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Guidance on UNICEF’s Policy on Intellectual Property and Alternative Clauses for PCA

A. UNICEF’s Policy on Intellectual Property.

- a. UNICEF’s Owns the Intellectual Property in Programme Materials. As a general matter, whoever owns the intellectual property has control over its use and dissemination as well as the authority to protect it when it is misused. Therefore, in accordance with UNICEF’s regulatory framework, all intellectual property developed or collected as part of its programme activities must belong to UNICEF. This allows UNICEF to maximize public accessibility and the broadest possible use by making the intellectual property available to other stakeholders, partners, beneficiaries, and more generally for the public good.

This position is set out in Clause 7.2 of the General Terms and Conditions for Programme Cooperation Agreements (“GTCs for PCA”) which provides that UNICEF owns all intellectual property and other proprietary rights with regard to analyses, reports, processes, software, data, tools, documents and other materials, including any deliverables (collectively, the “Programme Materials”), which the Partner develops, produces, prepares or collects during the implementation of the Programme.

- b. Background Intellectual Property. The GTCs for PCA now clarify that if the Partner uses or incorporates any of its pre-existed intellectual property (“Background Intellectual Property”) into the Programme Materials, the Partner will continue to own such Background Intellectual Property (including any improvements, enhancements or derivatives). However, UNICEF must get a perpetual license to use the Partner’s Background Intellectual property incorporated into the Programme Materials and to be able to share the Programme Materials with other stakeholders and partners. The specific license terms on which the Partner must make the Background Intellectual Property available to UNICEF is set out in Clause 7.3 of the GTCs for PCA.
- c. Other Third Party Intellectual Property. If UNICEF or the Partner use intellectual property from third parties, including Government, to assist in the development of the Programme Materials, such third party intellectual property must be listed in the Programme Document, including any conditions or restrictions as well as the relevant license terms on which such third party intellectual property is made available to UNICEF and the Partner. (See Clause 7.4 of the GTCs for PCA). For example, in the context of a Government programme, some or all of the intellectual property (in particular, data relating to beneficiaries of programmatic activities) collected or developed by UNICEF or the Partner may be owned by the relevant Government or subject to restrictions imposed by the relevant Government. UNICEF and the Partner will need to obtain the necessary permissions in order to use such Government intellectual property for the purpose of the Programme activities and, as appropriate, for academic publications, and to share such Government intellectual property with other stakeholders and partners.

B. Exceptions.

- a. Depending on the nature of the Programme and its goals, there might be instances, where UNICEF may make some or all Programme Materials available to the Partner under a license for non-commercial purposes. For example, an academic institution may wish to use the data

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collected under a Programme for further research or issue a publication that includes or is based on the Programme Materials.

- b. Any amendments to UNICEF's standard intellectual property clauses in Section 7 of the GTCs for PCA, requires written clearance from the UNICEF Legal Office. The UNICEF Legal Office has developed terms of references and alternative intellectual property clauses for specific exceptional cases that can be included in the specific Programme Document . The UNICEF Legal Office (*Chief Programme, Partnerships and Innovation*) must be contacted during the development of the Programme Document for advice, and clearance must be received before the Programme Document is signed.
- c. Before contacting the Legal Office, make sure you have thought through all the implications from the outset and have considered the following:
 - Set out each Programme deliverable and what intellectual property (including data, reports, documents) is being provided by each party and any restrictions applicable (i.e., government data), as well as what intellectual property is being created as a result of the activities under the Programme Document.
 - What is the intended use of the intellectual property and what other potential uses could be made of such intellectual property?
 - For certain types of intellectual property, you may also want to consider registration (e.g., for a patent or trademark).
 - If the Partner requests a license to use the Programme Materials, consider:
 - For which purposes does the Partner want to use the Programme Materials?
 - For how long does the Partner need to use the Programme Materials?
 - Does the Partner want to share the Programme Materials with other third parties? Which ones and for what purposes?
 - Is it appropriate to grant such use right(s) to the Programme Material to the Partner?
 - Any conditions/restrictions on the use of the Programme Materials by the Partner and other third parties?
 - Where relevant and appropriate, consider whether the Programme Materials may be made available to the public on appropriate open source or creative commons terms.
- d. Specific considerations when engaging with a research/academic institution for a research project:
 - Is the research work going to be conducted in the context of a country programme?
 - Will the research involve interaction with persons under 18 years of age?
 - What is the role of the Government, if any?
 - Does the Government have any expectations with respect to the research?
 - Will the research be shared with the Government whether for their input or in final form for their use?
 - Will the Government be acknowledged or not?
 - Will the research involve a clinical trial (ask the research institution this) and if yes, can the research institution provide their Ethics Approval?
 - What is the process for UNICEF's review of the research? The quality assurance process applicable to the work (established in accordance with the relevant UNICEF quality assurance

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policy), including review by ethical review boards or external advisory committees, should be clearly stated in the Programme Document.

- What is the purpose of UNICEF's review?
 - Institutions will generally push back on any suggestion of interference with their independence (especially universities). However, UNICEF must be able to review the work to ensure it is of an appropriate standard and meets the needs of UNICEF, as well as including any restrictions from any relevant government authorities and removing any personal information or confidential information. This tension between the institution's need for independence and UNICEF's need to receive an appropriate and high-quality product is another reason that the Programme Document needs to be carefully and clearly crafted.
- At what points during the work will UNICEF review the work? The Programme Document should stipulate when drafts or sections of any report, presentation or other deliverable need to be provided to UNICEF for review and input. Your expectation in respect of each draft of any deliverable should be clearly set out in the Programme Document. Your assessment of each draft should then include the specific gaps or weaknesses that need to be addressed. Please be aware that publications must be sent to the relevant academic journal at least 30 days before the publication date.
- Set out agreed position on authorship of any research.
- In whose name(s) will the research be issued? This is an important point that may lead to misunderstandings if not clarified from the outset.
 - Note that authorship is not the determinant for deciding in whose name the research should be issued. Universities, in particular, have a tendency to view UNICEF as a funder, not a partner, whose involvement in the work could compromise the independence of the university's output. So, if any UNICEF staff is providing input into the publication, then that person should be mentioned. It is therefore very important to have a discussion with the relevant researcher to set the guidelines around authorship and include those guidelines in the Programme Document.
- Describe agreed logo use and placement on all research.
- Agree on acknowledgement and citation text and use and disclaimer text and use.
- What is the intention with respect to disseminating the research? Who is the intended audience for the research? This should be clearly stated in Programme Document.
 - Is one of the goals of the research for the research to be made broadly available? If so, then consider whether a plan should be developed setting out the timing and channels through which the research will be disseminated.
 - Who is responsible for disseminating the research? If the intention is for the institution to execute the dissemination plan (e.g., by being responsible for publication of the report through its own network), then this should be specifically stated as part of the programme activities.
- Will the research be published and, if so, how and by whom?
 - If some form of publication is intended, consider including in the Programme Document a dissemination/publication plan.
 - What kind of publication is intended? Publication could mean peer-reviewed academic journals, but could also include press articles, website publications, blogs and other forms of publication. It may be that formal publication is not the appropriate platform.
 - Consider the level of quality assurance necessary depending on the subject matter

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- and the publication platform. See the applicable UNICEF quality assurance policy.
- Will the research contain any confidential information of UNICEF or anyone else? If so, and UNICEF still wishes to publish, consider including in the Programme Document a requirement for the research to be produced in two forms – one with the confidential information for restricted use and one with the confidential information removed to be made publicly available.
 - Institutions (in particular universities) may wish to be the first to publish – and peer reviewed publications can take a year or more to be published from date of submission. In general, this is likely to go against the interests of UNICEF, which would generally wish to make results of research available as soon as possible. If this is the case, please be clear with the university to set expectations.
- Review and comply with [UNICEF's Procedure on Ethical Standards in Research Evaluation and Data Collection and Analysis](#)