# DEFINITIONS

## In this Agreement, unless the context otherwise requires, the following terms shall have the meanings set out below:

1. “Accepts”

has the meaning defined in Clause 4.1;

1. “Agreement”
   1. these terms and conditions, attached Schedules and the applicable PO;
2. “Data”
   1. UK Committee Materials comprising of personal data (as defined in the Data Protection Laws);
3. “Data Protection Laws” means the General Data Protection Regulation (EU) 2016/679 (“GDPR”), the UK GDPR, the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all data protection and privacy laws applicable to the Processing of Personal Data and privacy under this Agreement, including local, state, national and/or foreign laws, treaties, and/or regulations, and implementations of EU Data Protection Laws into national law and the words "Controller”, "Personal Data", "Process", "Processor" and "Processing” shall have the meanings assigned in the Data Protection Laws;
4. “Deliverables”
   1. the goods or Service to be provided under the PO, as set out at Schedule 3 of this Agreement;
5. “Documentation”
   1. documentation in eye readable form and/or electronic format, supplied by Supplier to UK Committee under the terms of this Agreement;
6. “Effective Date”
   1. the earlier of the date on which Supplier first started providing the Deliverables or the date of Signature;
7. “Fees”
   1. shall have the meaning set out in Clause 6.1;
8. “Force Majeure Event”
9. any act, event, non-happening, omission or accident beyond the parties reasonable control which shall include acts of God, earthquake, flood, the elements, fire, explosion, power blackout, embargoes, governmental restrictions, strikes, riots, terrorist attacks, wars or other military action, civil disorders, rebellion, vandalism, sabotage, pandemic and / or epidemic or other causes;

“Goods”

* 1. Any goods to be provided by Supplier under this Agreement;

1. “Intellectual Property Rights”
   1. the following rights, or any analogous rights wherever in the world enforceable: (i) any patents or patent applications; (ii) any trade marks (whether or not registered) including any applications for registration of the same; (iii) inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration; (iv) performer’s property rights, copyright, design rights (whether registered or unregistered), know-how and rights in any database; (v) any goodwill in any trade or service name, trading style or get-up; and (vi) any and all other intellectual or industrial property rights;
2. “Losses”
   1. claims, actions, liabilities, losses, damages and/ or expenses (including legal expenses);
3. “Purchase Order (“PO”)”
   1. a purchase order issued by UK Committee;
4. “Regulator”
   1. any regulatory body with responsibility for ensuring compliance with Data Protection Laws;

"Safeguarding Legislation"

applicable legislation protecting children and/or adults at risk and in vulnerable circumstances and/or designed to allow permitted disclosures, including: The Children Act 1989, The Public Interest Disclosure Act 1998, The Human Rights Act 1998, The Sexual Offences Act 2003, the Safeguarding Vulnerable Groups Act 2006, The Equality Act 2010, The Care Act 2014, The Modern Slavery Act 2015, and any successor legislation; together with binding guidance and codes of practice issued from time to time by relevant supervisory authorities;

1. “Services”
   1. the services to be provided by Supplier under this Agreement (including the provision of any Deliverables which may include the creation, writing, development and/or delivery of any Work) as set out at Schedule 3 of this Agreement;
2. “Services Schedule”
3. attached to these terms and conditions at Schedule 3.
4. “Software”
   1. computer software in object code and/or source code format;
5. “Specification”
   1. the requested scope, technical and/or functional specification of the Deliverables set out at Schedule 3 of this Agreement;
6. “Supplier” the entity specified on the signature page of this agreement;
7. “Supplier Retained Materials”
   1. any element(s) of the Work which were already in existence prior to the date that it was intended to use them in connection with the Services and in relation to which the Intellectual Property Rights are owned by Supplier;
8. “Supplier Personnel”
9. any person engaged by the Supplier including (without limitation) officers, directors, employees, workers, consultants, contractors, agency staff and volunteers;
10. “Term”
11. has the meaning set out in clause 10.1.
12. “Third Party Materials”
    1. any element(s) of the Work in which the Intellectual Property Rights are owned by a third party and which such third party will not assign to UK Committee;
13. “TUPE”
    1. the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended);

“UNICEF”

The United Nations Children’s Fund.

“UK Committee”

The United Kingdom Committee for UNICEF, a company limited by guarantee (Company No. 03663181) and registered charity (no.1072612) registered in England and Wales whose registered office is at 1 Westfield Avenue, Stratford, London E20 1HZ;

“UK Committee Materials”

the Software, Data, equipment, Documentation and any other materials and information owned by or licensed to UK Committee and supplied to Supplier under or in connection with this Agreement;

1. “Virus”
   1. any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network; and
2. “Work”
   1. Deliverables that consist of any editorial content, photographs, moving film, music, Software, Documentation, or any other literary or artistic work or other material that Supplier supplies to UK Committee as part of the Services.

## Unless the context otherwise requires:

### references to a person includes a legal person (such as a limited company) as well as a natural person;

### the words “include” and “including” shall be construed without limitation; and

### any enactment includes any subordinate legislation made from time to time under it and is to be construed as references to that enactment as from time to time amended or modified or any enactment for the time being replacing or amending it.

## In the event of any conflict of a provision contained in the PO with any provision of these Supplier Standard Terms, these terms and conditions, and attached Schedules, shall take priority over the PO.

# SUPPLY OF GOODS AND SERVICES

## These terms and conditions shall apply to the supply of all Goods and Services by Supplier to the exclusion of all other terms and conditions of Supplier.

## This Agreement shall come into effect on the date of signature of these terms and conditions or the date on which Supplier commences provision of the Services, whichever is the earlier.

## Supplier shall from time to time during the term of this Agreement perform the Services in accordance with the terms hereof and all other specifications, instructions and procedures communicated by UK Committee to Supplier from time to time.

## UK Committee may amend the Specification at any time on notice to the Supplier, and the parties acknowledge that where such amendment has an impact on Fees, delivery dates and/or other material terms, the parties shall agree any variation to the same in accordance with Clause 20.4.

## The parties acknowledge that UK Committee shall not be obliged to pay any Fees to Supplier in respect of Services (whether delivered or not) until such time as UK Committee has issued the applicable PO for such Services.

## Supplier shall permit UK Committee from time to time to enter and inspect any premises from where the Services are being carried out to verify that Supplier is in full compliance with its obligations under this Agreement.

## Supplier shall keep UK Committee Materials safe and secure while they are in the possession or control of Supplier.

## Supplier undertakes to perform the Services:

### in accordance with the reasonable and lawful instructions of UK Committee;

### using the best quality goods, materials, standards and techniques, and ensuring any Deliverable is free from defects in design, workmanship and installation; and

### in accordance with any service levels specified by UK Committee.

# DELIVERABLES

## Unless otherwise agreed in the Services Schedule, time shall be of the essence with respect to the date of delivery of Deliverables.

## Where Work comprises of Software, Supplier shall, unless otherwise agreed in the Services Schedule, deliver to UK Committee the source code of such Software, together with such documentation that would enable a reasonably competent programmer to maintain and/or enhance the Software without the help of any other person or reference to any other material.

# ACCEPTANCE

## Upon delivery of completed Deliverables by Supplier to UK Committee, UK Committee shall examine the Deliverables and notify Supplier in writing within a reasonable time as to whether it accepts such Deliverables (“**Accepts**”) or rejects it for failing to conform to its Specification and/or this Agreement.

## If the Deliverables (or any part thereof) do not conform with its Specification and/or this Agreement, UK Committee shall at its discretion and without prejudice to its rights and remedies set out in this Agreement, be entitled to:

### accept such part of the Deliverables as UK Committee may decide and, if applicable, pay pro-rated Fees in respect of it or such other charge as may be agreed between the parties; or

### require Supplier to correct the fault identified at no extra cost to UK Committee by such date agreed by the parties, in which case the revised Deliverables shall be subject to all the provisions of this Agreement (including Clause 4.1);

### recover from Supplier any additional costs UK Committee reasonably incurs in using a third party to complete the Services;

### suspend the Services and only pay a pro rata amount of the Fee incurred before such suspension; and/or

### terminate this Agreement pursuant to Clause 10.4(a) in which case Supplier shall refund all Fees paid by UK Committee in respect of such defective Deliverables.

# PERSONNEL

## If at any time during the performance of any Services, UK Committee considers that the performance or conduct of Supplier’s personnel is unsatisfactory to UK Committee, UK Committee shall have the right to require the provision of, and Supplier shall promptly provide, replacement, suitably skilled personnel.

## Supplier shall instruct all personnel who perform any Services at UK Committee’s premises to become familiar with and to abide by all health and safety laws and regulations, and any security, safety and other codes of practice for contractors and employees applicable at such premises.

## Supplier acknowledges that, unless otherwise agreed in writing, neither it nor any of its personnel who perform the Services shall become an employee of UK Committee and UK Committee shall not have any obligation to pay any such personnel’s salary, national insurance, social security or any other amounts required by law or by contract to be paid to or in respect of any such personnel by his or her employer. Further, Supplier shall effect and maintain in force for the benefit of UK Committee and itself full employer’s liability insurance in respect of any such personnel who are employees of Supplier.

## It is the parties' intention that neither the commencement nor the termination of any of the Services will give rise to a relevant transfer under TUPE.

## Supplier shall fully indemnify and hold harmless UK Committee and any person that provides similar services in replacement of any of the Services (**Successor Supplier**) from and against all Losses arising from or related to: failure to comply with information and consultation obligations under TUPE, liability as a result of the actual or alleged operation of TUPE, employment with Supplier, costs of employment post-transfer or alleged transfer or any termination of employment of any employee or former employee of Supplier or a subcontractor that is claimed or deemed to have effect as between UK Committee or any Successor Supplier; and that individual (**Transferred Employee**) under TUPE.

## After Supplier receives notice of a transfer or alleged transfer, it will within fourteen (14) days use all reasonable commercial efforts to offer suitable alternative employment to the Transferred Employee. Unless such offer is accepted UK Committee or the Successor Supplier (as appropriate) shall have the right to dismiss the Transferred Employee and the indemnity in Clause 5.5 shall apply.

## Supplier shall procure that no employee transfers to UK Committee or any Successor Supplier on the cessation of any Services, by preventing any organised grouping of employees (as defined by TUPE), by redeploying employees so they are not assigned to the Services, by procuring that any employee objects to any transfer and/or by any other means.

# FEES AND EXPENSES

## In consideration of the Services to be provided by Supplier hereunder, UK Committee shall pay to Supplier the fees and expenses specified in the PO and / or the Services Schedule (the “**Fees**”) or such other lesser amount as agreed by the parties in writing after the PO has been issued.  All POs shall state Fees in GBP and all payments shall be made by UK Committee in GBP.

## Supplier shall invoice UK Committee on the dates set out in the Services Schedule, but normally monthly in arrears. All invoices shall be accompanied by supporting documentation reasonably requested by UK Committee.

## Unless specified otherwise in an agreed PO and / or the Services Schedule, UK Committee shall pay invoices submitted by Supplier within thirty (30) days of the last day of the calendar month in which Services were delivered provided UK Committee receives a correct and complete invoice at the UK Committee address notified to Supplier.

## If UK Committee has a bona fide dispute in relation to an invoice it may give notice to Supplier, and pay the undisputed portion of the invoice. UK Committee may suspend payment of the disputed part of the Fee and the parties shall discuss in good faith the disputed Fee and endeavour to agree a solution as quickly as possible.

## In the event that UK Committee fails to make any payment properly due to Supplier under this Agreement, and provided that UK Committee has not disputed the Fee and Supplier has first given UK Committee seven days’ notice that the Fee is overdue, Supplier shall be entitled to charge UK Committee interest on such overdue sum at the annual rate of 1% above the base rate of Barclays Bank in force from time to time calculated from the due date up to the date of payment.

## All sums referred to in this Agreement are exclusive of Value Added Tax, which shall (if and to the extent applicable) be payable by UK Committee.

## Supplier shall be solely responsible for all taxes, national insurance or other withholdings or contributions which may be payable out of, or as a result of the receipt of any Fees or other monies paid or payable in respect of, the Services. Supplier shall indemnify UK Committee against all costs, claims, expenses (including legal expenses) and/or proceedings arising out of or in connection with such payments.

# CONFIDENTIALITY

## Each party shall treat as confidential all information obtained from the other in the course of the relationship governed by this Agreement and shall not divulge such information to any person without the other party’s written consent provided that this Clause 7 shall not extend to information which:

### was rightfully in the possession of such party prior to the commencement of the negotiations leading to this Agreement;

### is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Clause); or

### is required to be disclosed by law.

# WARRANTIES AND UNDERTAKINGS

## Supplier undertakes not to make any statement, orally or in writing, publicly or privately, or do any act or otherwise conduct itself in such a manner as will or may in the opinion of UK Committee disparage UK Committee, its business, its clients and/or their products or services.

## Supplier undertakes that the following disclaimer shall appear on Materials which include both the Supplier and UK Committee and / or UNICEF Marks: “UNICEF does not endorse any company, brand, product or service”.

## Supplier warrants, represents and undertakes that:

### it has the authority to enter into this Agreement and to comply with the obligations imposed on it under this Agreement and entering into this Agreement will not cause it to be in breach of any other obligation it has, contractual or otherwise;

### the personnel who perform the Services are and shall be competent and suitable in every respect, whether as to qualifications, experience or otherwise, to provide the Services;

### the Services will be carried out in a competent and professional manner and with all reasonable skill and care, strictly in accordance with the terms of this Agreement;

### the Goods will be of satisfactory quality or the Services fit for purpose as applicable.

### where Work comprises of editorial content, photographs, moving film, music, Documentation or any other literary or artistic work, it will be the original work of Supplier;

### where Work comprises of Software, it will not contain any Virus;

### all Deliverables will conform with all Specifications and requirements notified to Supplier by UK Committee in writing. Without prejudice to UK Committee’s other rights and remedies, Supplier shall promptly remedy, free of charge, any deficiency in Deliverables which manifests itself within three (3) months from the date UK Committee Accepts the Work; and

### the Deliverables shall not infringe the Intellectual Property Rights or any other right of a third party and shall comply with all applicable laws and regulations.

## Unless otherwise approved in writing by UK Committee, during the term Supplier shall not provide materially similar services to the Services to any competitor of UK Committee. Such competitors shall be provided to Supplier by UK Committee from time to time.

# INDEMNITY AND INSURANCE

## Supplier shall be liable for and shall indemnify UK Committee against any and all Losses incurred by UK Committee which arise out of or in connection with, directly or indirectly, Supplier’s performance under this Agreement and any breach of warranty given by Supplier.

## Supplier shall effect and maintain during the term of this Agreement, under a policy or policies approved by UK Committee in writing, such insurance as UK Committee considers necessary in respect of Supplier’s obligations and liabilities hereunder. Supplier shall provide written evidence of such insurance to UK Committee on request.

# TERM AND TERMINATION

## This Agreement shall have effect on and from the Effective Date and shall end on the date specified in the PO and / or Services Schedule or otherwise in writing by UK Committee (“**Term”**).

## UK Committee may terminate this Agreement at any time during the Term by giving Supplier not less than thirty (30) days’ notice in writing.

## This Agreement may be terminated with immediate effect by UK Committee with written notice to Supplier if Supplier engages in conduct which in the reasonable opinion of UK Committee reflects unfavourably on the good name, goodwill, reputation or image of UK Committee or UNICEF.

## Either party may terminate this Agreement immediately upon written notice to the other:

### in the event of any breach of this Agreement by the other party where such breach is not remediable or, if remediable, is not remedied within fourteen (14) days after the service by the party not in default of a written notice on the other party, specifying the nature of the breach and requiring that the same be remedied;; or

### in accordance with Clause 15.3 (Force Majeure); and

### the other party becoming insolvent, entering into liquidation, whether voluntary or compulsory, passing a resolution for its winding up, having a receiver or administrator appointed over the whole or any part of its assets, making any composition or arrangement with its creditors or taking or suffering any similar action in consequence of its debt.

# CONSEQUENCES OF TERMINATION

## Upon termination of this Agreement for any reason:

### Supplier shall cease using any UK Committee Materials;

### each party shall immediately deliver to, or dispose of as directed by, the other party any and all materials and property belonging or relating to the other party then in its possession, custody or control, and shall certify in writing to the other party that the same has been done;

### Supplier shall deliver to UK Committee all Deliverables then in Supplier’s possession or control whatever its state of development at that time;

### provisions of this Agreement which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such termination; and

### If requested by UK Committee, Supplier shall provide a transition plan to UK Committee for its approval.

## 11.2 Supplier shall submit an invoice in accordance with Clause [6.3](#_Unless_specified_otherwise) for any outstanding Fees due to Supplier in respect of Services provided to UK Committee before and including termination of this Agreement and any additional costs and expenses that have been approved by UK Committee which the Supplier using all reasonable endeavours cannot offset or mitigate.

# INTELLECTUAL PROPERTY RIGHTS

## Supplier acknowledges that ownership of (including ownership of all Intellectual Property Rights in) any UK Committee Materials shall remain vested in UK Committee or UK Committee’s licensors.

## UK Committee hereby grants to Supplier a revocable, non-exclusive, royalty-free licence to use, reproduce, exploit, modify, alter and integrate UK Committee Materials with other works solely in connection with the provision of the Services. No other use of UK Committee’s Materials is permitted without UK Committee’s prior written consent.

## If Supplier is permitted to advertise its association with UK Committee, UK Committee grants a non-exclusive licence to Supplier to use for the Term certain UK Committee Materials solely to promote Supplier’s association with UK Committee through the provision of the Services. Supplier must submit to UK Committee for prior written approval all Materials, social media posts, advertisements or promotions used in promotion or advertising which feature the UK Committee Materials, such approval to be provided in UK Committee’s absolute discretion.

## Any Intellectual Property Rights created in the course of the Services or creating any Work are assigned on creation with absolute title to UK Committee by Supplier, and in case of copyright by way of a present assignment of future copyright, including the right to sue for past infringement. Supplier shall execute any documents and do all acts required by UK Committee for the purpose of confirming such assignment. All of Supplier’s pre-existing Intellectual Property Rights used in the Services are licensed (on a worldwide, non-exclusive and fully sub-licensable basis) to UK Committee for the Term as part of the Fee.

## If Supplier becomes aware of any threatened or actual unauthorised use of UK Committee Intellectual Property Rights, Supplier shall immediately notify the same to UK Committee in writing, setting out the facts in reasonable detail. Supplier will at UK Committee’s request give all reasonable co-operation to UK Committee (including the provision of Work and making relevant personnel available) in any action, claim or proceedings brought or threatened in respect of UK Committee Intellectual Property Rights.

## Where the Work comprises of Software, Supplier shall retain ownership of all Intellectual Property Rights in Supplier Retained Materials. If such material forms a part of any Work, Supplier hereby grants to UK Committee a world-wide, perpetual, irrevocable, non-exclusive, assignable, royalty-free licence (with full right to sublicense) to use, reproduce, exploit, modify, alter, integrate the Software with other works and enhance Supplier Retained Materials without restriction.

## Supplier shall notify UK Committee of any Third Party Materials that Supplier intends to incorporate into any Work prior to the delivery of such Work and UK Committee shall be entitled to reject such Third Party Materials in which case Supplier shall obtain a suitable replacement. Supplier hereby grants to UK Committee a world-wide, perpetual, irrevocable, non-exclusive, assignable, royalty-free licence (with full right to sublicense) to use, reproduce, exploit, modify, alter, integrate with other works and enhance the Third Party Materials without restriction.

## Supplier will ensure that all moral rights or analogous rights subsisting in the Work are waived and Supplier shall also ensure that all applicable consents have been obtained to entitle UK Committee to make the fullest use of the Work without restriction or further payment.

## Supplier agrees, at UK Committee’s request, to take all such actions and execute all such documents as may in UK Committee’s opinion be necessary to enable UK Committee to obtain, defend or enforce the rights assigned and licensed in this Clause 12.

# LIABILITY

## Supplier agrees to indemnify and hold UK Committee harmless from and against any and all costs, losses or expenses, including reasonable legal fees and litigation-related costs, that those UK Committee may incur by reason of any third-party claim or suit arising out of or in connection with: (i) Supplier’s negligence, gross negligence or intentional misconduct; (ii) Supplier’s breach (whether by act or omission) of this Agreement; or (iii) any products or services that are sold or otherwise provided by Supplier.

## Supplier specifically agrees to indemnify and hold harmless UK Committee in connection with any claims or liabilities arising in relation to third party claims as to use of Supplier’s trademark or any other intellectual property owned or licensed by Supplier and used by UK Committee in the performance of this Agreement.

## UK Committee shall not be liable to Supplier for indirect, special, exemplary damages or consequential loss or damage; or any loss of profits, loss of business, loss of revenue, loss of anticipated savings or loss of goodwill whether any of the aforementioned losses are direct or indirect.

## UK Committee’s aggregate liability under or in connection with this Agreement, whether arising from contract, negligence or otherwise, but excluding any liability of the type referred to in Clause 13.3, shall in no event exceed £100.

## Nothing in this Agreement shall exclude or in any way limit either party’s liability for fraud, death or personal injury caused by its negligence or any other liability to the extent the same may not be excluded or limited as a matter of law, or Supplier’s liability under the indemnity in Clauses 5.5, 9 and 13.

# DATA PROTECTION

## The parties acknowledge that UK Committee acts as the Data Controller and Supplier as the Data Processor for the purposes of this Agreement. Accordingly, the parties agree to the terms of the Data Processing Agreement, attached as Schedule 1 to this Agreement.

# FORCE MAJEURE

## Neither party shall be liable for any delay in performing or failure to perform its obligations hereunder to the extent that and for so long as the delay or failure results from any Force Majeure Event.

## Any failure to perform or delay in performance by any sub-contractor or supplier of Supplier shall not be a Force Majeure Event unless the sub-contractor or supplier was itself subject to a Force Majeure Event.

## The party whose performance is affected by a Force Majeure Event shall, within two (2) days of becoming aware of the Force Majeure Event, provide a written notice to the other party, giving details of the Force Majeure Event, its likely duration and the manner and extent to which its obligations are likely to be prevented or delayed. If any Force Majeure Event continues for a period of or exceeding ten (10) days, the non-affected party shall have the right to terminate this Agreement forthwith on written notice to the affected party. Each party shall use its reasonable endeavours to minimise the effects of any Force Majeure Event.

# ETHICAL STANDARDS

## Each party is committed to the highest standards of ethical conduct and each Party has policies, procedures and systems to help maintain those standards.

## Supplier confirms that no official of UK Committee or of any National Committee for UK Committee has been offered or has received (and will not in the future receive) any benefit as a result of this collaboration.  This includes, for example, gifts, favours or hospitality.  Supplier also confirms that for one (1) year from the date of this Agreement Supplier will not employ any UK Committee personnel who were involved in developing or establishing this collaboration without consulting UK Committee first.

## Supplier confirms that it and its personnel will comply with all applicable laws, including, but not limited to, all applicable laws relating to financial probity, safeguarding of children and adults, modern slavery or the prevention of slavery, servitude, forced or compulsory labour or human trafficking, and preventing discrimination and preventing sexual abuse and exploitation.

## Supplier will, and will procure that persons acting on its behalf in connection with this Agreement will, comply with all applicable laws, statutes, regulations, directives and codes relating to anti-bribery and anti-corruption, including, but not limited to, the Bribery Act 2010, the Foreign Corrupt Practices Act 1977 and laws enacted in accordance with the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

## Supplier confirms that neither it nor any of its affiliates (including parent entities, subsidiaries, and other entities in which Supplier owns a substantial interest), is directly or indirectly engaged in (a) 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) the manufacture, sale, distribution, or use of anti-personnel mines or components utilised in the manufacture of anti-personnel mines.

## Supplier confirms that it will take all appropriate measures to prevent any of its personnel or any of its affiliates’ personnel from acting in a way that would harm UK Committee's reputation or which is at odds with UK Committee's organisational aims.

## Supplier agrees to comply with UK Committee’s Supplier Code of Conduct or its equivalent the current version of which is attached as Schedule 2 to this Agreement.

## All the undertakings and confirmations in this Clause 16 are representations and warranties.  Supplier will notify in writing UK Committee as soon as it becomes aware of any incident or report that is inconsistent with the undertakings and confirmations provided in this Clause 16.

## Any breach of this Clause 16 will be a material breach, entitling UK Committee to terminate this Agreement on immediate notice.

# SAFEGUARDING

## Supplier acknowledges that UK Committee is a charity working with children. Supplier therefore undertakes at all times during the term of this Agreement to comply with any and all obligations Supplier has or may have under the Safeguarding Legislation.

## Supplier shall at all times during the term of this Agreement have in place appropriate policies and procedures to ensure that, where appropriate, valid disclosure checks of the most extensive available kind available are carried out on Supplier Personnel through the Disclosure and Barring Service; ensure that it does not engage any Supplier Personnel who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out, work on behalf of Supplier; and comply with any and all statutory or regulatory reporting obligations including, without limitation, in relation to reporting any safeguarding issues or criminal activity it discovers as part of carrying out the Deliverables. If Supplier makes a report to any authority it shall provide full details of such report and incident to UK Committee without delay, subject always to Supplier’s obligations under the Data Protection Laws.

## To the extent that Supplier Personnel deliver Deliverables on UK Committee’s premises and/or participate directly in UK Committee’s business, projects or activities as part of the Deliverables, Supplier shall at the request of UK Committee procure that all such Supplier Personnel shall be subject to a valid disclosure check by UK Committee of the most extensive available kind available through the Disclosure and Barring Service; adhere to UK Committee’s safeguarding policies and procedures in force from time to time; and report all safeguarding issues or concerns to UK Committee without delay using UK Committee’s reporting procedure in force from time to time.

# NOTICES

All notices required to be given under this Agreement shall be in writing and shall be deemed to have been given:

### on the date actually delivered, if delivered, by hand or email; or

### three (3) days after deposit in the mail, postage prepaid, return receipt requested, in each case sent to the person and address specified in the PO and / or Services Schedule.

# ASSIGNMENT AND SUB-CONTRACTING

## UK Committee may assign this Agreement in whole or in part to any third party without recourse to Supplier. Supplier may not assign, transfer, charge, sub-contract or otherwise dispose of this Agreement or any of its rights or obligations arising hereunder without the prior written consent of UK Committee.

## To the extent that Supplier sub-contracts to any third party any of its rights or obligations hereunder, Supplier acknowledges that any such sub-contracting shall not release Supplier from any of its contractual obligations hereunder and Supplier shall remain fully responsible to UK Committee for the proper and complete discharge of all such obligations.

# GENERAL

## Without prejudice to the other rights and remedies available to UK Committee under this Agreement, UK Committee shall be entitled (but not obliged) at any time or times without notice to Supplier to set off any liability of Supplier to UK Committee against any liability of UK Committee to Supplier (in any case howsoever arising and whether any such liability is present or future, liquidated or unliquidated) and may for such purpose convert or exchange any currency.

## The failure of either party to enforce or to exercise at any time or for any period of time any term of or any right pursuant to this Agreement does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that party’s right later to enforce or to exercise it.

## This Agreement supersedes and takes precedence over any other agreement, in particular any terms and conditions proposed by the Supplier. This Agreement contains the entire agreement between the parties regarding its subject matter and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing. Each of the parties acknowledges and agrees that in entering into this Agreement it has not relied on, and shall have no remedy in respect of, any statement, representation (whether innocently or negligently made), warranty or understanding other than the statements, representations, warranties and understandings expressly set out in this Agreement. Nothing in this Clause 20 shall, however, operate to limit or exclude any liability for fraud.

## The relationship of the parties is that of independent contractors dealing at arm’s length. Except as otherwise stated in this Agreement, nothing in this Agreement shall constitute the parties as partners, joint venturers or co-owners, or constitute either party as the agent, employee or representative of the other, or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither party shall hold itself out as having authority to do the same.

## Any valid alteration to or variation of this Agreement must be in writing and either: (i) signed on behalf of each of the parties by a duly authorised officer; or (ii) be agreed by email if originating from the email address of a duly authorised officer.

## The construction, validity and performance of this Agreement shall be governed by the laws of England and Wales. If a dispute arises under or in connection with this Agreement, the parties will endeavour to solve it in good faith through amicable discussions. Any disagreements that cannot be resolved within fourteen (14) days of the dispute arising will be referred to the Parties’ respective Chief Financial Officer or Chief Executive Officer or equivalent. If the dispute remains unresolved after a further fourteen (14) days, either party may submit the dispute to the exclusive jurisdiction of the courts of England and Wales, provided that UK Committee shall have the right, as plaintiff, to initiate proceedings against Supplier in any other court of competent jurisdiction.

## This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

## Where the parties agree to sign this Agreement by electronic signature (whatever form the electronic signature takes), then this method of signature is as conclusive of the parties’ intention to be bound by this Agreement as if signed by each party's manuscript signature.

## A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

**SCHEDULE 1 - DATA PROCESSING AGREEMENT**

(the “**DPA**”)

**This DPA is made between:**

1. [Name of Processor] incorporated and registered in England and Wales with company number [company number] whose registered office is at [registered address] (the “**Processor**").
2. The United Kingdom Committee for UNICEF. Registered charity 1072612 (England and Wales) and SC043677 (Scotland). Incorporated and registered in United Kingdom with company number 3663181 whose registered office is at 1 Westfield Avenue, London, E20 1HZ (the "**Charity**").

together, the “**parties**” and each a “**party**”

**BACKGROUND**

1. The Processor has entered into a business relationship with the Charity, which involves it processing Personal Data about individuals on behalf of the Charity.
2. In order to comply with their respective obligations under applicable Data Protection Laws, the parties have agreed to enter into an agreement as set out in this DPA with effect from XXXXX (the "**Contract Start Date**").
3. This DPA is supplemental to any Services Agreement and is intended to ensure that the Charity, as Data Controller, meets its legal obligation to ensure that any Data Processor it engages processes Charity Personal Data on its behalf in accordance with the Charity’s obligations under the Data Protection Laws.
4. Where the terms of the Services Agreement or any other agreement in place between the Parties conflict with the terms of this DPA, the terms of this DPA shall supersede and take precedence over the terms of the Services Agreement or such other agreement in place between the Parties.
5. **DEFINITIONS**

“**Affiliate**” means an entity that owns or controls, is owned or controlled by or is under common control or ownership with either the Processor or the Charity (as the context allows), where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

“**Appropriate Safeguards**” means the standard for protection over the personal data and of data subjects’ rights which is required by UK Data Protection Laws when transferring personal data to third countries or territories that are not formally recognized under UK Adequacy Regulations.

“**Charity Personal Data**” means any Personal Data which is provided by or on behalf of Charity to the Processor or which is otherwise processed by the Processor as a result of or in connection with the provision of the Services.

**“Data Protection Laws”** means the UK General Data Protection Regulation (“**UK** **GDPR**”), the Data Protection Act 2018, the Privacy and Electronic Communications Regulation (“**PECR”**), and implementations of UK Data Protection Laws into domestic law applicable to the Processing of Personal Data under this DPA.

**“ICO”** means the Information Commissioner or any successor organization duly appointed by the Secretary of State to regulate Data Protection laws in the UK.

“**Sub-processor**” means an Affiliate of or third-party entity engaged by or on behalf of the Processor or a Processor Affiliate to process Charity **Personal** Data

“**UK Adequacy Regulations**” means a third country, a territory or one or more specified sectors within that third country, or an international organisation in question that the Secretary of State has decided ensures an adequate level of protection of personal data.

**“Working Days” means** a day, other than a Saturday, Sunday or public holiday in England and Wales.

The terms, "**Data Controller",** "**Data Processor**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**","**Processing**", " and "**Special Categories of Personal Data**" shall have the same meaning as in the UK GDPR, and their cognate terms shall be construed accordingly.

1. **PROCESSING CHARITY PERSONAL DATA**
   1. **Scope and Role of the Parties.** This DPA applies to the processing of Charity Personal Data. For the purposes of this DPA, the Charity is the Data Controller and the Processor is the Data Processor. Appendix A sets out the subject matter, nature and purpose of processing of Charity Personal Data by the Processor, the duration of the processing and the categories of Charity Personal Data and categories of Data Subject.
   2. **Instructions for Processing.** The Processor shall only process Charity Personal Data in accordance with the Charity’s documented instructions (including with regard to transfers of Charity Personal Data to third countries or territories not formally recognised under UK Adequacy Regulations or an international organization) unless the Processor is required by law to process Charity Personal Data without such instructions, in which case the Processor shall inform the Charity of that legal requirement before processing, unless that law prohibits such notification. The Charity instructs the Processor to process Charity Personal Data to provide the Service in accordance with the Agreement (including this DPA). The Processor shall immediately notify the Charity if the Processor believes an instruction infringes the UK GDPR or other relevant Data Protection Laws.
   3. **Compliance with Laws.** The Processor shall comply with all Data Protection Laws applicable to the Processor in its role as a Data Processor. The Charity shall comply with all Data Protection Laws applicable to the Charity as a Data Controller.
   4. **Confidentiality.** The Processor shall ensure that all personnel who have access to and/or process Charity Personal Data are obliged to keep Charity Personal Data confidential, including ensuring that all such individuals:
      1. are informed of the confidential nature of the personal data
      2. have undertaken appropriate training
      3. are subject to confidentiality undertakings or professional or statutory obligations of confidentiality
      4. are aware of the data processor's obligations in relation to data protection under the Agreement
   5. **Records.** The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this DPA and Data Protection Laws, and provide copies of such records to the Charity upon reasonable request.
2. **SUB-PROCESSORS**
   1. **Use of Sub-processors.** The Charity specifically authorises the engagement of the Processor’s Affiliates as Sub-processors. In addition, the Charity generally authorises the engagement of any Sub-processors provided that such Sub-processors have entered into a written agreement with the Processor or its Affiliate requiring the Sub-processor to abide by terms no less protective than those provided in this DPA. The Processor shall be liable for the acts and omissions of any Sub-processors to the same extent as if the acts or omissions were performed by the Processor.
   2. **Notification of new Sub-processors.** The Processor shall inform the Charity in writing of Sub-processors authorised to process Charity Personal Data (“**Sub-processor List**”) and of any subsequent updates to the Sub-processor List including full details of the Processing undertaken by the Sub-processor.
   3. **Sub-processor Objection Right** 
      1. Upon receiving any update notification from the Processor in accordance with the notification mechanism set out in clause 3.2 above, the Charity may object to the Processor’s use of a new Sub-processor in writing within twenty (20) Working Days of first being notified.
      2. Provided the Charity’s objection is based on reasonable grounds, the Processor shall make available to the Charity a change in the provision of the Services to avoid processing of Charity Personal Data by the objected-to new Sub-processor without unreasonably burdening the Charity.
      3. If the Processor is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) calendar days, the Charity may terminate the applicable Services Agreement by providing thirty (30) Working Days prior written notice to the Processor.
3. **TRANSFER OF CHARITY PERSONAL DATA TO THIRD COUNTRIES** 
   1. **Access to Charity Personal Data and Processing locations**. In order to provide the Services to the Charity, the Processor and its Sub-processors will only access and process Charity Personal Data from, and transfer Charity Personal Data to:
      1. the UK;
      2. third countries or territories formally recognised under UK Adequacy Regulations; or
      3. third countries or territories not formally recognized under UK Adequacy Regulations provided an Appropriate Safeguard is in place, pursuant to Article 46 UK GDPR, and with the prior written consent of the Charity, and subject to clause 4.2.
   2. If the Processor or its Sub-processors will access and process the Charity Personal Data from, or transfer the Charity Personal Data to, third countries or territories not formally recognised under the UK Adequacy Regulations then it is the Processor’s obligation to ensure the following conditions are fulfilled:
      1. The Data Subject has enforceable rights in relation to their Personal Data;
      2. The Processor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Charity Personal Data that is transferred; and,
      3. The Processor complies with reasonable, documented instructions notified in advance by the Charity with respect to the Charity Personal Data that is transferred.
   3. Subject toclause 4.1, if the Processor will access and process the Charity Personal Data from, or transfer the Charity Personal Data to, third countries or territories not formally recognised under the UK Adequacy Regulations, then an agreed, enforceable Appropriate Safeguard will be incorporated into this DPA (as Appendix B).
   4. Subject to clause 4.1,if the Processor is transferring the Charity Personal Data to an authorised Sub-processor, as set out in clauses 3.1, 3.2 and 3.3, outside of the UK or third countries or territories formally recognised under the UK Adequacy Regulations, it is the Processor’s obligation to ensure that the Processor has an enforceable Appropriate Safeguard in place with the authorised Sub-processor that are no less protective than those under UK GDPR.
   5. The parties acknowledge that where Appropriate Safeguards are required the Charity may be required or elect to carry out a transfer risk assessment in order to ascertain if the laws and practices of a destination territory includes safeguards which are sufficiently similar in their objectives to the principles that underpin Data Protection Laws in the UK. Where the Charity requires or elects to carry out such an assessment, the Processor will provide reasonable assistance to the Charity in carrying it out. Where the Processor is seeking consent to transfer Charity Personal Data pursuant to clause 4.1(c), the Charity may, at its own discretion, make such consent subject to the Processor carrying out an appropriate transfer risk assessment that is subsequently approved by the Charity.
4. **RIGHTS OF DATA SUBJECTS**

The Processor shall, in relation to any Charity Personal Data processed, uphold its obligations under this DPA to:

* 1. Notify the Charity within two (2) Working Day if it receives a request from a Data Subject to exercise any of their rights under the Data Protection Laws
  2. Provide the Charity with full co-operation and assistance by appropriate technical and organisational measures in response to a Data Subject request to exercise their rights under the Data Protection Laws.
  3. The Processor will not respond directly to any request from a Data Subject to exercise any of their rights without the prior written agreement of the Charity.

1. **PROCESSOR’S OBLIGATIONS TO THE CHARITY** 
   1. The Processor will fully co-operate with and provide assistance to the Charity in ensuring compliance with its obligations under the Data Protection Laws with respect to:
      1. **The security of processing:** meaning both technical and organisational safeguards including as set out in clause 8;
      2. **Personal Data Breach Notifications**: including as set out in clause 9;
      3. **Data Protection Impact and/or Risk Assessments:** provide information required in the completion, and where appropriate periodic review, of such assessments
      4. **Complaints or other related communications:**
         1. inform the Charity within two (2) Working Days of any complaint, request, notice or communication received by the Processor which relates directly or indirectly to the Processing of the Charity Personal Data or to the Charity’s obligations under the Data Protection Laws.
         2. provide the Charity with full details of the complaint, request, notice or communication
      5. **Consultations with the ICO:** provide relevant information required for the Charity to respond to any consultation, notice, complaint or audit served upon it by the ICO in relation to the processing of Charity Personal Data.
   2. The Processor will provide any information required relating to clause 6.1 within reasonable timescales as requested by the Charity.
   3. The Processor will not respond directly to any complaint, request, notice or communication made in respect of the processing of Charity Personal Data or the Charity’s obligations under the Data Protection Laws without the prior written agreement of the Charity unless a pre-agreed process is in place with the Charity.
2. **RETURN AND DELETION OF CHARITY PERSONAL DATA**

The Processor shall at the written direction of the Charity securely delete or return Charity Personal Data and copies thereof to the Charity on termination of this DPA unless required by Data Protection Laws or other applicable laws to store Charity Personal Data.

1. **INFORMATION SECURITY**
   1. **Technical and Organisational Safeguards.** The Processor shall implement, and at all times during this DPA maintain technical and organisational safeguards required pursuant to Article 32 UK GDPR to protect Charity Personal Data from unauthorised or unlawful processing or accidental loss or damage:
      1. ensuring in each case a level of security appropriate to the risk, including in relation to any Special Categories of Charity Personal Data; and
      2. maintaining information security good practice in line with the principles of Cyber Essentials Plus or similar.
   2. **Minimum Safeguards.** At a minimum, the Processor’s safeguards for the protection of Personal Data shall include:
      1. securing business facilities, data centers, paper files, servers, backup systems, and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability;
      2. implementing network, application, database, and platform security;
      3. securing information transmission, storage, and disposal;
      4. implementing authentication and access controls within media, applications, operating systems, and equipment;
      5. encrypting Charity Personal Data at rest where possible;
      6. encrypting Charity Personal Data transmitted over transit in network;
      7. strictly segregating Charity Personal Data from information of the Processor or its other customers so that Charity Personal Data is not commingled with any other types of information;
      8. implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and
      9. providing appropriate privacy and information security training to the Processor's employees.
2. **PERSONAL DATA BREACH PROCEDURE**
   1. **Notification of Personal Data Breaches.** If the Processor becomes aware of a Personal Data Breach involving Charity Personal Data, it shall notify the Charity without undue delay, and in any event within 24 hours. To the extent that the Charity requires additional information from the Processor to meet its breach notification obligations under Data Protection Laws, the Processor shall provide reasonable assistance to provide such information to the Charity taking into account the nature of Processing and the information available to the Processor.
3. **OVERSIGHT OF SECURITY COMPLIANCE**

Upon the Charity’s written request, providing reasonable notice to the Processor and no more than once a year, the Processor grants the Charity or, upon the Charity’s election, a third party on the Charity’s behalf, permission to perform an assessment, audit, examination, or review (the “**Audit**”) during business hours of all controls in the Processor’s physical and/or technical environment in relation to all Charity Personal Data being handled and/or services being provided to the Charity pursuant to the Agreement. Such an Audit shall be conducted at the Charity’s expense and the Processor shall reasonably cooperate by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that processes, stores, or transports Charity Personal Data for the Charity pursuant to this DPA.

|  |  |
| --- | --- |
| **Processor**  Signed for and on behalf of  [Name of Processor]. | Signature:  Full name:  Title:  Date: |
| **Charity**  Signed for and on behalf of  United Kingdom Committee for UNICEF | Signature:  Full name:  Title:  Date: |

**Appendix A – Description of Processing**

|  |  |
| --- | --- |
| Subject matter of the processing |  |
| Duration of the processing | Start date:  Termination date (of this DPA): |
| Nature and Purpose of the processing |  |
| Categories of Personal Data |  |
| Categories of data subjects |  |
| Obligations and rights of the Charity | The obligations and rights of the Charity are set out in the relevant Services Agreement and this DPA. |

**Appendix B – TRANSFER OF CHARITY PERSONAL DATA TO THIRD COUNTRIES**

For the avoidance of doubt, as per Clause 4.1 of the DPA, transfer of Charity Personal Data to third countries or territories not formally recognized under UK Adequacy Regulations may only occur with the written consent of the Charity. The Charity hereby gives written consent on the following conditions:

1. The following safeguards are hereby implemented by the parties:
   * Where clause 4.3 applies (ie the Processor is themselves processing Personal data in third countries or territories not formally recognized under UK Adequacy Regulations) then outline what safeguard is in place between UUK and the processor and provide further detail or reference alternate agreements as relevant - see notes above
   * Where clause 4.4 applies (ie a Sub-processor will be processing Personal data in third countries or territories not formally recognized under UK Adequacy Regulations) then the Processor to include/outline what safeguards they have in place with Sub-processors
2. A transfer risk assessment has been carried out prior to the date of this DPA. As a result of such assessment, the following additional policies and procedures will be put into place:
   * Where clause 4.3 applies then if required/relevant include any additional policies or procedures to be put in place
   * Where clause 4.4 applies then if required/relevant the Processor to include any additional policies or procedures to be put in place with their Sub-processors.

**SCHEDULE 2 – UK Committee Supplier Code of Conduct**



Available at the following link: [UNICEF UK SUPPLIER CODE OF CONDUCT-2024 PDF.pdf](https://unicefuk.sharepoint.com/:b:/r/sites/UUKLegal/Training/Legal%20Training%20%26%20Resources/Contracts%20Training%20-%20Working%20with%20Suppliers/UNICEF%20UK%20SUPPLIER%20CODE%20OF%20CONDUCT-2024%20PDF.pdf?csf=1&web=1&e=NMffoI)

**SCHEDULE 3 – Services Schedule**

This Services Schedule supplements the PO issued by UK Committee to Supplier. In the event of conflict between the above Terms and Conditions and this Services Schedule, the Terms and Conditions will take priority.

*[This Services Schedule should detail the Services and Deliverables, Description and Service Term, Fees and Expenses, and agreed KPIs etc. – to be drafted by the relationship manager.]*

## SIGNATURE

## This Agreement has been entered into on the Effective Date.

## Duly authorised, for and on behalf of THE UNITED KINGDOM COMMITTEE FOR UNICEF(“**UK Committee**”)

## Signature: ………………………………………………………

## Name: ………………………………………..

## Job Title: ……………………………………..

## Date:…………………………………………..

## Duly authorised, for and on behalf of [SUPPLIER] (“**Supplier**”)

## Signature: ………………………………………………………

## Name: ………………………………………..

## Job Title: ……………………………………..

## Date: ………………………………………….