



## REQUEST FOR PROPOSAL (RFP)

TO: <b>ALL INTERESTED Consulting Firm/Company</b>	DATE: <b>October 9, 2018</b>
	REFERENCE: <b>RFP/UNDP/EU-SUSTAIN/38416/026/2018 Media Training and Communication Expert Consultant for Technical Leadership for the Court Leaders</b>

Dear Sir / Madam:

We kindly request you to submit your Proposal for **Media Training and Communication Expert Consultant for Technical Leadership for the Court Leaders**.

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

Proposals may be submitted on or before Tuesday, October 23, 2018 at 12.00 (Jakarta Local Time) and via email to the address below:

**United Nations Development Programme**  
**Menara Thamrin Building, 7th Floor. Jl. MH Thamrin Kav. 3, Jakarta 10250**  
**PIC: Putri Ghofari Azzahra and Yusef Millah**  
Attn: Yusef Millah  
Email: bids.id@undp.org

Your Proposal must be expressed in the English, and valid for a minimum period of 90 days

In the course of preparing your Proposal, it shall remain your responsibility to ensure that it reaches the address above on or before the deadline. Proposals that are received by UNDP after the deadline indicated above, for whatever reason, shall not be considered for evaluation. If you are submitting your Proposal by email, kindly ensure that they are signed and in the .pdf format, and free from any virus or corrupted files.

Services proposed shall be reviewed and evaluated based on completeness and compliance of the Proposal and responsiveness with the requirements of the RFP and all other annexes providing details of UNDP requirements.

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 3.

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](http://www.un.org/depts/ptd/pdf/conduct_english.pdf)

Thank you and we look forward to receiving your Proposal.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Yusef Millah', written over a horizontal line.

Yusef Millah  
Procurement Associate  
9/10/2018

## Description of Requirements

Context of the Requirement	Media and communication training for court leadership
Implementing Partner of UNDP	Personnel Bureau of Supreme Court
Brief Description of the Required Services <sup>1</sup>	The Consulting firm is expected to provide training services during leadership training of court leadership.
List and Description of Expected Outputs to be Delivered	At the end of the consulting period, the consultant should provide Curriculum and sets of training modules on Public Speaking Skills for Court Leadership
	Providing facilitation services for 4 batch of training Public Speaking Skills for Court Leadership in designated cities
	Final report of training sessions provided, which covers curriculum, and brief assessment of pretest and post-test.
	Documentation during training session (video and photos) in soft copy and hard copy
Person to Supervise the Work/Performance of the Service Provider	<i>SUSTAIN Sector Coordinator of HRM</i>
Frequency of Reporting	<i>Refer to TOR - Annex</i>
Progress Reporting Requirements	<i>Refer to TOR - Annex</i>
Location of work	✓ At Contractor's Location
Expected duration of work	61 calendar days
Target start date	4 November 2018
Latest completion date	December 2019
Travels Expected	2 days in Surabaya, and 2 days in Manado
Special Security Requirements	N/A
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	If required, below items will be provided by UNDP: <ul style="list-style-type: none"> <li>- Airfare</li> <li>- Perdiem</li> <li>- Terminal</li> </ul>
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required
Names and curriculum vitae of individuals who	<input checked="" type="checkbox"/> Required

<sup>1</sup> A detailed TOR may be attached if the information listed in this Annex is not sufficient to fully describe the nature of the work and other details of the requirements.



will be involved in completing the services				
Currency of Proposal	<input checked="" type="checkbox"/> Local Currency (IDR) for Local Bidders			
Value Added Tax on Price Proposal <sup>2</sup>	<input checked="" type="checkbox"/> must be exclusive of VAT 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 Quotation	<input checked="" type="checkbox"/> Not permitted			
Payment Terms <sup>3</sup>	<b>Output</b>	<b>Target Date*</b>	<b>Payment milestone</b>	<b>Condition for Payment Release</b>
	Training Curriculum and Modules	7 November 2018	25%	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.
	Facilitation of Training in Manado	15 November 2018	25%	
	Facilitation of Training in Surabaya	1 December 2018	25%	
	Final Report	15 December 2018	25%	
Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	Reviewed by SUSTAIN Sector Coordinator of Human Resource Management, Cleared by SUSTAIN Senior Advisor, and Approved by Head of DGPRU or SUSTAIN Deputy Project Manager			
Type of Contract to be Signed	<input checked="" type="checkbox"/> Professional Services			
Criteria for Contract Award	<input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution). Only bidder who received minimum score of 70 where the financial proposal will be opened. <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is 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 the Assessment of Proposal	<b><u>Technical Proposal (70%)</u></b>			

<sup>2</sup> VAT exemption status varies from one country to another. Pls. check whatever is applicable to the UNDP CO/BU requiring the service.

<sup>3</sup> UNDP preference is not to pay any amount in advance upon signing of contract. If the Service Provider strictly requires payment in advance, it will be limited only up to 20% of the total price quoted. For any higher percentage, or any amount advanced exceeding \$30,000, UNDP shall require the Service Provider to submit a bank guarantee or bank cheque payable to UNDP, in the same amount as the payment advanced by UNDP to the Service Provider.

	I. <u>Expertise of the firm</u>	<u>30 points</u>
	II. <u>Methods and approach of training</u>	<u>15 points</u>
	III. <u>Management Structure and Qualification of Key Personnel</u>	<u>30 points</u>
	IV. <u>Presentation, will be applied for bidder(s) with minimum technical score of 60% out of 80 points</u>	<u>25 points</u>
<b><u>Financial Proposal (30%)</u></b> Only bidders who received minimum 70 points where the financial proposal will be opened		
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider	
Annexes to this RFP <sup>4</sup>	<input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 3) <sup>5</sup> <input checked="" type="checkbox"/> Detailed TOR (Annex 1)	
Contact Person for Inquiries (Written inquiries only) <sup>6</sup>	Putri Ghofari Azzahra / Yusef Millah Procurement Unit Email to <a href="mailto:Yusef.millah@undp.org">Yusef.millah@undp.org</a> 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.	
Bidders Conference	We are inviting all interested bidders to attend bidders conference session:  Time: 09.30 Date: 18 October 2018 Venue: Aceh Meeting Room, 7 <sup>th</sup> Floor Menara Thamrin Building, UNDP Jakarta, Indonesia  The UNDP Focal Point for the arrangement is Yusef Millah and Putri Ghofari Azzahra E-mail: <a href="mailto:yusef.millah@undp.org">yusef.millah@undp.org</a>	

<sup>4</sup> Where the information is available in the web, a URL for the information may simply be provided.

<sup>5</sup> Service Providers are alerted that non-acceptance of the terms of the General Terms and Conditions (GTC) may be grounds for disqualification from this procurement process.

<sup>6</sup> This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was received.

<p>Other Information [pls. specify]</p>	<ul style="list-style-type: none"> <li>- <b><u>Proposal submitted via Courier/hand delivery:</u></b>  <b>Official Address for hand delivery/Courier:</b>  United Nations Development Programme (UNDP)  Menara Thamrin Building, 7<sup>th</sup> Floor, Kav. 3, Jl. M.H. Thamrin,  Jakarta 10250, Indonesia  Tel: +62 21 2980 2300 ext. 410  Attn: Procurement Unit – Armada Eras Pratama and  Yusef Millah</li> </ul> <p>The submitted proposal <b>consists of original proposal and copy</b>.  The Financial Proposal and the Technical Proposal Envelopes <b>MUST BE SUBMITTED SEPARATELY</b> and each of them must be sealed individually and clearly marked on the outside as either “TECHNICAL PROPOSAL” or “FINANCIAL PROPOSAL”, as appropriate.  Each envelope MUST clearly indicate the name of the Proposer.  The outer envelopes shall bear the address of UNDP, the Title Bidding “....”and shall include the Proposer’s name and address, as well as a warning that state “not to be opened before the time and date for proposal opening”. The Proposer shall assume the responsibility for the misplacement or premature opening of Proposals due to improper sealing and labeling by the Proposer.</p> <ul style="list-style-type: none"> <li>- <b><u>Proposal submitted via Email:</u></b>  Official email Address: <a href="mailto:bids.id@undp.org">bids.id@undp.org</a>  The technical proposal and financial proposal must be in separate file.  Format: PDF files only, <b><u>password protected for the financial proposal only</u></b> (Password must not be provided to UNDP until requested by UNDP which will be requested through email)  Signature: YES  Max. File Size per transmissions: 7 MB  Max. No. of transmission: N/A  Free from any virus or corrupted files  Mandatory subject of email: <b>RFP/UNDP/EU-SUSTAIN/38416/026/2018</b></li> </ul>
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## Terms of Reference

### Media Training and Communication Expert Consultants for Technical Leadership for the Court Leaders

#### I. Background

Support for Reform of the Justice Sector in Indonesia (SUSTAIN) is a 5-year project with the overall objective of enhancing public trust in the judicial system through support to the Government of Indonesia in strengthening the rule of law. The specific objective is to increase the transparency, integrity and accountability of the judiciary and the quality of justice services delivered to the people.

The project is implemented under the framework of the UNDP Country Programme Action Plan (CPAP) 2011 - 2015 and applies the National Implementation Modality (NIM) with the Supreme Court designated as the Implementing Partner. UNDP provides Country Office Support Services to support the Supreme Court in implementing the project and producing all the expected results. UNDP is responsible for (i) the identification and recruitment of project and programme personnel, (ii) procurement of goods and services, (iii) the administration of donor financial contributions; and (iv) other support services required to deliver the outputs.

This programme accordingly provides technical support to the Supreme Court with the aim of achieving strategic results that directly linked to the Blueprints for reform of the Supreme Court. More specifically, SUSTAIN focuses on four sectors: internal and external oversight of the judiciary, enhanced skills and knowledge of judges and court staff, improved human resource organization and management policies and enhanced case management system designed to increase transparency, quality of case data and decisions and timeliness of case handling.

One of the special emphasis mandated by Project Document of SUSTAIN is directed to the leadership of the Courts. A collaboration between Sector Human Resource Management and Judicial Training Sector will provide technical assistance to Court Leaders on strategic communication skills. In particular, focus will be on how to convey key messages to internal and external stakeholders through different communication techniques and approaches in digital era, and field interview. The activity is in line with SUSTAIN's AWP Sector Human Resource Management, activity result 3.1.1.4 Capacity Building Supreme Court Personnel in Strategic HRM, and Sector Training activity. This training activity will significantly provide support the overall mission of Supreme Court to have court excellence.

#### II. Objectives

At the end of the sessions, the participants should obtain knowledge and understanding in the following areas:

1. Continuous improvement in communication approaches and techniques for communicating with stakeholders
2. Psychology of communication, and understanding perimeter of messages
3. Building strong messages, with clear key messages, and understanding audience

#### III. Output

Training Package of Supreme Court for court leaders:

- a. Presentation materials



- b. Two (2) days of facilitation of training for court leaders divided into 2 (two) classes in 2 (two) batches in Manado and Surabaya with materials mentioned on the objective.
- c. Documentation during training session (video and photos) in soft copy and hard copy.

#### **IV. Scope of Work**

The engaged consulting firm shall perform:

- a. Media and communication training of Court Leadership of Supreme Court in 2 batches
- b. Enhance Court Leaders of Supreme court communication approaches and techniques for communicating with stakeholders and also communication psychology and perimeter messages.
- c. Enhance Court Leaders of Supreme Court in building strong message, with clear key message and understanding audience.
- d. Providing simulation for training participants, in particular on the subject of media handling

#### **V. Criteria**

The engaged Consulting firm, based in Jakarta, must be able to satisfy the following criteria:

- a. Be a registered company in Indonesia by providing evidence of legal documents such as valid business permit, Tax Payer Identification Number, or other supporting documents.
- b. Have 5 significant experience and excellent business track in facilitating government high rank officials for public speaking, media training, communication, and presentation for Private and/ or Public Sector.
- c. Be Familiar with working with high profile people Public or Private sectors.

The Consulting firm must submit the CVs of the consultants appointed for the project, with the following minimum requirements:

##### **Lead Expert Consultant (1 persons):**

- a) At least 22 years of experience in communication, media, and public relations strategy, experience with government of public sector is preferable.
- b) Master's degree in communication, journalism, or another relevant field.
- c) Experience in working communication services, media, and public relations strategist, public speaking & communication across all levels of an organization and managing multiple stakeholders.
- d) Experience working with government official's leaders.
- e) Working knowledge of English (both written and spoken)

##### **Senior Specialist Consultants (2 persons):**

- a) At least 17 years of experience giving training on public Speaking, communication, and media relations with government of public sector is preferable.
- b) Bachelor's degree in communication, media, and public relations strategy, psychology or other social science.
- c) Experience in working in media
- d) Experience facilitating government official's leader for public speaking and communication
- e) Working knowledge of English (both written and spoken)

It is the discretion of the company to have other personnel to be engaged with this consultancy. There will be no extra points for any additional personnel engaged, therefore SUSTAIN will not limit the requirements.

**VI. Training Location**

The training will be conducted in Manado 8 – 9 November 2018 and Surabaya, 29 – 30 November 2018.

**VII. Price**

The Consulting Firm is required to submit:

- Technical media and communication training proposal consisting of:
  - Methodology/ approach
  - Initial workplan and timeline
  - List of clients with similar assignment
- Financial proposal outlining lumpsum fee
- Travel\* (airfare) expense, accommodation, and DSA for the awarded team (3 persons) will be covered by SUSTAIN Project.

\*The frequency of business trips will be defined more specifically with the appointed consulting firm.

**VIII. Duration of Assignment**

November – December 2018.

**IX. Terms of Payment**

The payment shall be paid upon submission of the deliverables:

Activity	Expected Deliverables	Timeline	Payment
Preparation of Media and communication training towards Court Leaders of Supreme Court in 2 batches. (Manado & Surabaya)	Training Curriculum and Modules	7 November 2018	25%
Training facilitation of Supreme Court Leaders*	Facilitation of Training in Manado	15 November 2018	25%
	Facilitation of Training in Surabaya	1 December 2018	25%
Reporting	Final Report	15 December 2018	25%

\*Facilitation of training should follow EU UNDP approved schedule. All the above payments are subject to the reviewed and certified deliverables by the SUSTAIN Sector Coordinator Human Resource Management Reform and OD; and approved by the UNDP Head of DGPRU or any designated personnel.

**X. Evaluation Criteria**

Technical Evaluation	70%
a. Expertise of the firm	30 points
b. Methods and approach of training	15 points
c. Management Structure and Qualification of	30 points

Key Personnel	
d. Presentation, will be applied for bidder(s) with minimum technical score of 60% out of 80 points	25 points
Financial Evaluation	30%



## Annex 2

### FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL<sup>7</sup> RFP/UNDP/EU-SUSTAIN/38416/026/2018 Media Training and Communication Expert Consultant for Technical Leadership for the Court Leaders

*(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery<sup>8</sup>)*

[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) Latest Audited Financial Statement – income statement and balance sheet to indicate its financial stability, liquidity, credit standing, and market reputation, etc. ;*
- d) Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contact references;*
- e) Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.*
- f) 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*

<sup>7</sup> This serves as a guide to the Service Provider in preparing the Proposal.

<sup>8</sup> Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

*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.*

**C. Qualifications of Key Personnel**

*If required by the RFP, 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.*

**D. Cost Breakdown per Deliverable\***

	<b>Deliverables</b> <i>[list them as referred to in the RFP]</i>	<b>Percentage of Total Price</b> <i>(Weight for payment)</i>	<b>Price</b> <i>(Lump Sum, All Inclusive)</i>
1	Training Curriculum and Modules	25%	
2	Facilitation of Training in Manado	25%	
3	Facilitation of Training in Surabaya	25%	
4	Final Report	25%	
	<b>Total</b>	<b>100%</b>	

*\*This shall be the basis of the payment tranches*

**E. Cost Breakdown by Cost Component [This is only an Example]:**

<b>Description of Activity</b>	<b>Remuneration per Unit of Time</b>	<b>Total Period of Engagement</b>	<b>No. of Personnel</b>	<b>Total Rate</b>
<b>I. Personnel Services</b>				
Lead Expert Consultant		154	1	
Senior Specialist Consultant		154	1	
Resource Mobilization Specialist		154	1	
<b>II. Out of Pocket Expenses</b>				
<b>Travel Costs</b>				
Round trip to Sulawesi (airfare, terminal allowance)			3	
Ground Transportation in Sulawesi				
(a) Vehicle Rent		7	3	
(b) Fuel and Repairs		7	3	
Round trip to Sumatera (airfare, terminal allowance)			3	

Ground Transportation in Sumatera				
(a) Vehicle Rent		7	3	
(b) Fuel and Repairs		7	3	
<b>Kick off Meeting</b>				
(a) Meeting package		1		
(b) Equipment		1		
<b>Final Report Meeting</b>				
(a) Meeting package		1		
(b) Equipment		1		
<b>Focus Group Discussion</b>				
(a) Meeting package		3		
(b) Equipment		3		
<b>Daily Substinence Allowance</b>				
Meal and Accommodation(Sulawesi)		7	3	
Meal and Accommodation (Sumatera)		7	3	
<b>Communications</b>				
Internet			1	
Phone Credit Balance			1	
<b>Office Supplies</b>				
Stationery			1	
Equipment			1	
<b>Total Cost Estimate</b>				

*[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 in 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 and 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.