

UNICEF KINSHASA, DR CONGO

CONTRACTOR SERVICES FOR CONSTRUCTION OF «132 SALLES DE CLASSE ET 132 PORTES DE LATRINES REPARTIS DANS 22 ECOLES - PROVINCE DU KASAÏ CENTRAL, SUBDIVISES EN 7 LOTS »

Contract number: _____

FORM OF CONTRACT FOR CONSTRUCTION WORKS AND GENERAL CONDITIONS OF CONTRACT

THIS CONTRACT FOR CONSTRUCTION OF _____ in _____
(together with the schedules and attachments hereto, this "Contract") is made on _____ [DATE].

BETWEEN: UNICEF, THE UNITED NATIONS CHILDREN'S FUND ("UNICEF"), an international inter-governmental organization established by the General Assembly of the United Nations by resolution No. 57(1) of 11 December 1946 as a subsidiary organ of the United Nations, having its headquarters at UNICEF House, Three United Nations Plaza, New York, New York, 10017, U.S.A. and having an office at 372, avenue Colonel Mondjiba, Kinshasa Ngaliema, DR CONGO

AND: _____ [NAME OF CONTRACTOR], a corporation organized and existing under the laws of [COUNTRY] and having its principal offices at _____ [address] (the "Contractor"); UNICEF and the Contractor are hereinafter collectively referred to as the "Parties".

WHEREAS:

A. UNICEF, in accordance with its Charter and Mission Statement, works with governments, civil society organizations and other partners in more than one hundred and sixty countries to advance children's rights to survival, protection, development and participation, and in doing so is guided by the Convention on the Rights of the Child.

B. The Government of DR CONGO, through the Departments of _____ [E.G. NATIONAL EDUCATION], has agreed to a Program to provide for 132 SALLES DE CLASSE ET 132 PORTES DE LATRINES REPARTIS DANS 22 ECOLES - PROVINCE DU KASAÏ CENTRAL, SUBDIVISES EN 7 LOTS .

C. UNICEF intends to implement the construction of these schools through a standard contracting process, utilizing national contractor capacity. Separate consultant has prepared the design and shall perform the direct site supervision. Cooperation with the local community in the construction process is to be encouraged.

D. Request for Proposals No. LRPS=2018-9149348 dated 09.08.2019, as amended by _____ [LIST AMENDMENTS AND DATES] TOGETHER THE "REQUEST FOR PROPOSALS", a copy of which is attached to this Contract, UNICEF invited bids for provisions of 132 SALLES DE CLASSE ET 132 PORTES DE LATRINES REPARTIS DANS 22 ECOLES - PROVINCE DU KASAÏ CENTRAL, SUBDIVISES EN 7 LOTS .

E. By bid dated 09.08.2019, as amended by [LIST OF AMENDMENTS AND DATE] TOGETHER THE "BID", a copy of which is attached to this contract, the Contractor responded to the Invitation to Bid and represented that it is qualified, capable and willing carry out the construction works as described.

F. UNICEF wishes to engage the Contractor to undertake the Works all on the terms and conditions set forth in this Contract; and the Contractor represents that it is qualified, ready, able and willing carry out the Works on the same terms and conditions;

NOW, THEREFORE, the Parties hereto mutually agree as follows:

1. CONTRACT DOCUMENTS

1.1 This document and all annexes hereto, together with the following named documents, which are incorporated herein by reference, constitute the entire Contract (herein referred to as the "Contract" or this "Contract") between UNICEF and the Contractor:

- a) Annex I: Scope of Work
- b) Annex II: Schedule of Completion

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- c) Annex III: Schedule of Payments
- d) Annex IV: Performance Guarantee/Performance Bond
- e) The Request for Proposals
- f) The Form of Bid including all attachments
- g) Technical Specifications
- h) Bill of Quantities
- i) Drawings
- j) Correspondence written prior to and during Bidding which clarifies or amends the documents in paragraph (a) to (ih) above
- k) Correspondence written after Bidding up to the signing of the Contract, which clarifies or amends the documents in paragraph (a) to (i) above.
- l) Annex A: UNICEF's General Terms and Conditions

1.2 The Contract documents are to be taken as complementary of one another, but in case of ambiguities, discrepancies or inconsistencies among them, the Contract shall be interpreted on the basis of the following order of precedence:

- a) this document;
- b) Annexes I to IV;
- c) Annex A: UNICEF's General Terms and Conditions
- d) The Request for Proposals;
- e) the form of bid including all attachments;
- f) Technical Specifications;
- g) Drawings;
- h) Bill of Quantities.

1.3 The Contract represents the entire and integrated Contract of the Parties with regard to the subject matter hereof and supersedes all prior Contracts, negotiations and representations, either written or oral.

2. DEFINITIONS

In this Contract, the following terms shall have the following meaning:

2.1 Defects: Any part of the Works not completed in accordance with this Contract.

Defect Liability Period: Is the period during which the Contractor is responsible for repairing or rectifying defects that appear in the Works. The period commences upon Substantial completion of the Works and runs until the Final Completion. Retention moneys e.g. 5% of the contractual amount retained as guarantee for the Works shall be return to the contractor by UNICEF upon issuance of the Certificate of Final Completion.

2.2 Drawings: Drawings of the Works, as included in this Contract, and any additional and modified drawings issued by (or on behalf of) UNICEF in accordance with this Contract.

2.3 Equipment: The Contractor's apparatus, machinery and vehicles used in the execution of the Works.

2.4 Laws: All national legislation, statutes, ordinances and other laws and regulations of any legally constituted public authority.

2.5 Materials: Things of all kinds intended to form or forming part of the Works, including the supply-only materials.

2.6 Site or Sites: The place or places where the Works are to be executed and any other place defined as such in the Drawings and Contract Documents.

2.7 Specifications: The Technical Specifications of the Works included in this Contract and any modifications or additions approved by UNICEF.

2.8 Suppliers: Persons or entities that entered into a Contract directly with the Contractor to supply materials and equipment fabricated specifically for the Works.

2.9 Works: Permanent and temporary Works required by the Contract Documents as set forth in this Contract.

2.10 Designated Representative: The officer designated to represent UNICEF as in the contract. In addition, UNICEF may use the services of a Consultant to supervise the works carried out by the Contractor as provided by Article 2.11 of this Contract.

2.11 The Consultant: The person or company that has been engaged by UNICEF to carry out the design of the project and assist in the project implementation and the day to day supervision and inspection of the works.

3. GENERAL OBLIGATIONS OF THE CONTRACTOR

3.1 The Contractor shall, with due care and diligence, execute and maintain the Works and provide all labor, materials, equipment, transportation and other facilities necessary to substantially complete the Works by the Substantial Completion Date, and in accordance with the Contract Documents and the standards defined by this Contract.

3.2 The Contractor shall take full responsibility for the adequacy, stability and safety of all Site operations and methods of construction and for security of the Site itself, including the security of all Materials stored or used on the Site.

3.3 The Contractor shall submit material samples, and relevant information, in sufficient time for the UNICEF to complete review of samples. Each sample shall be labeled as to origin and intended use in the Works. All materials used in the course of these Works shall be new and proper for their use. No reusable materials coming from the Site shall be used unless permitted by the UNICEF. Other materials shall be stored on Site until the end of the Works. All materials, equipment and products shall be installed in accordance with the written recommendations of the manufacturer.

3.4 The Contractor shall not permit any laborer's, mechanic's or other similar lien (hereinafter, referred collectively, as "Lien") to be filed or otherwise imposed on any part of the Works, or the premises of UNICEF. If any Lien is filed or otherwise imposed, and if the Contractor does not cause such Lien to be released and discharged forthwith, or file a bond in lieu thereof, UNICEF shall have the right, but not the obligation, to pay all sums necessary to obtain such release and discharge, and to deduct all amounts so paid from moneys otherwise due the Contractor.

3.5 When required, the Contractor shall cooperate and share the Site with other contractors and public authorities.

3.6 The Contractor shall take full responsibility for the care of the Works and the materials and plant for incorporation in the Works from the commencement date of the Contract until the issuance of the Certificate of Substantial Completion by UNICEF, and UNICEF taking the facilities into use. Provided that the Contractor shall retain full responsibility for any outstanding part of the Works, materials or plant which the Contractor requires during the period necessary to complete the Defects Liability Period obligations.

3.7 The Contractor shall hand over the Operations and Maintenance manual as part of Annex I of Form of Contract and General Conditions of Contract within 14 (fourteen) days of the date of the Certificate of Substantial Completion, as described in Article 17 of this Contract.

3.8 The Contractor shall designate and notify UNICEF in writing the name of a Representative on each Site or part of the Works.

4. GENERAL RIGHTS AND OBLIGATIONS OF UNICEF

4.1 UNICEF, shall have unlimited access to supervise the Works. UNICEF shall have the right to review the type, quantity and quality of materials and workmanship used in the Works to ensure compliance with the Contract Documents and the standards defined by this Contract.

4.2 UNICEF shall issue all certificates upon satisfaction of conditions necessary for the issuance of such certificates, supply all necessary information and written instructions for the Contractor to carry out the Works properly.

4.3 Further to Article 4 of this Contract, UNICEF shall hand over the site(s) to the Contractor within _____ [e.g. 5 - five-] working days from the Effective Date of this Contract to enable the Contractor to proceed in accordance with this Contract.

4.4 UNICEF shall have the right to issue, and the Contractor shall comply with, additional instructions. Such additional instructions shall complement and/or clarify the Contract Documents and shall have no effect on the definition of the Works, the Prices and/or the Substantial Completion Date(s). Such instructions may take the form of technical specifications, drawings, samples, models or instructions.

5. APPROVAL BY UNICEF

5.1 Approval or acceptance of any part of the Works by UNICEF shall not relieve the Contractor of any of his obligations or responsibilities under the Contract.

6. PROJECT AUTHORITY

6.1 UNICEF and the Contractor shall each nominate a Project Authority who shall be responsible for the day-to-day liaison and management of the Contract.

7. CONTRACT PRICE

7.1 In full and final consideration of the complete and satisfactory performance of its obligations hereunder, UNICEF shall pay the Contractor the following amounts in respect of the completion of the Works (the "Contract Price"):

- LOT 1 - EP DIBUE DIETU, EP TSHIBUEMA et EP KANDONDO : CONSTRUCTION DE 6 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 6 BLOCS DE 3 PORTES DE LATRINES CHACUN :DOLLARS US
- LOT 2 -EP KALUWE, EP LUMONA et EP LEMBA : CONSTRUCTION DE 6 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 6 BLOCS DE 3 PORTES DE LATRINES CHACUN :DOLLARS US
- LOT 3 - EP 2 KAPEMBA, EP 2 TSHIKUNDI et EP 2 BENA TSHIADI : CONSTRUCTION DE 6 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 6 BLOCS DE 3 PORTES DE LATRINES CHACUN :DOLLARS US
- LOT 4 - EP MGR KABONGO, EP LUKUSA KAYEMBE et EP TUDIENZELE: CONSTRUCTION DE 6 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 6 BLOCS DE 3 PORTES DE LATRINES CHACUN :DOLLARS US
- LOT 5 - EP 3 LUNGANDU, EP MUYOYO, EP 3 TSHINSHIBA et EP SIMON KIMBANGU : CONSTRUCTION DE 9 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 9 BLOCS DE 3 PORTES DE LATRINES CHACUN :DOLLARS US
- LOT 6 – EP KAVULA, EP NKATA et EP ISTUTU NDALI : CONSTRUCTION DE 6 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 6 BLOCS DE 3 PORTES DE LATRINES CHACUN : 3 x (TOTAL (A) + (B))DOLLARS US
- LOT 7 – EP DEMBA RSAC, EP3 MPINDU et EP WETUNGA NYI : CONSTRUCTION DE 6 BATIMENTS DE 3 SALLES DE CLASSE CHACUN ET 6 BLOCS DE 3 PORTES DE LATRINES CHACUN : 3 x (TOTAL (A) + (B))DOLLARS US

TOTAL CONTRACT PRICE: _____ [AMOUNT & CURRENCY]

7.2 The price is not subject to any adjustment or revision because of price or currency fluctuations, the actual costs incurred by the Contractor in the performance of its obligations hereunder or modifications to this Contract or the Contract Documents without a duly signed amendment in accordance with Annex A: General Terms and Conditions.

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7.3 All References to fees in Annex A: General Terms and Conditions shall be understood to mean Contract Price.

8. SCOPE OF WORK

8.1 The Contractor shall complete the Works as described in Annex I - Scope of Work.

8.2 The Contractor shall comply with the norms and technical standards applicable to the relevant construction as defined **IN THE TECHNICAL SPECIFICATIONS ATTACHED TO THIS CONTRACT.**

9. SCHEDULE FOR COMPLETION OF WORKS

9.1 The Contractor shall commence and complete the Works in accordance with the schedule set out in Annex II - Schedule of Completion.

9.2 A works diary shall be kept at the Site and maintained daily by the Contractor. This diary shall describe all works started and completed each day and shall be checked periodically by UNICEF.

10. PROGRAM TO BE SUBMITTED

10.1 The Contractor shall within 14 (fourteen) days of the date of this Contract submit to UNICEF a program for the execution of the Works. The program should contain all activities required to carry out the Works, and specifically note all critical activities, including critical path, and critical inspection points.

10.2 If at any time, it should appear that the actual progress of the work does not conform to the program, a revised program shall be submitted, showing modifications necessary to ensure completion on time.

10.3 Submission by the Contractor and acceptance by UNICEF of such program or revised program shall not relieve the Contractor of any of their duties or responsibilities under the Contract.

11. SETTING-OUT

11.1 The Contractor shall be responsible for the accurate setting-out of the Works in accordance with the Drawings, including lines, levels, positions, dimension, alignments, etc. of all parts of the Works.

11.2 Bench marks shall be established by UNICEF at all sites, and shall be available for the setting out. The Contractor shall be responsible for maintaining and protecting the bench marks at all times.

11.3 If at any time during the execution of the Works errors are found in this setting-out, the Contractor shall, at his own cost, rectify such error to the satisfaction of UNICEF.

12. MATERIALS AND TESTS

12.1 Further to the requirements of Article 3.3 of this Contract, all materials, plant and workmanship shall be:

- a.- of the respective kinds described in the Contract; and
- b.- subjected to tests as detailed in the Technical Specification.

12.2 UNICEF may request additional tests at anytime. Such tests may be performed on site, at the place of manufacture or at such other place as may be specified or agreed by UNICEF. The Contractor shall provide all necessary assistance for obtaining the samples for testing, and shall provide the samples and carry out the testing at his own cost. UNICEF may at its own discretion take samples and carry out tests in addition to those done by the Contractor.

13. QUALITY CONTROL

13.1 The Contractor shall, before start of construction, provide to UNICEF their plan for assuring that the quality of the work shall be to the requirements of the Contract, and describing the methods intended to be used for quality control of materials, plants and workmanship used in the Works.

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14. INSPECTION

14.1 Further to the requirements of Article 3 of this Contract, UNICEF shall at all times be given access to the site or to any place of fabrication of materials or plant to be supplied under the Contract, in order to inspect and request testing of such materials or plant, and the Contractor shall make arrangements for such tests to be carried out at his own cost.

14.2 Any materials or plant found not to be in accordance with the Contract shall be rejected by UNICEF and shall be removed from site immediately.

15. RATE OF PROGRESS

15.1 If for any reason, which does not entitle the Contractor to an extension of time as provided by Article 16.1 of this Contract, the rate of progress of the Works or any section of the Works is at anytime considered by UNICEF to be too slow to comply with the time for completion, the Contractor shall immediately take such steps as are necessary to expedite progress so as to be able to complete the Works on time. The Contractor shall not be entitled to any additional payment for taking such steps.

16. DELAYS AND EXTENSION OF TIME

16.1 The Contractor may be entitled to an extension of time in the event of the following:

- 1) a substantial increase in the amount of work to be done under the Contract;
- 2) exceptionally adverse climatic conditions; or
- 3) other special circumstances which may in the Contractor's opinion prevent or hinder the progress of the Works.

16.2 The Contractor shall immediately inform UNICEF of the need for extension of time, and within 14 (fourteen) days from the occurrence of the event, provide all necessary details of the occurrence to enable UNICEF to make an assessment of the entitlement. UNICEF may at its sole discretion grant such extension of time as it considers reasonable under the circumstances.

17. SUBSTANTIAL AND FINAL COMPLETION

17.1 Prior to Substantial Completion, UNICEF and the Contractor shall inspect the Works at each Site to identify any defects resulting from defective materials or poor workmanship, and agree on the period required for the Contractor to correct all defects. UNICEF shall issue a certificate of substantial completion (the "Certificate of Substantial Completion") provided that all defects are corrected and the Works are satisfactory according to the Contract Documents and the standards defined by this Contract.

17.2 The Works shall be deemed substantially completed when they are completed in accordance with the Contract Documents and the standards defined by this Contract or when they are effectively used for the purpose for which they are intended.

17.3 Upon signature of the Certificate of Substantial Completion at each Site, the Site and Works shall be taken over by UNICEF.

17.4 UNICEF and the Contractor shall carry out a final inspection at each Site (the "Final Inspection") **TWELVE(12)** months after the issuance of the Certificate of Substantial Completion for the Site. The Works shall be deemed to be finally completed when all Defects that have become apparent during the [12 months] after the issuance of the Certificate of Substantial Completion have been remedied by the Contractor and UNICEF considers the Works to be satisfactory according to the Contract Documents and the standards defined by this Contract. UNICEF shall then issue a Certificate of Final Completion.

18. COMPLETION AND TAKE OVER

18.1 The Work is defined as taken over by UNICEF at the time of the issuance of Certificate of Substantial Completion, as described in Article 17 of this Contract. The issuance of Certificate of Final Completion shall be deemed to be the date of the actual completion of the Contract.

18.2 The condition described in Article 17.4 of this Contract shall be deemed to mean the final taking over of rectified defects and outstanding parts of the Works, as defined in accordance with Article 17.2 of this Contract.

18.3 The contractor shall provide an Operation and Maintenance manual for the building and any equipment installed, containing all warranties. The contractor shall also train the staff of the beneficiary facilities or relevant authorities on basic operation and maintenance requirements and procedures.

18.4 The operation, maintenance, safety and insurance of the buildings upon handing over by the contractor to UNICEF are within the responsibility of UNICEF until the transfer of ownership to the Government. UNICEF will hand over the constructed/ rehabilitated buildings to the Government at the same time of the reception of the building from the contractor, no later than the 'Substantial Completion Date'.

19. TAKING OVER OF SECTIONS OR SEPARABLE PARTS OF THE WORKS

19.1 In accordance with the procedure set out in Article 18 of this Contract, the Contractor may request and UNICEF may agree to issue a Certificate of Substantial Completion in respect of:

1. any substantial part for which a separate time for completion is provided in Article 9 of this Contract; or
2. any substantial part of the Works which has been both completed to the satisfaction of UNICEF, and may be occupied or used by UNICEF or the beneficiaries.

19.2 Such Certificate of Substantial Completion for a part of the Works shall not relieve the Contractor of his responsibilities under the Contract, and the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work and rectification of defects in that part of the Works during the Defects Liability Period as provided in Article 27 of this Contract. A separate Defects Liability Period shall apply for each separate section or separable part taken over in accordance with the above

20. STRUCTURAL INTEGRITY

20.1 The Contractor shall provide a written guarantee of the integrity of the structure of the building, which shall remain valid for a period of at least ten (10) years. The guarantee shall be submitted to UNICEF prior to issuance of the Certificate of Substantial Completion.

21. EXAMINATION OF WORK BEFORE COVER UP

21.1 The Contractor shall afford full opportunity for UNICEF to examine and measure any such part of the Works which is about to be covered up or put out of view. Unless specifically agreed in writing, no part of the Works shall be covered up or put out of view without the approval of UNICEF. A specific list of construction elements ("inspection" points and "hold" points) to be inspected before cover up shall be agreed in advance. The specific construction points defined as "hold" points shall require a written signature of acceptance by UNICEF before cover up. The Contractor shall give UNICEF ample time to arrange the necessary examination.

22. ACCEPTANCE OF THE WORK

22.1 UNICEF shall have a reasonable time after completion of the Works or part of the Works, and before issuance of the Certificate of Substantial Completion, to inspect the Works and to reject and refuse acceptance of Works not conforming to the Contract. Inspection prior to completion of Works does not relieve the Contractor from any of its obligations under the Contract.

23. INVOICING INSTRUCTIONS

23.1 The Contractor shall submit the original invoice in accordance with process set out in Article 3.2 of Annex A: UNICEF General Terms and Conditions of Contract (Service) to the following address:

SUPPLY SECTION
UNICEF KINSHASA
 Concession Immotex,
 372, Avenue colonel Mondjiba

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KINSHASA / NGÄLIEMÄ

24. PAYMENT

24.1 The Price for the Works shall become payable in accordance with the payment schedule(s) set out in Annex III.

24.2 All payments shall be made by UNICEF to the following bank account of the Contractor:

Name of Bank: _____

Account Number: _____

Address of Bank: _____

25. ADVANCE PAYMENT GUARANTEE

25.1 The Contractor shall, no later than five (5) working days following the effective date of this Contract as set forth in Article 44 of this Contract, at its own expense furnish an Advance Payment Guarantee in the amount of minimum ten percent of the Contract Price substantially in the form set forth in Annex IV, and with such Surety or Sureties as shall be approved by UNICEF

26. PERFORMANCE GUARANTEE

26.1 The Contract must be accompanied by a Performance Guarantee unconditional and cashable on demand of 5% (FIVE PERCENT) of the total cost of the services. The Performance Guarantee may be in the form of a bank guarantee in AMERICAN DOLLARS issued by a bank located in DR CONGO and acceptable to UNICEF.

26.2 The Performance Guarantee shall remain valid 30 days after the expected Substantial Completion of the works according to the draft timeline. If for any reason the works are delayed, the Contractor shall have to submit a new Performance Guarantee valid 30 days after the revised Substantial Completion of the works. This new Performance Guarantee shall be submitted at least two months before the expiring date of the original Performance Guarantee.

26.3 If the Contract allows for taking over of sections or separable parts of the Works as provided by Article 19 of this Contract, the Performance Guarantee shall be valid until the issuance of the last Certificate of Substantial Completion.

26.4 The Performance Guarantee shall be released 30 days after issuance of the Substantial Completion Certificate.

26.5 UNICEF shall have the right to claim payment on the Performance Guarantee in the event that the Contractor does not comply with contractual commitment and deliverables.

27. DEFECT LIABILITY PERIOD

27.1 The Contractor shall:

(a) allow for retention money of 5% of the contractual amount retained as guarantee. The retention money shall be paid to the contractor by UNICEF upon issuance of the Certificate of Final Completion. Or,

(b) submit to UNICEF a Defect Liability Period Guarantee unconditional and cashable on demand of the value of 5% of its contractual amount upon issuance of the Taking Over Certificate. This Defect Liability Period Guarantee shall be valid for the duration of the Defect Liability period TWELVE 12-MONTH plus 30 days. This guarantee shall be returned to the Contractor 30 days after issuance of the Final Completion Certificate.

27.2 UNICEF has the right to claim payment on the Defect Liability Period in the event that the Contractor does not comply with contractual commitments and deliverables.

28. INTEREST ON GUARANTEES

28.1 UNICEF shall not pay any interest on Guarantees provided in Articles 25, 26 or 27 of this Contract or any other Guarantee provided by the Contractor.

29. DEFAULT BY CONTRACTOR

29.1 In case of default on the part of the Contractor in performing any part of the Works or in carrying out an instruction issued by UNICEF within a reasonable time, UNICEF shall be entitled to employ and pay other persons to carry out the same. Costs consequent thereon or incidental thereto shall be deducted by UNICEF from any monies due or to become due to the Contractor.

30. LIQUIDATED DAMAGES

30.1 If the Contractor fails to complete the Works in accordance with the dates stipulated in Article 9 above, UNICEF shall have the right to deduct from any payment due to the Contractor the amount of one tenth of a per cent (0.1 %) of the Contract Price per day of delay up to a maximum of **five** per cent (5%) of the Contract Price. These liquidated damages shall not relieve the Contractor of his obligations or responsibilities that he may have under the Contract.

31. SITE INSPECTION BY THE CONTRACTOR

31.1 The Contractor shall have inspected and examined the Site, its surroundings, data on sub-surface and hydrological conditions and environmental aspects. The Contractor shall be responsible for the correct positioning of the Works and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

31.2 The Contractor is required to thoroughly familiarize itself with the conditions on site as provided by Article 31.1 above. This may include geotechnical and other site or environmental investigations as the Contractor deems necessary, at the Contractor's own cost.

31.3 For some sites preliminary site surveys and investigations shall be made available to the Contractor. These shall be for information only and are made available without prejudice, and shall not constitute any contractual guarantee by UNICEF.

31.4 The Contractor shall be deemed to have satisfied himself of the adequacy of his Bid price to cover all his obligations under the Contract.

32. FIRE PREVENTION

32.1 The Contractor shall be responsible for fire prevention on the Site where the Works are being performed. Fire fighting equipment shall be kept on Site and under the control of the Contractor at all times during the period when Works are taking place on the Site and during rest breaks. The Contractor shall ensure that his employees and sub-contractors can operate the fire fighting equipment. All fire fighting equipment must be in good working condition. The Contractor's employees and sub-contractors shall carry out any operations requiring exposed flame or welding in a careful and safe manner.

33. SITE CLEANLINESS

33.1 The Site shall be kept clean of debris at all times. Progressively and at the end of the Works, the Contractor shall, according to the instruction of UNICEF, clean and keep clean the buildings and the Site.

33.2 Upon the issuance of the Certificate of Substantial Completion as provided by Article 17 of this Contract, the Contractor shall clear away and remove from site all equipment, surplus materials, rubbish and temporary works of every kind, and leave the site in a clean and functional condition.

34. CARE OF THE ENVIRONMENT

34.1 The Contractor shall ensure that minimal damage occurs to the environment, the vegetation, existing structures and utilities as a result of the Works. The Contractor shall be responsible to remedy damage, other than minimal damage, to the environment, the vegetation, existing structures and utilities at no cost to UNICEF.

35. TRAFFIC AND PROTECTION OF ROADS, PROPERTIES AND SERVICES

35.1 The Contractor shall carry out all work in connection with this Contract so as not to interfere unnecessarily or improperly with the convenience of the public and with access to, use and occupation of roads, footpaths, public services or property not in the Contractor's possession.

35.2 The Contractor shall use every reasonable means to prevent damage to roads, bridges and services, and shall select routes and limit extraordinary traffic to avoid unnecessary damage or injury.

35.3 Where necessary to divert or control traffic, the Contractor shall, in cooperation with traffic control authorities if required, provide all necessary facilities and resources at his own cost.

35.4 The Contractor shall be responsible for and shall pay the cost of any strengthening or improvement of routes to the site, in order to facilitate movement to site of equipment, temporary works, materials, etc. This shall apply to all necessary relocation of services.

35.5 The above shall also apply to any waterborne traffic required for the Works, in so far as it may affect docks, jetties, sea walls, etc.

35.6 The Contractor shall bear all costs and charges for special or temporary permits required in connection with access to site.

36. REPORTING AND RECORDS

36.1 The Contractor shall provide regular reports detailing the progress of the Works, costs incurred and estimate of time and costs to completion. Reports shall be submitted on a monthly basis in a format to be mutually agreed upon by the Parties within ten (10) days after signing of this Contract.

36.2 The Contractor shall maintain records and receipts for the purchase of all Materials and remuneration of labor used in the Works and shall make such records and receipts available for inspection by the Designated Representative, upon request.

37. SAFETY OF CONTRACTOR'S PERSONNEL AND SUB-CONTRACTORS

37.1 The Contractor shall take all possible care to safeguard his employees and any person visiting the Site from danger to life or health, and shall issue his employees with appropriate safety protection equipment required by the relevant regulations. Safety rules shall be established for the Site, and shall be made readily available to all personnel. All personnel shall receive adequate safety training. Any person found violating safety procedures shall be liable for dismissal from the Site.

37.2 In case of any accident or mishap occurring at Site, the Contractor shall provide a full report of such incidence to UNICEF within one day of the incident occurring, giving probable reasons for the accident and any steps the Contractor shall take to avoid recurrence.

37.3 None of the Works shall be carried on during the night or on locally recognized days of rest without the consent of UNICEF, except when work is unavoidable or absolutely necessary for the protection of life or property, or for the safety of the Works.

38. LOSS OR DAMAGE

38.1 If any loss or damage occurs to any part of the Works, materials or plant for incorporation in the Works during the period of this Contract, the Contractor shall at his own cost rectify such loss or damage to the full satisfaction of UNICEF.

39. ADDITIONAL INSURANCE

39.1 In addition to the insurance the Contractor is obliged to procure and maintain in accordance with Annex A: General Terms and Conditions, the Contractor shall insure the Works, together with materials and plants for incorporation in the Works, to the full replacement cost during the time this is in the care of the Contractor.

40. FOSSILS, CULTURAL HERITAGE, ETC.

40.1 Any fossils, coins, articles of value or antiquity and structures or things of geological, archaeological or cultural interest discovered on site shall, for the purpose of this Contract, be deemed to be the property of UNICEF. The Contractor shall take all reasonable precautions to prevent removal or damage to any such article or thing, and shall immediately notify UNICEF of such discovery. UNICEF shall, in each case, decide on course of action for dealing with what has been discovered.

41 SUSPENSION BY UNICEF

41.1 Without prejudice to any other rights and remedies available to it, UNICEF may by written notice to the Contractor suspend for a specified period, in whole or in part, payments to the Contractor or the Contractor's obligation to continue performance under this Contract, if in UNICEF's judgment:

41.1.1 Any conditions arise which interfere, or threaten to interfere, with the successful completion of the services under this Contract, the execution of the Works or the accomplishment of the purpose thereof; or

41.1.2 The Contractor shall have failed, in whole or in part, to perform any of the terms and conditions of this Contract.

41.2 After suspension under Article 41.1 above, the Contractor shall be entitled to reimbursement by UNICEF of actual and substantiated costs resulting from commitments entered into in accordance with this Contract prior to the commencement period of such suspension. The Contractor undertakes to use best efforts to minimize any such costs and shall include a provision in its contracts with sub-contractors, which entitles it to suspend such sub-contracts during any suspension period under this Contract.

42. TERM

42.1 This Contract shall commence on the Commencement Date and terminate upon payment of the final installment of the Contract Price; provided however that either Party may exercise its right to early termination in accordance with this Contract.

43. VARIATIONS

43.1 Further to the requirement under Annex A: General Terms and Conditions, if the total scope of work is changed either by:

- 1) UNICEF ordering or requesting an increase or decrease in the scope of work, or
- 2) special conditions on site necessitating a change to the scope of work

43.2 The Contractor shall send a request for variation as soon as he becomes aware of, or should have become aware of, the need for a variation. Within 14 (fourteen) days the Contractor shall provide all necessary details of the variation to enable UNICEF to make an assessment of the entitlement.

43.3 Such variation shall be valued by UNICEF in accordance with the rates shown in the Bill of Quantities in so far as they are applicable, and the monies due to the Contractor shall be increased or decreased accordingly.

43.4 If the rates in the Contract are not considered to be appropriate or applicable, UNICEF shall for the purpose of valuation of variations fix such other rates as are considered reasonable.

43.5 No work shall proceed on any variation without a written instruction to that effect by UNICEF.

44. NOTICES

44.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing in accordance with Article 10.1 of Annex A: General Terms and Conditions of Contract – Services, and addressed and sent by registered mail or facsimile to such Party as follows.

a) If to UNICEF:

UNICEF, the United Nations Children's Fund
372, avenue Colonel Mondiba, Kinshasa – Ngaliema, DR CONGO

LRPS-2019-9149348 – TRAVAUX DE CONSTRUCTION DE 132 SALLES DE CLASSE ET 132 PORTES DE LATRINES REPARTIS DANS 22 ECOLES - PROVINCES DU KASAÏ CENTRAL, SUBDIVISES EN 7 LOTS

Attn: The Representative

b) If to the Contractor:

Tel: _____

Fax: _____

Attn: _____

45. EFFECTIVE DATE

The effective date of this Contract shall be the date both Parties have signed the same