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REQUEST FOR PROPOSAL (RFP)

National Open Bidding	DATE: 25 June, 2018
	REFERENCE: RFP/041/IND-2018

Dear Sir / Madam:

We kindly request to submit your proposal for **“Electrical assessment and simulation modelling of railways traction substations”**.

Please be guided by the form attached hereto as Annex 2, in preparing your Proposal.

- Annexure 1 – Description of Requirements
- Annexure 2 – Terms of Reference
- Annexure 3 – Form for submitting service provider’s Technical proposal
- Annexure 4 – Form for submitting service provider’s financial proposal
- Annexure 5 – General Terms and Conditions of the Contract

Proposals may be submitted on or before the deadline indicated by UNDP in the e-tendering system. Proposals must be submitted in the online e-tendering system in the following link: <https://etendering.partneragencies.org> using your username and password. If you have not registered in the system before, you can register now by logging in using:

Username: event.guest

Password: why2change

.....and follow the registration steps as specified in the e-tendering instruction manual.

Your Proposal must be expressed in English language, and valid for a minimum period of One Hundred and Twenty (120) days.

You are kindly requested to indicate whether your company intends to submit a Proposal by clicking on **“Accept Invitation”**.

In the course of preparing and submitting your Proposal, it shall remain your responsibility to ensure that it submitted into the system by the deadline. The system will automatically block and not accept any bid after the deadline. Kindly ensure that supporting documents required are signed and in the .pdf format, and free from any virus or corrupted files.

The Financial Proposal and the Technical Proposal files MUST BE COMPLETELY SEPARATE and uploaded separately in the system and clearly named as either **“TECHNICAL PROPOSAL”** or **“FINANCIAL PROPOSAL”**, as appropriate. Each document shall include the Proposer’s name and address. The file with the “FINANCIAL PROPOSAL” must be encrypted with a password so that it cannot be opened nor

viewed until the Proposal has been found to pass the technical evaluation stage. Once a Proposal has been found to be responsive by passing the technical evaluation stage, UNDP shall request the Proposer to submit the password to open the Financial Proposal. The Proposer shall assume the responsibility for not encrypting the financial proposal.

The Proposal that complies with all of the requirements, meets all the evaluation criteria and offers the best value for money shall be selected and awarded the contract. Any offer that does not meet the requirements shall be rejected.

Any discrepancy between the unit price and the total price shall be re-computed by UNDP, and the unit price shall prevail and the total price shall be corrected. If the Service Provider does not accept the final price based on UNDP's re-computation and correction of errors, its Proposal will be rejected.

No price variation due to escalation, inflation, fluctuation in exchange rates, or any other market factors shall be accepted by UNDP after it has received the Proposal. At the time of Award of Contract or Purchase Order, UNDP reserves the right to vary (increase or decrease) the quantity of services and/or goods, by up to a maximum twenty-five per cent (25%) of the total offer, without any change in the unit price or other terms and conditions.

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a Proposal implies that the Service Provider accepts without question the General Terms and Conditions of UNDP, herein attached as Annex 5.

Please be advised that UNDP is not bound to accept any Proposal, nor award a contract or Purchase Order, nor be responsible for any costs associated with a Service Providers preparation and submission of a Proposal, regardless of the outcome or the manner of conducting the selection process.

UNDP's vendor protest procedure is intended to afford an opportunity to appeal for persons or firms not awarded a Purchase Order or Contract in a competitive procurement process. In the event that you believe you have not been fairly treated, you can find detailed information about vendor protest procedures in the following link:

<http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/>

UNDP encourages every prospective Service Provider to prevent and avoid conflicts of interest, by disclosing to UNDP if you, or any of your affiliates or personnel, were involved in the preparation of the requirements, design, cost estimates, and other information used in this RFP.

UNDP implements a zero tolerance on fraud and other proscribed practices, and is committed to preventing, identifying and addressing all such acts and practices against UNDP, as well as third parties involved in UNDP activities. UNDP expects its Service Providers to adhere to the UN Supplier Code of Conduct found in this link : http://www.un.org/depts/ptd/pdf/conduct_english.pdf

Thank you and we look forward to receiving your Proposal.

Yours sincerely,

Alka Aneja
Procurement Analyst
UNDP India

Description of Requirements

Context of the Requirement	<p>United Nations Development Programme (UNDP), India has undertaken a Scoping Study for Large Scale Solar Deployment in Indian Railways. The objective of the study was to demonstrate technical, regulatory and financial feasibility of large-scale solar projects implemented on IR owned land, feeding into their traction network and thereby reducing IR's energy cost through long-term agreements to purchase low cost solar power.</p> <p>Technical preparations are being done now for deployment of largescale solar systems in Indian Railways to feed power to traction substations.</p>
Implementing Partner of UNDP	Indian Railways
Brief Description of the Required Services	The consultant shall support UNDP to understand the power quality of a typical TSS and the impact of integration of MW level solar power on the same.
List and Description of Expected Outputs to be Delivered	<p>Key outputs required are:</p> <ul style="list-style-type: none">• Measuring the power quality in terms of harmonics, flicker, voltage and frequency variation at the proposed injection point of the solar power i.e. 27 kV for around seven days at each of the above TSS• Developing a power quality report based on the data collected above• Developing a simulation model for the traction system• Developing a model for solar power plant, explore options for interconnection (drawing from the Scoping Study already conducted) and arrive at an appropriate configuration in discussion with UNDP• Superimpose the solar power plant model on the simulation model developed for the TSS• Study the effect on power quality in terms of harmonics, flicker, voltage and frequency using the simulation model and considering the solar power plant• Compare the results with RDSO specifications and confirm the acceptability of the power quality for traction power supply• Consolidate the findings into a report and a presentation

Person to Supervise the Work/Performance of the Service Provider	Programme Officer, UNDP
Frequency of Reporting	As per deliverables
Progress Reporting Requirements	Electronic Reports
Location of work	At Contractor's location and location/s mentioned in ToR
Expected duration of work	1 months
Target start date	15 th July 2018
Latest completion date	14 th August 2018
Travels Expected	Travel as per the requirement of ToR.
Special Security Requirements	<input checked="" type="checkbox"/> Others [Not Applicable]
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	<input checked="" type="checkbox"/> Others [Not Applicable]
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required
Names and curriculum vitae of individuals who will be involved in completing the services	<input checked="" type="checkbox"/> Required
Currency of Proposal	<input checked="" type="checkbox"/> Indian Rupees (INR)
GST on Price Proposal	<input checked="" type="checkbox"/> must be exclusive of GST and other applicable indirect taxes
Validity Period of Proposals (Counting for the last day of submission of quotes)	<input checked="" type="checkbox"/> 90 days In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.
Partial Quotes	<input checked="" type="checkbox"/> Not permitted

Payment Terms	Outputs	Percentage	Condition for Payment Release
	1. Submission and acceptance of inception report and work plan.	20%	Within thirty (30) days from the date of meeting the following conditions: a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and b) Receipt of invoice from the Service Provider.
	2. Submission of draft report.	60%	
	3. Submission and approval of final report.	20%	
Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	State Nodal Officer and UNDP Programme Officer		
Type of Contract to be Signed	<input checked="" type="checkbox"/> Contract for Professional Services		
Criteria for Contract Award	<input checked="" type="checkbox"/> Compliance on Preliminary Examination of Proposals <input checked="" type="checkbox"/> Compliance on Essential Eligibility/Qualification requirements <input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution) <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is a mandatory criteria and cannot be deleted regardless of the nature of services required. Non-acceptance of the GTC may be grounds for the rejection of the Proposal.		
Criteria for Preliminary Examination of Proposals	1. Technical proposal is submitted separately from Financial Proposal 2. Financial proposal must be password protected, otherwise proposal will be rejected 3. Latest Certificate of Registration of Business submitted 4. Is the Offeror, or any of its joint venture member, included in UN Security Council 1267 List and List of Suspended and Removed Vendors		

Criteria for Essential Eligibility/Qualification	<ol style="list-style-type: none"> 1. A minimum of 10 years' experience in power system consultancy domain. 2. Evidence of carrying out at least three similar assignments involving harmonic measurements and harmonic analysis in the past five years. 3. Should have working experience with Indian Railways traction systems, including Metro Rail systems in India. 4. Should have completed grid integration studies for at least 10, MW level, solar plants in India. <p>Note:</p> <ol style="list-style-type: none"> 1. If bidders do not meet any of the above listed criteria, their proposals will not be considered for further evaluation. 2. Bidders meeting above listed criteria are required to submit evidences (details / documents) in support – otherwise proposal may be disqualified.
Criteria for the Assessment of Proposal	<p><u>Technical Proposal (70%)</u> As mentioned in annexure-II</p> <p><u>Financial Proposal (30%)</u> To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP.</p>
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider
Deadline of Bid Submission	<p>Date and Time: As specified in the system (note that time zone indicated in the system is New York Time zone).</p> <p><u>PLEASE NOTE:-</u></p> <ol style="list-style-type: none"> 1. Date and time visible on the main screen of event (on e-tendering portal) will be final and prevail over any other closing time indicated elsewhere, in case they are different. Please also note that the bid closing time shown in the PDF file generated by the system is not accurate due to a technical glitch that we will resolve soon. The correct bid closing time is as indicated in the e-tendering portal and system will not accept any bid after that time. It is the responsibility of the bidder to make sure bids are submitted within this deadline. UNDP will not accept any bid that is not submitted directly in the system. 2. Try to submit your bid a day prior or well before the closing time. Do not wait until last minute. If you face any issue submitting your bid at the last minute, UNDP may not be able to assist.

Conditions and Procedures for electronic submission and opening, if allowed	<p><input checked="" type="checkbox"/> One file, containing Technical proposal (including CVs, registration certificate and all supporting documents).</p> <p><input checked="" type="checkbox"/> One file, containing Financial Proposal (password encrypted). Password <u>must</u> not be provided to UNDP until it is formally requested by UNDP focal point.</p> <p>Note: We prefer submitting pdf version of files. If one file is too bulky, may split into 4-5 files.</p>
Contact Person for Inquiries (Written inquiries only)	<p>Jagdish Singh, Procurement Unit jagdish.singh@undp.org</p> <p>Any delay in UNDP's response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.</p>
Who can apply	<p>Proposals are invited from the institutions/organizations only. Proposal submitted by Individuals will not be accepted.</p>

Terms of Reference (TOR)

Electrical assessment and simulation modelling of railways traction substations

Background

United Nations Development Programme (UNDP), India has undertaken a Scoping Study for Large Scale Solar Deployment in Indian Railways. The objective of the study was to demonstrate technical, regulatory and financial feasibility of large-scale solar projects implemented on IR owned land, feeding into their traction network and thereby reducing IR's energy cost through long-term agreements to purchase low cost solar power.

The study has been completed and has resulted in the following outputs:

1. Identification of land parcels for setting up solar plants – desk based analysis of 426 TSS was undertaken and 20 best sites were identified along the Golden Quadrilateral and Diagonals for field assessments. In addition, land banks were also identified for setting up large scale projects, which however were not prioritised due to feedback from Indian Railways.
2. Development of technical solutions – three technical architectures of potential solutions have been developed and discussed with Railway Board and RDSO. Based on the feedback, the solution whereby generating solar and feeding directly has been selected. This particular solution has two options: (a) Involving 3-phase inverter and Open-Delta transformer; and (b) Involving Single Phase Inverter. As MW level single phase inverters are not available in the market, option (a) has been selected.
3. Identification of appropriate business model – as IR will not be making any capital investments in the project, a RESCO based business model has been proposed whereby IR will be contributing land parcels close to the TSS and projects will be awarded to a third party selected through a reverse bidding process of tariff. The bidding will be carried out by REMCL and the respective Zonal Railways will enter into PPAs with the successful bidders. For guidance purposes, the levelised cost of electricity (LCOE) has been calculated as part of the study.
4. Suggesting an institutional mechanism for implementation – as individual projects will be executed at the sites of Zones (and Divisions) close coordination at all levels for smooth development and execution of individual projects will be required. As part of the study, an institutional mechanism has been proposed, which will be finalised and implemented in the next phase of the project.
5. Develop business case, financial and commercial viability for international investors/players – a market assessment of international players, especially UK ones, has been carried out and the team has reached out to many actors to gauge their interest in participation in the programme, with some encouraging responses. Also, entry points at various stages of the programme have been identified.

In order to gauge industry expertise and commercial availability of equipments for the suggested solution consultations with industry has been undertaken. Simultaneously, Railway Board has given in-principle approval to the proposed solution has directed UNDP in developing three pilots at an early date. RDSO is a key stakeholder in detailing out the technical design and finalising it during the DPR preparation.

Scope of work

Prior to the stage of DPR preparation, there is a need to understand the power quality of a typical TSS and the impact of integration of MW level solar power on the same. The assignment will cover three TSS – Sukhi Sewania, Kadapa and Urkura and will focus on:

- Measuring the power quality in terms of harmonics, flicker, voltage and frequency variation at the proposed injection point of the solar power i.e. 27 kV for around seven days at each of the above TSS
- Developing a power quality report based on the data collected above
- Developing a simulation model for the traction system
- Developing a model for solar power plant, explore options for interconnection (drawing from the Scoping Study already conducted) and arrive at an appropriate configuration in discussion with UNDP
- Superimpose the solar power plant model on the simulation model developed for the TSS
- Study the effect on power quality in terms of harmonics, flicker, voltage and frequency using the simulation model and considering the solar power plant
- Compare the results with RDSO specifications and confirm the acceptability of the power quality for traction power supply
- Consolidate the findings into a report and a presentation

Deliverables and timeline

The assignment has to be completed within four weeks from the date of award of the contract. The timeline for deliverables is given below.

S.N.	Deliverable	Timeline*
1	Site visits and data collection	End of 2 nd week
2	Draft report	End of 3 rd
3	Final report and presentation	End of 4 th week

*from award of work

Payment Schedule

UNDP India will follow the given payment schedule.

- I. 20% - On submission and approval of inception report and work plan.
- II. 60% - On submission of draft report
- III. 20% - On submission and approval of final report and presentation

Cumulative analysis

The award of the contract shall be made to the consultant whose offer has been evaluated and determined as:

Responsive and having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

Only organizations obtaining a minimum of 49 points (70% of the total technical points) would be considered for the Financial Evaluation:

- **Technical Criteria weight – 70 Marks**

S.N	Evaluation Criteria	Maximum Marks
1	Over all Company Experience in Power system domain Up to 10 years-5 Marks More than 10 years-10 Marks	10
2	Previous assignments involving harmonic measurements and harmonic analysis in the past 5 years 3 similar assignments-5 Marks Up to 5 assignments-10 Marks More than 5 assignments-15 Marks	15
3	Experience in carrying out grid integration studies for solar plants in India in the past 5 years 10 solar assignments-5 Marks 10 to 15 assignments-10 Marks More than 15 assignments-15 Marks	15
4	Qualifications & competence of the key professional staff- 1. Doctorate degree (PhD) in Electrical Engineering with 20+ years of experience. 2. Bachelor's degree in Electrical Engineering with 15+ years of experience. 3. Bachelor's degree in Electrical Engineering With 5+ years of experience	15
5	Work Plan, Approach & Methodology	15

- **Financial Criteria weight – 30 marks; based on inverse proportion method**

**FORM FOR SUBMITTING SERVICE PROVIDER'S
TECHNICAL PROPOSAL**

(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery¹)

[insert: Location].

[insert: Date]

To: [insert: Name and Address of UNDP focal point]

Dear Sir/Madam:

We, the undersigned, hereby offer to render the following services to UNDP in conformity with the requirements defined in the RFP dated [specify date] , and all of its attachments, as well as the provisions of the UNDP General Contract Terms and Conditions :

A. Qualifications of the Service Provider

The Service Provider must describe and explain how and why they are the best entity that can deliver the requirements of UNDP by indicating the following:

- a) Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations;
- b) Business Licenses – Registration Papers, Tax Payment Certification, etc.
- c) Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contact references;
- d) Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.
- e) Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List.

B. Proposed Methodology for the Completion of Services

The Service Provider must describe how it will address/deliver the demands of the RFP; providing a detailed description of the essential performance characteristics, reporting conditions and quality assurance mechanisms that will be put in place, while demonstrating that the proposed methodology will be appropriate to the local conditions and context of the work.

¹ Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

C. Qualifications of Key Personnel

The Service Provider must provide:

- a) Names and qualifications of the key personnel that will perform the services indicating who is Team Leader, who are supporting, etc.;
- b) CVs demonstrating qualifications must be submitted if required by the RFP; and
- c) Written confirmation from each personnel that they are available for the entire duration of the contract.

[Name and Signature of the Service Provider's
Authorized Person]

[Designation]

[Date]

FORM FOR SUBMITTING SERVICE PROVIDER'S FINANCIAL PROPOSAL

A. Cost Breakdown per Deliverable*

	Deliverables	Percentage of Total Price (Weight for payment)	Price (Lump Sum, All Inclusive)
1.	Submission and acceptance of inception report and work plan	20%	
2.	Submission of draft report	60%	
3.	Submission of and acceptance of final reports	20%	
	Total	100%	INR.....

*This shall be the basis of the payment tranches

B. Cost Breakdown by Cost Component:

Description of Activity	Remuneration per Unit of Time (in INR)	Total Period of Engagement (in days)	No. of Personnel	Total Amount (INR)
I. Personnel Services*				
1. Team Leader				
2. Team Member1				
3. Team Member2				
4. Field Team Members				
II. Other related expenses				
1. Travel and accommodation, if any				
2. Communications				
3. Others, if any				
Total				INR.....

* Structure of the team is to be proposed by Proposer in accordance to their understanding of the ToR.

[Name and Signature of the Service
Provider's Authorized Person]
[Designation]
[Date]

General Terms and Conditions for Services

1.0 LEGAL STATUS:

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP). The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2.0 SOURCE OF INSTRUCTIONS:

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action that may adversely affect UNDP or the United Nations and shall fulfill its commitments with the fullest regard to the interests of UNDP.

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4.0 ASSIGNMENT:

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5.0 SUB-CONTRACTING:

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

6.0 OFFICIALS NOT TO BENEFIT:

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7.0 INDEMNIFICATION:

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in¹⁴

the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

- 8.1** The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- 8.2** The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- 8.3** The Contractor shall also provide and thereafter 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 provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.
- 8.4** Except for the workmen's compensation insurance, the insurance policies under this Article shall:
 - 8.4.1** Name UNDP as additional insured;
 - 8.4.2** Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;
 - 8.4.3** Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.
- 8.5** The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

9.0 ENCUMBRANCES/LIENS:

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10.0 TITLE TO EQUIPMENT:

Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

- 11.1** Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor

has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

- 11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.
- 11.3** At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.
- 11.4** Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of the UNDP, shall be made available for use or inspection by the UNDP at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

12.0 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS:

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or THE United Nations, or any abbreviation of the name of UNDP or United Nations in connection with its business or otherwise.

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:

Information and data that is considered proprietary by either Party or that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract, and that is designated as confidential ("Information"), shall be held in confidence by that Party and shall be handled as follows:

- 13.1** The recipient ("Recipient") of such information shall:
 - 13.1.1** use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and,
 - 13.1.2** use the Discloser's Information solely for the purpose for which it was disclosed.
- 13.2** Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:
 - 13.2.1** any other party with the Discloser's prior written consent; and,
 - 13.2.2** the Recipient's employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under

the Contract, and employees officials, representatives and agents of any legal entity that it controls controls it, or with which it is under common control, who have a need to know such Information for purposes of performing obligations under the Contract, provided that, for these purposes a controlled legal entity means:

13.2.2.1 a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,

13.2.2.2 any entity over which the Party exercises effective managerial control; or,

13.2.2.3 for the UNDP, an affiliated Fund such as UNCDF, UNIFEM and UNV.

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

13.4 The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.

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

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

14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

14.1 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

14.2 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

- 14.3** Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.
- 14.4** The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

15.0 TERMINATION

- 15.1** Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.
- 15.2** UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.
- 15.3** In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.
- 15.4** Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

16.0 SETTLEMENT OF DISPUTES

- 16.1 Amicable Settlement:** The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.
- 16.2 Arbitration:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential

information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

17.0 PRIVILEGES AND IMMUNITIES:

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

18.0 TAX EXEMPTION

- 18.1** Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.
- 18.2** Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 CHILD LABOUR

- 19.1** The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.
- 19.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20.0 MINES:

- 20.1** The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and

Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

- 20.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21.0 OBSERVANCE OF THE LAW:

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

22.0 SEXUAL EXPLOITATION:

- 22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.
- 22.2** The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

23.0 AUTHORITY TO MODIFY:

Pursuant to the Financial Regulations and Rules of UNDP, only the UNDP Authorized Official possesses the authority to agree on behalf of UNDP to any modification of or change in this Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in this Contract shall be valid and enforceable against UNDP unless provided by an amendment to this Contract signed by the Contractor and jointly by the UNDP Authorized Official.