



CONDITIONS OF CONTRACT

CONTRACTS FOR THE PROVISION OF GOODS AND SERVICES

1. **LEGAL STATUS OF THE PARTIES:** UNFPA (a subsidiary organ of the United Nations established by the General Assembly in resolution 3019 (XXVII)) and the party with whom UNFPA is contracting (“Contractor”) under the contract to which these General Conditions of Contract are to apply and be made a part thereof (“Contract”), shall each be referred to as a “Party” hereunder, and:
 - 1.1 Pursuant, *inter alia*, to the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946 (“Convention”), the United Nations, including its subsidiary organs, has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfillment of its purposes.
 - 1.2 The Contractor shall have the legal status of an independent contractor *vis-à-vis* UNFPA, and nothing contained in or relating to the Contract shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. The officials, representatives, employees, staff, personnel, agents or subcontractors of each of the Parties shall not be considered in any respect as being the employees or agents of the other Party, and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.
2. **DEFINITIONS:** For purposes of these General Conditions, the capitalized terms used herein shall have the meaning as defined in the Contract, unless defined in these General Conditions.
3. **RESPONSIBILITY FOR PERSONNEL:** To the extent that the Contract involves the provision of any services to UNFPA by the Contractor’s officials, representatives, employees, agents, subcontractors or any other persons engaged and controlled by the Contractor to perform any services under the Contract (collectively, “Personnel”), the following provisions shall apply:
 - 3.1 The Contractor shall be responsible for the professional and technical competence of the Personnel it assigns to perform work under the Contract and will select reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.
 - 3.2 Such Personnel shall be professionally qualified and, if required to work with officials, staff, personnel, representatives or agents of UNFPA, shall be able to do so effectively. The qualifications of any Personnel whom the Contractor may assign or may propose to assign to perform any obligations under the Contract shall be substantially the same, or better, as the qualifications of any Personnel originally proposed by the Contractor.
 - 3.3 At the option of and in the sole discretion of UNFPA:
 - 3.3.1 the qualifications of Personnel proposed by the Contractor (*e.g.*, a curriculum vitae) may be reviewed by UNFPA prior to such Personnel’s performing any obligations under the Contract;
 - 3.3.2 any Personnel proposed by the Contractor to perform obligations under the Contract may be interviewed by qualified staff or officials of UNFPA prior to such Personnel’s performing any obligations under the Contract; and,
 - 3.3.3 in cases in which, pursuant to Article 3.3.1 or 3.3.2, above, UNFPA has reviewed the qualifications of such Personnel, UNFPA may reasonably refuse to accept any such Personnel.
 - 3.4 Requirements specified in the Contract regarding the number or qualifications of the Personnel may change during the course of performance of the Contract. Any such change shall be made only following written notice of such proposed change and upon written agreement between the Parties regarding such change, subject to the following:
 - 3.4.1 UNFPA may, at any time, request, in writing, the withdrawal or replacement of any of the Personnel, and such request shall not be unreasonably refused by the Contractor.
 - 3.4.2 Any of the Personnel assigned to perform obligations under the Contract shall not be withdrawn or replaced without the prior written consent of UNFPA, which shall not be unreasonably withheld.
 - 3.4.3 The withdrawal or replacement of the Personnel shall be carried out as quickly as possible and in a manner that will not adversely affect the performance of obligations under the Contract.

3.4.4 All expenses related to the withdrawal or replacement of the Personnel shall, in all cases, be borne exclusively by the Contractor.

3.4.5 Any request by UNFPA for the withdrawal or replacement of the Personnel shall not be considered to be a termination, in whole or in part, of the Contract, and UNFPA shall not bear any liability in respect of such withdrawn or replaced Personnel.

3.4.6 If a request for the withdrawal or replacement of the Personnel is *not* based upon a default by or failure on the part of the Contractor to perform its obligations in accordance with the Contract, the misconduct of the Personnel, or the inability of such Personnel to reasonably work together with UNFPA officials and staff, then the Contractor shall not be liable by reason of any such request for the withdrawal or replacement of the Personnel for any delay in the performance by the Contractor of its obligations under the Contract that is substantially the result of such Personnel's being withdrawn or replaced.

3.5 Nothing in Articles 3.2, 3.3 and 3.4, above, shall be construed to create any obligations on the part of UNFPA with respect to the Personnel assigned to perform work under the Contract, and such Personnel shall remain the sole responsibility of the Contractor.

3.6 The Contractor shall be responsible for requiring that all Personnel assigned by it to perform any obligations under the Contract and who may have access to any premises or other property of UNFPA shall:

3.6.1 undergo or comply with security screening requirements made known to the Contractor by UNFPA, including but not limited to, a review of any criminal history;

3.6.2 when within UNFPA premises or on UNFPA property, display such identification as may be approved and furnished by UNFPA, and that upon the withdrawal or replacement of any such Personnel or upon termination or completion of the Contract, such Personnel shall immediately return any such identification to UNFPA for cancellation.

3.7 Within one working day after learning that any Personnel who have access to any UNFPA premises have been charged by law enforcement authorities with an offense other than a minor traffic offense, the Contractor shall provide written notice to inform UNFPA about the particulars of the charges then known and shall continue to inform UNFPA concerning all substantial developments regarding the disposition of such charges.

3.8 All operations of the Contractor, including without limitation, storage of equipment, materials, supplies and parts, within UNFPA premises or on UNFPA property shall be confined to areas authorized or approved by UNFPA. Personnel shall not enter or pass through and shall not store or dispose of any of its equipment or materials in any areas within UNFPA premises or on UNFPA property without appropriate authorization from UNFPA.

4. ASSIGNMENT:

4.1 Except as provided in Article 4.2, below, the Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of UNFPA. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, shall not be binding on UNFPA. Except as permitted with respect to any approved subcontractors, the Contractor shall not delegate any of its obligations under this Contract, except with the prior written consent of UNFPA. Any such unauthorized delegation, or attempt to do so, shall not be binding on UNFPA.

4.2 The Contractor may assign or otherwise transfer the Contract to the surviving entity resulting from a reorganization of the Contractor's operations, *provided that*:

4.2.1 such reorganization is not the result of any bankruptcy, receivership or other similar proceedings; *and,*

4.2.2 such reorganization arises from a sale, merger, or acquisition of all or substantially all of the Contractor's assets or ownership interests; *and,*

4.2.3 the Contractor promptly notifies UNFPA about such assignment or transfer at the earliest opportunity; *and,*

4.2.4 the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the Contract, and such writing is promptly provided to UNFPA following the assignment or transfer.

5. **SUBCONTRACTING:** In the event that the Contractor requires the services of subcontractors to perform any obligations under the Contract, the Contractor shall obtain the prior written approval of UNFPA. UNFPA shall be

entitled, in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that UNFPA reasonably considers is not qualified to perform obligations under the Contract. UNFPA shall have the right to require the removal of any subcontractor or any subcontractor's personnel from UNFPA premises without having to give any justification therefor. Any such rejection of any proposed subcontractor or request for removal of any subcontractor or any subcontractor's personnel shall not, in and of itself, entitle the Contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract, and the Contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

6. **PURCHASE OF GOODS:** To the extent that the Contract involves any purchase of goods, whether in whole or in part, and unless specifically stated otherwise in the Contract, the following conditions shall apply to any purchases of goods under the Contract:

6.1 **DELIVERY OF GOODS:** The Contractor shall hand over or make available the goods, and UNFPA shall receive the goods, at the place for the delivery of the goods and within the time for delivery of the goods specified in the Contract. The Contractor shall provide to UNFPA such shipment documentation (including, without limitation, bills of lading, airway bills, and commercial invoices) as are specified in the Contract or, otherwise, as are customarily utilized in the trade. All manuals, instructions, displays and any other information relevant to the goods shall be in the English language unless otherwise specified in the Contract. Unless otherwise stated in the Contract (including, but not limited to, in any "INCOTERM" or similar trade term), the entire risk of loss, damage to, or destruction of the goods shall be borne exclusively by the Contractor until physical delivery of the goods to UNFPA in accordance with the terms of the Contract. Delivery of the goods shall not be deemed in itself as constituting acceptance of the goods by UNFPA.

6.2 **INSPECTION OF THE GOODS:** If the Contract provides that the goods may be inspected prior to delivery, the Contractor shall notify UNFPA when the goods are ready for pre-delivery inspection. Notwithstanding any pre-delivery inspection, UNFPA or its designated inspection agents may also inspect the goods upon delivery in order to confirm that the goods conform to applicable specifications or other requirements of the Contract. All reasonable facilities and assistance, including, but not limited to, access to drawings and production data, shall be furnished to UNFPA or its designated inspection agents at no charge therefor. Neither the carrying out of any inspections of the goods nor any failure to undertake any such inspections shall relieve the Contractor of any of its warranties or the performance of any obligations under the Contract.

6.3 **PACKAGING OF THE GOODS:** The Contractor shall package the goods for delivery in accordance with the highest standards of export packaging for the type and quantities and modes of transport of the goods. The goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law or by the transporters and manufacturers of the goods. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by UNFPA as well as such other information as is necessary for the correct handling and safe delivery of the goods. Unless otherwise specified in the Contract, the Contractor shall have no right to any return of the packing materials.

6.4 **TRANSPORTATION & FREIGHT:** Unless otherwise specified in the Contract (including, but not limited to, in any "INCOTERM" or similar trade term), the Contractor shall 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. The Contractor shall ensure that UNFPA receives all necessary transport documents in a timely manner so as to enable UNFPA to take delivery of the goods in accordance with the requirements of the Contract.

6.5 **WARRANTIES IN RELATION TO GOODS:** Unless otherwise specified in the Contract, in addition to and without limiting any other warranties, remedies or rights of UNFPA stated in or arising under the Contract, the Contractor warrants and represents that:

6.5.1 The goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such goods are ordinarily used and for any purposes expressly made known in writing in the Contract, and shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship;

6.5.2 If the Contractor is not the original manufacturer of the goods, the Contractor shall provide UNFPA with the benefit of all manufacturers' warranties in addition to any other warranties required to be provided under the Contract;

- 6.5.3 The goods are of the quality, quantity and description required by the Contract, including when subjected to conditions prevailing in the place of final destination;
- 6.5.4 The goods are free from any right of claim by any third-party, including claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets;
- 6.5.5 The goods are new and unused;
- 6.5.6 All warranties will remain fully valid following any delivery of the goods and for a period of not less than one (1) year following acceptance of the goods by UNFPA in accordance with the Contract;
- 6.5.7 During any period in which the Contractor's warranties are effective, upon notice by UNFPA that the goods do not conform to the requirements of the Contract, the Contractor shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective goods with goods of the same or better quality or, at its own cost, remove the defective goods and fully reimburse UNFPA for the purchase price paid for the defective goods; and,
- 6.5.8 The Contractor shall remain responsive to the needs of UNFPA for any services that may be required in connection with any of the Contractor's warranties under the Contract.
- 6.5.9 The warranties and representations made by the Contractor in Articles 6.5.1 to 6.5.8 above are made to and are for the benefit of each governmental entity or other entity (if any) on which behalf UNFPA procures the goods.
- 6.6 **ACCEPTANCE OF GOODS:** Under no circumstances shall UNFPA be required to accept any goods that do not conform to the specifications or requirements of the Contract. UNFPA may condition its acceptance of the goods upon the successful completion of acceptance tests as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall UNFPA be obligated to accept any goods unless and until UNFPA has had a reasonable opportunity to inspect the goods following delivery. If the Contract specifies that UNFPA shall provide a written acceptance of the goods, the goods shall not be deemed accepted unless and until UNFPA in fact provides such written acceptance. In no case shall payment by UNFPA in and of itself constitute acceptance of the goods.
- 6.7 **REJECTION OF GOODS:** Notwithstanding any other rights of, or remedies available to UNFPA under the Contract, in case any of the goods are defective or otherwise do not conform to the specifications or other requirements of the Contract, UNFPA, at its sole option, may reject or refuse to accept the goods, and within thirty (30) days following receipt of notice from UNFPA of such rejection or refusal to accept the goods, the Contractor shall, in sole option of UNFPA:
- 6.7.1 provide a full refund upon return of the goods, or a partial refund upon a return of a portion of the goods, by UNFPA; *or*,
- 6.7.2 repair the goods in a manner that would enable the goods to conform to the specifications or other requirements of the Contract; *or*,
- 6.7.3 replace the goods with goods of equal or better quality; *and*,
- 6.7.4 pay all costs relating to the repair or return of the defective goods as well as the costs relating to the storage of any such defective goods and for the delivery of any replacement goods to UNFPA.
- 6.8 In the event that UNFPA elects to return any of the goods for the reasons specified in Article 6.7, above, UNFPA may procure the goods from another source. In addition to any other rights or remedies available to UNFPA under the Contract, including, but not limited to, the right to terminate the Contract, the Contractor shall be liable for any additional cost beyond the balance of the Contract price resulting from any such procurement, including, *inter alia*, the costs of engaging in such procurement, and UNFPA shall be entitled to compensation from the Contractor for any reasonable expenses incurred for preserving and storing the goods for the Contractor's account.
- 6.9 **TITLE:** The Contractor warrants and represents that the goods delivered under the Contract are unencumbered by any third party's title or other property rights, including, but not limited to, any liens or security interests. Unless otherwise expressly provided in the Contract, title in and to the goods shall pass from the Contractor to UNFPA upon delivery of the goods and their acceptance by UNFPA in accordance with the requirements of the Contract.
- 6.10 **EXPORT LICENSING:** The Contractor shall be responsible for obtaining any export license required with respect to the goods, products, or technologies, including software, sold, delivered, licensed or otherwise provided to UNFPA under the Contract. The Contractor shall procure any such export license in an expeditious

manner. Subject to and without any waiver of the privileges and immunities of the United Nations, including its subsidiary organs, UNFPA shall lend the Contractor all reasonable assistance required for obtaining any such export license. Should any governmental entity refuse, delay or hinder the Contractor's ability to obtain any such export license, the Contractor shall promptly consult with UNFPA to enable UNFPA to take appropriate measures to resolve the matter.

7. REPRESENTATIONS AND WARRANTIES:

7.1 The Contractor represents and warrants throughout the entire validity period of the Contract ("Contract Term") that:

7.1.1 the Contractor has the full authority and power to enter into the Contract and to perform its obligations under the Contract and the Contract is a legal, valid and binding obligation, enforceable against it in accordance with its terms;

7.1.2 all of the information it has previously provided to UNFPA, or that it provides to UNFPA during the Contract Term, concerning the Contractor and the provision of the goods, the services and the delivering of the deliverables is true, correct, accurate and not misleading;

7.1.3 it is financially solvent and is able to provide the goods and the services to UNFPA in accordance with the terms and conditions of the Contract;

7.1.4 it has, and will maintain throughout the Contract Term, all rights, licenses, authority and resources necessary, as applicable, to provide the goods, the services and deliver the deliverables to UNFPA's satisfaction within agreed timelines and to perform its obligations under the Contract;

7.1.5 the work product is and will be original to the Contractor and does not and will not infringe any copyright, trademark, patent or other proprietary right of any third party;

7.1.6 the Fees for the services and deliverables under the Contract are the most favourable pricing terms available to any customer of the Contractor (or of any its affiliated entities). If at any time during the term of this Contract, any other customer of the Contractor (or of any of the Contractor's affiliated entities) obtains more favourable pricing terms than those provided to UNFPA, the Contractor will retroactively adjust the Fee and related pricing terms under this Contract to conform to the more favourable terms and the Contractor will promptly pay UNFPA any amounts owing to UNFPA as a result of such retroactive Fee adjustment; and

7.1.7 except as otherwise expressly stated in the Contract, it has not and will not enter into any agreement or arrangement that restrains or restricts any person's rights to use, sell, dispose of or otherwise deal with any work resulting from the services. The Contractor will fulfill its commitments with the fullest regard to the interests of UNFPA and will refrain from any action which may adversely affect UNFPA or the United Nations.

7.2 The Contractor further represents and warrants throughout the Contract Term that it and its Personnel will perform the Contract and provide the goods, services and deliverables:

7.2.1 in a professional and workmanlike manner;

7.2.2 with reasonable care and skill and in accordance with the highest professional standards accorded to professionals providing the same or substantially similar services in the same industry; and

7.2.3 with priority equal to that given to the same or similar services of a time sensitive nature for the Contractor's other clients.

7.3 The representations and warranties made by the Contractor in Articles 7.1 and 7.2 above are made to and are for the benefit of (a) each entity (if any) that makes a direct financial contribution to UNFPA to procure the goods, services and/or deliverables; and (b) each governmental entity or other entity (as applicable) that receives the direct benefit of the goods, services and/or deliverables.

8. INDEMNIFICATION:

8.1 The Contractor shall indemnify, defend, and hold and save harmless, UNFPA, and its officials, staff, personnel, representatives and agents, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature brought by any third party against UNFPA, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to:

8.1.1 allegations or claims that the possession of or use by UNFPA of any patented device, any copyrighted material, or any other goods, property or services provided or licensed to UNFPA under the terms of the Contract, in whole or in part, separately or in a combination contemplated by the Contractor's published specifications therefor, or otherwise specifically approved by the Contractor, constitutes an infringement of any patent, copyright, trademark, or other intellectual property right of any third party; *or*,

8.1.2 any acts or omissions of the Contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers' compensation.

8.2 The indemnity set forth in Article 8.1.1, above, shall not apply to:

8.2.1 A claim of infringement resulting from the Contractor's compliance with specific written instructions by UNFPA directing a change in the specifications for the goods, property, materials, equipment or supplies to be or used, or directing a manner of performance of the Contract or requiring the use of specifications not normally used by the Contractor; *or*

8.2.2 A claim of infringement resulting from additions to or changes in any goods, property, materials equipment, supplies or any components thereof furnished under the Contract if UNFPA or another party acting under the direction of UNFPA made such changes.

8.3 In addition to the indemnity obligations set forth in this Article, the Contractor shall be obligated, at its sole expense, to defend UNFPA and its officials, staff, personnel, representatives or agents, pursuant to this Article, regardless of whether the suits, proceedings, claims and demands in question actually give rise to or otherwise result in any loss or liability.

8.4 UNFPA shall advise the Contractor about any such suits, proceedings, claims, demands, losses or liability within a reasonable period of time after having received actual notice thereof. The Contractor shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of the United Nations, including its subsidiary organs, or any matter relating thereto, which only the United Nations itself is authorized to assert and maintain. UNFPA shall 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.

8.5 In the event that the use by UNFPA of any goods, property or services provided or licensed to UNFPA by the Contractor, in whole or in part, in any suit or proceeding, is for any reason enjoined, temporarily or permanently, or is found to infringe any patent, copyright, trademark or other intellectual property right, or in the event of a settlement, is enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, shall, promptly, either:

8.5.1 procure for UNFPA the unrestricted right to continue using such goods or services provided to UNFPA;

8.5.2 replace or modify the goods or services provided to UNFPA, or part thereof, with the equivalent or better goods or services, or part thereof, that is non-infringing; *or*,

8.5.3 refund to UNFPA the full price paid by UNFPA for the right to have or use such goods, property or services, or part thereof.

8.6 The obligations under this Article do not lapse upon termination or expiration of the Contract.

9. INSURANCE AND LIABILITY:

9.1 The Contractor shall pay UNFPA promptly for all loss, destruction, or damage to the property of UNFPA caused by Personnel or anyone else directly or indirectly employed by the Contractor or any of its subcontractors in the performance of the Contract.

9.2 Unless otherwise provided in the Contract, prior to commencement of performance of any other obligations under the Contract, and subject to any limits set forth in the Contract, the Contractor shall take out and shall

maintain for the entire Contract Term, for any extension thereof, and for a period following any termination of the Contract, in each case reasonably adequate to deal with losses:

9.2.1 insurance against all risks in respect of its property and any equipment used for the performance of the Contract;

9.2.2 workers' compensation insurance, or its equivalent, or employer's liability insurance, or its equivalent, with respect to Personnel sufficient to cover all claims for injury, death and disability, or any other benefits required to be paid by law, in connection with the performance of the Contract;

9.2.3 liability insurance in an adequate amount to cover all claims, including, but not limited to, claims for death and bodily injury, products and completed operations liability, loss of or damage to property, and personal and advertising injury, arising from or in connection with the Contractor's performance under the Contract, including, but not limited to, liability arising out of or in connection with the acts or omissions of the Contractor, its Personnel, or invitees, or the use, during the performance of the Contract, of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor; *and*,

9.2.4 such other insurance as may be agreed upon in writing between UNFPA and the Contractor.

9.3 The Contractor's liability insurance policies shall also cover subcontractors and all defense costs and shall contain a standard "cross liability" clause.

9.4 The Contractor acknowledges and agrees that UNFPA accepts no responsibility for providing life, health, accident, travel or any other insurance coverage which may be necessary or desirable in respect of any Personnel performing services for the Contractor in connection with the Contract.

9.5 Except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by UNFPA, in its sole discretion, for purposes of fulfilling the Contractor's requirements for providing insurance under the Contract, the insurance policies required under the Contract shall:

9.5.1 name UNFPA as an additional insured under the liability policies, including, if required, as a separate endorsement under the policy;

9.5.2 include a waiver of subrogation of the Contractor's insurance carrier's rights against UNFPA;

9.5.3 provide that UNFPA shall receive written notice from the Contractor's insurance carrier no less than thirty (30) days prior to any cancellation or material change of coverage; *and*,

9.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to UNFPA.

9.6 The Contractor shall be responsible to fund all amounts within any policy deductible or retention.

9.7 Except for any self-insurance program maintained by the Contractor and approved by UNFPA for purposes of fulfilling the Contractor's requirements for maintaining insurance under the Contract, the Contractor shall maintain the insurance taken out under the Contract with reputable insurers that are in good financial standing and that are acceptable to UNFPA. Prior to the commencement of any obligations under the Contract, the Contractor shall provide UNFPA with evidence, in the form of certificate of insurance or such other form as UNFPA may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of the Contract. UNFPA reserves the right, upon written notice to the Contractor, to obtain copies of any insurance policies or insurance program descriptions required to be maintained by the Contractor under the Contract. Notwithstanding the provisions of Article 9.5.3, above, the Contractor shall promptly notify UNFPA concerning any cancellation or material change of insurance coverage required under the Contract.

9.8 The Contractor acknowledges and agrees that neither the requirement for taking out and maintaining insurance as set forth in the Contract nor the amount of any such insurance, including, but not limited to, any deductible or retention relating thereto, shall in any way be construed as limiting the Contractor's liability arising under or relating to the Contract.

10. **ENCUMBRANCES AND LIENS:** The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNFPA against any monies due to the Contractor or that may become due for any work done or against any goods supplied or materials furnished under the Contract, or by reason of any other claim or demand against the Contractor or UNFPA.

11. **EQUIPMENT FURNISHED BY UNFPA TO THE CONTRACTOR:** Title to any equipment and supplies that may be furnished by UNFPA to the Contractor for the performance of any obligations under the Contract shall rest with

UNFPA, and any such equipment shall be returned to UNFPA at the termination or expiration of the Contract or when no longer needed by the Contractor. Such equipment, when returned to UNFPA, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear, and the Contractor shall be liable to compensate UNFPA for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.

12. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

12.1 Except as is otherwise expressly provided in writing in the Contract, UNFPA shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials, whether in intangible or tangible form, and including any and all derivative works thereof, which the Contractor has developed for UNFPA under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract. The Contractor acknowledges and agrees that such products, documents, and other materials constitute works made for hire for UNFPA.

12.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, UNFPA does not and shall not claim any ownership interest thereto, and the Contractor grants to UNFPA, without further charge, a perpetual, worldwide license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

12.3 At the request of UNFPA, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to UNFPA in compliance with the requirements of the applicable law and of the Contract.

12.4 Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of UNFPA, shall be made available for use or inspection by UNFPA at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNFPA authorized officials, staff, personnel, representatives or agents on completion of work under the Contract.

13. **PUBLICITY, AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL:** The Contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNFPA, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of the United Nations and/or UNFPA, or any abbreviation of the name of the United Nations and/or UNFPA in connection with its business or otherwise without the prior written permission of the United Nations and/or UNFPA.

14. DATA PROTECTION AND SECURITY:

14.1 The following terms have the following meaning:

14.1.1 “End User” means, in the event that the goods, services or deliverables involve the use of any information systems, any and all UNFPA officials, staff, personnel, representatives and agents and any other external users collaborating with UNFPA, in each case, authorized by UNFPA to access and use the goods, services and/or deliverables;

14.1.2 “UNFPA Data” shall mean any and all information or data, including UNFPA Personal Data (as defined in Article 15.2, below), in digital form or processed or held in digital form that (a) are provided to the Contractor by, or on behalf of, UNFPA and/or End Users under the Contract or through UNFPA’s and/or End Users’ use of the goods or services or in connection with the goods or services, or (b) are collected or obtained by the Contractor in connection with, or related to, the performance of the Contract;

14.1.3 “Disabling Code” means any virus, back door, timer or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code that may have the consequence (whether by design or unintentionally) of disrupting, disabling, harming, circumventing security controls or otherwise impeding in any manner the normal operation or performance of (i) any software or service or (ii) any UNFPA information system or network;

14.1.4 “Security Incident” means, with respect to any information system, service or network used in the delivery of the goods, services or deliverables, one or more events that (a) indicates that the security of such information system, service, or network may have been breached or compromised and (b) that such breach

or compromise could very likely compromise the security of UNFPA's Confidential Information (as defined in Article 16, below) or weaken or impair UNFPA's operations. Security Incidents include any actual, threatened or reasonably suspected unauthorized access to, disclosure of, use of or acquisition of UNFPA Data that compromises the security, confidentiality, or integrity of UNFPA Data, or the ability of UNFPA or End Users to access UNFPA Data.

- 14.2 All UNFPA Data, together with all rights (including intellectual property and proprietary rights), title and interest to such UNFPA Data, will be the exclusive property of UNFPA, and the Contractor has a limited, nonexclusive license to access and use the UNFPA Data as provided in the Contract solely for the purpose of performing its obligations under the Contract. Except for the foregoing license, the Contractor will have no other rights, whether express or implied, in or to any UNFPA Data or its content.
- 14.3 The Contractor confirms that it has a data protection policy in place that meets all applicable data protection standards and legal requirements and that it will apply such policy in the collection, storage, use, processing, retention and destruction of UNFPA Data. The Contractor shall comply with any guidance or conditions on access, disclosure, retention and destruction notified by UNFPA to the Contractor in respect of UNFPA Data.
- 14.4 The Contractor shall use its reasonable efforts to ensure the logical segregation of UNFPA Data from other information to the fullest extent possible. The Contractor shall use safeguards and controls (such as administrative, technical, physical, procedural and security infrastructures, facilities, tools, technologies, practices and other protective measures) that are necessary and sufficient to meet the Contractor's obligations under the Contract. At UNFPA's request, the Contractor shall provide UNFPA with copies of the applicable policies and a description of the safeguards and controls that the Contractor uses to fulfil its obligations under this Article; provided that any such policies and description provided by the Contractor will be treated as Confidential Information (as defined in Article 16, below) under the Contract. UNFPA may assess the effectiveness of these safeguards, controls and protective measures and, at UNFPA's request, the Contractor will provide its full cooperation with any such assessment at no additional cost or expense to UNFPA. The Contractor shall not, and shall ensure that its Personnel will not, transfer, copy, remove or store UNFPA Data from a UNFPA location, network or system without the prior written approval of an authorized official of UNFPA.
- 14.5 Except as otherwise expressly stated in the Contract or with UNFPA's express prior written consent, the Contractor will not install any application or other software on any UNFPA device, network or system. The Contractor represents and warrants to UNFPA that the services and deliverables provided under the Contract will not contain any Disabling Code, and that UNFPA will not otherwise receive from the Contractor any Disabling Code in the performance of the Contract. Without prejudice to UNFPA's other rights and remedies, if a Disabling Code is identified, the Contractor, at its sole cost and expense, will take all steps necessary to: (a) restore and/or reconstruct any and all UNFPA Data lost by UNFPA and/or end users as a result of disabling code; (b) furnish to UNFPA a corrected version of the services without the presence of Disabling Codes; and (c) as needed, re-implement the services.
- 14.6 In the event of any Security Incident, the Contractor will, as soon as possible following the Contractor's discovery of such Security Incident and at its sole cost and expense: (a) notify UNFPA of such Security Incident and of the Contractor's proposed remedial actions; (b) implement any and all necessary damage mitigation and remedial actions; and (c) as relevant, restore UNFPA's and, as directed by UNFPA, End Users' access to the services and/or goods. The Contractor will keep UNFPA reasonably informed of the progress of the Contractor's implementation of such damage mitigation and remedial actions. The Contractor, at its sole cost and expense, will cooperate fully with UNFPA's investigation of, remediation of, and/or response to any Security Incident. If the Contractor fails to resolve, to UNFPA's reasonable satisfaction, any such Security Incident, UNFPA may terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.
- 14.7 The provisions of this Article shall survive any termination or expiration of the Contract.

15. PERSONAL DATA:

- 15.1 UNFPA will handle Personal Data that it obtains from the Contractor as a result of, or in connection with, the Contract solely in accordance with its own legal framework.
- 15.2 "Personal Data" shall mean any information relating to an identified or identifiable individual, and "UNFPA Personal Data" shall mean Personal Data that is obtained by the Contractor from UNFPA in connection with, or related to, the performance of the Contract. For the purposes of the Contract, "Personal Data" shall be treated as Confidential Information within the meaning of Article 16, below.
- 15.3 The Contractor confirms that it has a Personal Data protection policy in place that meets a standard equivalent to the standard applied in the UNFPA Policy and Procedures on Personal Data Protection, available at https://www.unfpa.org/sites/default/files/admin-resource/ICT_Personal_Data_Protection_Policy.pdf (or such other URL as UNFPA may from time to time decide). Unless otherwise provided in the Contract, the Contractor shall take all appropriate measures, consistent with applicable laws, that have a bearing on the Contractor, to safeguard UNFPA Personal Data.

15.4 Without prejudice to the generality of Article 15.3 and Article 14, above, and unless otherwise more specifically provided in the Contract, the Contractor shall, at a minimum:

- 15.4.1 process UNFPA Personal Data solely and exclusively in accordance with the requirements of the Contract, and shall not use UNFPA Personal Data for the Contractor's research, marketing, sales, promotional, or any other purposes;
- 15.4.2 implement appropriate technical and organizational measures, including appropriate access-control measures, to ensure that UNFPA Personal Data is accessed on a "need-to-know" basis by authorized Personnel only;
- 15.4.3 implement appropriate data security measures to preserve the integrity of UNFPA Personal Data and prevent any corruption, tampering, loss, damage, unauthorized access and improper disclosure of UNFPA Personal Data;
- 15.4.4 process UNFPA Personal Data in a manner that is adequate, relevant and limited to what is necessary for the performance of the Contract, and ensure that UNFPA Personal Data is kept for no longer than is necessary to perform the Contract;
- 15.4.5 as and when requested by UNFPA, update or rectify UNFPA Personal Data to ensure its accuracy;
- 15.4.6 transfer UNFPA Personal Data to third parties, including the Contractor's agents or subcontractors, only in accordance with the requirements of the Contract, and on terms and conditions equivalent to those set forth in this Article and Article 16 ("Confidential Nature of Documents and Information");
- 15.4.7 immediately notify UNFPA in writing upon becoming aware of any personal data breach that affects or might affect UNFPA Personal Data; take immediate mitigating and/or remedial action, including mitigating and/or remedial action as directed by UNFPA; and inform and update on a regular basis UNFPA of any measures taken by the Contractor to address such personal data breach;
- 15.4.8 as set forth in the Contract or as otherwise instructed by UNFPA in writing, the Contractor shall return, delete or destroy UNFPA Personal Data and, upon written request by UNFPA, provide substantiating evidence of such destruction to UNFPA, *and*
- 15.4.9 consult with, and follow the instructions of, UNFPA with respect to handling any requests and/or complaints by third parties in respect of UNFPA Personal Data made available to or received by the Contractor.

15.5 The provisions of this Article shall survive any termination or expiration of the Contract.

16. **CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:** Information and data that is delivered or disclosed by or on behalf of one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract, and that is designated as confidential (collectively "Confidential Information"), shall be held in confidence by that Party and shall be handled as follows:

16.1 The Recipient shall:

- 16.1.1 use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Confidential Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; *and*,
- 16.1.2 use the Discloser's Confidential Information solely for the purpose for which it was disclosed.

16.2 Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Confidential Information confidential in accordance with the Contract and this Article, the Recipient may disclose Confidential Information to:

- 16.2.1 any other party with the Discloser's prior written consent; *and*,
- 16.2.2 the Recipient's officials, representatives, employees, staff, personnel, agents and subcontractors who have a need to know such Confidential Information for purposes of performing obligations under the Contract, and officials, representatives, employees, staff, personnel, agents and subcontractors of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know such Confidential Information for purposes of performing obligations under the Contract, *provided that*, for these purposes a controlled legal entity means:

- 16.2.2.1 a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; *or*,
- 16.2.2.2 any entity over which the Party exercises effective managerial control; *or*,
- 16.2.2.3 for UNFPA, a principal or subsidiary organ of the United Nations established in accordance with the Charter of the United Nations.

16.3 The Contractor may disclose Confidential Information to the extent required by law, *provided that*, subject to and without any waiver of the privileges and immunities of the United Nations, including its subsidiary organs, the Contractor will give UNFPA sufficient prior notice of a request for the disclosure of Confidential Information in order to allow UNFPA to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

16.4 UNFPA may disclose Confidential Information to the extent as required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder.

16.5 The Recipient shall not be precluded from disclosing Confidential Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.

16.6 These obligations and restrictions of confidentiality shall be effective during the Contract Term, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following termination or expiration of the Contract.

17. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:

17.1 In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the affected Party shall give notice and full particulars in writing to the other Party, of such occurrence or cause if the affected Party is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The affected Party shall also notify the other Party of any other changes in condition or the occurrence of any event which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in condition or occurrence, the affected Party shall also submit a statement to the other Party of estimated expenditures that will likely be incurred for the duration of the change in condition or the event of *force majeure*. On receipt of the notice or notices required hereunder, the Party not affected by the occurrence of a cause constituting *force majeure* shall take such action as it reasonably considers to be appropriate or necessary in the circumstances, including the granting to the affected Party of a reasonable extension of time in which to perform any obligations under the Contract.

17.2 If the Contractor is rendered unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Contract, UNFPA shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 18, "Termination," except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, UNFPA shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in case the Contractor is unable to perform its obligations, wholly or in part, by reason of *force majeure* for any period in excess of ninety (90) days.

17.3 *Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, *provided that* such acts arise from causes beyond the control and without the fault or negligence of the Contractor. The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in areas in which UNFPA is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas, or to any incidents of civil unrest occurring in such areas, shall not, in and of itself, constitute *force majeure* under the Contract.

18. TERMINATION:

18.1 Either Party may terminate the Contract for cause, in whole or in part, upon thirty (30) day's notice, in writing, to the other Party. The initiation of conciliation or arbitral proceedings in accordance with Article 21 "Settlement of Disputes," below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract.

- 18.2 UNFPA may terminate the Contract at any time by providing written notice to the Contractor in any case in which the mandate of UNFPA applicable to the performance of the Contract or the funding of UNFPA applicable to the Contract is curtailed or terminated, whether in whole or in part. In addition, unless otherwise provided by the Contract, upon sixty (60) day's advance written notice to the Contractor, UNFPA may terminate the Contract without having to provide any justification therefor.
- 18.3 In the event of any termination of the Contract, upon receipt of notice of termination that has been issued by UNFPA, the Contractor shall, except as may be directed by UNFPA in the notice of termination or otherwise in writing:
- 18.3.1 take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum;
 - 18.3.2 refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice;
 - 18.3.3 place no further subcontracts or orders for materials, services, or facilities, except as UNFPA and the Contractor agree in writing are necessary to complete any portion of the Contract that is not terminated;
 - 18.3.4 terminate all subcontracts or orders to the extent they relate to the portion of the Contract terminated;
 - 18.3.5 transfer title and deliver to UNFPA the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;
 - 18.3.6 deliver all completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to UNFPA thereunder;
 - 18.3.7 complete performance of the work not terminated; *and,*
 - 18.3.8 take any other action that may be necessary, or that UNFPA 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 Contractor and in which UNFPA has or may be reasonably expected to acquire an interest.
- 18.4 In the event of any termination of the Contract, UNFPA shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, UNFPA shall not be liable to pay the Contractor except for those goods delivered and services provided to UNFPA in accordance with the requirements of the Contract, but only if such goods or services were ordered, requested, or otherwise provided prior to the Contractor's receipt of notice of termination from UNFPA or prior to the Contractor's tendering of notice of termination to UNFPA.
- 18.5 UNFPA may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:
- 18.5.1 the Contractor 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;
 - 18.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;
 - 18.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;
 - 18.5.4 a Receiver is appointed on account of the insolvency of the Contractor;
 - 18.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; *or,*
 - 18.5.6 UNFPA reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.
- 18.6 Except as prohibited by law, the Contractor shall be bound to compensate UNFPA for all damages and costs, including, but not limited to, all costs incurred by UNFPA in any legal or non-legal proceedings, as a result of any of the events specified in Article 18.5, above, and resulting from or relating to a termination of the Contract, even if the Contractor is adjudged bankrupt, or is granted a moratorium or stay or is declared insolvent. The Contractor shall immediately inform UNFPA of the occurrence of any of the events specified in Article 18.5, above, and shall provide UNFPA with any information pertinent thereto.

18.7 The provisions of this Article are without prejudice to any other rights or remedies of UNFPA under the Contract or otherwise.

19. **NON-WAIVER OF RIGHTS:** The failure by either Party to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Contract.

20. **NON-EXCLUSIVITY:** Unless otherwise specified in the Contract, UNFPA shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and UNFPA shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity described in the Contract, from any other source at any time.

21. **SETTLEMENT OF DISPUTES:**

21.1 **AMICABLE SETTLEMENT:** The Parties shall use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules then obtaining of the United Nations Commission on International Trade Law (“UNCITRAL”), or according to such other procedure as may be agreed between the Parties in writing.

21.2 **ARBITRATION:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 21.1, above, within sixty (60) days after receipt by one Party of the other Party’s written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any Confidential Information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any Confidential Information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 (“Interim measures”) and Article 34 (“Form and effect of the award”) of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the United States Federal Reserve Bank of New York’s Secured Overnight Financing Rate (“SOFR”) then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

22. **PRIVILEGES AND IMMUNITIES:** Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

23. **TAX EXEMPTION:**

23.1 Pursuant to Article II, Section 7, of the Convention, the United Nations, including UNFPA, 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. In the event any governmental entity refuses to recognize the exemptions of UNFPA from such taxes, restrictions, duties, or charges, the Contractor shall immediately consult with UNFPA to determine a mutually acceptable procedure.

23.2 The Contractor authorizes UNFPA to deduct from the Contractor’s invoices any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNFPA before the payment thereof and the UNFPA has, in each instance, specifically authorized the Contractor to pay such taxes, duties, or charges under written protest. In that event, the Contractor shall provide UNFPA with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized, and UNFPA shall reimburse the Contractor for any such taxes, duties, or charges so authorized by UNFPA and paid by the Contractor under written protest.

24. **MODIFICATIONS:**

24.1 Pursuant to the Financial Regulations and Rules of UNFPA, only the Chief of the Supply Chain Management Unit of UNFPA or such other contracting authority as made known to the Contractor in writing, possesses the authority to agree on behalf of UNFPA to any modification of or change in the Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in the Contract shall be valid and enforceable against UNFPA unless provided by a valid written amendment to the Contract signed by the Contractor and the Chief of the Supply Chain Management Unit of UNFPA or such other contracting authority.

24.2 If the Contract shall be extended for additional periods in accordance with the terms and conditions of the Contract, the terms and conditions applicable to any such extended Contract Term shall be the same terms and conditions as set forth in the Contract, unless the Parties shall have agreed otherwise pursuant to a valid amendment concluded in accordance with Article 24.1, above.

24.3 The terms or conditions of any supplemental undertakings, licenses, or other forms of agreement concerning any goods or services provided under the Contract shall not be valid and enforceable against UNFPA nor in any way shall constitute an agreement by UNFPA thereto unless any such undertakings, licenses or other forms are the subject of a valid amendment concluded in accordance with Article 24.1, above.

25. AUDITS AND INVESTIGATIONS:

25.1 Each invoice paid by UNFPA shall be subject to a post-payment audit by auditors, whether internal or external, of UNFPA or the United Nations or by other authorized and qualified agents of UNFPA or the United Nations at any time during the Contract Term and for a period of three (3) years following the expiration or prior termination of the Contract. UNFPA shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by UNFPA other than in accordance with the terms and conditions of the Contract.

25.2 UNFPA may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the Contractor generally relating to performance of the Contract at any time during the Contract Term and for a period of three (3) years following the expiration or prior termination of the Contract.

25.3 The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its Personnel and any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to UNFPA access to the Contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Personnel and relevant documentation. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNFPA or the United Nations hereunder.

26. LIMITATION ON ACTIONS:

26.1 Except with respect to any indemnification obligations in Article 8, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 21.2, above, arising out of the Contract must be commenced within three years after the cause of action has accrued.

26.2 The Parties further acknowledge and agree that, for these purposes, a cause of action shall accrue when the breach actually occurs, or, in the case of latent defects, when the injured Party knew or should have known all of the essential elements of the cause of action, or in the case of a breach of warranty, when tender of delivery is made, except that, if a warranty extends to future performance of the goods or any process or system and the discovery of the breach consequently must await the time when such goods or other process or system is ready to perform in accordance with the requirements of the Contract, the cause of action accrues when such time of future performance actually begins.

27. **ESSENTIAL TERMS:** The Contractor acknowledges and agrees that each of the provisions in Articles 28 to 36 hereof constitutes an essential term of the Contract and that any breach of any of these provisions shall entitle UNFPA to terminate the Contract or any other contract with UNFPA immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

28. **SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to UNFPA in connection with the performance of its obligations under the Contract. Should any authority external to UNFPA seek to impose any instructions concerning or restrictions on the Contractor's performance under the Contract, the Contractor shall promptly notify UNFPA and provide all reasonable assistance required by UNFPA. The Contractor shall not take any action in respect of the performance of its obligations under the Contract that may adversely affect the interests of UNFPA, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of the United Nations and UNFPA.

29. **OFFICIALS NOT TO BENEFIT:** The Contractor warrants that it has not and shall not offer to any official, staff, personnel, representative, or other agent of UNFPA any direct or indirect benefit arising from or related to the performance of the Contract or of any other contract with UNFPA or the award thereof or for any other purpose intended to gain an advantage for the Contractor.

30. **OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract. In addition, the Contractor shall maintain compliance with all obligations relating to its registration as a qualified vendor of goods or services to UNFPA, as such obligations are set forth in the United Nations and UNFPA vendor registration procedures.
31. **CHILD LABOR:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiary or affiliated entities (if any) is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, *inter alia*, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.
32. **MINES:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiaries or affiliated entities (if any) is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.
33. **SEXUAL EXPLOITATION:** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by its Personnel. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all reasonable and appropriate measures to prohibit its Personnel from exchanging any money, goods, services, or other things of value, for sexual favors or activities, or from engaging any sexual activities that are exploitive or degrading to any person.
34. **PROHIBITION OF PROSCRIBED PRACTICES:**
- 34.1 The Contractor shall not engage in any corrupt, fraudulent, collusive, coercive, obstructive or unethical practices, and shall bring allegations of such practices arising in relation to this Contract, of which the Contractor has been informed or has otherwise become aware, promptly to the attention of the Director, Office of Audit and Investigation Services, UNFPA. The Contractor acknowledges that any corrupt, fraudulent, collusive, coercive, obstructive or unethical practices as these terms are defined in the UNFPA Oversight Policy, available at <https://www.unfpa.org/admin-resource/unfpa-oversight-policy> (or such other URL as UNFPA may from time to time decide) may lead to the imposition by UNFPA of sanctions (including censure or ineligibility/debarment) with regard to continuing or future business with UNFPA, at UNFPA's sole discretion and without prejudice to any other right or remedy available to UNFPA.
- 34.2 The Contractor shall review and take note of the UNFPA Policy against Fraudulent and Other Proscribed Practices, available at http://www.unfpa.org/sites/default/files/admin-resource/Eths_Fraud_policy.pdf (or such other URL as UNFPA may from time to time decide), the UNFPA Policy and Procedures for Vendor Review and Sanctions available at https://www.unfpa.org/sites/default/files/admin-resource/PSB_Vendor_Review_and_Sanctions.pdf (or such other URL as UNFPA may from time to time decide) as well as of the UNFPA Policy on the Prohibition of Harassment, Sexual Harassment, Abuse of Authority and Discrimination, available at <https://www.unfpa.org/admin-resource/policy-harassment-sexual-harassment-and-abuse-authority-0> (or such other URL as UNFPA may from time to time decide).
35. **UN SECURITY COUNCIL/ NO SUPPORT TO TERRORISM/ ANTI-MONEY LAUNDERING:** The Contractor agrees to apply the highest reasonable standard of diligence to ensure that any UNFPA funds received under the Contract, including the Fee, as well as any equipment and supplies furnished by UNFPA to the Contractor for the performance of any obligation under the Contract: (a) are not used to provide support to individuals or entities associated with terrorism; (b) are not transferred to any individual or entity included in the Consolidated United Nations Security Council Sanctions List, available at <https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list> (or such other URL as the United Nations may from time to time decide); and (c) are not used for the purpose of any payment to persons or entities, or for any import or export of goods, if such payment, import or export is prohibited by a resolution of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. The Contractor warrants that all funds used to perform its obligations under the present Contract are from legitimate sources and do not constitute proceeds of criminal conduct or proceeds of terrorism financing. The Contractor shall not take any action, or use any proceeds paid to it under this Contract in any manner that constitutes a breach of any anti-money laundering laws or regulations applicable to the Contractor.
36. **ENVIRONMENTAL PROTECTION:**
- 36.1 The Contractor will use best efforts to eliminate or substantially reduce any adverse environmental impacts when conducting activities under this Contract.
- 36.2 The Contractor shall ensure that it has effective policies and practices in place regarding the protection of the environment and bearing upon the performance of its obligations under the Contract.

36.3 The Contractor shall take effective and active measures for the sound management and protection of the environment and environmental resources, including measures against the adverse effects of pollution and waste, chemicals and other materials consistent with laws, ordinances, rules, regulations, and standards bearing upon the performance of its obligations under the Contract.

– oOOo –