

## REQUEST FOR PROPOSAL

RFP-DAN-2023-503600

20 July 2023

## UNITED NATIONS CHILDREN'S FUND (UNICEF)

Wishes to invite you to submit a proposal for

### Oxygen Concentrators (Innovation Stream)

**Offers should be sent by:**

**E-mail to :** [supplybid@unicef.org](mailto:supplybid@unicef.org)

**Alternatively offers can be sent by:**

**Fax to :** +45 35 25 02 80 (secured fax)  
Attention: Bid Section

### IMPORTANT - ESSENTIAL INFORMATION

The reference RFP-DAN-2023-503600 must be indicated in the offer in accordance with the instructions provided in this document. Offers must be sent separately and must not be included in packages containing samples.

Bid form and schedule(s) must be used when replying to this invitation. You are welcome to enclose your own specifications etc., if necessary.

Offers must be received at the above E-mail address/Fax number by latest 23:59 hours (Copenhagen time) on 01 September 2023. Offers received after the stipulated date and time will be invalidated.

It is important that you read all the provisions of the Bid, to ensure that you understand UNICEF's requirements and can submit an offer in compliance with them. Note that failure to provide compliant offers may result in invalidation of your bid.

**THIS REQUEST FOR PROPOSAL HAS BEEN:**

---

**Prepared By:**

Dan Ilie  
(To be contacted for additional information, NOT FOR SENDING OFFERS)  
Email : dilie@unicef.org

**Verified By:**

*Dennis Soendergaard*  
\_\_\_\_\_  
Noah Mataruse

**Approved By:**

*Silvia Uneddu*  
\_\_\_\_\_  
Silvia Uneddu

**BID FORM**

This form must be completed, signed and returned to UNICEF.  
 Bid must be made in accordance with the instructions contained in this INVITATION.

**TERMS AND CONDITIONS OF CONTRACT**

Any Purchase Order resulting from this INVITATION shall contain UNICEF General Terms and Conditions and any other Specific Terms and Conditions detailed in this INVITATION.

**INFORMATION**

Any request for information regarding this INVITATION must be forwarded by email to the attention of the person who prepared this document, with specific reference to the Invitation number.

The Undersigned, having read the Terms and Conditions of INVITATION No. **RFP-DAN-2023- 503600** set out in the attached document, hereby offers to execute the services specified in the Terms and Conditions set out in the document.

Currency of Proposal: \_\_\_\_\_

Validity of Proposal: \_\_\_\_\_

Please indicate which of the following Early Payment Discount Terms are offered by you:  
 10 Days 3.0% \_\_\_\_\_ 15 Days 2.5% \_\_\_\_\_ 20 Days 2.0% \_\_\_\_\_ 30 Days Net \_\_\_\_\_  
 Other \_\_\_\_\_

**Declaration**

The undersigned, being a duly authorized representative of the Company, represents and declares that:

1.		YES	NO
	The Company and its Management have not been found guilty pursuant to a final judgment or a final administrative decision of any of the following:		
	a. fraud	<input type="checkbox"/>	<input type="checkbox"/>
	b. corruption	<input type="checkbox"/>	<input type="checkbox"/>
	c. conduct related to a criminal organisation	<input type="checkbox"/>	<input type="checkbox"/>
	d. money laundering or terrorist financing	<input type="checkbox"/>	<input type="checkbox"/>
	e. terrorist offences or offences linked to terrorist activities	<input type="checkbox"/>	<input type="checkbox"/>
	f. sexual exploitation and abuse:	<input type="checkbox"/>	<input type="checkbox"/>
	g. child labour, forced labour, human trafficking	<input type="checkbox"/>	<input type="checkbox"/>
	h. irregularity (non-compliance with any legal or regulatory requirement applicable to the Company or its Management).	<input type="checkbox"/>	<input type="checkbox"/>

<sup>1</sup> #Management" means any person having powers of representation, decision-making or control over the Organization. This may include, for example, executive management and all other persons holding downstream managerial authority, anyone on the board of directors, and controlling shareholders.

2.	The Company and its Management have not been found guilty pursuant to a final judgment or a final administrative decision of grave professional misconduct.	<input type="checkbox"/>	<input type="checkbox"/>
3.	The Company and its Management are not: bankrupt, subject to insolvency or winding-up procedures, subject to the administration of assets by a liquidator or a court, in an arrangement with creditors, subject to a legal suspension of business activities, or in any analogous situation arising from a similar procedure provided for under applicable national law.	<input type="checkbox"/>	<input type="checkbox"/>
4.	The Company and its Management have not been the subject of a final judgment or a final administrative decision finding them in breach of their obligations relating to the payment of taxes or social security contributions.	<input type="checkbox"/>	<input type="checkbox"/>
5.	The Company and its Management have not been the subject of a final judgment or a final administrative decision which found they created an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration, or principal place of business ( <i>creating a shell company</i> ).	<input type="checkbox"/>	<input type="checkbox"/>
6.	The Company and its Management have not been the subject of a final judgment or a final administrative decision which found the Company was created with the intent referred to in point (5) ( <i>being a shell company</i> ).	<input type="checkbox"/>	<input type="checkbox"/>



The UNICEF reserves the right to disqualify the Company suspend or terminate any contract or other arrangement between the UNICEF and the Company, with immediate effect and without liability, in the event of any misrepresentation made by the Company in this Declaration.

It is the responsibility of the Company to immediately inform the UNICEF of any changes in the situations declared.

This Declaration is in addition to, and does not replace or cancel, or operate as a waiver of, any terms of contractual arrangements between the UNICEF and the Company.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Name of the Company: \_\_\_\_\_

UNGM #: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Email: \_\_\_\_\_

Item No	Item Description	Quantity/Unit	Unit Price	Amount
---------	------------------	---------------	------------	--------

**SCHEDULE NO: 1 INNOVATION**

00010	U481001	1 each		
-------	---------	--------	--	--

Innovative oxygen concentrator, 10 LPM

**PRODUCT DESCRIPTION**

A mains electricity powered device that concentrates oxygen from ambient air and delivers the concentrated oxygen in a controlled manner to a patient requiring oxygen therapy, up to 10 LPM. This specific product is an innovative, fit-for-purpose concentrator designed to meet UNICEF's Target Product Profile, with improved power efficiency, variable power, resilience to challenging environments and low-quality power conditions, enhanced robustness, and improved usability and repairability.

00020	U481001	1 each		
-------	---------	--------	--	--

Innovative oxygen concentrator, other LPM

**PRODUCT DESCRIPTION**

A mains electricity powered device that concentrates oxygen from ambient air and delivers the concentrated oxygen in a controlled manner to a patient requiring oxygen therapy, up to 10 LPM. This specific product is an innovative, fit-for-purpose concentrator designed to meet UNICEF's Target Product Profile, with improved power efficiency, variable power, resilience to challenging environments and low-quality power conditions, enhanced robustness, and improved usability and repairability.

00030	U481000	1 each		
-------	---------	--------	--	--

Filter set for oxygen concentrator

**PRODUCT DESCRIPTION**

Filter set with all necessary filters (e.g., gross particle filters, inlet filters, bacterial filters, etc. as applicable), for 1 concentrator for 2 years operation at 15 hours per day.

00040	U481000	1 each		
-------	---------	--------	--	--

Spare parts kit for oxygen concentrator

**PRODUCT DESCRIPTION**

Full spare parts kit for oxygen concentrator maintenance and service, for use by trained technical staff. One kit recommended to be purchased with every 10 concentrators.

00051	U481001	1 each		
-------	---------	--------	--	--

Flow splitter,for oxygen concentrator

Item No	Item Description	Quantity/Unit	Unit Price	Amount
---------	------------------	---------------	------------	--------

**PRODUCT DESCRIPTION**

The oxygen flow splitter is a device intended to distribute medical oxygen from a source to multiple independent outlets. It can be connected to any low-pressure oxygen source, including concentrators, cylinders and a centralized system, and is suitable for table top or wall mounting.

00060	U282701	1 each		
-------	---------	--------	--	--

Medical equipment spare parts

**GENERAL DESCRIPTION**

Generic Material Number to cover procurement of spare parts for the items listed under this tender.

Please provide a separate list of relevant spare parts with prices in USD (or EUR) for the products that apply. The prices provided are expected to be fixed for the duration of the tender.

00070	U481000	1 each		
-------	---------	--------	--	--

Medical equipment & accessories

**GENERAL DESCRIPTION**

Generic Material Number to cover procurement of items similar to those included under this tender.

Prices, technical specifications and leadtime will be obtained by UNICEF separately on case by case scenarios through specific Requests for Quotation.

00080	U481050	1 each		
-------	---------	--------	--	--

Training/installation/svcs f/ med.equip.

**GENERAL DESCRIPTION**

Generic Material Number to cover supplier's provision of global installation, training and technical after-sales services for the items listed under this tender. Prices, scope of work and implementation timeframe will be obtained by UNICEF separately on case by case scenarios through specific Requests for Quotation.

Please refer to Annex D for specific service requirements linked to this tender.

**Incoterms & Delivery Requested**

**Packing**

Unit : Dimension.....x.....x.....cm Weight.....kg Volume.....cbm

Total: Dimension.....x.....x.....cm Weight.....kg Volume.....cbm

**Lead Time & Related Charges**

## SPECIFIC TERMS AND CONDITIONS

### PART I - PURPOSE OF THIS REQUEST FOR PROPOSAL

#### Introduction

UNICEF promotes the rights and wellbeing of every child, in everything we do. Together with our partners, we work in 190 countries and territories to translate that commitment into practical action, focusing special effort on reaching the most vulnerable and excluded children, to the benefit of all children, everywhere.

#### 1. Background

##### 1.1. The need for oxygen

There were an estimated 46 million cases of hypoxemia in low- and middle-income country (LMIC) facilities in 2020. Among these are 4.2 million children with severe pneumonia, which is the leading infectious cause of mortality among children under-5 in LMICs. Oxygen is an essential part of treatment for these children, reducing child mortality from pneumonia by 48%, and all-cause under-5 mortality by 26%. Beyond pneumonia, oxygen is an essential therapy across the healthcare system for all ages and a wide range of conditions including asthma, diarrhea, malaria, trauma, surgery, obstetric complications, and more.

##### 1.2. Product description and scope

An oxygen concentrator is a medical device that concentrates oxygen from the ambient air using a pressure-swing adsorption (PSA) process. Concentrators are used to deliver therapeutic levels of oxygen directly to the patient at the bedside. The scope of this RFP includes stationary oxygen concentrators but does not include portable oxygen concentrators that are intended to be worn on the body (e.g. in a shoulder bag) by ambulatory patients in and outside the home.

##### 1.3. The role of oxygen concentrators

Oxygen concentrators play an important role across the entire health system, alongside other oxygen sources such as liquid medical oxygen, PSA plants, and cylinders. In higher level facilities, concentrators may be used as backup or as part of a mix of sources. For example, cylinders or piped oxygen may be used in high dependency wards, while concentrators are used in wards that are not piped or are a lower priority for expensive and scarce cylinders.

However, concentrators play a unique role at the primary health care (PHC) level, where they can be more cost effective and provide independence from unreliable supply chains for cylinder refills.

Concentrators are also safer and easier to use than cylinders, which operate at high pressure and require regulators and other accessories.

Hence, concentrators have potential for significant impact in low-resource settings (LRS) healthcare systems. However, since concentrators were designed for home use in high resource countries, they face a number of challenges when used in LRS:

- Environment: Susceptible to breakdown in hot, humid, dusty, and low-quality power conditions.
- Usability: Designed for use by elderly patients in the home, but are used in LRS by healthcare workers with different needs (I.e. user interface, information, alarms, etc.).
- Power consumption: High power consumption makes them expensive to operate and impractical for solar.
- Supply chain issues: A short shelf life limits the ability for UNICEF and countries to stock spare parts and causes product degradation during transport and storage before first use.

##### 1.4. UNICEF's role in oxygen concentrators

The WHO developed Technical Specification for Oxygen Concentrators in 2015, which were revised together with UNICEF in 2019. At this same time in 2019 UNICEF partnered with NEST360 to develop 16 Target Product Profiles (TPP), including one for oxygen concentrators that defined the ideal fit-for-purpose product for LRS. This was in recognition that existing concentrators could be improved to better serve the contexts UNICEF works in.

UNICEF has been supplying concentrators to countries around the world long before the Covid-19 pandemic. Throughout the pandemic, with surging oxygen demand, UNICEF delivered more than 65,000 concentrators to 100+ countries. In 2021, UNICEF again worked with NEST360 to publish a second edition of the TPP that addressed remaining gaps and learnings from this large-scale deployment of concentrators.

In 2022, the Every Breath Counts 2030 Pneumonia Research Priorities ranked the development of a fit-for-purpose oxygen concentrator as #10 overall out of 200+ priority research areas, and #2 in the treatment category.

Link below to TPP for Oxygen Concentrators:

<https://www.unicef.org/supply/documents/target-product-profile-oxygen-concentrator>

1.5 Collaboration between UNICEF's Product Innovation Centre (PIC), Health and Technology Centre (HTC) and Markets and Supplier Financing Centre (MSFC)

HTC, PIC and MSFC have joined together to issue two separate tenders for request for proposals for oxygen concentrators for two streams: a) Supply Continuity, and, b) Innovation. This document represents the Innovation stream.

For the Supply Continuity stream, please refer to tender 503595 issued separately and posted on the UNGM website: <https://www.ungm.org/Public/Notice>

This process began with a Request for Expressions of Interest (REoI) in October 2022 and an addendum to the REoI in January 2023. Only respondents to the REoI are invited to this RFP.

#### 1.5.1 Objectives and details of this Innovation-focused tender

To drive the development, adoption, and scale-up of a TPP-based fit-for-purpose and more sustainable concentrator. This stream will work with industry in a co-creation process and utilize an Advance Purchase Commitment (APC) incentive. Through this APC mechanism elaborated further below in this document, UNICEF aims to reduce demand uncertainty risks for manufacturers who invest in R&D towards these new and innovative products. This new concentrator will have these following benefits:

- Robust and resilient in high heat, humidity, dust, and poor-quality power conditions;
- Energy efficient, enabling use with solar power, and cost savings on grid and generator power;
- Meets the usability needs of LRS users, increasing confidence and safety;
- Designed with longevity and low maintenance requirements in mind;
- At a significantly reduced total cost of ownership relative to current market offerings;
- Where possible, universal spare parts and accessories.

#### 1.5.2 RFP process and submission requirements

Innovative products may not yet be available at the time of the issuance of this RFP. Therefore, UNICEF has designed a three-step submission timeline for this innovative RFP. Bidders shall submit their initial proposals with the available requested information and documentation by the first submission date and according to the requirements set in this RFP.

**The proposals shall be submitted only to the following email address; [supplybid@unicef.org](mailto:supplybid@unicef.org).**

An initial evaluation will be conducted to identify offers that have a high likelihood of meeting the TPP requirements and timeline of the APC. The shortlisted Bidders will be invited to continue in the process and then have the opportunity to provide updated proposals by the subsequent submission dates.

Products will be fully evaluated after the final comprehensive submission by the third submission date. The bidders may be granted conditional awards if they meet the commercial and technical specifications and manufacturers have completed the submission of regulatory paperwork in line with UNICEF timelines, and subject to approval of the recommended awards by UNICEF's internal review bodies. These conditional awards will be converted to firm commitments if manufacturer receives regulatory approval in line with UNICEF timelines.

#### 1.5.3 Key dates and submission timelines:

- RFP issued to Bidders: July 20, 2023

- First submission date: September 01, 2023
- Second submission date: October 15, 2023
- Third and final submission date: December 1, 2023

Bidders shall submit all the required information and documentation as set out in this RFP and subsequent annexes:

- Annex B - Technical Questionnaire Form
- Annex C - Commercial Offer Form
- Annex D - Note for Training and After-Sales Service

**The proposals shall be submitted only to the following email address; [supplybid@unicef.org](mailto:supplybid@unicef.org).**

1.5.4 This Request for Proposal consists of the item lines as per below:

- Item 10 - U481001 Innovative oxygen concentrator, 10 LPM
- Item 20 - U481001 Innovative oxygen concentrator, other LPM
- Item 30 - U481000 Filter set for oxygen concentrator
- Item 40 - U481000 Spare parts kit for oxygen concentrator
- Item 51 - U481001 Flow splitter, for oxygen concentrator
- Item 60 - U282701 Medical equipment spare parts
- Item 70 - U481000 Medical equipment & accessories
- Item 80 - U481050 Training/installation/svcs f/ med.equip.

Please note that all proposals for concentrators must include filter sets and spare parts kits.

Regarding item 60 bidders are requested to submit a list of consumables & spare parts for the materials in this tender.

For item 70, U-generic codes will remain for products relating to this tender. Supplier quote not required at this time.

Training/installation (Item 80) will be included in the awarded suppliers LTA as U-generic code and when applicable, a quotation will be requested.

Please see Annex C - Commercial Offer Form for complete details.

### **1.5.5 Advance Purchase Commitment (APC)**

An APC of \$8+ million has been set aside for procurement of TPP-based oxygen concentrators.

The APC will be awarded based on similar technical and commercial criteria as will be used for awarding the Long Term Arrangements(LTAs) following this RFP, however the APC and LTAs awards will follow distinct processes, criteria, and points allocations, as defined further in this document and related annexes.

More information on the APC is provided in distinct sections further below in this document.

## **2. Solicitation; Long Term Arrangement**

2.1 UNICEF wishes to enter into (a) non-exclusive Long Term Arrangement(s) ("LTA-G") for the procurement of the items with the specifications outlined in the schedules contained in this Solicitation Document, as required from time to time during the term of the LTA-G. It will be a provision of such Arrangement(s), that UNICEF will not be committed to purchase any minimum quantity of these items with the exception of the Advance Purchase Commitment described below in Section 2.1.1. UNICEF shall not be liable for any cost in the event that no purchases are made under any resulting LTA-G(s).

### **2.1.1. Special considerations for the Advance Purchase Commitment**

This tender includes the offer to guarantee purchasing up to a specified value under the Advance Purchased Commitment as detailed in Part III Section 1.8 of this document. UNICEF may enter into a firm commitment to procure from bidders who meet the minimum evaluation criteria and other requirements outlined in the tender, and as assessed as part of the procurement process in line with the broader strategic goals of the project.

The firm commitment would be contingent upon the proposer being able to develop a product according

to the specifications outlined in the tender, achievement of all necessary regulatory approval(s), and making the product available as agreed to in the purchase commitment (including timelines), and other pre-determined contingencies, at the discretion of UNICEF.

UNICEF will not be committed to purchase any minimum quantity of these items beyond the terms of the Advance Purchase Commitment.

2.2 Purchases will be made against Purchase Orders to be issued by UNICEF in accordance with the terms and conditions of any resulting LTA-G(s). Actual quantities to be purchased will vary from Purchase Order to Purchase Order.

2.3 Any quantities outlined in this Solicitation Document, are an estimated forecast of the total requirement for the duration of the LTA-G or, if so specified, an estimated forecast for the annual requirement. Any estimates are provided in good faith and shall not in any way be deemed to be a commitment on the part of UNICEF regarding any quantity for future purchases.

2.4 Other United Nations Agencies, Funds and Programmes shall be entitled to place orders under the prices and terms of the LTA-G. Orders placed by other United Nations entities constitute a contractual agreement between the supplier and the ordering United Nations entity. UNICEF will not be a contractual party to these orders and has therefore no obligations or liabilities for orders not issued by UNICEF.

2.5 This Solicitation Document is comprised of the following:

- This document
- The UNICEF General Terms and Conditions of Contract (Goods) which are attached as Annex A to this document
- Annex B - Technical Questionnaire Form
- Annex C - Commercial Offer Form
- Annex D - Note for Training and After-Sales Service

2.6 This Solicitation Document is an invitation to treat and shall not be construed as an offer capable of being accepted or as creating any contractual, other legal or restitutionary rights. No binding contract, including a process contract or other understanding or arrangement, will exist between the Proposer and UNICEF and nothing in or in connection with this Solicitation Document shall give rise to any liability on the part of UNICEF unless and until an LTA-G and linked Purchase Order is signed by UNICEF and the successful Proposer.

### 3. Term

**3.1 The proposed LTA-G shall be valid for an initial period of 24 months, with a possible renewal for an additional period of 12 + 12 months.**

## PART II - PROPOSAL SUBMISSION PROCESS

### 1. Proposal Submission Schedule

#### 1.1 Acknowledgement of receipt of Solicitation Document.

Bidders are requested to inform UNICEF as soon as possible by email to Dan Ilie at [dilie@unicef.org](mailto:dilie@unicef.org) that they have received this Solicitation Document.

**IMPORTANT: PROPOSALS ARE NOT TO BE SENT TO THE INDIVIDUAL STATED ABOVE - ANY PROPOSALS SENT TO THE ABOVE NAMED INDIVIDUAL WILL BE DISQUALIFIED.**

#### 1.2 Questions from Bidders.

Bidders are required to submit any questions in respect of this Solicitation Document by email to Dan

Ilie, Market Research Specialist at dilie@unicef.org. UNICEF will respond to questions as they come in by email and will distribute a Questions & Answers document periodically summarizing questions received to date. **The deadline for final receipt of any questions is August 24, 2023.**

**IMPORTANT: PROPOSALS ARE NOT TO BE SENT TO THE INDIVIDUAL STATED ABOVE BUT ONLY TO THE FOLLOWING EMAIL ADDRESS;**

**SUPPLYBID@UNICEF.ORG**

**ANY PROPOSALS SENT TO THE ABOVE NAMED INDIVIDUAL WILL BE DISQUALIFIED.**

Bidders are required to keep all questions as clear and concise as possible.

Bidders are also expected to immediately notify UNICEF in writing of any ambiguities, errors, omissions, discrepancies, inconsistencies or other faults in any part of the Solicitation Document, providing full details. Bidders will not benefit from such ambiguities, errors, omissions, discrepancies, inconsistencies or other faults.

UNICEF will compile the questions received. UNICEF may, at its discretion, at once copy any anonymized question and its reply to all other invited Bidders and/or post these on the UNICEF website and/or respond to the question at a bid conference. After any such bid conference, a Questions and Answers document may be prepared and posted on the UNICEF website.

1.3 Amendments to Solicitation Document. At any time prior to the Submission Deadline, UNICEF may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Proposer, modify the Solicitation Document by amendment. If the Solicitation Document was available publicly online, amendments will also be posted publicly online. Further, all prospective Bidders that have received the Solicitation Document directly from UNICEF will be notified in writing of all amendments to the Solicitation Document. In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their Proposals, UNICEF may, at its sole discretion, extend the Submission Deadline.

1.4 Samples. Samples for testing by a third-party lab will be required for this solicitation process and must be sent to an address to be communicated by UNICEF before the final submission date of the proposals. The deadline for dispatching of samples to the designated testing lab is December 1, 2023. Proof of delivery of the sample to the bidder's Freight Forwarder for shipment by air is a requirement and must be shared with UNICEF.

**1.5 Submission Deadline.** The deadlines for submission of Proposals are as follows:  
First submission deadline (mandatory): September 01, 2023 by 11.59 PM, CPH Time  
Second submission deadline (update of proposal): October 15, 2023 by 11.59 PM, CPH Time  
Third and final submission date: December 1, 2023 by 11.59 PM, CPH Time

Any Proposals received by UNICEF after the Submission Deadlines above will be rejected.

1.6 Due to the nature of this Request for Proposals, there will be no public opening of Proposals.

## 2. Language

2.1 The Proposal prepared by the Proposer and all correspondence and documents relating to the Proposal exchanged by the Proposer and UNICEF, will be written in English. Supporting documents and printed literature furnished by the Proposer may be in another language provided that they are accompanied by an appropriate translation in English. When interpreting the Proposal, the translated version of these supporting documents and printed literature will prevail over the original version of these documents. The sole responsibility for translation, including the accuracy of the translation will rest with the Proposer.

### 3. Validity of Proposals; Modification and Clarifications; Withdrawal

3.1 Validity Period. Bidders must indicate the validity period of their Proposal. Proposals should be valid for a period of not less than three hundred and sixty-five days (365) days after the Final Submission Deadline. A Proposal valid for a shorter period of time shall not be further considered. UNICEF may request the Proposer to extend the validity period. The Proposal of Bidders who decline to extend the validity of their Proposal shall become disqualified as no longer valid.

3.2 Other Changes. All changes to a Proposal must be received by UNICEF prior to the Final Submission Deadline. The Proposer must clearly indicate that the revised Proposal is a modification and supersedes the earlier version of their Proposal, or state the changes from the original Proposal.

3.3 Withdrawal of Proposal. A Proposal may be withdrawn by the Proposer on e-mailed, faxed or written request received by UNICEF from the Proposer prior to Submission Deadline. Negligence on the part of the Proposer confers no right for the withdrawal of the Proposal after it has been opened.

3.4 Clarifications Requested by UNICEF. During the evaluation of Proposals, UNICEF may, in its sole discretion, seek clarifications from any Proposer in order for UNICEF to fully understand the Proposer's Proposal and assist in the examination, evaluation and comparison of Proposals. UNICEF may seek such clarifications through written communications or may request an interview with any Proposer. During this clarification process, no change in the price or substance of the Proposal will be sought, offered or permitted, except as required in order to allow for correction of arithmetical errors discovered by UNICEF.

3.5 References. UNICEF reserves the right to contact any or all references supplied by the Proposer(s) and to seek references from other sources as UNICEF deems appropriate.

### 4. Eligibility; Proposer Information

4.1 Proposer. The term "Proposer" refers to those companies that submit a Proposal pursuant to this Solicitation Document and "Proposal" refers to all the documents provided by the Proposer in its response to this Solicitation Document. A Proposer will only be eligible for consideration if it complies with the representations set out in Part V of this Solicitation Document, including the representations on ethical standards, including conflicts of interest.

#### 4.2 Joint Venture, Consortium or Association.

(a) If the Proposer is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Proposal, each such legal entity will confirm in their joint Proposal that:

- they have designated one party to act as a lead entity, duly vested with authority to legally bind the members of the joint venture jointly and severally, and this will be evidenced by a Joint Venture Agreement among the legal entities, which will be submitted along with the Proposal; and
- if they are awarded the LTA-G, the designated lead entity will enter into the LTA-G with UNICEF, who will be acting for and on behalf of all the member entities comprising the joint venture.

(b) After the Proposal has been submitted to UNICEF, the lead entity identified to represent the joint venture will not be altered without the prior written consent of UNICEF.

(c) If a joint venture's Proposal is the Proposal selected for award, UNICEF will award the LTA-G to the joint venture, in the name of its designated lead entity. The lead entity will sign the LTA-G for and on behalf of all other member entities.

4.3 Proposals from Government Organizations. The eligibility of Bidders that are wholly or partly owned by the Government will be subject to UNICEF's further evaluation and review of various factors such as being registered as an independent entity, the extent of Government ownership/share, receipt of subsidies, mandate, access to information in relation to this Solicitation Document, and others that may lead to undue advantage against other Bidders, and the eventual rejection of the Proposal.

## 5. Preparation of Offer

5.1 Bidders are responsible to inform themselves in preparing their Proposal. In this regard, the Bidders will ensure that they:

- Examine all terms, requirements and formal submission instructions (e.g. regarding form and timing of submission, marking of envelopes, no price information in the technical proposal etc) included in the Solicitation Document (including the Instruction to Bidders section);
- Review the Solicitation Document to ensure that they have a complete copy of all documents;
- Review the standard UNICEF Contractual Provisions and the UNICEF General Terms and Conditions of Contract (Goods) for the supply of goods publicly available on the UNICEF Supply website: <https://www.unicef.org/supply/resources/procurement-policies>;
- Review the UNICEF policies publicly available on the UNICEF Supply website: <https://www.unicef.org/supply/resources/procurement-policies>. In particular, Bidders should familiarize themselves with the obligations imposed on suppliers and their personnel and sub-contractors under the UNICEF Policy Prohibiting and Combatting Fraud and Corruption and the UNICEF Policy on Conduct Promoting the Protection and Safeguarding of Children;
- Attend any bid conference if it is mandatory under this Solicitation Document;
- Fully inform and satisfy themselves as to requirements of any relevant authorities and laws that apply, or may in the future apply, to the supply of the goods.

5.2 Bidders acknowledge that UNICEF, its directors, employees and agents make no representations or warranties (express or implied) as to the accuracy or completeness of this Solicitation Document or any other information provided to the Bidders.

5.3 Failure to meet all requirements and instructions in the Solicitation Document or to provide all requested information will be at the Proposer's own risk, and may result in rejection of the Proposer's Proposal.

5.4 The Proposal must be organized to follow the format of this Solicitation. Each Proposer must respond to the stated requests or requirements, and indicate that the Proposer understands and confirms acceptance of UNICEF's stated requirements. The Proposer should identify any substantive assumption made in preparing its offer. The deferral of a response to a question or issue to any contract negotiation stage (if any) is not acceptable. Any item not specifically addressed in the Proposal will be deemed as accepted by the Proposer. Incomplete or inadequate responses, lack of response or misrepresentation in responding to any questions will affect the evaluation of the Proposal.

5.5 The completed and signed Bid Form must be submitted together with the Proposal. The Bid Form must be signed by a duly authorized representative of the Organization/Company.

5.6 Proposals must be clearly marked with the Solicitation Document number.

5.7 If answer sheets are provided by UNICEF then these must be completed by the Proposer.

5.8 Technical Proposal: The Technical Proposal should address the criteria and requirements outlined in this Solicitation Document, paying particular attention to the specifications outlined in the schedules. It is important to note that UNICEF actively welcomes innovative proposals and original solutions to the stated need.

**NO PRICE INFORMATION SHOULD BE CONTAINED IN THE TECHNICAL PROPOSAL.**

5.9 Price Proposal: The Price Proposal should be prepared in accordance with the quantities and specifications outlined in the schedules contained in this Solicitation Document.

5.9.1 Special instructions for Innovation

Submissions to the RFP are expected to include all pertinent commercial information as part of the full Proposal, including the Commercial Offer Form with prices. It is understood that final prices will be provided by latest the third submission window and therefore pricing provided during the initial RFP submission may be indicative only.

It is understood that products in the Innovation stream may be under development at the time of the initial RFP closing date on September 1, 2023. Bidders are nonetheless required to submit the Technical Questionnaire, Commercial Offer Form and related Annexes and documents at this time as accurately as possible to be representative of the product under development.

A second submission deadline of October 15, 2023 will allow shortlisted Bidders to submit updated Technical Questionnaire, Commercial Offer Form and related Annexes and documents as product designs are advancing/being finalized.

A third and final submission deadline closing December 1, 2023 will require shortlisted suppliers to submit their final fully comprehensive proposal including the Technical Questionnaire, Commercial Offer Form and related Annexes and documents.

5.10 Each Proposer acknowledges that its participation in any stage of the solicitation process for this Solicitation Document is at its own risk and cost. The Proposer is responsible for, and UNICEF is not responsible for, the costs of preparing its Proposal or response to this Solicitation Document, submission of any samples, attendance at any bid conference, site visit, meetings or oral presentations, regardless of the conduct or outcome of the solicitation process.

## 6. Proposal Documents; Confidentiality

6.1 This Solicitation Document, together with all Proposal documents provided by the Proposer to UNICEF will be considered the property of UNICEF and will not be returned to the Bidders.

6.2 Information contained in the Proposal documents, which the Proposer considers to be its confidential information, should be clearly marked "confidential", next to the relevant part of the text, and UNICEF will treat such information accordingly.

6.3 All information and documents provided to the Bidders by UNICEF ("Solicitation Document Materials") shall be treated as confidential by the Bidders. If the Proposer declines to respond to this Solicitation Document, or, if the Proposal is rejected or unsuccessful, the Proposer will promptly return all such Solicitation Document Materials to UNICEF, or destroy or delete all such Solicitation Document Materials. The Proposer shall not use the Solicitation Document Materials for any purpose other than the purpose of preparing a Proposal and shall not disclose the Solicitation Document Materials to any third party, except: (a) with the prior written consent of UNICEF; (b) where the third party is assisting the Proposer in preparing the Proposal, provided the Proposer has previously ensured that party's adherence to this duty of confidentiality; (c) if the relevant Solicitation Document Materials are at the time of this Solicitation Document lawfully in the possession of the Proposer through a party other than UNICEF; (d) if required by law, and provided that the Proposer has previously informed UNICEF in writing of its obligation to disclose the Solicitation Document Materials; or (e) if the Solicitation Document Materials are generally and publicly available other than as a result of breach of confidence by the person receiving the Solicitation Document Materials.

## 7. Multiple Proposals and Proposals from related organizations

7.1 Bidders shall not submit more than one Proposal as part of this solicitation process.

7.2 If the Proposer is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Proposal then neither the lead entity nor the member entities of the joint venture may submit another Proposal, either in its own capacity or as a lead entity or a member entity for another joint venture submitting another Proposal.

7.3 UNICEF reserves the right to reject separate Proposals submitted by two or more Bidders if the Bidders are related organizations and are found to have any of the following:

- (a) they have at least one controlling partner, director or shareholder in common; or
- (b) any one of them receive or have received any direct or indirect subsidy from the other(s); or
- (c) they have a relationship with each other, that gives one or more Bidders access to confidential information about, or influence over, the other Proposal(s); or
- (d) they are subcontractors to each other's Proposal, or a subcontractor to one Proposal also submits another Proposal under its name as lead Proposer; or
- (e) an expert proposed to be in the team of one Proposer participates in more than one Proposal received for this solicitation process.

### PART III - AWARD/ADJUDICATION OF PROPOSALS

#### 1. Award

1.1 Evaluation. A technical evaluation is first carried out by UNICEF in accordance with UNICEF's regulations, rules and practices and all determinations are made in UNICEF's sole discretion. The proposals which have passed the technical evaluation will be recommended for commercial evaluation.

#### Technical Evaluation Criteria

- Compliance with instructions for submission.
- Technical criteria: Compliance with requirements as outlined in the Technical Questionnaire Annex B, supported by all requested Certificates, documentation and information indicated in the RFP document and Technical Questionnaires.
- Annex D regarding training and after-sales support.
- Compliance with "Check list of attachments that shall be submitted with the offer for each product" as indicated under the link below:  
<https://www.unicef.org/supply/documents/technical-requirements-medical-devices>
- Compliance with Packing and Labelling requirements available at  
<https://www.unicef.org/supply/technical-specifications-packing-packaging-and-labelling>
- Sustainability information provided in the Technical Questionnaire.
- Sample evaluation (if required): compliance with technical specifications in the Technical Questionnaire, including the packing and labeling, may be performed.

#### Lab Testing

Third party lab testing data may be considered during technical evaluation. Preference will be given to products performing well in this testing.

Independent test results of at-scale commercially produced units shall be provided before extension of LTA-Gs upon expiry, or at the time of a future tender.

**The deadline for dispatching of samples to the designated testing lab is December 1, 2023.** Proof of delivery of the sample to the bidder's Freight Forwarder for shipment by air is a requirement and must be shared with UNICEF.

#### Initial Commercial screening

- Compliance with instructions for submission
- Signed Bid Form
- Bid validity of 365 days
- Currency of offer (USD or EUR)
- Financial requirements (prices and delivery lead times for all offered items are quoted)
- Language requirements (English)

Proposals deemed not to meet all of the mandatory requirements will be considered non-compliant and rejected at this stage without further consideration. Failure to comply with any of the terms and conditions contained in this Solicitation Document, including, but not limited to, failure to provide all required information, may result in a Proposal being disqualified from further consideration.

#### Commercial Evaluation

The proposals which have passed the technical evaluation will be recommended for commercial evaluation according to below mandatory requirements of this Solicitation Document and as requested in Annex C - Commercial Offer Form:

- Lowest FCA prices (fixed and firm prices for LTA-G duration)
- Shortest FCA lead time (SEA, containerized/AIR, palletized)
- Preference no Minimum Order Quantities for FCA deliveries
- Please provide information on possibility to keep buffer stock at your premises (how many units and for how long)
- Production capacity
- Quantity discounts
- Staircase pricing

While all eligible bidders will be duly considered, preference for manufacturers from programme countries and/or with current or future plans for local production in LMICs will be given special consideration during the evaluation process. If local production is not available at the time of the RFP but is developed during the lifetime of the LTA, such LTAs will be given preference as future demand from countries materializes.

#### **Advance Purchase Commitment (APC)**

An APC of \$8+ million has been set aside for procurement of TPP-based concentrators in the Innovation stream.

The APC will be awarded based on similar technical and commercial criteria as will be used for awarding LTAs, however the APC and LTAs will follow distinct processes, criteria, and points allocations, as defined further in this document.

See Section 1.8 below for details.

1.2 Partial Proposals. Partial bids will be acceptable. UNICEF may choose to award based on a combination of items, or individual items, whichever is deemed in the best interest of UNICEF.

1.3 Minimum Order Quantity. Bidders must declare in their Proposals if there will be any minimum order quantity(ies) for the item(s) detailed in the schedule to this Solicitation Document. Any such minimum order quantities will be considered as part of the evaluation process.

1.4 Limited Award. In case of an award, Bidders that have not previously received Purchase Orders from UNICEF, may receive an order for a limited quantity until satisfactory performance is established.

1.5 Multiple Arrangements. UNICEF reserves the right to make multiple arrangements for any item(s) where UNICEF considers it to be in its best interest to do so.

1.6 Negotiation. UNICEF reserves the right to negotiate with the Proposer(s) that has/have attained the best rating/ranking, i.e. those providing the overall best value Proposal(s).

1.7 Award Notification. UNICEF will only notify the Proposer(s) that has/have been awarded the LTA-G(s) resulting from this solicitation process; UNICEF may, but is not required to, notify the other Bidders of the outcome of this solicitation process.

#### **1.8. Advance Purchase Commitment**

\$8 million has been set aside for structuring an Advance Purchase Commitment (APC) for the procurement of TPP-based innovative concentrators. This amount may increase pending country demand and the availability of additional funds. The objective of this APC is to catalyze and de-risk innovation and accelerate these products to market.

Bidders who have been evaluated and awarded for an LTA will be eligible for the APC, which will be

disbursed based on the scoring system below.

#### 1.8.1 Distribution of APC award

Each Proposer that qualifies for the APC, up to a maximum of two suppliers, will receive an award made up of two components:

- A base award of \$3 million.
- A potential additional performance-based top-up may be awarded depending on how well Bidders perform on technical and commercial criteria. The top-up is also dependent on country demand.

#### 1.8.2 APC scoring system

Below is an overview of the scoring system for the APC:

##### 1. Total cost of ownership and sustainability, including (maximum 50 points):

- Product price
- Energy efficiency
- Solar friendly features
- Other operating costs

##### 2. Resilience (maximum points 20)

- Based on ECRI/Oxygen CoLab lab testing

##### 3. In-country support (maximum points 15)

- Based on proposals

##### 4. Usability (maximum points 10)

- Based on ECRI/Oxygen CoLab usability testing

##### 5. Other technical specifications (maximum points 5)

TOTAL maximum score 100

#### 1.8.3 Timeline for APC

To be considered for the APC, Bidders must fulfill the technical and commercial requirements as spelled out in this document and related annexes, and furthermore be able to meet the tender proposal submission timelines as described in previous section 1.5.3 Key dates and submission timelines.

In addition, the following timelines must be kept, or UNICEF, at its discretion may decide not to apply the APC mechanism:

- December 1, 2023: latest date for final fully comprehensive submission of proposal
- December 1, 2023: latest date for delivery of fully developed unit for lab testing (proof of dispatch to bidder's Freight Forwarder by air transport shared with UNICEF)
- March 31, 2024: latest date for proof of regulatory submission (USA, EU, Canada, Australia, or Japan)
- March 31, 2024: at-scale production ready (supplier to provide confirmation)
- July 31, 2024: latest date for regulatory approval to be confirmed
- March 31, 2024 - May 31, 2024: UNICEF issuance of conditional Purchase Orders
- April 1, 2024 - November 30, 2024 # All deliveries must be completed in this timeframe, products must be produced and fully packed and labelled, and delivered to UNICEF Freight Forwarder (may only start once regulatory approval has been confirmed)

#### 1.8.4 Co-creation process

Bidders who pass the initial technical evaluation following the first submission window of the RFP will be invited to join in a co-creation process with UNICEF.

This will involve ongoing dialogue between UNICEF and the Bidders to stay aligned on R&D objectives and progress, and ensure product-market fit of the innovations.

#### 2. General Terms And Conditions Of Contract (Goods)

2.1 UNICEF's General Terms and Conditions of Contract (Goods) which are attached at Annex A to this Solicitation Document will apply to any LTA-G and linked Purchase Orders awarded in connection with this Solicitation Document. By signing the Bid Form, each Proposer is deemed to have confirmed its acceptance of the UNICEF General Terms and Conditions (Goods). The Proposer understands that if it proposes any amendments or additional terms to the UNICEF General Terms and Conditions (Goods),

these must be clearly detailed in the Proposal and may negatively affect the evaluation of the Proposal.

### 3. Inspection

3.1 Each Proposer will permit UNICEF, either itself or through a designated representative entity, to have access to the facilities where the products offered are manufactured, at all reasonable times to inspect the manufacturing site and processes for the production, quality control, quality assurance and packing of the products. The Proposer will provide reasonable assistance to the representatives for such appraisal, including copies of any documentation (including, but not limited to, test results or quality control reports) as may be necessary. The inspection may be carried out in conjunction with the appropriate national authority. Failure to do so may result in the rejection of the Proposal.

### 4. Rights of UNICEF

4.1 UNICEF reserves the following rights:

- (a) to accept any Proposal, in whole or in part; to reject any or all Proposals; or to cancel this solicitation process in its entirety;
- (b) to verify any information contained in Proposer's response (and the Proposer will provide UNICEF with its reasonable cooperation with such verification).
- (c) to invalidate any Proposal received from a Proposer that, in UNICEF's sole opinion has previously failed to perform satisfactorily or complete contracts or Purchase Orders on time, or UNICEF believes is not in a position to perform the LTA-G;
- (d) to invalidate any Proposal that, in UNICEF's sole opinion, fails to meet the requirements and instructions stated in this Solicitation Document.
- (e) to suspend negotiations or withdraw an award to a Proposer at any time up until an LTA-G has been signed with such Proposer. UNICEF is not required to provide any justification, but will give notice prior to any such suspension of negotiations or withdrawal of award.

4.2 UNICEF is not liable to any Proposer for any costs, expense or loss incurred or suffered by such Proposer in connection with this Solicitation Document or solicitation process, including, but not limited to, any costs, expense or loss incurred as result of UNICEF exercising any of its rights in paragraph 4.1 above.

## PART IV - REQUIREMENTS

### 1. Prices and Discounts

1.1 Prices. The prices include the cost of packaging and packing the goods in accordance with the requirements set out on the UNICEF Supply website

<https://www.unicef.org/supply/technical-specifications-packing-packaging-and-labelling>. The price also includes delivery in accordance with the applicable INCOTERM.

Notwithstanding any agreed discounts (as per paragraph 1.4 below), prices offered by bidders, shall constitute maximum ceiling prices and shall remain fixed for the duration of the LTA-G.

1.2 Payment Terms. Invoices may be issued to UNICEF only after the delivery terms of the Purchase Order (as issued in accordance with the provisions of the LTA-G) have been fulfilled. The standard terms of payment are net 30 days, after receipt of invoice. Payment will be effected by bank transfer in the currency of the Purchase Order.

### 1.3 Currency.

(a) Bidders are requested to provide unit prices in USD/EUR. UNICEF will reject any Proposals submitted in another currency.

(b) If the above paragraph (a) explicitly permits two or more specified currencies for the Proposals, then for evaluation purposes only, offers submitted in a currency other than US Dollars will be converted into US Dollars using the United Nations rate of exchange in effect on the submission deadline date.

1.4 Discounts. Bidders are requested to advise as to:

- (a) Quantity / volume discounts, in form of large quantity / volume discounts and staircase pricing (i.e. varying prices according to different quantities procured);
- (b) Cumulative quantity / volume discount levels, i.e. discounts that increase as the cumulative order value/volume increases throughout the validity of the LTA-G;
- (c) Early payment discounts, i.e. payment within a specified period of time faster than UNICEF's standard payment term of 30 days net;
- (d) Trade discounts;
- (e) Any other unconditional discounts.

In the event that the successful bidder is able to offer UNICEF discounted price(s), the unit prices shall be reduced for the specific affected Purchase Orders.

### 1.5 Taxes.

Article II, Section 7, of the Convention on the Privileges and Immunities provides, inter alia, that the United Nations, including UNICEF as a subsidiary organ, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs restrictions, duties, and charges of a similar nature in respect of articles imported or exported for its official use. All prices/rates quoted in the Proposal must be net of any direct taxes and any other taxes and duties, unless otherwise specified in this Solicitation Document.

## 2. Implementation

2.1 Sub-contractors. Bidders must identify in their Proposal, any products which may be offered by themselves, but originate from another supplier and/or country. All sub-contracting arrangements will be reviewed by UNICEF as part of its evaluation of the Proposal.

2.2 Joint Ventures. The description of the organization of the joint venture/consortium/association must clearly define the expected role of each of the entities in the joint venture in delivering the requirements of this Solicitation Document, both in the Proposal and the Joint Venture Agreement. All entities that comprise the joint venture will be subject to the eligibility and qualification assessment by UNICEF.

Where a joint venture is presenting its track record and experience in a similar undertaking as those required in this Solicitation Document, it should present such information in the following manner:

- (i) Those that were undertaken together by the joint venture; and
- (ii) Those that were undertaken by the individual entities of the joint venture expected to be involved in the performance of the activities defined in this Solicitation Document.

Previous contracts or Purchase Orders completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture or those of its members, but should only be claimed by the individual experts themselves in their presentation of their individual credentials.

## 3. Delivery

### 3.1 Incoterms.

Bidders are requested to quote prices in accordance with the following delivery terms (INCOTERMS 2010):

FCA - (AIR, palletized) (please indicate name of nearest main International Airport from point of manufacture). If multiple FCA locations are available, please indicate this.

FCA - (SEA, containerized) (please indicate name of nearest main International Port from point of manufacture). If multiple FCA locations are available, please indicate this.

DAP Copenhagen Warehouse for item 50 (SEA, containerized/AIR, palletized) (please indicate name of nearest main International Port from point of manufacture).

Failure to quote in accordance with the requested INCOTERMS may result in invalidation of the Proposal.

3.2 Deliveries will be made in accordance with instructions in UNICEF's Purchase Orders (as issued in

accordance with the provisions of the LTA-G). Bidders will indicate the realistic lead-time for delivery for each item offered (subject to quantities). "Delivery lead-time" is the period from the date of receipt of a Purchase Order by the Supplier to the date of delivery of the goods in accordance with the applicable delivery term and instructions specified in the relevant Purchase Order (as issued in accordance with the provisions of the LTA-G) and includes the period for manufacturing and packing the products, pre-delivery inspection (if applicable), obtaining any necessary regulatory authority approvals or licenses, shipping, and provision of all documentation required in connection with such delivery.

3.3 UNICEF will monitor and measure the performance of the successful Proposer, in comparison with the realistic lead-time indicated in its Proposal.

#### 4. Shelf Life and Warranty

4.1 Shelf life and Useable Lifespan. The Proposer will clearly state the minimum shelf life at time of dispatch for all pharmaceutical products or other perishable goods. For all other products, the Proposer will clearly state (as applicable) the usable lifespan (i.e. the recommended usage period).

4.2 Packing, Packaging and Labeling. All goods must meet the requirements for packing, packaging, packing list and labelling of the goods set out on the UNICEF Supply Website (<https://www.unicef.org/supply/technical-specifications-packing-packaging-and-labelling>) and the additional requirements (if any) for packing, packaging, packing list and labelling set out in this Solicitation Document. This includes those requirements that apply to dangerous goods.

4.3 Warranty. The Proposer's warranty for the goods (including packaging) offered in its Proposal will meet each of the following minimum criteria:

- (a) The goods conform to the quality, quantity and specifications for the goods stated in the LTA-G and linked Purchase Order (including, in the case of perishable or pharmaceutical products, the shelf life specified in the LTA-G and linked Purchase Order);
- (b) The goods conform in all respects to the technical documentation provided by the Proposer in respect of such goods and, if samples were provided to UNICEF prior to entering into the LTA-G, the goods are equal and comparable in all respects to such samples;
- (c) The goods are new and factory-packed;
- (d) The goods are fit for the purposes for which such goods are ordinarily used and any purposes expressly made known to the Proposer by UNICEF;
- (e) The goods are free from defects in design, manufacture, workmanship and materials;
- (f) The goods are free from all liens, encumbrances or other third party claims;
- (g) The goods are contained or packaged in accordance with the standards of export packaging for the type and quantities of the goods specified in the LTA-G and linked Purchase Order, and for the modes of transport of the goods specified in the LTA-G and linked Purchase Order (including but not limited to, in a manner adequate to protect them in such modes of transport), and marked in a proper manner in accordance with the instructions stipulated in the LTA-G and linked Purchase Order and applicable law.

4.4 Warranty Period. The Proposer will clearly state the period of validity of the warranty, including the start date of the warranty period. For all pharmaceutical products or other perishable goods, the period of validity of the warranty must not be less than the shelf life of the goods.

4.5 Assignment of Manufacturer Warranties. If the Proposer is not the original manufacturer of the goods or any part of the goods, the Proposer will be expected to assign to UNICEF (or, at UNICEF's instructions, the Government or other entity that receives the goods) all manufacturers' warranties in addition to any other warranties specified in the LTA-G and linked Purchase Order.

4.6 Extension of Warranty to Partners. The Proposer should note that the warranties are expected to be made to UNICEF and to extend to (a) each entity that makes a direct financial contribution to UNICEF for the purchase of goods; and (b) each Government or other entity that receives the goods.

## 5. Other Goods Requirements

5.1 Country of Origin. Items produced in countries other than that of the Proposer must be indicated, stating the country of origin. Bidders may be required to submit a Certificate of Origin of Goods issued by the Chamber of Commerce or other equivalent authority.

5.2 Samples. UNICEF reserves the right to request free, non-returnable samples for evaluation and testing by UNICEF, or its representative, of the item and/or of the packing and packaging, prior to any award.

If samples are requested:

- Samples will be subject to technical review and laboratory testing and analysis where appropriate.
- Samples must correspond 100% to the product(s) being offered.
- Samples must include the manufacturer's packaging and labeling.
- In the event that the Proposal is successful, samples will be retained by UNICEF for comparison checking purposes against deliveries subsequently made.
- Samples should be labelled with the UNICEF Solicitation Document number, goods specifications as detailed in this Solicitation Document, Proposer's product reference and Proposer's name and address. UNICEF reserves the right to reject samples that are not labeled as requested.
- Failure to provide samples in accordance with the instructions requested under this paragraph 5.2 may result in invalidation of the Proposal.

5.3 Packing, Packaging, Packing List, Labelling and Dangerous Goods Instructions. The Proposer will comply with the requirements for packing, packaging, packing list and labelling of goods set out on the UNICEF Supply Website

(<https://www.unicef.org/supply/technical-specifications-packing-packaging-and-labelling>) and the additional requirements (if any) for packing, packaging, packing list, labelling set out below in this Solicitation Document. This includes those requirements that apply to dangerous goods. The classification of goods (including packaging) as "dangerous goods" is a supplier responsibility and must be communicated to UNICEF when submitting the Proposal. For any goods (including packaging) classified as dangerous goods, Bidders must submit all relevant Material Safety Data Sheets indicating accurate classification for transport purposes, storage, labeling and shipping requirements when submitting the Proposal.

## 6. Liquidated Damages

6.1 Any LTA-G awarded in connection with this Solicitation Document will include the following clause on liquidated damages:

"In addition to, and without prejudice to any of the other rights and remedies of UNICEF, if the Supplier fails to deliver the Goods under any Purchase Order in accordance with the stated time for delivery, or if UNICEF exercises its right to reject Goods that do not conform to the requirements in this LTA-G and the relevant Purchase Order, UNICEF may claim liquidated damages from the Supplier and, at UNICEF's option, the Supplier will pay such liquidated damages to UNICEF or UNICEF will deduct such liquidated damages from the Supplier's invoice(s). Such liquidated damages will be calculated as follows: one half of one per cent (0.5%) of the Price of such Goods for each day of delay, until delivery of conforming Goods, up to a maximum of ten per cent (10%) of the value of the relevant Purchase Order. The payment or deduction of such liquidated damages will not relieve the Supplier from any of its other obligations or liabilities pursuant to this LTA-G and the relevant Purchase Order".

## PART V - PROPOSER REPRESENTATIONS

### 1. Price - Most Favoured Customer

1.1 The Proposer confirms that the prices with respect to the goods specified in the Proposal are the most favourable prices available to any customer of the Proposer (or any of the Proposer's affiliates)

1.2 If at any time during the term of the LTA-G resulting from the Proposal any other customer of the

Proposer (or of any of the Proposer's affiliates) obtains more favourable pricing terms than those provided to UNICEF, the Proposer will retroactively adjust the price(s) and related pricing terms under the LTA-G and in the relevant Purchase Order(s) to conform to the more favourable terms and the Proposer will promptly pay UNICEF any amounts owing to UNICEF as a result of such retroactive price adjustment.

## 2. General Representations

By submitting its Proposal in response to this Solicitation Document, the Proposer confirms to UNICEF as at the Submission Deadline:

2.1 The Proposer has (a) the full authority and power to submit the Proposal and to enter into any resulting LTA-G and linked Purchase Order(s), and (b) all rights, licenses, authority and resources necessary, as applicable, to develop, source, manufacture and supply the goods and to perform its other obligations under any resulting LTA-G and linked Purchase Order(s). The Proposer 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 the goods.

2.2 All of the information it has provided to UNICEF concerning the goods and the Proposer is true, correct, accurate and not misleading.

2.3 The Proposer is financially solvent and is able to supply the goods to UNICEF in accordance with the requirements described in this Solicitation Document.

2.4 The use or supply of the goods does not and will not infringe any patent, design, trade-name or trade-mark.

2.5 The development, manufacture and supply of the goods has complied, does comply, and will comply with all applicable laws, rules and regulations.

2.6 The Proposer 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.

2.7 It has the personnel, experience, qualifications, facilities, financial resources and all other skills and resources to perform its obligations under any resulting LTA-G and linked Purchase Order(s).

2.8 The Proposer agrees to be bound by the decisions of UNICEF, including but not limited to, decisions as to whether the Proposer's Proposal meets the requirements and instructions stated in this Solicitation Document and the results of the evaluation process.

## 3. Ethical Standards

UNICEF requires that all Bidders observe the highest standard of ethics during the entire solicitation process, as well as the duration of any LTA-G that may be awarded as a result of this solicitation process. UNICEF also actively promotes the adoption by its suppliers of robust policies for the protection and safeguarding of children and the prevention and prohibiting of sexual exploitation and sexual abuse.

By submitting its Proposal in response to this Solicitation Document, the Proposer makes the following representations and warranties to UNICEF as at the Submission Deadline:

3.1 In respect of all aspects of the solicitation process the Proposer 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. In particular, the Proposer has disclosed to UNICEF if it or any of its affiliates is, or has been in the past, engaged by UNICEF to provide services for the preparation of the design, specifications, cost analysis/estimation, and other documents to be used for the procurement of the goods

requested under this Solicitation Document; or if it or any of its affiliates has been involved in the preparation and/or design of the programme/project related to the goods requested under this Solicitation Document.

3.2 The Proposer has not unduly obtained, or attempted to obtain, any confidential information in connection with the solicitation process and any LTA-G and linked Purchase Order(s) that may be awarded as a result of this solicitation process.

3.3 No official of UNICEF or of any United Nations System organisation has received from or on behalf of the Proposer, or will be offered by or on behalf of the Proposer, any direct or indirect benefit in connection with this Solicitation Document including the award of the LTA-G and linked Purchase Order(s) to the Proposer. Such direct or indirect benefit includes, but is not limited to, any gifts, favours or hospitality.

3.4 The following requirements with regard to former UNICEF officials have been complied with and will be complied with:

(a) During the one (1) year period after an official has separated from UNICEF, the Proposer 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 Proposer has participated.

(b) 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 Proposer, communicate with UNICEF, or present to UNICEF, about any matters that were within such former official's responsibilities while at UNICEF.

3.5 Neither the Proposer nor any of its affiliates, or personnel or directors, is subject to any sanction or temporary suspension imposed by any United Nations System organisation or other international inter-governmental organisation. The Proposer 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 LTA-G. If the Proposer or any of its affiliates, or personnel or directors becomes subject to any such sanction or temporary suspension during the term of the LTA-G, UNICEF will be entitled to suspend the LTA-G and linked Purchase Order(s) for a period of time up to thirty (30) days or terminate the LTA-G and linked Purchase Order(s), at its sole choice, with immediate effect upon delivery of a written notice of suspension or termination, as the case may be, to the Proposer. If UNICEF chooses to suspend the LTA-G and linked Purchase Order(s) it will be entitled to terminate the LTA-G and linked Purchase Order(s) at the end of the thirty (30) days' suspension at UNICEF's sole choice.

3.6 The Proposer will (a) observe the highest standard of ethics; (b) use its best efforts to protect UNICEF against fraud, in the solicitation process and in the performance of any resulting LTA-G and linked Purchase Order(s); and (c) comply with the applicable provisions of UNICEF's Policy Prohibiting and Combatting Fraud and Corruption which can be accessed on the UNICEF website at <https://www.unicef.org/supply/resources/procurement-policies>

In particular, the Proposer 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.

3.7 The Proposer will comply with all laws, ordinances, rules and regulations bearing upon its participation in this solicitation and the UN Supplier Code of Conduct (available at the United Nations Global Marketplace website - [www.ungm.org](http://www.ungm.org)).

3.8 Neither the Proposer nor any of its affiliates, is engaged, directly or indirectly, (a) in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32, or the International Labour Organisation'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 utilised in the manufacture of anti-personnel mines.

3.9 The Proposer 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 Proposer to perform any services in the Proposer's participation in this solicitation. 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. The Proposer has taken and will take all appropriate measures to prohibit its personnel including its employees or other persons engaged by the Proposer, 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.

3.10 The Proposer confirms that it has read UNICEF's Policy on Conduct Promoting the Protection and Safeguarding of Children. The Proposer 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 Proposer will further cooperate with UNICEF's implementation of this Policy.

3.11 The Proposer 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 3.

3.12 Each of the provisions in Article 3 of this Part V constitutes an essential condition of participation in this solicitation process. In the event of a breach of any of these provisions, UNICEF is entitled to disqualify the Proposer from this solicitation process and/or any other solicitation process, and to terminate any LTA-G and linked Purchase Order(s) that may have been awarded as a result of this solicitation process, immediately upon notice to the Proposer, without any liability for termination charges or any liability of any kind. In addition, the Proposer may be precluded from doing business with UNICEF and any other entity of the United Nations System in the future.

#### 4. Audit

4.1 From time to time, UNICEF may conduct audits or investigations relating to any aspect of an LTA-G and/or linked Purchase Order awarded in relation to this Solicitation Document, including but not limited to the award of the LTA-G and/or linked Purchase Order and the Proposer's compliance with the provisions of Article 3 above. The Proposer will provide its full and timely cooperation with any such audits or investigations, including (but not limited to) making its personnel and any relevant data and documentation available for the purposes of such audits or investigations, at reasonable times and on reasonable conditions, and granting UNICEF and those undertaking such audits or investigations access to the Proposer's premises at reasonable times and on reasonable conditions in connection with making its personnel and any relevant data and documentation available. The Proposer will require its sub-contractors and its agents to provide reasonable cooperation with any audits or investigations carried out by UNICEF.

## INSTRUCTION TO PROPOSERS

### 1. MARKING AND RETURNING PROPOSALS

1.1 Proposals shall be submitted in the manner indicated in the cover page of this document (emailed or by fax).

1.2 The Bid Form must be signed, and submitted together with the Proposal. The Bid Form should be signed by the duly authorized representative of the submitting company.

1.3 Proposals must be clearly marked with the RFP number.

1.4 Proposers should note that Proposals received in the following manners will be invalidated:

- a) with incorrect e-mail or fax number;
- b) received after the stipulated closing time and date;
- c) failure to quote in the currency(ies) stated in the RFP;
- d) in a different form than prescribed in the RFP.

1.5 Technical Proposal: The Technical Proposal should address the criteria and requirements outlined in this RFP, paying particular attention to its schedules and its evaluation criteria. It is important to note that UNICEF actively welcomes innovative proposals and original solutions to the stated goods need.

**NO PRICE INFORMATION SHOULD BE CONTAINED IN THE TECHNICAL PROPOSAL.**

1.6 Price Proposal: The Price Proposal should be prepared in accordance with the requirements contained in the schedules for this RFP).

1.7 E-MAILED PROPOSALS (Electronic submission of Proposals)

1.7.1 All e-mailed Proposals must be submitted to [supplybid@unicef.org](mailto:supplybid@unicef.org), the ONLY ACCEPTABLE E-MAIL ADDRESS for receipt of Proposals. No other recipient should be "Cc" or "Bcc" in the e-mail submission.

1.7.2 Proposals can be sent in batches not to exceed UNICEF's e-mail size quota of twenty five (25) megabytes per e-mail.

1.7.3 All e-mail communication in relation to the Proposal must clearly indicate the reference RFP number followed by the company name (e.g. 501234 Vendor Ltd for RFP-DAN-2014-501234) in the "Subject" line of the e-mail.

1.7.4 All Proposals submitted by e-mail must be submitted as PDF (Portable Document Format) files. Email links (e.g. to documents to be downloaded from cloud based folders) are not acceptable unless otherwise specifically requested. Proposals submitted as a link or through a link will be invalidated.

1.7.5 Technical Proposal and Price Proposal must be sent as separate files and clearly indicated in the file name; e.g. 501234 Technical Proposal.pdf; 501234 Price Proposal.pdf. No price information should be provided in the Technical Proposal.

1.7.6 Upon receipt of the Proposal submission, an "acknowledge receipt" will be generated automatically and sent to the sender's e-mail address. The notification serves as the only proof of receipt from UNICEF.

### 1.8 FAXED PROPOSALS

Faxed Proposals must be sent to + 45 35 25 02 80 (secured fax).

### 2. OPENING OF PROPOSALS

2.1 Proposals received prior to the stated closing time and date will be kept unopened. Proposals will be opened at the date and time specified in the RFP documents, and no Proposals received thereafter will be considered.

2.2 UNICEF will accept no responsibility for the premature opening of a Proposal which is not properly addressed or identified.

2.3 In case when a Public Opening is held, the invited proposers, or their authorized representative, may attend the public Proposal opening at the time, date and location specified in the RFP documents.

### 3. UNGM REGISTRATION

3.1 UNICEF is part of the United Nations Global Marketplace (UNGM). Accordingly, all proposers are requested to become a UNICEF vendor by creating a vendor profile and submitting their national incorporation license/certificate at the Level 1 stage of vendor registration process in the UNGM website: [www.ungm.org](http://www.ungm.org)

3.2 Please note that UNGM registration, including provision of national incorporation license/certificate, should be submitted as soon as possible and is a mandatory requirement for any eventual award.

### 4. AWARD NOTIFICATION

4.1 Notification of the outcome on an RFP with an estimated value over USD 500,000 advising product, awarded supplier and total value of award is published on a monthly basis on the following site: <https://www.unicef.org/supply/contract-awards>

## ANNEX A GENERAL TERMS AND CONDITIONS

### GENERAL TERMS AND CONDITIONS OF CONTRACT (Goods)

#### Definitions and UNICEF Supply Website

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

"Affiliates" means, with respect to the Supplier, any of its corporate affiliates or associates, including parent entities, subsidiaries, and other entities in which it owns a substantial interest.

"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.

"Consignee" means the consignee designated in the Contract.

"Contract" means the purchase contract that incorporates these General Terms and Conditions (Goods). It includes purchase orders issued by UNICEF, whether or not they are issued under a long-term arrangement or similar contract.

"Goods" means the goods specified in the relevant section of the Contract.

"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.

"INCOTERMS" means the international commercial terms known as the INCOTERMS rules, issued by the International Chamber of Commerce, most-recently issued at the effective date of the Contract. References in the Contract to trade terms (such as "FCA", "DAP" and "CIP") are references to those terms as defined by the INCOTERMS.

"Parties" means the Contractor and UNICEF together and a "Party" means each of the Contractor and UNICEF.

Supplier's "Personnel" means the Supplier's officials, employees, agents, individual sub-contractors and other representatives.

"Price" is defined in Article 3.1.

"Supplier" is the supplier named in the Contract.

"UNICEF Supply Website" means UNICEF's public access webpage available at [http://www.unicef.org/supply/index\\_procurement\\_policies.html](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 Supplier, are publicly available on the UNICEF Supply Website. The Supplier represents that it has reviewed all such policies as of the effective date of the Contract.

#### 2. Delivery; Inspection; Risk of Loss

2.1 The Supplier will deliver the Goods to the Consignee at the place and within the time period for delivery stated in the Contract. The Supplier will comply with the INCOTERM or similar trade term expressly stated in the Contract as applying to the Goods to be supplied under the Contract and all other delivery terms and instructions stated in the Contract. Notwithstanding any INCOTERM, the Supplier will obtain any export licences required for the Goods. The Supplier will ensure that UNICEF receives all necessary transport documents in a timely manner so as to enable UNICEF to take delivery of the Goods in accordance with the requirements of the Contract. The Supplier will neither seek nor accept instructions from any entity other than UNICEF (or entities authorized by UNICEF to give instructions to the Supplier) in connection with the supply and delivery of the Goods.

2.2 The Supplier will use its best efforts to accommodate reasonable requests for changes (if any) to the requirements for the Goods (such as packaging, packing and labeling requirements), shipping instructions or delivery date of the Goods set out in the Contract. If UNICEF requests any material change to the requirements for the Goods, shipping instructions or delivery date, UNICEF and the Supplier will negotiate any necessary changes to the Contract, including as to Price and the time schedule. 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 Supplier. 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.

2.3 The Supplier acknowledges that UNICEF may monitor the Supplier's performance under the Contract. The Supplier agrees to provide its full cooperation with such performance monitoring, at no additional cost or expense to UNICEF, and provide relevant information as reasonably requested by UNICEF, including, but not limited to, the date of receipt of the Contract, detailed delivery status, costs to be charged and payments made by UNICEF or pending.

#### Inspection

2.4 UNICEF or the Consignee (if different from UNICEF) will have a reasonable time to inspect the Goods after delivery. At UNICEF's request, the Supplier will provide its reasonable cooperation to UNICEF or the Consignee with regard to such inspection, including but not limited to access to production data, at no charge. The Supplier acknowledges that any inspection of the Goods by or on behalf of UNICEF or the Consignee does not constitute a determination that the specifications for the Goods set out in the Contract (including the mandatory technical requirements) have or have not been met. The Supplier will be required to comply with its warranty and other contractual obligations whether or not UNICEF or the Consignee carries out an inspection of the Goods.

#### Delivery not Acceptance; Consequences of Delayed Delivery and Non-conforming Goods

2.5 If the Supplier determines it will be unable to deliver all or some of the Goods to the Consignee by the delivery date(s) stipulated in the Contract, the Supplier will (a) immediately consult with UNICEF to determine the most expeditious means for delivering the Goods; and (b) use an expedited means of delivery, at the Supplier's cost (unless the delay is due to force majeure as defined in Article 6.7 below), if reasonably requested by UNICEF to do so. Partial deliveries of Goods will not be accepted unless prior written approval for such partial delivery has been given by UNICEF to the Supplier.

2.6 Delivery of the Goods will not constitute acceptance of the Goods. If some or all of the Goods do not conform to the requirements of the Contract or if the Supplier delivers the Goods late or fails to deliver the Goods (or any part of the Goods) in accordance with the agreed delivery dates and delivery terms and instructions, UNICEF may, without prejudice to any of its other rights and remedies, exercise one or more of the following rights under the Contract at UNICEF's option:

(a) UNICEF can reject and refuse to accept any or all of the Goods (including those that do conform to the Contract). If UNICEF rejects the Goods, the Supplier will, at its own cost, arrange for the prompt return of the rejected Goods and, at UNICEF's option, the Supplier will promptly replace the rejected Goods with Goods of equal or better quality (and will be responsible for all costs related to such replacement) or UNICEF may exercise its other rights set out below;

(b) UNICEF may procure all or part of the Goods from other sources, in which case the Supplier will be responsible for any additional costs beyond the balance of the Price for such Goods;

(c) Upon UNICEF's demand, the Supplier will refund all payments (if any) made by UNICEF in respect of the rejected Goods or the Goods that have not been delivered in accordance with the delivery dates and delivery terms;

(d) UNICEF can give written notice of breach and, if the Supplier fails to remedy the breach, can terminate the Contract in accordance with Article 6.1 below;

(e) UNICEF can require the Supplier to pay liquidated damages as set out in the Contract.

2.7 Further to Article 11.6 below, the Supplier expressly acknowledges that if, in respect of any consignment, UNICEF takes delivery of all or some of the Goods that have been delivered late or otherwise not in full compliance with the delivery terms and instructions or that are not in full conformity with the requirements of the Contract, this does not constitute a waiver of UNICEF's rights in respect of such late delivery or non-compliant Goods.

#### Risk of Loss; Title to Goods

2.8 Risk of loss, damage to or destruction of Goods supplied under the Contract, and responsibility for arranging and paying for freight and insurance, will be governed by the INCOTERM or similar trade term expressly stated in the Contract as applying to the Goods supplied under the Contract and any other express terms of the Contract. In the absence of any such INCOTERM or similar trade term or other express terms, the following provisions will apply: (a) the entire risk of loss, damage to or destruction of the Goods will be borne exclusively by the Supplier until physical delivery of the Goods to the Consignee has been completed in accordance with the Contract; and (b) the Supplier will be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the Goods in accordance with the requirements of the Contract.

2.9 Unless otherwise expressly provided in the Contract, title in and to the Goods will pass from the Supplier to the Consignee upon delivery of the Goods in accordance with the applicable delivery terms

## ANNEX A GENERAL TERMS AND CONDITIONS

and acceptance of the Goods in accordance with the Contract.

### 3. Price; Invoicing; Tax Exemption; Payment Terms

3.1 The price for the Goods is the amount specified in the price section of the Contract (the "Price"), it being understood that such amount is specified in United States dollars unless otherwise expressly provided for in the price section of the Contract. The Price includes the cost of packaging and packing the Goods in accordance with the requirements of the Contract and delivery in accordance with the applicable delivery terms. The Price is inclusive of all costs, expenses, charges or fees that the Supplier 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 Supplier will not request any change to the Price after delivery of the Goods by the Supplier and that the Price cannot be changed except by written agreement between the Parties before the Goods are delivered.

3.2 The Supplier will issue invoices to UNICEF only after the Supplier has fulfilled the delivery terms of the Contract. The Supplier 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) copies of the shipping documents and other supporting documents as specified in the Contract.

3.3 The Supplier authorizes UNICEF to deduct from the Supplier'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 Supplier will immediately consult with UNICEF to determine a mutually acceptable procedure. The Supplier 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 Supplier 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 Supplier the amount of the undisputed portion in accordance with Article 3.5 below. UNICEF and the Supplier 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 Supplier's invoice within thirty (30) days of receiving both the invoice and the shipping documents and other 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 Supplier 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 Supplier of its obligations under the Contract. Payment will not be deemed acceptance of the Goods or waiver of any rights with regard to the Goods.

3.6 Each invoice will confirm the Supplier's bank account details provided to UNICEF as part of the Supplier's registration process with UNICEF. All payments due to the Supplier under the Contract will be made by electronic funds transfer to that bank account. It is the Supplier'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 Supplier of any changes in bank details together with supporting documentation satisfactory to UNICEF.

3.7 The Supplier acknowledges and agrees that UNICEF may withhold payment in respect of any invoice if, in UNICEF's opinion, the Supplier has not performed in accordance with the terms and conditions of the Contract, or if the Supplier 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 Supplier under the Contract, any payment, indebtedness or other claim (including, without limitation, any overpayment made by UNICEF to the Supplier) owing by the Supplier to UNICEF under the Contract or under any other contract or agreement between the Parties. UNICEF will not be required to give the Supplier prior notice before exercising this right of set-off (such notice being waived by the Supplier). UNICEF will promptly notify the Supplier 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 Supplier 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 Supplier represents and warrants that as of the effective date and throughout the term of the Contract: (a) it 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) it has, and will maintain throughout the term of the Contract, all rights, licenses, authority and resources necessary, as applicable, to develop, source, manufacture and supply the Goods and to perform its other obligations under the Contract; (c) all of the information concerning the Goods and the Supplier that it has previously provided to UNICEF, or that it provides to UNICEF during the term of the Contract, is true, correct, accurate and not misleading; (d) it is financially solvent and is able to supply the Goods to UNICEF in accordance with the terms and conditions of the Contract; (e) the use or supply of the Goods does not and will not infringe any patent, design, trade-name or trade-mark; (f) 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 the Goods; and (g) the development, manufacture and supply of the Goods is, and will continue to be, in compliance with all applicable laws, rules and regulations. The Supplier 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 Supplier further represents and warrants that the Goods (including packaging): (a) conform to the quality, quantity and specifications for the Goods stated in the Contract (including, in the case of perishable or pharmaceutical products, the shelf life specified in the Contract); (b) conform in all respects to the technical documentation provided by the Supplier in respect of such Goods and, if samples were provided to UNICEF prior to entering into the Contract, are equal and comparable in all respects to such samples; (c) are new and factory-packed; (d) are fit for the purposes for which such goods are ordinarily used and for purposes expressly made known to the Supplier by UNICEF in the Contract; (e) are of consistent quality and free from faults and defects in design, manufacture, workmanship and materials; (f) are free from all liens, encumbrances or other third party claims; and (g) are contained or packaged in accordance with the standards of export packaging for the type and quantities of the Goods specified in the Contract, and for the modes of transport of the Goods specified in the Contract (including but not limited to, in a manner adequate to protect them in such modes of transport), and marked in a proper manner in accordance with the instructions stipulated in the Contract and applicable law.

4.3 The warranties provided in Article 4.2 will remain valid for the warranty period specified in the Contract; provided that (a) the warranty period for pharmaceutical goods or other perishable products will be no less than the shelf-life of those Goods specified in the Contract; and (b) if no warranty period or shelf-life is specified in the Contract, the warranties will remain valid from the date the Supplier signs the Contract until the day twelve (12) months after fulfillment of the delivery terms or such later date as may be prescribed by law.

4.4 If the Supplier is not the original manufacturer of the Goods or any part of the Goods, the Supplier assigns to UNICEF (or, at UNICEF's instructions, the Government or other entity that receives the Goods) all manufacturers' warranties in addition to any other warranties under the Contract.

4.5 The representations and warranties made by the Supplier in Articles 4.1 and 4.2 and the Supplier's obligations in Articles 4.3 and 4.4 above are made to and are for the benefit of (a) each entity that makes a direct financial contribution to the purchase of Goods; and (b) each Government or other entity that receives the Goods.

#### Indemnification

4.6 The Supplier 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 the purchase of the Goods and each Government or other entity that receives the Goods, from and against all suits, claims, demands, losses and liability of any nature or kind, including their costs and expenses, by a third party and arising out of the acts or omissions of the Supplier 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 patent, design, trade-name or trade-mark arising in connection with the Goods 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 Contract or used by the Supplier, its Personnel or sub-contractors in the performance of the Contract.

4.7 UNICEF will report any such suits, proceedings, claims, demands, losses or liability to the Supplier within a reasonable period of time after having received actual notice. The Supplier 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

## ANNEX A GENERAL TERMS AND CONDITIONS

Governments), which as between the Supplier 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

4.8 The Supplier will comply with the following insurance requirements:

(a) The Supplier will have and maintain in effect with reputable insurers and in sufficient amounts, insurance against all of the Supplier's risks under the Contract (including, but not limited to, the risk of claims arising out of or related to the Supplier'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 including, but not limited to, product liability insurance, in an adequate amount to cover all claims arising from or in connection with the Supplier's performance under the Contract. The Supplier's product liability insurance will cover the direct and indirect financial consequences of liability (including all costs, including replacement costs, related to recall campaigns) sustained by UNICEF or third parties as a result of or relating to the Goods;

(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 Supplier.

(b) The Supplier will maintain the insurance coverage referred to in Article 4.8(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 Supplier 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 Supplier's insurance required under this Article 4.8 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 Supplier will, upon request, provide UNICEF with satisfactory evidence of the insurance required under this Article 4.8.

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

### Liability

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

### 5. Intellectual Property and Other Proprietary Rights; Confidentiality

#### Intellectual Property and Other Proprietary Rights

5.1 Unless otherwise expressly provided for 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 with regard to products, processes, inventions, ideas, know-how, data or documents and other materials ("Contract Materials") that (i) the Supplier 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 Supplier under the Contract. The Supplier 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 Supplier that pre-existed the performance by the Supplier of its obligations under the Contract, or that the Supplier may develop or acquire, or may have developed or

acquired, independently of the performance of its obligations under the Contract. The Supplier grants to UNICEF a perpetual 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 Supplier will take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring (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 Confidential Information that is considered proprietary by either Party or that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract will be held in confidence by the Recipient. The Recipient will use the same care and discretion to avoid disclosure of the Discloser's Confidential Information as the Recipient uses for its own Confidential Information and will use the Discloser's Confidential Information solely for the purpose for which it was disclosed to the Recipient. The Recipient will not disclose the Discloser's Confidential Information to any other party:

(a) except to those of its Affiliates, employees, officials, representatives, agents and sub-contractors who have a need to know such Confidential Information for purposes of performing obligations under the Contract; or

(b) unless the Confidential Information (i) is obtained by the Recipient from a third party without restriction; (ii) is disclosed by the Discloser to a third party without any obligation of confidentiality; (iii) is known by the Recipient prior to disclosure by the Discloser; or (iv) at any time is developed by the Recipient completely independently of any disclosures under the Contract.

5.3 If the Supplier 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 Supplier (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 Supplier's Confidential Information to the extent required pursuant to resolutions or regulations of its governing bodies.

5.4 The Supplier 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 authorization of UNICEF; nor will the Supplier at any time use such information to private advantage.

### End of Contract

5.5 Upon the expiry or earlier termination of the Contract, the Supplier will:

(a) return to UNICEF all of UNICEF's Confidential Information or, at UNICEF's option, destroy all copies of such information held by the Supplier 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

## ANNEX A GENERAL TERMS AND CONDITIONS

- (b) if the Supplier breaches any of the provisions of Articles 5.2-5.4 (Confidentiality); or
- (c) if the Supplier (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 Supplier; (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 Supplier to perform any of its obligations under the Contract.

6.3 In addition to the termination rights under Articles 6.1 and 6.2 above, UNICEF can terminate the Contract at any time by providing written notice to the Supplier 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 upon sixty (60) days' written notice to the Supplier without having to provide any justification.

6.4 As soon as it receives a notice of termination from UNICEF, the Supplier will immediately take steps to cease provision of the Goods in a prompt and orderly manner and to minimize costs and will seek instructions from UNICEF regarding Goods in transit (if any) and will not undertake any further or additional commitments as of and following the date it receives the termination notice. In addition, the Supplier will take any other action that may be necessary, or that UNICEF may direct in writing, for the minimization of losses and for the protection and preservation of any property (whether tangible or intangible) related to the Contract that is in the possession of the Supplier and in which UNICEF has or may be reasonably expected to acquire an interest.

6.5 If the Contract is terminated, no payment will be due from UNICEF to the Supplier except for Goods delivered in accordance with the requirements of the Contract and only if such Goods were ordered, requested or otherwise provided prior to the Supplier's receipt of notice of termination from UNICEF or, in the case of termination by the Supplier, the effective date of such termination. The Supplier will have no claim for any further payment beyond payments in accordance with this Article 6.5, but will remain liable to UNICEF for all loss or damages which may be suffered by UNICEF by reason of the Supplier's default (including but not limited to cost of the purchase and delivery of replacement or substitute goods).

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

### Force Majeure

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

(b) The Supplier 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 Supplier 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 Supplier has participated.

(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 Supplier, communicate with UNICEF, or present to UNICEF, about any matters that were within such former official's responsibilities while at UNICEF.

(c) The Supplier represents that, in respect of all aspects of the Contract (including the award of the Contract by UNICEF to the Supplier and the selection and awarding of sub-contracts by the Supplier), 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 Supplier 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 organisation or other international inter-governmental organisation. The Supplier 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 Supplier 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 Supplier 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 Supplier 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](http://www.ungm.org)).

7.6 The Supplier 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 Organisation'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 utilised in the manufacture of anti-personnel mines.

7.7 The Supplier 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 Supplier 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 Supplier 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 Supplier, 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 Supplier, without any liability for termination charges or any other liability of any kind.

7.8 The Supplier 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 Supplier 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 Supplier with immediate effect upon written notice to the Supplier if: (i) UNICEF becomes aware of any incident or report that is inconsistent with, or the Supplier breaches any of, the undertakings and confirmations provided in this Article 7 or the equivalent provisions of any contract between UNICEF and the Supplier or any of the Supplier's Affiliates, or (ii) the Supplier 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 Supplier 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 Supplier 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 Supplier, UNICEF may at any time, exercise its right to terminate the Contract and any other contract between UNICEF and the Supplier.

(c) Any suspension or termination under this Article 7 will be without any liability for termination or

## ANNEX A GENERAL TERMS AND CONDITIONS

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 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 Supplier's compliance with the provisions of Article 7 above. The Supplier 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 Supplier's premises at reasonable times and on reasonable conditions in connection with making its Personnel and any relevant data and documentation available. The Supplier will require its sub-contractors and its agents, including, but not limited to, the Supplier'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 Supplier 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 Supplier 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 (a) Except as expressly provided in the Contract, the Supplier 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 of its obligations under the Contract.

(b) In the event that the Supplier requires the services of sub-contractors to perform any obligations under the Contract, the Supplier will notify UNICEF of this. 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.

(c) The Supplier confirms that it has read UNICEF's Policy on Conduct Promoting the Protection and Safeguarding of Children. The Supplier 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 Supplier will further cooperate with UNICEF's implementation of this policy.

(d) The Supplier 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. The Supplier's Personnel, including individual sub-contractors, will not be considered in any respect as being the employees or agents of UNICEF.

(e) Without limiting any other provisions of the Contract, the Supplier will be fully responsible and liable for, and UNICEF will not be liable for (i) all payments due to its Personnel and sub-contractors for their services in relation to the performance of the Contract; (ii) any action, omission, negligence or misconduct of the Contractor, its Personnel and sub-contractors; (iii) any insurance coverage which may be necessary or desirable for the purpose of the Contract; (iv) the safety and security of the Contractor's Personnel and sub-contractors' personnel; or (v) 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 11.4(d).

11.5 The Supplier 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 Supplier's rights or obligations under the Contract.

11.6 No grant of time to by a Party to cure a default under the Contract, nor any delay or failure by a Party to exercise any other right or remedy available to it under the Contract, will be deemed to prejudice any rights or remedies available to it under the Contract or constitute a waiver of any rights or remedies available to it under the Contract.

11.7 The Supplier 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.

11.8 The Supplier 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 Supplier and its Personnel and sub-contractors, the Supplier 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 written permission of UNICEF.

11.9 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.

11.10 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 Supplier will be valid and enforceable against UNICEF unless set out in a written amendment to the Contract signed by an authorised official of UNICEF.

11.11 The provisions of Articles 2.8, 2.9, 3.8, 3.9, 4, 5, 7, 8, 9, 11.1, 11.2, 11.4(e), 11.6 and 11.8 will survive delivery of the Goods and the expiry or earlier termination of the Contract.