**Special Conditions for Construction Works by Implementing Partners**

1. SPECIAL CONDITIONS DOCUMENTS

These Special Conditions for Construction Works, together with the annexes listed below, complement and supplement the Programme Cooperation Agreement, the General Terms and Conditions for Programme Cooperation Agreements and the Programme Document (collectively referred to as the “Agreement”) will govern the implementation by the IP of construction activities under the Programme.

Annex I: Scope of Works

Annex II: Schedule of Implementation

Annex III: Technical Specifications

Annex IV: Bill of Quantities (BoQs)

Annex V: Drawings

Whenever there is a conflict, these Special Conditions will prevail over those of the Programme Cooperation Agreement, General Terms and Conditions for Programme Cooperation Agreements and the Programme Document. In case of any, conflict or inconsistency among this document and the annexes listed above, then the order of precedence will be as follows:

Annex I;

Annex III to V;

Annex II

1. DEFINITIONS

In these Special Conditions for Construction Works, the following terms shall have the following meaning:

1. **Certificate Substantial Completion:** or “Taking-Over Certificate” means a certificate declaring that the Works have reached substantial completion, in order for beneficiaries to be given access to the completed Works.
2. **Commencement Date:** means the date stated in the Schedule of Implementation, when the Works are to start.
3. **Day:** means a calendar day, and “year” means 365 days.
4. **Defects:** means any part of the Works not completed in accordance with the requirements of the Drawings, Technical Specifications, and the Scope of Works.
5. **Defects Liability Period:** means the period stated in the Take Over Certificate (or Certificate of Substantial Completion) issued by UNICEF, in respect of any programme outputs or part of the Works.
6. **Drawings:** means the drawings of the Works, as included in these Special Conditions as Annex V, and any additional and modified drawings issued by (or on behalf of) UNICEF in accordance with these Special Conditions.
7. **Final Completion Certificate:** means the certification by UNICEF that the Works have been fully completed. It is issued at the end of the Defects Liability Period.
8. **IP’s Equipment**: means all apparatus, machinery, vehicles and other things provided by the IP and required for the execution of the Works and the remedying of any defects. However, IP’s Equipment excludes Temporary Works, Plant, UNICEF equipment and any other things intended to form or forming part of the Works.
9. **Material:** means things of all kinds (other than Plant) intended to form or forming part of the Works.
10. **Plant:** means the machinery, vehicles and apparatus intended to form or forming part of Works.
11. **Related services:** means the construction services related to the Works to be undertaken by the IP.
12. **Site(s):** means the places where the Works are to be executed and to which Plant and Materials are to be delivered or any other places specified in the Agreement.
13. **Temporary Works:** parts of the works that allow or enable construction of, protect, support or provide access to, the permanent works and which might or might not remain in place at the completion of the works.
14. **Variation:** means a change, alterations, addition or omission to the Works**.**
15. **Works:** means the works to carried out by the IP in accordance with this Agreement and as specified in the Scope of Works. Works includes Temporary Works and Variation.
16. THE SITE

3.1 UNICEF will obtain from the relevant authorities of the host Government all the necessary authorizations and clearances to allow the IP right of access to any or all parts of the Site(s) by the date specified in the Programme Document or otherwise practicable.

3.2 The IP shall have inspected and examined the Site(s), its surroundings, data on sub-surface and hydrological conditions and environmental aspects. The IP shall be responsible for the correct positioning of the Works and shall rectify any error in the positions, levels, dimensions or alignment of the Works. The IP is required to thoroughly familiarize itself with the conditions on Site including geotechnical and other site or environmental investigations as the IP deems necessary.

3.3 Should technical issues arise with regard the Site(s) that prevent the IP from commencing the Works, after UNICEF has given the IP the right access to the Site(s), UNICEF and the relevant authorities of the host Government will consult in identifying an alternative site taking into account the Programme budget. Any amendment to the Site(s) details in the Programme Document, will require approval from the relevant authorities of the host Government which will be obtained by UNICEF. The IP will begin the Works on the new Site(s), once UNICEF gives the IP possession of the new Site(s).

3.4 If there are any delays in commencing the Works or Works cannot take place as planned due to unforeseen events including the need to change the Site(s) as stated in Article 3.3 above, the agreed timeline by the Parties will be revised jointly in order to consider any cost and budgetary implications.

3.5 The IP will allow any person authorized by the IP or UNICEF access to the Site(s) and to any place where work in connection with the Works is being carried out or intended to be carried out. UNICEF shall at all times be given access to the site or to any place of fabrication of materials or plant to be supplied under the Agreement, in order to inspect and request testing of such materials or plant, and the IP shall make arrangements for such tests to be carried out at its own cost.

1. SETTING-OUT

4.1 The IP will set out the Works in relation to original points, lines and levels of reference specified in the Drawings. The IP will be responsible for the correct positioning of all parts of the Works, and will rectify any error in the positions, levels, dimensions or alignment of the Works.

4.2 If at any time during the execution of the Works errors are found in this setting-out, the IP will, at its own cost, rectify such error to the satisfaction of UNICEF.

1. RESPONSIBILITIES AND OBLIGATIONS OF THE IP

5.1 The IP will:

(a) with due care and diligence, execute the Works and provide all labor, materials, equipment, transportation and other facilities necessary to complete the Works, in accordance with the Agreement and the standards defined in annexes to the Special Conditions;

(b) execute the Works in a proper workmanlike and careful manner, in accordance with recognised good practice, with properly equipped facilities and non-hazardous Material;

(c) take full responsibility for the adequacy, stability and safety of all Site(s) operations and of methods of construction and for the security of the Site(s) itself, including the security of all Material stored or used on the Site(s);

(d) when requested by UNICEF, submit samples of the Material, and relevant information, for UNICEF’s approval prior to using the Material for the Works. All Material used in the Works will conform to the Technical Specifications specified in Annex III. The IP should provide test results of Material as requested by UNICEF. No reusable Material coming from the Site(s) shall be used unless permitted by UNICEF. The Material may be stored at the Site(s) until the completion of the Works. All Material, equipment and products shall be installed in accordance with the written recommendations of the manufacturer. Any materials or plant found not to be in accordance with this Agreement shall be rejected by UNICEF and shall be removed from site immediately.

(e) the IP will ensure high quality construction Material is used and that the finishing of the building(s) is of the highest standards aiming at ensuring long durability and low maintenance cost.

(f) cooperate and share the Site(s) with other implementing partners and national authorities, as needed.

(g) take full responsibility for the care of the Works and the Material and Plant from the Commencement Date, until the issuance of the Certificate of Substantial Completion by UNICEF. Provided that the IP will retain full responsibility for any outstanding part of the Works, Material or Plant which the IP requires during the period necessary to complete any Defects.

5.2 The IP will carry out any work which is urgently required for the safety of the Site(s) and the Works, whether because of an accident, unforeseeable event or otherwise.

5.3 The IP will be responsible for addressing any issues or disputes that may arise between its contractors and the local community. UNICEF may liaise with local government officials for purposes of assisting, where appropriate.

5.4 The IP will establish a schedule with its contractors outlining the stages required to comply with the Schedule of Implementation agreed with UNICEF. This will include, but not be limited to: (a) approval of sample Materials, (b) approval of received Materials, (c) constructed foundation. This schedule will be shared with UNICEF.

5.5 The IP will designate and notify UNICEF in writing of the name of its Representative on each particular Site(s) or part of the Works.

5.6 The IP will take all reasonable care to safeguard its employees, personnel, sub-contractors and any person visiting the Site(s) from danger to life or health, and will issue all persons visiting the Site(s) with appropriate safety protection equipment required by the local laws. Safety rules shall be established for the Site(s), and shall be made readily available to all persons visiting the Site(s). The IP will ensure that all employees, personnel, and sub-contractors will receive adequate safety training.

5.7 In case of any accident or mishap occurring at Site(s), the IP will provide a full report of such incidence to UNICEF within one (1) day of the incident occurring, giving probable causes of the accident and any steps the IP will take to avoid such recurrence.

5.8 None of the Works will be carried out at night or on locally recognized holidays or days of rest, without UNICEF’s written consent, except when work is unavoidable or absolutely necessary for the protection of life or property, or for the safety of the Works.

5.9 The IP will comply with all relevant permits, licenses, authorizations and approvals necessary to carry out the Works in accordance with this Agreement. UNICEF will, if requested, assist the IP, in obtaining such permits, licenses, authorizations or approvals which are required for the Works.

5.10 The IP shall be fully responsible for all work performed by its employees, agents, servants sub-contractors and any members of the community engaged to perform the Works under the Agreement and, shall select individuals who are professionally and technically competent to perform the Works, with appropriate training as may be required. The IP shall take all reasonable measures to ensure that all personnel conform to the highest standards of moral and ethical conduct as specified in the General Terms and Conditions for the Progamme Cooperation Agreement.

5.11 The IP shall ensure that all personnel engaged to perform Work under this Agreement are medically fit to perform the Works and are adequately covered by insurance for any work related illness, injury, disability or death, as may be required by the national law of the country of implementation. [INSERT AS APPLICABLE: The IP shall submit proof of such insurance satisfactory to UNICEF before commencing any work under the Agreement].

5.12 UNICEF shall not be liable for any action, omission, negligence or misconduct of the IP's employees, officers, agents, servants and sub-contractors, nor for any insurance coverage which may be necessary or desirable for the purpose of this Agreement, nor for any costs, expenses or claims associated with any illness, injury, disability or death of such personnel performing work under this Agreement.

5.13 The IP shall be responsible to ensure that its employees, officers, agents, servants and sub-contractors obtain all documents necessary to comply with the local laws including and not limited to; entry, residency, working and exit permissions.

5.14 The IP will institute a quality control system to demonstrate compliance with the requirements of the Technical Specifications and this Agreement. UNICEF will be entitled to audit any aspect of the system.

5.15 Not less than one (1) working day after learning that any of IP’s personnel who have access to the sites have been charged by law enforcement authorities with an offence other than a minor traffic offence, the IP shall provide written notice to inform the UNICEF about the particulars of the charges then known and shall continue to inform the UNICEF concerning all substantial developments regarding the disposition of such charges.

1. IP’s LIABILITY and INSURANCE

6.1 The IP shall be liable for and thereafter provide and maintain insurance against all risks in respect of its property and any equipment used for the execution of this Agreement.

6.2 The IP shall be liable for and thereafter provide and maintain all appropriate workmen’s compensation and liability insurance, or its equivalent, with respect to its employees to cover claims for death, bodily injury or damage to property arising from the execution of this Agreement. The IP represents that the liability insurance includes sub-contractors.

6.3 The IP shall be liable and thereafter provide and maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the carrying out of Works under this Agreement or the operation of any vehicles, boats, aircraft or other equipment owned or leased by the IP, its employees or sub-contractors performing work or services in connection with this Agreement.

1. FIRE PREVENTION

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

1. RIGHTS AND OBLIGATIONS OF UNICEF

8.1 UNICEF will supply the IP promptly with any information and/or documentation that the IP may request which may be relevant for the execution of the Works, and contribute to the achievement of the overall objectives of the Works.

8.2 Field visits and surveys will be undertaken by UNICEF representatives in order to monitor and evaluate project implementation and identify setbacks. Information collected during the field visits will be shared with the IP to request, if necessary, the implementation of alternative courses of action to overcome obstacles and accelerate the delivery of the Works, if required.

8.3 UNICEF will participate in establishing effective monitoring, information and reporting systems, and in the development of communication tools and strategies.

8.4 Disbursement of funds ensuring proper utilization and accountability will be approved by UNICEF, to ensure activities are within established plans of action and the programme budget allotments.

8.5 UNICEF, and/or any third party nominated by UNICEF as its representative will have unlimited access to supervise the Works, and will have the right to review the type, quantity and quality of Material and workmanship used in the Works to ensure compliance with the Technical Specifications and the Bill of Quantities as set out in Annexes III and IV.

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

8.7 UNICEF will have the right to issue, and the IP will comply with, any additional instructions. Such additional instructions will complement and/or clarify this Agreement, will have no effect on the description of the Works, the programme budget allocations and/or the Substantial Completion date(s). Such instructions may relate to the Technical Specifications, Drawings, Material samples, or models.

1. DESIGN AND STRUCTURAL SYSTEM

9.1 The IP will be responsible for reviewing the accuracy of the design documents, namely the Drawings, Specifications, including lines, levels, positions, dimensions and alignments of all parts of the Works, and adopt the design documents as adequate and suitable for the purpose of implementing the Works. If at any time during the execution of the Works errors or inadequacies are found in the design documents, the IP will, at its own cost, rectify such error to the satisfaction of UNICEF.

9.2 The IP will ensure conformity of the Works to the design documents provided and consult with UNICEF throughout the construction stages. Variation of the design will be considered by the IP and agreed to by UNICEF.

1. SCHEDULE OF IMPLEMENTATION OF WORKS

10.1 The IP will commence and complete the Works in accordance with the Schedule of Implementing set out in Annex II.

10.2 A Works diary shall be kept at each Site and maintained daily by the IP. This diary shall describe all Works, Material, personnel, weather conditions, and incidents started and completed each day and shall be checked periodically by UNICEF.

10.3 If at any time actual progress is too slow to complete within Time for Completion, and/or progress has fallen (or will fall) behind the proposed schedule:

(a) The IP will inform UNICEF and propose a revised schedule as well as a report describing the revised methods which the IP proposes to adopt in order to expedite the progress and complete the Works within the time of completion. The IP will not be entitled to any additional payment for taking such steps.

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

1. EXAMINATION OF WORK BEFORE COVER UP

11.1 The IP shall afford full opportunity for UNICEF to examine and measure any such part of the Works which IP is about to cover up or put out of view. Unless specifically agreed in writing, no part of the Works shall be covered up or put out of view without the approval of UNICEF.

11.2 A specific list of construction elements (“inspection” points and “hold” points) to be inspected before cover up shall be agreed in advance. The specific construction points defined as “hold” points shall require a written signature of acceptance by UNICEF before cover up. The IP shall give UNICEF ample time to arrange the necessary examination.

1. VARIATIONS

12.1 UNICEF may introduce variations to the form, type or quality of the Works or any part thereof which UNICF considers necessary, UNICEF will:

(a) order or request an increase or decrease in the Scope of Work;

(b) omit any such work;

(c) change the character or quality or kind of any such work;

(d) change the levels, lines, positions and dimensions of any part of the Works;

(e) execute additional work of any kind necessary for the completion of the Works, and no such variation will in any way vitiate or invalidate the Agreement.

12.2 No variations will be made to the Works by the IP without an order in writing from UNICEF. UNICEF will estimate the amount to be added or deducted from the Cash Transfer as provided in the Programme Document in respect of any variation, addition or omission. The Cash Transfer of any variation, addition or omission will be calculated on the basis of the unit prices contained in the Bills of Quantities.

1. ACCEPTANCE OF THE WORK

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

1. SUBSTANTIAL COMPLETION AND TAKING OVER CERTIFICATE

14.1 The Works shall be deemed substantially completed when they are completed in accordance with this Agreement and the standards defined in the Technical Specifications.

14.2 Once the substantially completed Works have satisfactorily passed any test on completion prescribed by UNICEF, the IP will give notice to that effect to UNICEF, accompanied by a written undertaking to finish any outstanding work during the Defects Liability Period. Such notice and undertaking will be deemed to be a request by the IP for UNICEF to issue a Certificate of Substantial Completion in respect of the Works or part of the Works. If the Works are divided into different sections, the IP may similarly apply for a Taking Over Certificate for each section.

14.3 UNICEF will, within twenty-eight (28) days after receiving the notice and undertaking from the IP, either:

(a) Issue to the IP, the Taking Over Certificate, stating the date on which the Works or section thereof were completed in accordance with the Agreement, outstanding works which UNICEF, in its sole and absolute discretion, is satisfied, and outstanding defects that will not substantially affect the use of the Works or section thereof for its intended purpose are remedied;

(b) or Reject such request and undertaking, giving reasons and specifying the work required to be done by the IP to enable the Taking Over Certificate to be issued. The IP will then complete this work before issuing a further notice.

14.4 The IP will provide an Operation and Maintenance manual as defined in the Programme Document, for the building and any equipment installed, containing all warranties. The IP will also train the staff of the beneficiary facilities or relevant national authorities on basic operation and maintenance requirements and procedures.

1. DEFECT LIABILITY PERIOD

15.1 During the Defects Liability Period, the IP will finish the Works, if any, outstanding at the date of the Taking Over Certificate, and shall execute all such work of repair, rectification, reconstruction, and making good defects, imperfections, shrinkages, or completion of any work outstanding as may be required of the IP by UNICEF during the Defects Liability Period.

15.2 All such outstanding work will be carried out by the IP at its own expense, if and to the extent that the work is attributable to Material, Plant or workmanship not in accordance with this Agreement, or neglect or failure on the part of the IP to comply with any other obligation.

15.3 If the IP fails to remedy any defect or damage within a reasonable time, or do such work outstanding on the Works, UNICEF will be entitled to carry out the work itself or engage others to carry out the same, and all expenses consequently thereon or incidental thereto will be recoverable from the IP by UNICEF, and may be deducted by UNICEF from any monies due or which may become due to the IP.

1. FINAL COMPLETION AND FINAL COMPLETION CERTIFICATE

16.1 The Works will be deemed to be completed when all Defects listed on the Certificate of Substantial Completion, and all Defects that have become apparent after the issuance of the Certificate of Substantial Completion, have been remedied by the IP and UNICEF considers the Works to be satisfactory according to the Agreement. UNICEF will then issue the Final Completion Certificate within twenty-eight (28) days after the latest of the expiry dates of the Defects Liability Period, or soon after the IP has completed and tested all the Works, as well as provide all the necessary documents. The date of issuance of this certificate will be considered as the Date of Final Completion.

16.2 UNICEF shall carry out a final inspection at the Site(s) (the "Final Inspection") after the completion of the Defect Liability Period identified in the Certificate of Substantial Completion.

16.3 Upon receiving the Final Completion Certificate, the IP will at its own cost remove any of the remaining IP's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site, if any.

16.4 If all the items referred to above have not been removed within twenty-eight (28) days after UNICEF issues the Final Completion Certificate, UNICEF may dispose of any remaining items. UNICEF shall be entitled to be paid the costs incurred in connection with such disposal and restoration of the Site.

1. CARE OF THE ENVIRONMENT

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

1. TRAFFIC AND PROTECTION OF ROADS, PROPERTIES AND SERVICES

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

18.2 The IP shall use every reasonable means to prevent damage to roads, bridges and services, and shall select routes and limit extraordinary traffic to avoid unnecessary damage or injury. Where necessary to divert or control traffic, the IP shall, in cooperation with traffic control authorities if required, provide all necessary facilities and resources at its own cost.

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

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

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

1. LOSS OR DAMAGE

19.1 If any loss or damage occurs to any part of the Works, materials or plant for incorporation in the Works during the period of this Agreement, the IP shall at its own cost rectify such loss or damage to the full satisfaction of UNICEF.

1. SAFETY

20.1 The IP shall:

(a) Comply with all applicable safety regulations of the relevant national authorities and the health and safety policies, guidelines, procedures and requirements.

(b) Use reasonable efforts to keep the Site and Works clear of unnecessary obstructions to avoid danger to any person;

(c) Provide fencing, lighting, and guard the Works until the Works have been Taken Over;

(d) Provide any Temporary Works (including roadways, footways, guards and fences), which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land; and provide UNICEF with reasonable access to the IP facilities, both on and off the Site.

(e) Establish safety rules for the Site(s), which are made readily available to all personnel. All personnel shall receive adequate safety training. Any person found violating safety procedures should be liable for dismissal from the Site(s).

(f) The Site shall be kept clean of debris at all times. Progressively and at the end of the Works, the IP shall, according to the instruction of UNICEF, clean the buildings and the Site(s).

(g) Upon the issuance of the Certificate of Substantial Completion as provided by Article 16 above, the IP shall clear away and remove from Site(s) all equipment, surplus materials, rubbish and Temporary Works of every kind, and leave the Site in a clean and functional condition.

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