the Contractor to cure a default under the Contract, nor any delay or failure by UNICEF to exercise any other right or remedy available to UNICEF under the Contract, will be deemed to prejudice any rights or

remedies available to UNICEF under the Contract or constitute a waiver of any rights or remedies available to UNICEF under the Contract.

11.6 The Contractor will not seek or file any lien, attachment or other encumbrance against any monies due or to become due under the Contract, and will not permit any other person to do so. It will immediately remove or obtain the removal of any lien, attachment or other encumbrance that is secured against any monies due or to become due under the Contract.

11.7 The Contractor will not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNICEF or the United Nations. Except as regards references to the name of UNICEF for the purposes of annual reports or communication between the Parties and between the Contractor and its Personnel and sub-contractors, the Contractor will not, in any manner whatsoever use the name, emblem or official seal of UNICEF or the United Nations, or any abbreviation of the name of the United Nations, in connection with its business or otherwise without the prior written permission of UNICEF.

11.8 The Contract may be translated into languages other than English. The translated version of the Contract is for convenience only, and the English language version will govern in all circumstances.

11.9 No modification or change in the Contract, and no waiver of any of its provisions, nor any additional contractual relationship of any kind with the Contractor will be valid and enforceable against UNICEF unless set out in a written amendment to the Contract signed by an authorized official of UNICEF.

11.10 The provisions of Articles 2.14, 3.8, 3.9, 4, 5, 7, 8, 9, 11.1, 11.2 and 11.7 will survive provision of the Services and delivery of the Deliverables and the expiry or earlier termination of the Contract.

Merci de signer et de cacheter avec la mention "lu et approuvé"

Nom du Représentant de l'Entreprise

Date

Nom de l'Entreprise

Cachet de l'Entreprise