



## REQUEST FOR PROPOSAL (RFP)

To: All Interested Bidders	DATE: June 3, 2019
	REFERENCE: <b>RFP/UNDP/EU-MTRE3/73134/007/2019 – Benchmarking Specific Energy Consumption in the Commercial Building Sector</b>

Dear Sir / Madam:

The United Nations Development Programme (UNDP) hereby invites you to submit a Proposal to the Request for Proposal **RFP/UNDP/EU-MTRE3/73134/007/2019 – Benchmarking Specific Energy Consumption in the Commercial Building Sector**.

A bidder's conference will be held on:

Date/Time : Friday, 14th June 2019 at 1000hrs (Jakarta Local Time)

Place : Aceh Meeting room, 7th Floor Menara Thamrin Building, Jl. MH. Thamrin Kav. 3 Jakarta 10250

Detailed Terms of Reference as well as other requirements are listed in the RFP available on UNDP ATLAS e-Tendering system" (<https://etendering.partneragencies.org>) **Event ID: 3836**

Your offer, comprising of a Technical and Financial Proposal, should be submitted in accordance with RFP requirements, through UNDP ATLAS e-Tendering system and by the deadline indicated in <https://etendering.partneragencies.org>.

NOTE! 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. **NOTE: DO NOT ENTER PROPOSAL PRICE IN THE SYSTEM, INSTEAD ENTER ONE.**

In the course of preparing and submitting your Proposal, it shall remain your responsibility to ensure that it is submitted into the system by the deadline. The system will automatically block and not accept any bid after the deadline. In case of any discrepancies deadline indicated in the system shall prevail.

Kindly ensure that supporting documents required are signed and stamped and in the .pdf format, and free from any virus or corrupted files and **FINANCIAL PROPOSAL IS PASSWORD PROTECTED. NOTE! The File name should contain only Latin characters (No Cyrillic or other alphabets).**

You are kindly requested to indicate whether your company intends to submit a Proposal by clicking on “**Accept Invitation**” button no later than **13<sup>th</sup> June 2019**. If that is not the case, UNDP would appreciate your indicating the reason, for our records.

If you have not registered in the system before, you can register now by logging in using:

**username: event.guest**

**password: why2change**

The step by step instructions for registration of bidders and quotation submission through the UNDP ATLAS e-Tendering system is available in the “Instructions Manual for the Bidders”, attached. Should you require any training on the UNDP ATLAS e-Tendering system or face with any difficulties when registering your company or submitting your quotation, please send an email to [agneta.silvia@undp.org](mailto:agneta.silvia@undp.org) cc: [yusef.millah@undp.org](mailto:yusef.millah@undp.org)

Please note that ATLAS has following minimum requirements for password:

1. Minimum length of 8 characters.
2. At least one capital letter.
3. At least one number.

New bidder registering for first time, system will not accept any password that does not meet the above requirements and thus registration cannot be completed.

For already existing bidders whose current password does not meet the criteria, when signing in, system will prompt you to change the password, and it will not accept a new password that does not meet requirement.

The user guide and videos are made available to bidder in the UNDP public website in this link: <http://www.undp.org/content/undp/en/home/operations/procurement/business/procurement-notices/resources/>

Bidder can also access below instruction from youtube with link below:  
<https://www.youtube.com/watch?v=Trv1FX6reu8&feature=youtu.be>

The bidders are advised to use Internet Explorer (Version 10 or above) to avoid any compatibility issues with the e-tendering system.

**No hard copy or email submissions will be accepted by UNDP.**

UNDP looks forward to receiving your Proposal and thanks you in advance for your interest in UNDP procurement opportunities.

Sincerely yours,

A handwritten signature in blue ink, appearing to be 'Martin Kurnia', with a stylized flourish at the end.

Martin Kurnia  
Procurement Analyst  
3 June 2019



### Description of Requirements

Context of the Requirement	MTRE3 Project – Benchmarking Specific Energy Consumption in the Commercial Building Sector
Implementing Partner of UNDP	Directorate General for New Energy, Renewables and Energy Conservation, Ministry of Energy and Mineral Resources
Brief Description of the Required Services <sup>1</sup>	The main objective of the assignment is to provide data and information to support the government process of revising the PP 70/2009 on Energy Conservation
List and Description of Expected Outputs to be Delivered	<p>The key output under this assignment is data validation of the indicative threshold on the energy consumption in the commercial building for mandatory implementation of energy management and a benchmark for the Specific Energy Consumption (SEC) or Energy Consumption Intensity (IKE) from the Indonesia's building sector specifically in commercial building through:</p> <ul style="list-style-type: none"> <li>- Availability of energy related data and information in commercial buildings, including energy consumption and its trends, types of energy used, energy utilization equipment and technology.</li> <li>- Availability information on the energy mix in commercial buildings;</li> <li>- Availability of survey results database in the form of soft copy of raw data which includes all of the survey objects, complete with all information in the survey questionnaire.</li> <li>- Availability of original questionnaire as attachments that have been completely filled out and received validation marks from the relevant companies/agencies that have been surveyed, in the form of soft copy and hard copy.</li> <li>- Availability of Final Activity Reports in the form of soft copy and hard copy in</li> <li>- Bahasa Indonesia and English which contains the entire process and activities during implementation of activity along with the results of analysis of survey data which at least consists of: <ul style="list-style-type: none"> <li>a) Mix of energy sources and energy use for each category of commercial buildings;</li> <li>b) Energy Consumption Intensity (IKE) for each category of commercial buildings, both for AC and non-AC floors;</li> <li>c) IKE benchmarking by using a comparison of IKE standards of commercial buildings in other countries, especially ASEAN countries and other Asian countries;</li> <li>d) IKE benchmarking by calculating the ratio of IKE in each building with average IKE for each category of commercial buildings;</li> <li>e) Calculation of energy savings potential for each category of commercial buildings;</li> </ul> </li> </ul>

<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.



	<p>f) Recommendation of IKE threshold in the commercial building sector, divided into "Highly Efficient", "Efficient", "Fairly Efficient" and "Inefficient" categories;</p> <p>g) Recommendation of energy consumption threshold (in TOE and MWh units) in commercial building sector which energy management mandatory can be applied.</p> <p>h) Object and potential area/capacity for PV rooftop implementation</p>																										
Person to Supervise the Work/Performance of the Service Provider	National Project Manager of MTRE3 Project - UNDP																										
Frequency of Reporting	<i>Please Refer to the TOR attached to this RFP</i>																										
Progress Reporting Requirements	<i>Please Refer to the TOR attached to this RFP</i>																										
Location of work	<input checked="" type="checkbox"/> At Contractor's Location and as specified in the TOR attached to this RFP																										
Deadline of submission	<b>21st June 2019 @1800 hours (GMT+7)</b>																										
Expected duration of work	22 (Twenty-two) weeks																										
Target start date	July 2019																										
Latest completion date	Nov 2019																										
Travels Expected	<p>Shall be agreed upon starting, UNDP shall be responsible of any travel out of the agreed duty station</p> <table border="1"> <thead> <tr> <th>Destination/s</th><th>Estimated Duration (days)</th><th>Brief Description of Purpose of the Travel</th><th>Target Date/s</th></tr> </thead> <tbody> <tr> <td>Jakarta</td><td>Maximum 3 days / trip</td><td>Workshop and data collection through survey for specific energy consumption in commercial buildings</td><td>July - Aug 2019</td></tr> <tr> <td>Bogor</td><td>Maximum 2 days/ trip</td><td>Data Collection through survey for specific energy consumption in commercial buildings</td><td>July - Aug 2019</td></tr> <tr> <td>Depok</td><td>Maximum 2 days/ trip</td><td>Data Collection through survey for specific energy consumption in commercial buildings</td><td>July - Aug 2019</td></tr> <tr> <td>Tangerang</td><td>Maximum 2 days/ trip</td><td>Data Collection through survey for specific energy consumption in commercial buildings</td><td>July - Aug 2019</td></tr> <tr> <td>Tang-Sel</td><td>Maximum 2 days/ trip</td><td>Data Collection through survey for specific</td><td>July - Aug 2019</td></tr> </tbody> </table>			Destination/s	Estimated Duration (days)	Brief Description of Purpose of the Travel	Target Date/s	Jakarta	Maximum 3 days / trip	Workshop and data collection through survey for specific energy consumption in commercial buildings	July - Aug 2019	Bogor	Maximum 2 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	July - Aug 2019	Depok	Maximum 2 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	July - Aug 2019	Tangerang	Maximum 2 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	July - Aug 2019	Tang-Sel	Maximum 2 days/ trip	Data Collection through survey for specific	July - Aug 2019
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	West Java	Maximum 3 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	Sept 2019
	Central Java	Maximum 3 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	Sept 2019
	East Java	Maximum 3 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	Oct 2019
	Bali	Maximum 3 days/ trip	Workshop and survey for specific energy consumption in commercial buildings	July - Aug 2019
	North Sumatera	Maximum 3 days/ trip	Data Collection through survey for specific energy consumption in commercial buildings	Oct - Nov 2019
	Riau	Maximum 3 days/trip	Workshop and survey for specific energy consumption in commercial buildings	July - Aug 2019
Special Security Requirements	<input checked="" type="checkbox"/> Comprehensive Travel Insurance			
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	<input checked="" type="checkbox"/> Liaise with the relevant stakeholders <input checked="" type="checkbox"/> Workshop venue for 3 (three) Locations			
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"/> United States Dollars <input checked="" type="checkbox"/> Local Currency 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 Quotes	<input checked="" type="checkbox"/> Not permitted																	
Payment Terms <sup>3</sup>	<table border="1"> <thead> <tr> <th>Outputs</th><th>Percentage</th><th>Timing</th><th>Condition for Payment Release</th></tr> </thead> <tbody> <tr> <td>Approved detailed final work plan and questionnaire</td><td>40%</td><td>Two weeks upon contract signing</td><td rowspan="3">           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.         </td></tr> <tr> <td>Interim report on the survey activity and data processing (includes the indicative threshold number and benchmark of SEC/IKE standard for commercial building sector, based on 40% of total object)</td><td>40%</td><td>Six weeks upon contract signing</td></tr> <tr> <td>Final report on the developed benchmark of SEC/IKE standard for commercial building sector</td><td>20%</td><td>Twenty-two week upon contract signing</td></tr> </tbody> </table>	Outputs	Percentage	Timing	Condition for Payment Release	Approved detailed final work plan and questionnaire	40%	Two weeks upon contract signing	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.	Interim report on the survey activity and data processing (includes the indicative threshold number and benchmark of SEC/IKE standard for commercial building sector, based on 40% of total object)	40%	Six weeks upon contract signing	Final report on the developed benchmark of SEC/IKE standard for commercial building sector	20%	Twenty-two week upon contract signing			
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Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	National Project Manager of MTRE3 Project - UNDP																	

<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.



Type of Contract to be Signed	<input checked="" type="checkbox"/> Contract for Professional Services
Criteria for Contract Award	<input type="checkbox"/> Lowest Price Quote among technically responsive offers <input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution) <b>NOTE: only bidder(s) who received minimum of 70 points where the financial proposal will be opened</b> <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is a mandatory criterion 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> <input checked="" type="checkbox"/> Expertise of the Firm 40% <input checked="" type="checkbox"/> Methodology, Its Appropriateness to the Condition and Timeliness of the Implementation Plan 30% <input checked="" type="checkbox"/> Management Structure and Qualification of Key Personnel 30%  <b><u>Financial Proposal (30%)</u></b> To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP.
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider <input type="checkbox"/> One or more Service Providers, depending on the following factors: ]
Contract General Terms and Conditions <sup>4</sup>	<input checked="" type="checkbox"/> General Terms and Conditions for contracts (goods and/or services) (Annex 4) <input type="checkbox"/> General Terms and Conditions for de minimis contracts  Applicable Terms and Conditions are available at: <a href="http://www.undp.org/content/undp/en/home/procurement/business/how-we-buy.html">http://www.undp.org/content/undp/en/home/procurement/business/how-we-buy.html</a>
Annexes to this RFP <sup>5</sup>	<input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> Detailed TOR (Annex 3) <input type="checkbox"/> Others <sup>6</sup> [pls. specify]

<sup>4</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>5</sup> Where the information is available in the web, a URL for the information may simply be provided.

<sup>6</sup> A more detailed Terms of Reference in addition to the contents of this RFP may be attached hereto.

<p>Contact Person for Inquiries (Written inquiries only)<sup>7</sup></p>	<p><i>Agneta Silvia/Yusef Saiful Millah</i> <i>Procurement Unit</i> <i>agneta.silvia@undp.org/yusef.millah@undp.org</i></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>
<p>Other Information [p/s. specify]</p>	<p>Bidder's Conference will be held on:</p> <p>Day/Date : Friday, 14 June 2019 Time : 1000 hour (GMT+7) Venue : Aceh Meeting Room, 7<sup>th</sup> Floor, UNDP Office, Jl. M. H. Thamrin Kav. 3, Jakarta 10250</p>

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<sup>7</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.

## FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL<sup>8</sup>

*(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery<sup>9</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 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.;

<sup>8</sup> This serves as a guide to the Service Provider in preparing the Proposal.

<sup>9</sup> Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes



- 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	Approved detailed final work plan and questionnaire	40%	
2	Interim report on the survey activity and data processing (includes the indicative threshold number and benchmark of SEC/IKE standard for commercial building sector, based on 40% of total object)	40%	
3	Final report on the developed benchmark of SEC/IKE standard for commercial building sector	20%	
	Total	100%	

*\*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>				
1. Services from Home Office				
a. Expertise 1				
b. Expertise 2				
2. Services from Field Offices				
a. Expertise 1				
b. Expertise 2				
3. Services from Overseas				
a. Expertise 1				
b. Expertise 2				
<b>II. Out of Pocket Expenses</b>				
1. Travel Costs				
2. Daily Allowance				
3. Communications				
4. Reproduction				
5. Equipment Lease				
6. Others				
<b>III. Other Related Costs</b>				

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

**Term of Reference (TOR)**  
**Benchmarking Specific Energy Consumption in Commercial Building Sector**

**A. General Information**

Title	: Benchmarking Specific Energy Consumption in the Commercial Building Sector
Report to	: Market Transformation through Design and Implementation of Appropriate Mitigation Actions in Energy Sector (MTRE3) Project
Location	: UNDP Indonesia Country Office, Menara Thamrin 8-9 <sup>th</sup> Floor. Jl. MH Thamrin Kav.3 Jakarta 10250, Indonesia
Expected place of travel	: As listed in annex 3
Duration of contract	: The expected duration of the contract is 7 (seven) months calculated based on the contract starting date
Provision of support services:	
Location	: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Equipment (laptop etc.)	: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Secretarial Services	: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

**Terminology of this TOR**

The terms listed here under are used throughout this term of reference (TOR) to mean the following:

Renewable Energy (RE)	: Energy derived from natural processes ( <i>e.g.</i> sunlight and wind) that are replenished at a faster rate than they are consumed. Solar, wind, geothermal, hydro, and some forms of biomass are common sources of renewable energy.
Energy Conservation	: A systematic, planned and integrated effort to reduce energy use through a behavior change.
Energy efficiency (EE)	: A systematic, planned and integrated effort to reduce energy use through an improvement in technology that makes an existing use of energy more efficient.
Energy Management	: The proactive, organized and systematic management of energy use in a building or organization to satisfy both environmental and economic requirements
Government Building	: Buildings for official purposes that become/will be state property such as office buildings, school buildings, hospital buildings, warehouses, and state-owned residential, and held with sources of financing originating from APBN funds, and/or other legitimate acquisitions
Commercial Building	: Buildings that are intentionally erected to generate profit from the commercial activity of the building for the owner, which include hotels, shopping centers, hospitals, and offices.
Specific Energy Consumption (SEC)	: The kilowatt-hours (kWh) consumed per million gallons (MG) pumped, making it a comprehensive, high-level measure of pump station efficiency that accounts for the many complex variables within the system.
Energy Consumption Intensity (IKE)	: The division between the consumption of electrical energy in a certain period of time with the unit area of the building.

**B. Background Information**

Climate change is an important issue in Indonesia. The country's GHG emissions are large and continuing to increase rapidly not only because of a growing population, but also the increasing growth rate of the economy. Indonesia continues to actively participate in international negotiations on formulating effective efforts in combating global GHG emissions. In 2016, Indonesia has published the first National Determined Contribution

(NDC) and ratified the Paris Agreement under Law No.16 Year 2016, which has set unconditional reduction target of 29% and conditional reduction target up to 41 % of the business as usual (BAU) scenario by 2030.

Based on the *Indonesia's Second Biennial Update Report (BUR)*, energy sector is in the second largest emitter after the Forest and Other Land Uses, amounted 538,025 Gg CO<sub>2</sub>e or about 36.91% from the total national GHG emissions. The number raised around 6% from 317,609 Gg CO<sub>2</sub>e in 2000. This is the highest raised compare to the other sector. Therefore, to achieve the GHG emission reduction target by 2030, Indonesia focuses its programme on two sectors, i.e. land use change and forestry and energy sector.

To reduce the GHG emission in the energy sector, the government has released several regulation and policies to promote the use of renewable energy and implementation of energy conservation, including in the end user sides. In 2017, the highest energy consumption was transportation sector that take part about 47% of the national energy consumption, followed by industrial sector by 30%, residential sector by 15%, commercial sector 5% and other sectors by 3% (Source: Handbook of Energy & Economic Statistics of Indonesia 2018). However, the commercial sector has the second highest growth of the energy consumption in 2016 by 4.7%, after the transportation sector with 6.7%. While the industrial sector has the lowest growth with 0.54%.

Commercial sector consists of trade, hotels, restaurants, finance, shopping centers, schools, hospitals, and others. Currently commercial sector is estimated to consume 42 million SBM per year. With large number of commercial buildings and large potential of energy savings in this sector, the Government seeks to implement energy conservation programs in the sector, including the implementation of Energy Management. Through Government Regulation (PP) No. 70/2009 on the Energy Conservation, implementation of energy management is mandatory for users of energy and/or energy sources with consumption  $\geq 6,000$  TOE (tons of oil equivalent) per year. In its current implementation, the policy only covers the industrial sector, especially industries with an intensive need of energy. While there is only one object in commercial sector with the energy consumption  $\geq 6,000$  TOE per year.



The Directorate of Energy Conservation is currently in the process of revising the Govt. Reg. No. 70 Year 2009, and it is expected that in the revised regulation the mandatory of energy management could be applied not only in the industrial sector, but also cover other sectors, including the commercial sector. Therefore, Directorate of Energy Conservation, Directorate General of New Renewable Energy and Energy Conservation (DJEBTKE), Ministry of Energy and Mineral Resources (MEMR), in collaboration with UNDP plans to conduct the Specific Energy Consumption (SEC) Survey in the Commercial Building Sector. This activity will be conducted under the activity of Market Transformation for Renewable Energy and Energy Efficiency through Design and Implementation of Appropriate Mitigation Actions in Energy Sector (MTRE3).

MTRE3 Project is a collaboration project between the Government of Indonesia through DJEBTKE, and UNDP Indonesia. The project was designed to support the Government of Indonesia in achieving the GHG emission reduction volunteering target through the effective implementation of RAN-GRK and RAD-GRK in the energy sector. MTRE3 Project consists of 3 main components: (1) Climate change mitigation options for the RE based energy generation and energy efficiency; (2) Market Transformation through implementation of appropriate mitigation actions in the RE based energy generation and energy efficiency; (3) MRV system and national registry for mitigation actions in the RE based energy generation and energy efficiency. At the end of its implementation, MTRE3 is expected to support CO<sub>2</sub> emission reduction of 27,019 tons and facilitate electricity generation from renewable energy of 79,190 MWh, while also encouraging energy savings in commercial building sector of 8,550 MWh.

### **Building Sector**

The building or commercial sector is currently estimated to consume 42 Million Equals Barrels of Oil (SBM) of all national energy consumption per year. The commercial sector consists of trade, hotels, restaurants, finance, shopping malls, schools, hospitals and more. Electrical energy is one energy types that is required in this sector. In 2013, the number of PLN customers in the commercial sector are divided into the public sector by 6% and the business sector by 19%<sup>10</sup>. Some energy conservation programs that have done and that will be running in the building or commercial sector are:

1. Preparing regulations on energy conservation implementation, such as: application of energy efficiency, building code, SNI, labeling and certification;
2. Increase human resource capacities and technology assignments, such as: Energy Manager Certification, Energy Auditor Certification, Certification planners, supervisors, executors;
3. Develop and apply energy efficiency technologies, such as application of standard lighting, air conditioning and sheath building, implementation of energy efficiency in drinking water supply;
4. Implement energy management in various sectors, such as: management energy, energy-efficient urban areas, and the implementation of Building Energy Management System (BEMS).
5. Installing Renewable Energy power generation, including the solar PV rooftop to reduce the electricity energy consumption generated by fossil fuel.

With the large number of building or commercial sector and energy conservation programs on energy consumption, it is necessary to collect data of energy consumption in energy consuming equipment normally used in building sector such as: air system, lighting system, elevator and escalator equipment, pumps, boilers, heater, and standard office equipment such as: photo copy machine, laser printer, computer and printer set, audio visual, and dispenser. In addition, data collection of energy consumption per type of fuel used in commercial or building sectors such as electricity, LPG, biomass, city gas, kerosene and diesel are required.

It is necessary to collect data on energy consumption in the commercial building sector as the amount of energy consumption in the commercial building sector can be used to serve as supporting reference in revising the PP 70/2009 on Energy Conservation.

### **Context of this TOR**

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<sup>10</sup> <http://iress.web.id/tata-kelola-listrik-konstitusional.html>

The context of this TOR is that UNDP, as the Delivery Agent, is seeking to engage organization/company to conduct survey on specific energy consumption as an indicator of energy performance in commercial building sector according to the most recent condition in Indonesia.

### **C. Objectives of Assignment**

DJEBTKE is currently in process of revising the PP 70/2009 on Energy Conservation which requires the benchmark for SEC/IKE in commercial building sector. This survey is expected to provide data and information to :

- (i) Validate the indicative threshold of energy consumption in the commercial building for mandatory of energy management implementation;
- (ii) Set up benchmark of energy consumption index for each type of commercial building;
- (iii) collect data on potential application of PV roof-top in each commercial building. The activity will include data collection, database compilation, and energy consumption analysis per commercial building sub-sector along with trends, types of energy used and the amount of equipment in the commercial building sub-sector in selected cities in Indonesia.

### **Area of Surveys**

The Survey will cover 7 locations (prioritized in the capital city) in Indonesia :

- 1) DKI Jakarta and its surrounding area (Tangerang, Tangerang Selatan, Bogor, Bekasi, Depok)
- 2) West Java
- 3) East Java
- 4) Central Java
- 5) North Sumatera
- 6) Bali
- 7) Riau

This survey will require travel to these locations.

### **Object of survey**

The object of the survey is the commercial buildings located in the locations as mentioned above, which consist of:

- a. Hotels, which includes: Budget Hotel, 3 star hotel, 4 star hotel and 5 star hotel
- b. Hospitals, which prioritize but not limited to : Class A, Class B, and Class C
- c. Shopping center, is building that used for trade purposes. In this survey, the shopping center will includes: Supermarket, Department Store and Supermall
- d. Private Office Building, is a building used for the purpose of professional business, administration or commercial business, which includes : Medium size and Large size

Some of the objects in the locations have been surveyed previously and should not be involved as respondents in the current survey, unless there are no other objects found in the locations. The list of the surveyed object can be found in the Annex 4.

### **Methodology**

This survey will be based on the Non-Probability sampling using the quota sampling. Sampling error is 5% with level of confidence of 95%. Sampling is taken from each group in each category of commercial building survey objects to meet the quota by visiting selected locations and conducting measurements, filling out questionnaires and interview. The proposal must explain the determination of sample quotas taken based on the population in each location. Whenever the required population is existed in the location, it is expected that each location will have sample for each type of the building category. The reference for population and sample in the locations should be described in the proposal.



The total object for the survey is minimum 200 (valid data) commercial buildings. The quota and selection of the object samples must meet the following criteria :

1. Object of survey is commercial building with the following classification
    - a. Minimum 70 units of Hotel, that cover :
      - Budget hotel
      - 3 Star hotel
      - 4 Star hotel
      - 5 Star hotel
    - b. Minimum 50 units of Hospital, prioritize :
      - Class A
      - Class B
      - Class C
    - c. Minimum 40 units of Shopping center, with following criteria:
      - Supermarket/Department Store (building area between  $400 \text{ m}^2 \leq 5,000 \text{ m}^2$ )
      - Supermall/Hypermarket (building area  $> 5,000 \text{ m}^2$ )
    - d. Minimum 40 units of Private Office Building  
Private office is a building used for the purpose of professional business, administration or commercial business, includes:
      - Medium (building area minimal  $1000 \leq 5000 \text{ m}^2$ )
      - Large (building area minimal  $>5000 \text{ m}^2$ )
- If any cases that the sample could not reach the quota as stated above, thus any changes in the object sampling and location had to be discussed and approved by UNDP-MTRE3 and DJEBTKE.
2. Survey will only be conducted in the main building, excluding park and parking area.
  3. Vacant building must not be included as object of survey.

#### **D. Expected Outputs**

The key output under this assignment is data validation of the indicative threshold on the energy consumption in the commercial building for mandatory implementation of energy management and a benchmark for the Specific Energy Consumption (SEC) or Energy Consumption Intensity (IKE) from the Indonesia's building sector specifically in commercial building through:

- Availability of energy related data and information in commercial buildings, including energy consumption and its trends, types of energy used, energy utilization equipment and technology.
- Availability information on the energy mix in commercial buildings;
- Availability of survey results database in the form of soft copy of raw data which includes all of the survey objects, complete with all information in the survey questionnaire.
- Availability of original questionnaire as attachments that have been completely filled out and received validation marks from the relevant companies/agencies that have been surveyed, in the form of soft copy and hard copy.
- Availability of Final Activity Reports in the form of soft copy and hard copy in
- Bahasa Indonesia and English which contains the entire process and activities during implementation of activity along with the results of analysis of survey data which at least consists of:
  - i) Mix of energy sources and energy use for each category of commercial buildings;
  - j) Energy Consumption Intensity (IKE) for each category of commercial buildings, both for AC and non-AC floors;
  - k) IKE benchmarking by using a comparison of IKE standards of commercial buildings in other countries, especially ASEAN countries and other Asian countries;



- l) IKE benchmarking by calculating the ratio of IKE in each building with average IKE for each category of commercial buildings;
- m) Calculation of energy savings potential for each category of commercial buildings;
- n) Recommendation of IKE threshold in the commercial building sector, divided into "Highly Efficient", "Efficient", "Fairly Efficient" and "Inefficient" categories;
- o) Recommendation of energy consumption threshold (in TOE and MWh units) in commercial building sector which energy management mandatory can be applied.
- p) Object and potential area/capacity for PV rooftop implementation.

## **E. Expected Approach and Ethical Guidelines**

The consultant will be expected to observe full ethical guidelines and approach during the field work (specifically) and throughout the process (generally) which will be designed and agreed during the methodology design stage. It is important, however, to highlight the following fundamentals to UNDP's intervention practice which the Organization/Company is expected to keep in mind:

- Ensure that both the formal and informal socio-economic mechanisms are examined;
- Be aware of conflict and gender sensitivities and adopt the principles and practices of participatory dialogue for all consultations.
- Respect local cultures and values and ensures behaviours of research team do not violate norms and values;
- Ensure adequate safety to those conducting and attending the consultations and other activities of the process;
- Ensure objectivity and independence by conducting the consultation in an impartial manner;
- Work with relevant government to identify participants for the consultations; and
- Pay attention to vulnerable group throughout the process.

## **F. Risks and Assumptions**

Undertaking data collection in the facilities level presents several challenges including rejection or resistance from the host, data is not sufficient or not valid, data is considered as confidential matter, and longer administration process which may delay the project.

One of the other risks that may happen is slow process of coordination between government agencies and the relevant partners which require additional acceleration support. It is expected that the consultant should consider the successful factor of project implementation, i.e. relevant government agencies sharing data in timely manner.

Reorganization in the relevant government agencies may occur in the project period which may also affect the commitment of the organizations/facilities. The organizations/company shall identify the risks prior to the project implementation and develop strategies of countermeasures.

## **G. Scope of Work**

The MTRE3 project requires a coordinated effort to develop the SEC/IKE standard and threshold included in this TOR. The consultant will work closely with MTRE3-UNDP and Directorat of Energy Conservation, DJEBTKE – Ministry of Energy and Mineral Resources.

The scope of work of consultancy shall include but not necessarily be limited to following tasks:

### Scope of work 1: Preparation

The objective of this scope of work is the consultant needs to prepare relevant documents, develop work plan and questionnaire. The consultant need to increase the participation of surveyed objects in every stage of the process. Prior to the implementation, consultant should conduct stakeholder analysis and mapping. If consultant finds any issues or difficulties in the tasks, they should report and coordinate with MTRE3-UNDP at the first place. Consultant shall present the draft report for inputs and comments from the stakeholders. With proper planning, it is expected that consultant can implement the activities smoothly and produce high quality report. The objective of this scope of is to develop workplan and tools for the survey of commercial building sector in Indonesia. The total time for this work is estimated to take time around 2 (two) weeks. The tasks including, but not limited to:

- 1.1 Present the work plan and questionnaire draft in the kick off meeting and discuss the detail tasks with related stakeholders. The work plan should include the priority of the survey locations based on the availability of the object sample in each category;
- 1.2 Based on this TOR and the kick-off meeting result, develop methodology to be used in the survey
- 1.3 Develop questionnaire (online and hardcopy), with output indicators:
  - Availability of data on energy consumption in the commercial building sector, both total and each sub-sector, which are:
    - a. Total energy consumption (in units of Standard Barrels of Oil (SBM));
    - b. Petroleum products (original units and converted to SBM units), such as: LPG, Kerosene;
    - c. Gas (original unit and converted to SBM units);
    - d. Electricity (original unit and converted to SBM units).
    - e. RE Power Generation utilization, i.e solar PV rooftop
  - Number of building occupants or number of employees.
  - Availability of data and information on equipment with highest energy consumption in the commercial building sector, both total and each sub-sector. Distribution of types of equipment is based on Energy Efficiency Indicators (IEA, 2014), which cover :
    - a. Air conditioning (cooling);
    - b. Water heating;
    - c. Lighting;
    - d. Appliances (Refrigerator, Freezer, Machines, Dryer, TV, Dispenser);
    - e. Office equipment (Computer, Photo copy machine, Printer, and Scanner);
    - f. Elevator and Escalator Equipment.
    - g. Electrical medical equipment for hospital
  - Availability of data on building area.
  - Availability of data on sheathing (building function, building area, and type of sheath).
  - The value of IKE per each building.
  - Correlation of energy use to the number of occupants of the building and the size of the building
  - Opportunity to install solar PV rooftop
- 1.4 Update and revise the work plan and questionnaire based on DJEBTKE and UNDP inputs and comments
- 1.5 Submit the detailed final work plan and questionnaire as approved;

#### Scope of work 2: Data Collection and Analysis – first phase

The objective of this scope of is to do the data collection by distributing the questionnaire through hard copy and on-line (if possible), either way will be acceptable. The data from the respondent will need to be validated by the consultant to make sure the validity and reliability of the data. UNDP will facilitate one round workshop in selected survey area for the respondents, mainly locations with large sample of objects. The consultant will prepare the ToR and communicating/distributing the invitation to the respondents.



The first phase of data collection and analysis can be started upon the approval of the detail workplan and questionnaire. The questionnaire should be signed by the object's contact person and includes the contact information. The first phase of data collection and analysis should be done in the selected locations based on the priority locations as agreed in the scope of work 1. The object number is targeted to reach 40% from the total quota with the availability of proportional number of representatives for each building category. The result of this scope of work will be used to provide indicative number for validating the threshold on the energy consumption in the commercial building for mandatory implementation of energy management.

The work is expected to be completed in 4 (four) weeks after the approval of the detailed workplan and questionnaire. The task includes, but not limited to:

2. 1 Preparing ToR for the workshop, distributing the invitation and securing confirmation from the invitees. This will need close coordination with UNDP-MTRE3 and DJEBTKE.
2. 2 Actively in-charge in the workshop to maximize the survey activity
2. 3 Conducting data collection and validation through survey. The survey will be conducted upon validation approval of the questionnaire (produced from scope 1) by UNDP-MTRE3 and DJEBTKE.
2. 4 Data processing;
2. 5 Analyze the data and information gathered from but not limited to kick off meeting, questionnaires, and existing data, produced from the result of previous scope of works;
2. 6 Develop database on energy consumption in the commercial building sector, both total and each sub-sector;
2. 7 Validate the threshold number on the energy consumption in the commercial building sector
2. 8 Develop interim report on the activity and survey results, includes the indicative threshold number and benchmark of SEC/IKE standard for commercial building sector to be proposed to MEMR as input for the revision process of PP 70/2009
2. 9 Present and discuss the initial report to DJEBTKE ESDM and UNDP-MTRE3 for inputs and comments.

#### Scope of work 3: Data Collection and Analysis – second phase

The scope of work will continue the data collection in the rest location that have not been surveyed in the phase 1 (one) and meet quota of the total object to be surveyed. The activity will include distribution of the questionnaire through on-line and if needed in hardcopy. The data from the respondent will need to be validated by the consultant to make sure the validity and reliability of the data. If it is required, UNDP will facilitate one round workshop in the selected survey area for the respondents, mainly locations with large sample of objects. The consultant will prepare the ToR and communicating/distributing the invitation to the respondents.

The activity will also include the benchmark development of SEC/IKE standard for commercial building sector, both total and each sub-sector, including the commercial building energy consumption profile in each area. This activity will include the comprehensive report development and executive summary to be disseminated to stakeholders, including the respondents. The consultant will also be required to present the result in a workshop arranged by UNDP. The estimated time is around 16 (sixteen) weeks. The tasks including, but not limited to:

3. 1 Preparing ToR for the workshop, distributing the invitation and securing confirmation from the invitees. This will need close coordination with UNDP-MTRE3 and DJEBTKE.
3. 2 Actively in-charge in the workshop to maximize the survey activity
3. 3 Conducting data collection and validation through survey.
3. 4 Processing and analyzing the data and information gathered from but not limited to kick off meeting, questionnaires (both from the first phase and second phase), and existing related data produced from the result of previous scope of works;
3. 5 Develop database on energy consumption in the commercial building sector, both total and each sub-sector;



3. 6 Provide data and information related to SEC/IKE standard of the Indonesia's commercial building sector, both total and each sub-sector. Consultant should use data and information based on the most recent data provided by respondents;
3. 7 Finalize the benchmark of SEC/IKE standard for commercial building sector;
3. 8 Submit draft final report prior to stakeholder meeting to discuss containing all report produced in scope of work 1 to 2; The report shall elaborate study on the existing information and data from research, studies, and audits, including available benchmark of SEC/IKE in commercial building sector in other similar countries that could be adapted to Indonesia;
3. 9 Discussion with UNDP-MTRE3 and EBTKE on the draft final report;
3. 10 Presenting the draft of final result in the dissemination workshop (if any) which will be counted as the stakeholders meeting and consultation for inputs and comments;
3. 11 Presenting the final result in the dissemination workshop (if any).
3. 12 Finalize report based on all inputs and comments gathered and submit the report in English and Indonesian, including a concise executive summary. The consultant shall submit a file storage (i.e. USB or CD) containing soft copy of editable version of final report, all presentation, photos and video, all data and calculation, and simulation result (if available);

## **H. DELIVERABLES**

All reports must be presented first to the UNDP-MTRE3 and DJEBTKE teams for inputs and comments. These comments must be incorporated to the reports before the product's final approval by the team. The final reports must have an executive summary, and Power Point presentation, delivered in English and must be accompanied by an excellent translation into Bahasa Indonesia. The team of consultant shall submit the final report in English version and Indonesian version in a file storage (i.e. USB or CD) containing soft copy of editable version of final report, all presentation, photos and video, all data and calculation, and simulation result (if available).

## **I. MTRE3 UNDP RESPONSIBILITY**

MTRE3-UNDP will take care of the following tasks:

- Coordination with DJEBTKE on preparing any supporting documents required for the survey activity, including invitation letter and facilitating meeting with key-partners
- Organize a meeting venue for the workshop in the selected locations of survey. The cost of meeting package, honorarium for any resource persons and local transport for participants (if required) will be borne by MTRE3-UNDP. The consultant, however, should allocate their own cost of accommodation and travels. MTRE3-UNDP will only cover workshop for several locations which will be determined based on the location priority and discussion with DJEBTKE and the consultant. Any changes of the workshop location shall be proposed by the consultant and discussed with DJEBTKE. However, as an indicative measures the workshop is planned to be in Jakarta, Denpasar and Pekanbaru.
- Facilitate the communication between the consultant and DJEBTKE or other related stakeholders.

The team of consultants shall cover the costs for accommodation, travelling to and transportation within Indonesia. Routine costs for telecommunication, etc. are considered to be covered within the team of consultant's remuneration.

## J. PAYMENT SCHEDULE

Scope of work	Deliverables/Outputs	Due Date*)	Payment Schedule**)	Payment Amount
1	Approved detailed final work plan and questionnaire	July 2019	July 2019	40 %
2	Interim report on the survey activity and data processing (includes the indicative threshold number and benchmark of SEC/IKE standard for commercial building sector, based on 40% of total object)	Aug 2019	Aug 2019	40 %
3	Final report on the developed benchmark of SEC/IKE standard for commercial building sector	Nov 2019	Dec 2019	20 %
	<b>TOTAL</b>			<b>100%</b>

\*) expectation of deliverables submission

\*\*) expectation of payment to be received by consultant

## K. EXPERIENCE

The UNDP is seeking an organization/company, which can demonstrate:

1. Experience in energy efficiency/energy conservation sector
  - Minimum 10 years' experience of working in energy efficiency/energy conservation sector;
  - Proven track record in electrical and energy conservation technologies;
  - Strong background in energy audit services;
  - Familiar with energy efficiency/energy conservation technologies, policies and regulations;
  - Background and track record in the study/research/assessment/survey on energy consumption and significant energy uses is preferred;
  - Knowledge in types and technologies of energy efficiency/energy conservation preferably in building sectors;
  - Proven experience in project with similar size and nature and demonstrated good track record in energy efficiency/energy conservation;
  - Knowledge/experience in technologies and sizing Photovoltaic system
2. Experience and expertise in engaging government and private sector, and designing/implementing multi-stakeholder engagement process leading to broad-based consensus and support:
  - Minimum 10 years of experience in designing and implementing multi-stakeholder project.
  - Experience in working with International organizations, preferably UNDP;
3. Experience in projects and programmes in Indonesia and ability to work effectively in Indonesia, especially in the energy sectors;
  - Minimum 10 years of experience in conducting projects in Indonesia.
4. Good project management ability.
  - Focused on result responds positively to feedback;
  - Ability to deliver the expected report in timely manner; and
  - Demonstrate openness to change and ability to manage complexities.

## L. QUALIFICATIONS

The selected Organization/Company is expected to put together an independent and multi-disciplinary team composed of national expertise which collectively brings experience and commitment in the following fields:

- Energy Audit;
- Energy Management System;
- Study of energy consumption, preferably in building sectors;
- Survey and Research, preferably in energy sectors;
- Effective stakeholder engagement;
- Proven ability to write high-quality reports;
- Data analysis;
- Experiences in working with Government of Indonesia.

### 1. Personal Education/Qualification

Minimum requirements include:

#### a) **One (1) National team leader**

##### Academic qualification

Minimum of Master degree in Engineering or related field;

##### Years of experience, competencies and skill requirements

- Expert with relevant professional experience of 15 years in the field of data management and analysis;
- Certified Energy Auditor;(Valid) will be an advantage
- Proven track record in project management (planning and implementation);
- Experience in statistical work;
- Good understanding on energy conservation policies and technologies
- Good understanding on SEC/IKE of Buildings
- Having experience in conducting detail energy audit in the last 2 years
- Knowledge on Photovoltaic Technology will be an advantage;
- Familiar with spreadsheet tool or other similar commercial software tools
- Fluency in English;

#### b) **One (1) technical expert/advisor on energy management system**

##### Academic qualification

Minimum of Bachelor degree or equivalent in engineering;

##### Years of experience, competencies and skill requirements

- At least 10 years of professional experience with related background in Energy Audit and energy management system;
- Preferably Certified Energy Auditor;



- Experience from participation with expert teams in at least 3 national projects;
- Familiarity with energy conservation policies in Indonesia;
- Ability to write project reports particularly for national funded project and make presentation.
- Fluency in English.

**c) One (1) Technical specialist on energy audit**

Academic qualification

Minimum of Bachelor degree or equivalent in engineering;

Years of experience, competencies and skill requirements

- At least 8 years of professional experience in the energy audit sector;
- Preferably Certified Energy Auditor;
- Strong background in energy audit;
- Experience in survey of energy, in the building sector will be an advantage;
- Advance knowledge and understanding on renewable energy and energy conservation/energy efficiency;
- Preferably experiences in electrical engineering/system;
- Knowledge on the electrical system in building sector will be an advantage;

**d) One (1) Electrical Specialist**

Academic qualification

Minimum bachelor's degree in engineering;

Years of experience, competencies and skill requirements

- Minimum of 6 years of professional experiences in related field, preferably in electrical system;
- Experience in the environment impact will be an advantage;
- Good understanding in energy conservation/energy efficiency;
- Knowledge on the mechanical system in building sector will be an advantage;

**e) One (1) Mechanical Specialist**

Academic qualification

Minimum bachelor's degree in engineering;

Years of experience, competencies and skill requirements

- Minimum of 6 years of professional experiences in related field, preferably in mechanical system;
- Experience in the environment impact will be an advantage;
- Good understanding in energy conservation/energy efficiency;
- Knowledge on the mechanical system in building sector will be an advantage;

**f) One (1) Statistic specialists**

Academic qualification

Minimum bachelor degree in Statistic or Engineering or other related field;

#### Years of experience, competencies and skill requirements

- 5 years of professional experience in statistical analysis;
- Work experience related with energy efficiency/energy conservation sector is preferred;
- Good data processing and analysis skill;
- Good report writing skill;
- Fluency in English.

#### **g) One (1) Administration support**

##### Academic qualification

Minimum D3 in secretary, administration, or other related fields;

#### Years of experience, competencies and skill requirements

- Minimum 3 years of professional experience in related field;
- Good understanding in administration works and data input;
- Good communication and interpersonal skill;

## **2. Language Requirement**

While all individuals on the team may not have both English and Indonesian skills, collectively and at all times, there should be at least:

- Proficiency in English language, spoken and written. The consultants must have the ability to write reports, make presentations, and to provide training etc. in the English language.
- Proficiency in Indonesian, spoken and written. The consultants must have the ability to write reports, make presentations, and to provide training etc. in Indonesian.

## **3. Composition of Key Staff**

A guideline proposed staffing structure for the consulting team is given in the following Table. **Bidders should specify the amount of the time of key staff will spend in the field during project period.** The combined team's CV should clearly demonstrate experience in the above-mentioned disciplines. Bidders are encouraged to review and propose their own staffing schedule to match the project need.

Suggested staffing structure and inputs:

Description	Quantity (tbd)	Unit	Number of Unit (Man. days)* in total	Remarks
Lead expert/team leader	1	Person	87	National expert
Technical expert on Energy Management System	1	Person	65	National Expert
Technical specialist on Energy Audit	1	Person	65	National expert
Electrical specialist	1	Person	65	National expert
Mechanical specialists	1	Person	65	National expert
Statistic specialist	1	Person	65	National expert
Secretary	1	Person	87	Supporting staff
Enumerator	10	Person	70	Supporting staff
<b>Total</b>	<b>17</b>	<b>Person</b>	<b>569</b>	

*\*can be converted to be Man.month with the assumption of one month equal with 21.75 working days*

#### 4. Other Selection Criteria

Given the urgency and on-going nature of the work, the Organization/Company must be available to start in June 2019.

The list of criteria which shall serve as basis for evaluating proposals and awarding the contract, and the respective weight of each criterion, is provided in DS No. 32 of the RFP Data Sheet. The award will be done according to the Combined Scoring method – where the company qualifications, expert, and methodology will be weighted 70%, and combined with the price offer which will be weighted at 30%.

The formula for the computation of total final rating will be as follows:

Rating the Technical Proposal (TP):

**TP Rating** = (Total Score Obtained by the Offer / Max. Obtainable Score for TP) x 100

Rating the Financial Proposal (FP):

**FP Rating** = (Lowest Priced Offer / Price of the Offer Being Reviewed) x 100

Total Combined Score:

$$\frac{(\text{TP Rating}) \times (\text{Weight of TP, 70\%}) + (\text{FP Rating}) \times (\text{Weight of FP, 30\%})}{\text{Total Combined and Final Rating of the Proposal}}$$

#### LIST OF ANNEXES

ANNEX 1. TIMELINE

ANNEX 2. DETAILS OF WORK AREAS AND DELIVERABLES

ANNEX 3. EXPECTED PLACES OF TRAVEL

ANNEX 4. LIST OF PREVIOUS SURVEYED OBJECT



## ANNEX 1. TIMELINE

No	Activities	2019						
		Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	Kick Off meeting							
2	Submission of detail workplan and questionnaire							
3	1 <sup>st</sup> Payment							
4	First Phase of Data Collection and Analysis							
5	Submission of interim report							
6	2 <sup>nd</sup> payment							
7	Second Phase of Data Collection and Analysis							
8	Submission of Final Report							
9	3 <sup>rd</sup> Payment							

Note: All schedule of activities is subject to discussion

## ANNEX 2. DETAILS OF WORK AREAS AND DELIVERABLES

<b><u>Scope of work 1: Preparation</u></b>	
1.1 Present the draft of workplan and questionnaire in the kick off meeting with related stakeholders to discuss the detail tasks;	a. Draft of detail workplan b. Draft of questionnaire c. Minutes of kick off meeting
1.2 Based on this TOR and kick off meeting result, develop the methodology that will be used in the survey;	d. Agreed methodology
1.3 Update and finalize the work plan and questionnaire based on DJEBTKE and UNDP inputs and comments	e. Improved work plan and questionnaire as the final version
<b><u>Scope of work 2: Data Collection and Analysis – First Phase</u></b>	
2. 1 Preparing ToR for the workshop, distributing the invitation and securing confirmation from the invitees. Actively coordinate with UNDP-MTRE3 and DJEBTKE on the workshop preparation	a. ToR for the Workshop including list of invitees b. Presentation materials
2.2 Actively in-charge in the workshop to maximize the survey activity	c. Workshop Report
2.3 Conduct data collection and validation through survey	d. Survey report
2.4 Data processing and analyzing; Develop database on energy consumption in the commercial building sector, both total and each sub-sector;	e. Database on the energy consumption related data of the surveyed government building
2.5 <u>Develop interim report on the activity and survey results, includes validating the threshold number on the energy consumption in the commercial building sector to get the indicative threshold number and benchmark of SEC/IKE standard for commercial building sector to be proposed to MEMR as input for the revision process of PP 70/2009</u>	f. Interim Report
2.6 Present and discuss the initial report to DJEBTKE ESDM and UNDP-MTRE3 for inputs and comments.	g. Minutes of meeting h. Presentation materials
<b><u>Scope of work 3: Data Collection and Analysis – Second Phase</u></b>	

3. 1 Preparing ToR for the workshop, distributing the invitation and securing confirmation from the invitees. This will need close coordination with UNDP-MTRE3 and DJEBTKE.	a. ToR for the Workshop b. Presentation materials
3. 2 Actively in-charge in the workshop to maximize the survey activity	c. Workshop Report
3. 3 Conducting data collection and validation through survey.	d. Report on the survey data analysis
3. 4 Data processing and analysis; Develop database on energy consumption in the commercial building sector, both total and each sub-sector;	e. Updated database on the energy consumption related data of the surveyed commercial buildings
3. 5 Provide data and information related to SEC/IKE standard of the Indonesia's commercial building sector, both total and each sub-sector. Consultant should use data and information based on the most recent data provided by respondents;	f. Report on data and information related to SEC/IKE standard of the Indonesia's commercial building sector.
3. 6 Finalize the benchmark of SEC/IKE standard for commercial building sector; Discussion with UNDP-MTRE3 and EBTKE on the draft final report;	g. Minutes of meeting
3. 7 Presenting the draft of final result in the dissemination workshop (if any) which will be counted as the stakeholders meeting and consultation for inputs and comments;	h. Report on benchmark of SEC/IKE standard for government building sector to be proposed to MEMR.
3. 8 Presenting the final result in the dissemination workshop (if any).	i. Draft of the final report j. Presentation materials k. Report of the workshop
3. 9 Finalize report based on all inputs and comments gathered and submit the report in English and Indonesian, including a concise executive summary. The consultant shall submit a file storage (i.e. USB or CD) containing soft copy of editable version of final report, all presentation, photos and video, all data and calculation, and simulation result (if available);	l. Final Report



### ANNEX 3. EXPECTED PLACES OF TRAVEL

The Survey will cover 7 areas in Indonesia :

- 1) DKI Jakarta and its surrounding area (Tangerang, Tangerang Selatan, Bogor, Bekasi, Depok)
- 2) West Java
- 3) East Java
- 4) Central Java
- 5) North Sumatera
- 6) Bali
- 7) Riau

### ANNEX 4. LIST OF PREVIOUS SURVEYED OBJECT

No	Object Name	Location
<b>Hotel</b>		
1	Fave Puri Indah	DKI Jakarta
2	Whizz Prime	DKI Jakarta
3	D'Arcici	DKI Jakarta
4	Ibis	DKI Jakarta
5	Fave Gatot Subroto	DKI Jakarta
6	Santika	DKI Jakarta
7	Fave Hotel Medan	North Sumatera
8	Fave Braga	West Java
9	The Palaic Dago Hotel	West Java
10	Vio Hotel Cimanuk	West Java
11	Vio Hotel Surapati	West Java
12	Hotel Duta Berlian	West Java
13	Hotel Semeru	West Java
14	Harison Nj Semarang	Central Java
15	Pandanaran Semarang	Central Java
16	Bliss Soeta Semarang	Central Java
17	Citra Dream Semarang	Central Java
18	Sunrise Semarang	Central Java
19	Grasia Semarang	Central Java
20	G Suite Hotel Surabaya	East Java
21	Maxone Dharmahusada	East Java
22	Swiss Bellin Manyar	East Java
23	Ibis Surabaya City Center	East Java
24	Pop Hotel Diponegoro	East Java
25	Oval Hotel	East Java
26	Ibis Styles Bali Denpasar	Bali
27	Amaris Sunset Road	Bali
28	Grand Santhi	Bali
29	Puri Ayu	Bali
30	Grand whiz	DKI Jakarta
31	Golden boutique	DKI Jakarta
32	Sari pan pasific	DKI Jakarta
33	Santika premiere	DKI Jakarta
34	Four poin by sheraton medan	North Sumatera
35	Garuda plaza hotel	North Sumatera
36	Santika premiere Dyandara	North Sumatera
37	Hermest palace	North Sumatera

38	Polonia medan	North Sumatera
39	Soechi international hotel	North Sumatera
40	Grand Dhika	North Sumatera
41	Hotel Aston Braga	West Java
42	Hotel Aston Pasteur Bandung	West Java
43	Hotel Horison Ultima Bandung	West Java
44	Ibis Styles Braga	West Java
45	The Luxton Hotel	West Java
46	Sheraton Bandung Hotel	West Java
47	Hotel Salak Bogor	West Java
48	Aston Semarang	Central Java
49	Hotel Horizon Pekalongan	Central Java
51	Hotel Dafam Pekalongan	Central Java
52	Hotel Atria Magelang 4	Central Java
53	Hotel Puri Asri Magelang 4	Central Java
54	Mercure Grand Mirama Surabaya	East Java
55	Hotel Santika Premiere Gubeng	East Java
56	Wyndham	East Java
57	Horizon Legian	Bali
58	Sheraton Grand Jakarta Gandaria City	DKI Jakarta
59	Danau Toba Internasional	North Sumatera
60	Grand Swiss Belhotel	North Sumatera
61	Arya duta	North Sumatera
62	Ciputra Semarang	Central Java
63	Grand Candi Semarang	Central Java
64	Sheraton Surabaya Hotel & Tower	East Java
65	JW Marriotts Surabaya	East Java
<b>Mall</b>		
66	Plaza Koja	DKI Jakarta
67	Koja Trade Mall	DKI Jakarta
68	Berastagi Supermarket	North Sumatera
69	Bogor Trade World	West Java
70	Superindo Dago	West Java
71	Plaza Jembatan Merah	West Java
72	Gaya Future Market Semarang	Central Java
73	Ada Swalayan Semarang	Central Java
74	Superindo Semarang	Central Java
75	Ramayana Pekalongan Square	Central Java
76	Carrefour Mega Center Pekalongan	Central Java
77	Lottmart Semarang	Central Java
78	Carrefour kalimas	East Java
79	Ramayana Mall Bali	Bali
80	Ramayana Mall Denpasar	Bali
81	Matahari Duta Mall	Bali
82	Carrefour Bali	Bali
83	Sunter Mall	DKI Jakarta
84	Millenium ICT Center	North Sumatera
85	Balubur Town Square	West Java
86	Braga City Walk	West Java
87	Pusat Grosir Bogor	West Java
88	Yogya Bogor Dramaga	West Java
89	Kelapa Gading	DKI Jakarta
90	Gandaria City	DKI Jakarta



91	Central Park Mall	DKI Jakarta
92	Cijantung	DKI Jakarta
93	FX Sudirman Mall	DKI Jakarta
94	Plaza Slipi Jaya	DKI Jakarta
95	Kota Kasablanka	DKI Jakarta
96	Hermes Place	North Sumatera
97	Sun Plaza	North Sumatera
98	Plaza Medan Fair	North Sumatera
99	Lippo Plaza Medan	North Sumatera
100	IKEA Indonesia	Banten
101	Trans Studio Mall	West Java
102	Summarecon Mall	West Java
103	Mall Pekalongan	Central Java
104	Paragon Mall Semarang	Central Java
105	Mall Ciputra	Central Java
106	Mall Galaxy Surabaya	East Java
107	BG Junction	East Java
108	Mall Royal Plaza	East Java
109	Surabaya Town Square	East Java
110	Discovery Shopping Mall	Bali
111	Bali Galleria Mall	Bali
<b>Hospital</b>		
112	Rumah Sakit Kanker Dharmais	DKI Jakarta
113	RSPAD Gatot Soebroto	DKI Jakarta
114	RSUD Cengkareng	DKI Jakarta
115	RSUP Persahabatan	DKI Jakarta
116	RSU H. Adam Malik	North Sumatera
117	RSUP Hasan Sadikin	West Java
118	ST. Elisabeth	Central Java
119	RSU Dr. Soetomo	East Java
120	RS. MMC Kuningan	DKI Jakarta
121	RS Pusat Pertamina	DKI Jakarta
122	RS. Puri Cinere	DKI Jakarta
123	Siloam Hospital TB Simatupang	DKI Jakarta
124	Rumah Sakit Umum Pasar Rebo	DKI Jakarta
125	RS Islam Pondok Kopi	DKI Jakarta
126	RS. Sari Mutiara	North Sumatera
127	RS. Panti Wilasa	Central Java
128	RS PHC	East Java
129	RSUD Wangaya Denpasar	Bali
130	RSUD Sanjiwani Giayar	Bali
131	Siloam Hospital	Bali
132	RS Islam Sikapura	DKI Jakarta
133	RS Mulyasari	DKI Jakarta
134	RS Karya Bhakti Pratiwi	West Java
135	RS Medika Dramaga	West Java
136	RS. BMC – Klinik Geriatri Wijaya Kusuma	West Java
137	RSI PKU Muhammadiyah Pekajangan	Central Java
138	RSUD Kajen	Central Java
139	William Booth	Central Java
140	RS William Booth	East Java
141	RS Kasih Ibu Denpasar	Bali
142	RS Balimed	Bali



Office Building		
143	Gedung Mitra	DKI Jakarta
144	PT. Gudang Garam, Tbk	DKI Jakarta
145	Plaza Oleos	DKI Jakarta
146	Samporena Strategic Square	DKI Jakarta
147	Wisma Nusantara	DKI Jakarta
148	KMK Online	DKI Jakarta
149	Capitol Office Building	DKI Jakarta
150	Wisma Raharja	DKI Jakarta
151	Sovereign Plaza	DKI Jakarta
152	Office 88 Kasablanka	DKI Jakarta
153	Gandaria 8 Office Ower	DKI Jakarta
154	Bank Permata Hayam Wuruk	DKI Jakarta
155	Menara 1	DKI Jakarta
156	Graha Merah Putih	North Sumatera
157	Capital Building	North Sumatera
158	Gedung Utama	Banten
159	BCA Dago	West Java
160	Graha Merah Putih	West Java
161	Wisma CIMB Niaga	East Java
162	Graha Bukopin Surabaya	East Java
163	Intiland Tower	East Java
164	Sinarmas Land Plaza Surabaya	East Java
165	Gedung BCA Denpasar	Bali
166	Gedung BNI Denpasar	Bali
167	Gedung BRI Denpasar	Bali
168	Gedung Mandiri Denpasar	Bali

## GENERAL TERMS AND CONDITIONS FOR CONTRACTS

This Contract is between the United Nations Development Programme, a subsidiary organ of the United Nations established by the General Assembly of the United Nations (hereinafter “UNDP”), on the one hand, and a company or organization indicated in the Face Sheet of this Contract (hereinafter the “Contractor”), on the other hand.

**1. LEGAL STATUS OF THE PARTIES:** UNDP and the Contractor shall be referred to as a “Party” or, collectively, “Parties” hereunder, and:

**1.1** Pursuant, *inter alia*, to the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations, the United Nations, including its subsidiary organs, has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfillment of its purposes.

**1.2** The Contractor shall have the legal status of an independent contractor *vis-à-vis* UNDP, and nothing contained in or relating to the Contract shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. The officials, representatives, employees, or subcontractors of each of the Parties shall not be considered in any respect as being the employees or agents of the other Party, and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

### **2. OBLIGATIONS OF THE CONTRACTOR:**

**2.1** The Contractor shall deliver the goods described in the Technical Specifications for Goods (hereinafter the “Goods”) and/or perform and complete the services described in the Terms of Reference and Schedule of Payments (hereinafter the “Services”), with due diligence and efficiency, and in accordance with this Contract. The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory delivery of the Goods and/or performance of the Services.

**2.2** To the extent that the Contract involves any purchase of the Goods, the Contractor shall provide UNDP with written evidence of the delivery of the Goods. Such evidence of delivery shall, at the minimum, consist of an invoice, a certification of conformity, and other supporting shipment documentation as may otherwise be specified in the Technical Specifications for Goods.



**2.3** The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract, in accordance with the highest industry and professional standards.

**2.4** All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the delivery of the Goods and/or the provision of the Services.

**3. LONG TERM AGREEMENT:** If the Contractor is engaged by UNDP on the basis of a long-term agreement ("LTA") as indicated in the Face Sheet of this Contract, the following conditions shall apply:

**3.1** UNDP does not warrant that any quantity of Goods and/or Services shall be ordered during the term of the LTA.

**3.2** Any UNDP business unit, including, but not limited to, a Headquarters unit, a Country Office or a Regional Centre, as well as any United Nations entity, may benefit from the retainer and order Goods and/or Services from the Contractor hereunder.

**3.3** The Contractor shall provide the Services and/or deliver the Goods, as and when requested by UNDP and reflected in a Purchase Order, which shall be subject to the terms and conditions stipulated in this Contract. For the avoidance of doubt, UNDP shall acquire no legal obligations towards the Contractor unless and until a Purchase Order is issued.

**3.4** The Goods and/or Services shall be at the Discount Prices annexed hereto. The prices shall remain in effect for a period of three years from the Starting Date stated in the Face Sheet of this Contract.

**3.5** In the event of any advantageous technical changes and/or downward pricing of the Goods and/or Services during the term of the retainer, the Contractor shall notify UNDP immediately. UNDP shall consider the impact of any such event and may request an amendment to the retainer.

**3.6** The Contractor shall report semi-annually to UNDP on the Goods delivered and/or Services provided, unless otherwise specified in the Contract. Each report should be submitted to the UNDP Contact Person indicated in as indicated in the Face Sheet hereto, as well as to a UNDP business unit that has placed a Purchase Order for the Goods and/or Services during the reporting period.

**3.7** The LTA shall remain in force for the maximum period of two years and may be extended by UNDP for one additional year by mutual agreement of the Parties.

#### **4. PRICE AND PAYMENT:**

**4.1 FIXED PRICE:** If Fixed Price is chosen as a payment method pursuant to the Face Sheet of this Contract, in full consideration for the complete and satisfactory delivery of the Goods and/or provision of the Services, UNDP shall pay the Contractor a fixed amount indicated in the Face Sheet of this Contract.

**4.1.1** The amount stated in the Face Sheet of this Contract is not subject to any adjustment or revision because of price or currency fluctuations, or the actual costs incurred by the Contractor in the performance of the Contract.

**4.1.2** UNDP shall effect payments to the Contractor in the amounts and pursuant to the schedule of payments set forth in the Terms of Reference and Schedule of Payments, upon completion by the Contractor of the corresponding deliverable(s) and upon acceptance by UNDP of the original invoices submitted by the Contractor to the UNDP Contact Person indicated in the Face Sheet of this Contract, together with whatever supporting documentation that may be required by UNDP:



4.1.3 Invoices shall indicate a deliverable completed and the corresponding amount payable.

4.1.4 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's delivery of the Goods and/or provision of the Services.

**4.2 COST REIMBURSEMENT:** If Cost Reimbursement is chosen as a payment method pursuant to the Face Sheet of this Contract, in full consideration for the complete and satisfactory delivery of the Goods and/or provision of the Services under this Contract, UNDP shall pay the Contractor an amount not exceeding the total amount stated in the Face Sheet of this Contract.

4.2.1 The said amount is the maximum total amount of reimbursable costs under this Contract. The breakdown of costs contained in the Financial Proposal, referred to in the Face Sheet to this Contract shall specify the maximum amount per each cost category that is reimbursable under this Contract. The Contractor shall specify in its invoices or financial reports (as required by UNDP) the amount of the actual reimbursable costs incurred in the delivery of the Goods and/or the provision of the Services.

4.2.2 The Contractor shall not provide the Services and/or deliver the Goods or equipment, materials and supplies that may result in any costs in excess of the amount stated in the Face Sheet of this Contract, or of the maximum amount per each cost category specified in the breakdown of costs contained in the Financial Proposal, without the prior written agreement of the UNDP Contact Person.

4.2.3 The Contractor shall submit original invoices or financial reports (as required by UNDP) for the Goods delivered in accordance with the Technical Specifications for Goods and/or the Services provided in accordance with the schedule set forth in the Terms of Reference and Schedule of Payments. Such invoices or financial reports shall indicate a deliverable or deliverables completed and the corresponding amount payable. They shall be submitted to the UNDP Contact Person, together with whatever supporting documentation of the actual costs incurred that is required in the Financial Proposal, or may be required by UNDP.

4.2.4 UNDP shall effect payments to the Contractor upon completion by the Contractor of the deliverable(s) indicated in the original invoices or financial reports (as required by UNDP) and upon acceptance of these invoices or financial reports by UNDP. Such payments shall be subject to any specific conditions for reimbursement specified in the breakdown of costs contained in the Financial Proposal.

4.2.5 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's delivery of the Goods and/or performance of the Services.

## **5. ADVANCE PAYMENT:**

**5.1** If an advance payment is due to the Contractor pursuant to the Face Sheet of this Contract, the Contractor shall submit an original invoice for the amount of that advance payment upon signature of this Contract by the Parties.

**5.2** If an advance payment representing 20% or more of the total contract value, or amounting to US\$30,000 or more, is to be made by UNDP upon signature of the Contract by the Parties, such payment shall be contingent upon receipt and acceptance by UNDP of a bank guarantee or a certified cheque for the full amount of the advance payment, valid for the duration of the Contract, and in a form acceptable to UNDP.

## **6. SUBMISSION OF INVOICES AND REPORTS:**

**6.1** All original invoices, financial reports and any other reports and supporting documentation required under this Contract shall be submitted by mail by the Contractor to UNDP Contact Person. Upon

request of the Contractor, and subject to approval by UNDP, invoices and financial reports may be submitted to UNDP by fax or email.

**6.2** All reports and invoices shall be submitted by the Contractor to the UNDP Contact Person specified in the Face Sheet of this Contract.

## **7. TIME AND MANNER OF PAYMENT:**

**7.1** Invoices shall be paid within thirty (30) days of the date of their acceptance by UNDP. UNDP shall make every effort to accept an original invoice or advise the Contractor of its non-acceptance within a reasonable time from receipt.

**7.2** Where the Services are to be provided, in addition to an invoice, the Contractor shall submit to UNDP a report, describing in detail the Services provided under the Contract during the period of time covered in each report.

**8. RESPONSIBILITY FOR EMPLOYEES:** To the extent that the Contract involves the provision of the Services to UNDP by the Contractor's officials, employees, agents, servants, subcontractors and other representatives (collectively, the Contractor's "personnel"), the following provisions shall apply:

**8.1** The Contractor is responsible for and shall assume all risk and liabilities relating to its personnel and property.

**8.2** The Contractor shall be responsible for the professional and technical competence of the personnel it assigns to perform work under the Contract and will select reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.

**8.3** Such Contractor personnel shall be professionally qualified and, if required to work with officials or staff of UNDP, shall be able to do so effectively. The qualifications of any personnel whom the Contractor may assign or may propose to assign to perform any obligations under the Contract shall be substantially the same, or better, as the qualifications of any personnel originally proposed by the Contractor.

**8.4** At the option of and in the sole discretion of UNDP:

**8.4.1** the qualifications of personnel proposed by the Contractor (*e.g.*, a curriculum vitae) may be reviewed by UNDP prior to such personnel's performing any obligations under the Contract;

**8.4.2** any personnel proposed by the Contractor to perform obligations under the Contract may be interviewed by qualified staff or officials of UNDP prior to such personnel's performing any obligations under the Contract; and,

**8.4.3** in cases in which, pursuant to Article 8.4.1 or 8.4.2, above, UNDP has reviewed the qualifications of such Contractor's personnel, UNDP may reasonably refuse to accept any such personnel.

**8.5** Requirements specified in the Contract regarding the number or qualifications of the Contractor's personnel may change during the course of performance of the Contract. Any such change shall be made only following written notice of such proposed change and upon written agreement between the Parties regarding such change, subject to the following:

**8.5.1** UNDP may, at any time, request, in writing, the withdrawal or replacement of any of the Contractor's personnel, and such request shall not be unreasonably refused by the Contractor.



8.5.2 Any of the Contractor's personnel assigned to perform obligations under the Contract shall not be withdrawn or replaced without the prior written consent of UNDP, which shall not be unreasonably withheld.

8.5.3 The withdrawal or replacement of the Contractor's personnel shall be carried out as quickly as possible and in a manner that will not adversely affect the performance of obligations under the Contract.

8.5.4 All expenses related to the withdrawal or replacement of the Contractor's personnel shall, in all cases, be borne exclusively by the Contractor.

8.5.5 Any request by UNDP for the withdrawal or replacement of the Contractor's personnel shall not be considered to be a termination, in whole or in part, of the Contract, and UNDP shall not bear any liability in respect of such withdrawn or replaced personnel.

8.5.6 If a request for the withdrawal or replacement of the Contractor's personnel is *not* based upon a default by or failure on the part of the Contractor to perform its obligations in accordance with the Contract, the misconduct of the personnel, or the inability of such personnel to reasonably work together with UNDP officials and staff, then the Contractor shall not be liable by reason of any such request for the withdrawal or replacement of the Contractor's personnel for any delay in the performance by the Contractor of its obligations under the Contract that is substantially the result of such personnel's being withdrawn or replaced.

8.6 Nothing in Articles 8.3, 8.4 and 8.5, above, shall be construed to create any obligations on the part of UNDP with respect to the Contractor's personnel assigned to perform work under the Contract, and such personnel shall remain the sole responsibility of the Contractor.

8.7 The Contractor shall be responsible for requiring that all personnel assigned by it to perform any obligations under the Contract and who may have access to any premises or other property of UNDP shall:

8.7.1 undergo or comply with security screening requirements made known to the Contractor by UNDP, including but not limited to, a review of any criminal history;

8.7.2 when within UNDP premises or on UNDP property, display such identification as may be approved and furnished by UNDP security officials, and that upon the withdrawal or replacement of any such personnel or upon termination or completion of the Contract, such personnel shall immediately return any such identification to UNDP for cancellation.

8.8 Within one working day after learning that any of Contractor's personnel who have access to any UNDP premises have been charged by law enforcement authorities with an offense other than a minor traffic offense, the Contractor shall provide written notice to inform UNDP about the particulars of the charges then known and shall continue to inform UNDP concerning all substantial developments regarding the disposition of such charges.

8.9 All operations of the Contractor, including without limitation, storage of equipment, materials, supplies and parts, within UNDP premises or on UNDP property shall be confined to areas authorized or approved by UNDP. The Contractor's personnel shall not enter or pass through and shall not store or dispose of any of its equipment or materials in any areas within UNDP premises or on UNDP property without appropriate authorization from UNDP.

8.10 The Contractor shall (i) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the Services are being provided; and (ii) assume all risks and liabilities related to the Contractor's security, and the full implementation of the security plan.



**8.11** UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 8.10 above.

## **9. ASSIGNMENT:**

**9.1** Except as provided in Article 9.2, below, the Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of UNDP. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, shall not be binding on UNDP. Except as permitted with respect to any approved subcontractors, the Contractor shall not delegate any of its obligations under this Contract, except with the prior written consent of UNDP. Any such unauthorized delegation, or attempt to do so, shall not be binding on UNDP.

**9.2** The Contractor may assign or otherwise transfer the Contract to the surviving entity resulting from a reorganization of the Contractor's operations, *provided that*:

9.2.1 such reorganization is not the result of any bankruptcy, receivership or other similar proceedings; *and*,

9.2.2 such reorganization arises from a sale, merger, or acquisition of all or substantially all of the Contractor's assets or ownership interests; *and*,

9.2.3 the Contractor promptly notifies UNDP about such assignment or transfer at the earliest opportunity; *and*,

9.2.4 the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the Contract, and such writing is promptly provided to UNDP following the assignment or transfer.

**10. SUBCONTRACTING:** In the event that the Contractor requires the services of subcontractors to perform any obligations under the Contract, the Contractor shall obtain the prior written approval of UNDP. UNDP shall be entitled, in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that UNDP reasonably considers is not qualified to perform obligations under the Contract. UNDP shall have the right to require any subcontractor's removal from UNDP premises without having to give any justification therefor. Any such rejection or request for removal shall not, in and of itself, entitle the Contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract, and the Contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

**11. PURCHASE OF GOODS:** To the extent that the Contract involves any purchase of the Goods, whether in whole or in part, and unless specifically stated otherwise in the Contract, the following conditions shall apply to such purchases under the Contract:

**11.1 DELIVERY OF GOODS:** The Contractor shall hand over or make available the Goods, and UNDP shall receive the Goods, at the place for the delivery of the Goods and within the time for delivery of the Goods specified in the Contract. The Contractor shall provide to UNDP such shipment documentation (including, without limitation, bills of lading, airway bills, and commercial invoices) as are specified in the Contract or, otherwise, as are customarily utilized in the trade. All manuals, instructions, displays and any other information relevant to the Goods shall be in the English language unless otherwise specified in the Contract. Unless otherwise stated in the Contract (including, but not limited to, in any "INCOTERM" or similar trade term), the entire risk of loss,



damage to, or destruction of the Goods shall be borne exclusively by the Contractor until physical delivery of the Goods to UNDP in accordance with the terms of the Contract. Delivery of the Goods shall not be deemed in itself as constituting acceptance of the Goods by UNDP.

**11.2 INSPECTION OF THE GOODS:** If the Contract provides that the Goods may be inspected prior to delivery, the Contractor shall notify UNDP when the Goods are ready for pre-delivery inspection. Notwithstanding any pre-delivery inspection, UNDP or its designated inspection agents may also inspect the Goods upon delivery in order to confirm that the Goods conform to applicable specifications or other requirements of the Contract. All reasonable facilities and assistance, including, but not limited to, access to drawings and production data, shall be furnished to UNDP or its designated inspection agents at no charge therefor. Neither the carrying out of any inspections of the Goods nor any failure to undertake any such inspections shall relieve the Contractor of any of its warranties or the performance of any obligations under the Contract.

**11.3 PACKAGING OF THE GOODS:** The Contractor shall package the Goods for delivery in accordance with the highest standards of export packaging for the type and quantities and modes of transport of the Goods. The Goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law or by the transporters and manufacturers of the Goods. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by UNDP as well as such other information as is necessary for the correct handling and safe delivery of the Goods. Unless otherwise specified in the Contract, the Contractor shall have no right to any return of the packing materials.

**11.4 TRANSPORTATION & FREIGHT:** Unless otherwise specified in the Contract (including, but not limited to, in any “INCOTERM” or similar trade term), the Contractor shall be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the Goods in accordance with the requirements of the Contract. The Contractor shall ensure that UNDP receives all necessary transport documents in a timely manner so as to enable UNDP to take delivery of the Goods in accordance with the requirements of the Contract.

**11.5 WARRANTIES:** Unless otherwise specified in the Contract, in addition to and without limiting any other warranties, remedies or rights of UNDP stated in or arising under the Contract, the Contractor warrants and represents that:

11.5.1 The Goods, including all packaging and packing thereof, conform to the technical specifications, are fit for the purposes for which such Goods are ordinarily used and for any purposes expressly made known in writing in the Contract, and shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship;

11.5.2 If the Contractor is not the original manufacturer of the Goods, the Contractor shall provide UNDP with the benefit of all manufacturers’ warranties in addition to any other warranties required to be provided under the Contract;

11.5.3 The Goods are of the quality, quantity and description required by the Contract, including when subjected to conditions prevailing in the place of final destination;

11.5.4 The Goods are free from any right of claim by any third-party, including claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets;

11.5.5 The Goods are new and unused;



11.5.6 All warranties will remain fully valid following any delivery of the Goods and for a period of not less than one (1) year following acceptance of the Goods by UNDP in accordance with the Contract;

11.5.7 During any period in which the Contractor's warranties are effective, upon notice by UNDP that the Goods do not conform to the requirements of the Contract, the Contractor shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective Goods with Goods of the same or better quality or, at its own cost, remove the defective Goods and fully reimburse UNDP for the purchase price paid for the defective Goods; and,

11.5.8 The Contractor shall remain responsive to the needs of UNDP for any services that may be required in connection with any of the Contractor's warranties under the Contract.

**11.6 ACCEPTANCE OF GOODS:** Under no circumstances shall UNDP be required to accept any Goods that do not conform to the specifications or requirements of the Contract. UNDP may condition its acceptance of the Goods upon the successful completion of acceptance tests as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall UNDP be obligated to accept any Goods unless and until UNDP has had a reasonable opportunity to inspect the Goods following delivery. If the Contract specifies that UNDP shall provide a written acceptance of the Goods, the Goods shall not be deemed accepted unless and until UNDP in fact provides such written acceptance. In no case shall payment by UNDP in and of itself constitute acceptance of the Goods.

**11.7 REJECTION OF GOODS:** Notwithstanding any other rights of, or remedies available to UNDP under the Contract, in case any of the Goods are defective or otherwise do not conform to the specifications or other requirements of the Contract, UNDP, at its sole option, may reject or refuse to accept the Goods, and within thirty (30) days following receipt of notice from UNDP of such rejection or refusal to accept the Goods, the Contractor shall, in sole option of UNDP:

11.7.1 provide a full refund upon return of the Goods, or a partial refund upon a return of a portion of the Goods, by UNDP; *or*,

11.7.2 repair the Goods in a manner that would enable the Goods to conform to the specifications or other requirements of the Contract; *or*,

11.7.3 replace the Goods with Goods of equal or better quality; *and*,

11.7.4 pay all costs relating to the repair or return of the defective Goods as well as the costs relating to the storage of any such defective Goods and for the delivery of any replacement Goods to UNDP.

**11.8** In the event that UNDP elects to return any of the Goods for the reasons specified in Article 11.7, above, UNDP may procure the Goods from another source. In addition to any other rights or remedies available to UNDP under the Contract, including, but not limited to, the right to terminate the Contract, the Contractor shall be liable for any additional cost beyond the balance of the Contract price resulting from any such procurement, including, *inter alia*, the costs of engaging in such procurement, and UNDP shall be entitled to compensation from the Contractor for any reasonable expenses incurred for preserving and storing the Goods for the Contractor's account.

**11.9 TITLE:** The Contractor warrants and represents that the Goods delivered under the Contract are unencumbered by any third party's title or other property rights, including, but not limited to, any liens or security interests. Unless otherwise expressly provided in the Contract, title in and to the Goods shall pass from the Contractor to UNDP upon delivery of the Goods and their acceptance by UNDP in accordance with the requirements of the Contract.



**11.10 EXPORT LICENSING:** The Contractor shall be responsible for obtaining any export license required with respect to the Goods, products, or technologies, including software, sold, delivered, licensed or otherwise provided to UNDP under the Contract. The Contractor shall procure any such export license in an expeditious manner. Subject to and without any waiver of the privileges and immunities of UNDP, UNDP shall lend the Contractor all reasonable assistance required for obtaining any such export license. Should any Governmental entity refuse, delay or hinder the Contractor's ability to obtain any such export license, the Contractor shall promptly consult with UNDP to enable UNDP to take appropriate measures to resolve the matter.

## **12. INDEMNIFICATION:**

**12.1** The Contractor shall indemnify, defend, and hold and save harmless, UNDP, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature brought by any third party against UNDP, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to:

12.1.1 allegations or claims that the possession of or use by UNDP of any patented device, any copyrighted material, or any other goods, property or services provided or licensed to UNDP under the terms of the Contract, in whole or in part, separately or in a combination contemplated by the Contractor's published specifications therefor, or otherwise specifically approved by the Contractor, constitutes an infringement of any patent, copyright, trademark, or other intellectual property right of any third party; *or*,

12.1.2 any acts or omissions of the Contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers' compensation.

**12.2** The indemnity set forth in Article 12.1.1, above, shall not apply to:

12.2.1 A claim of infringement resulting from the Contractor's compliance with specific written instructions by UNDP directing a change in the specifications for the goods, property, materials, equipment or supplies to be or used, or directing a manner of performance of the Contract or requiring the use of specifications not normally used by the Contractor; *or*

12.2.2 A claim of infringement resulting from additions to or changes in any goods, property, materials equipment, supplies or any components thereof furnished under the Contract if UNDP or another party acting under the direction of UNDP made such changes.

**12.3** In addition to the indemnity obligations set forth in this Article 12, the Contractor shall be obligated, at its sole expense, to defend UNDP and its officials, agents and employees, pursuant to this Article 12, regardless of whether the suits, proceedings, claims and demands in question actually give rise to or otherwise result in any loss or liability.

**12.4** UNDP shall advise the Contractor about any such suits, proceedings, claims, demands, losses or liability within a reasonable period of time after having received actual notice thereof. The Contractor shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of UNDP or any matter relating thereto, for which only UNDP itself is authorized to assert and maintain. UNDP shall have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.



**12.5** In the event the use by UNDP of any Goods, property or Services provided or licensed to UNDP by the Contractor, in whole or in part, in any suit or proceeding, is for any reason enjoined, temporarily or permanently, or is found to infringe any patent, copyright, trademark or other intellectual property right, or in the event of a settlement, is enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, shall, promptly, either:

12.5.1 procure for UNDP the unrestricted right to continue using such Goods or Services provided to UNDP;

12.5.2 replace or modify the Goods and/or or Services provided to UNDP, or part thereof, with the equivalent or better Goods and/or Services, or part thereof, that is non-infringing; *or*,

12.5.3 refund to UNDP the full price paid by UNDP for the right to have or use such Goods, property or Services, or part thereof.

### **13. INSURANCE AND LIABILITY:**

**13.1** The Contractor shall pay UNDP promptly for all loss, destruction, or damage to the property of UNDP caused by the Contractor's personnel or by any of its subcontractors or anyone else directly or indirectly employed by the Contractor or any of its subcontractors in the performance of the Contract.

**13.2** Unless otherwise provided in the Contract, prior to commencement of performance of any other obligations under the Contract, and subject to any limits set forth in the Contract, the Contractor shall take out and shall maintain for the entire term of the Contract, for any extension thereof, and for a period following any termination of the Contract reasonably adequate to deal with losses:

13.2.1 insurance against all risks in respect of its property and any equipment used for the performance of the Contract;

13.2.2 workers' compensation insurance, or its equivalent, or employer's liability insurance, or its equivalent, with respect to the Contractor's personnel sufficient to cover all claims for injury, death and disability, or any other benefits required to be paid by law, in connection with the performance of the Contract;

13.2.3 liability insurance in an adequate amount to cover all claims, including, but not limited to, claims for death and bodily injury, products and completed operations liability, loss of or damage to property, and personal and advertising injury, arising from or in connection with the Contractor's performance under the Contract, including, but not limited to, liability arising out of or in connection with the acts or omissions of the Contractor, its personnel, agents, or invitees, or the use, during the performance of the Contract, of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor; *and*,

13.2.4 such other insurance as may be agreed upon in writing between UNDP and the Contractor.

**13.3** The Contractor's liability policies shall also cover subcontractors and all defense costs and shall contain a standard "cross liability" clause.

**13.4** The Contractor acknowledges and agrees that UNDP accepts no responsibility for providing life, health, accident, travel or any other insurance coverage which may be necessary or desirable in respect of any personnel performing services for the Contractor in connection with the Contract.

**13.5** Except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by UNDP, in its sole discretion, for purposes of fulfilling the Contractor's requirements for providing insurance under the Contract, the insurance policies required under the Contract shall:



13.5.1 name UNDP as an additional insured under the liability policies, including, if required, as a separate endorsement under the policy;

13.5.2 include a waiver of subrogation of the Contractor's insurance carrier's rights against UNDP;

13.5.3 provide that UNDP shall receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage; *and*,

13.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to UNDP.

**13.6** The Contractor shall be responsible to fund all amounts within any policy deductible or retention.

**13.7** Except for any self-insurance program maintained by the Contractor and approved by UNDP for purposes of fulfilling the Contractor's requirements for maintaining insurance under the Contract, the Contractor shall maintain the insurance taken out under the Contract with reputable insurers that are in good financial standing and that are acceptable to UNDP. Prior to the commencement of any obligations under the Contract, the Contractor shall provide UNDP with evidence, in the form of certificate of insurance or such other form as UNDP may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of the Contract. UNDP reserves the right, upon written notice to the Contractor, to obtain copies of any insurance policies or insurance program descriptions required to be maintained by the Contractor under the Contract. Notwithstanding the provisions of Article 13.5.3, above, the Contractor shall promptly notify UNDP concerning any cancellation or material change of insurance coverage required under the Contract.

**13.8** The Contractor acknowledges and agrees that neither the requirement for taking out and maintaining insurance as set forth in the Contract nor the amount of any such insurance, including, but not limited to, any deductible or retention relating thereto, shall in any way be construed as limiting the Contractor's liability arising under or relating to the Contract.

**14. ENCUMBRANCES AND 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 UNDP against any monies due to the Contractor or that may become due for any work done or against any goods supplied or materials furnished under the Contract, or by reason of any other claim or demand against the Contractor or UNDP.

**15. EQUIPMENT FURNISHED BY UNDP TO THE CONTRACTOR:** Title to any equipment and supplies that may be furnished by UNDP to the Contractor for the performance of any obligations under the Contract shall rest with UNDP, and any such equipment shall be returned to UNDP at the conclusion of the 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, and the Contractor shall be liable to compensate UNDP for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.

**16. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:**

**16.1** Except as is otherwise expressly provided in writing in the Contract, 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 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. The Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP.



**16.2** 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, UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to 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.

**16.3** At the request of 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 UNDP in compliance with the requirements of the applicable law and of the Contract.

**16.4** 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 UNDP, shall be made available for use or inspection by 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.

**17. PUBLICITY, AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS:** The Contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship 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 the United Nations in connection with its business or otherwise without the written permission of UNDP.

**18. 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:

**18.1** The Recipient shall:

18.1.1 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*,

18.1.2 use the Discloser's Information solely for the purpose for which it was disclosed.

**18.2** 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 18, the Recipient may disclose Information to:

18.2.1 any other party with the Discloser's prior written consent; *and*,

18.2.2 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:

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

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



18.2.2.3 for the United Nations, a principal or subsidiary organ of the United Nations established in accordance with the Charter of the United Nations.

**18.3** 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 UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

**18.4** UNDP may disclose Information to the extent as required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder.

**18.5** 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.

**18.6** 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.

## **19. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:**

**19.1** In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the affected Party shall give notice and full particulars in writing to the other Party, of such occurrence or cause if the affected Party is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The affected Party shall also notify the other Party of any other changes in condition or the occurrence of any event which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in condition or occurrence, the affected Party shall also submit a statement to the other Party of estimated expenditures that will likely be incurred for the duration of the change in condition or the event of *force majeure*. On receipt of the notice or notices required hereunder, the Party not affected by the occurrence of a cause constituting *force majeure* shall take such action as it reasonably considers to be appropriate or necessary in the circumstances, including the granting to the affected Party of a reasonable extension of time in which to perform any obligations under the Contract.

**19.2** If the Contractor is rendered unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Contract, UNDP shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 20, "Termination," except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, UNDP shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in case the Contractor is unable to perform its obligations, wholly or in part, by reason of *force majeure* for any period in excess of ninety (90) days.

**19.3** *Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, *provided that* such acts arise from causes beyond the control and without the fault or negligence of the Contractor. The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in areas in which 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.

## **20. TERMINATION:**

**20.1** Either Party may terminate the Contract for cause, in whole or in part, upon thirty (30) day's notice, in writing, to the other Party. The initiation of conciliation or arbitral proceedings in accordance with Article 23 "Settlement of Disputes," below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract.

**20.2** UNDP may terminate the Contract at any time by providing written notice to the Contractor in any case in which the mandate of UNDP applicable to the performance of the Contract or the funding of UNDP applicable to the Contract is curtailed or terminated, whether in whole or in part. In addition, unless otherwise provided by the Contract, upon sixty (60) day's advance written notice to the Contractor, UNDP may terminate the Contract without having to provide any justification therefor.

**20.3** In the event of any termination of the Contract, upon receipt of notice of termination that has been issued by UNDP, the Contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing:

20.3.1 take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum;

20.3.2 refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice;

20.3.3 place no further subcontracts or orders for materials, services, or facilities, except as UNDP and the Contractor agree in writing are necessary to complete any portion of the Contract that is not terminated;

20.3.4 terminate all subcontracts or orders to the extent they relate to the portion of the Contract terminated;

20.3.5 transfer title and deliver to UNDP the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;

20.3.6 deliver all completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to UNDP thereunder;

20.3.7 complete performance of the work not terminated; *and*,

20.3.8 take any other action that may be necessary, or that UNDP may direct in writing, for the minimization of losses and for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Contractor and in which UNDP has or may be reasonably expected to acquire an interest.

**20.4** In the event of any termination of the Contract, UNDP shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, UNDP shall not be liable to pay the Contractor except for those Goods satisfactorily delivered and/or Services satisfactorily provided to UNDP in accordance with the requirements of the Contract, but only if such Goods or Services were ordered, requested or otherwise provided prior to the Contractor's receipt of notice of termination from UNDP or prior to the Contractor's tendering of notice of termination to UNDP.



**20.5** UNDP may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:

20.5.1 the Contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent;

20.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;

20.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;

20.5.4 a Receiver is appointed on account of the insolvency of the Contractor;

20.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; *or*,

20.5.6 UNDP reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.

**20.6** Except as prohibited by law, the Contractor shall be bound to compensate UNDP for all damages and costs, including, but not limited to, all costs incurred by UNDP in any legal or non-legal proceedings, as a result of any of the events specified in Article 20.5, above, and resulting from or relating to a termination of the Contract, even if the Contractor is adjudged bankrupt, or is granted a moratorium or stay or is declared insolvent. The Contractor shall immediately inform UNDP of the occurrence of any of the events specified in Article 20.5, above, and shall provide UNDP with any information pertinent thereto.

**20.7** The provisions of this Article 20 are without prejudice to any other rights or remedies of UNDP under the Contract or otherwise.

**21. NON-WAIVER OF RIGHTS:** The failure by either Party to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Contract.

**22. NON-EXCLUSIVITY:** Unless otherwise specified in the Contract, UNDP shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and UNDP shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity described in the Contract, from any other source at any time.

### **23. SETTLEMENT OF DISPUTES:**

**23.1 AMICABLE SETTLEMENT:** The Parties shall use their best efforts to amicably settle any dispute, controversy, or claim arising out of the 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 Conciliation Rules then obtaining of the United Nations Commission on International Trade Law ("UNCITRAL"), or according to such other procedure as may be agreed between the Parties in writing.

**23.2 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 23.1, 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. 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”) and Article 34 (“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.

**24. PRIVILEGES AND IMMUNITIES:** Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

**25. TAX EXEMPTION:**

**25.1** Article II, 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 restrictions, 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 exemptions of UNDP from such taxes, restrictions, duties, or charges, the Contractor shall immediately consult with UNDP to determine a mutually acceptable procedure.

**25.2** The Contractor authorizes UNDP to deduct from the Contractor’s invoices any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties, or charges under written protest. In that event, the Contractor shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized, and UNDP shall reimburse the Contractor for any such taxes, duties, or charges so authorized by UNDP and paid by the Contractor under written protest.

**26. MODIFICATIONS:**

**26.1** No modification or change in this Contract shall be valid and enforceable against UNDP unless executed in writing by the duly authorized representatives of the Parties.

**26.2** If the Contract shall be extended for additional periods in accordance with the terms and conditions of the Contract, the terms and conditions applicable to any such extended term of the Contract shall be the same terms and conditions as set forth in the Contract, unless the Parties shall have agreed otherwise pursuant to a valid amendment concluded in accordance with Article 26.1, above.

**26.3** The terms or conditions of any supplemental undertakings, licenses, or other forms of agreement concerning any Goods or Services provided under the Contract shall not be valid and enforceable against UNDP nor in any way shall constitute an agreement by UNDP thereto unless any such undertakings, licenses or other forms are the subject of a valid amendment concluded in accordance with Article 26.1, above.

**27. AUDITS AND INVESTIGATIONS:**

**27.1** Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract.



**27.2** UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the Contractor generally relating to performance of the Contract at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract.

**27.3** The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its personnel and any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to UNDP access to the Contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Contractor's personnel and relevant documentation. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

**27.4** UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits or investigations to have been paid by UNDP other than in accordance with the terms and conditions of the Contract. The Contractor also agrees that, where applicable, donors to UNDP whose funding is the source of, in whole or in part, the funding for the procurement of Goods and/or Services which are the subject of this Contract, shall have direct recourse to the Contractor for the recovery of any funds determined by UNDP to have been used in violation of or inconsistent with this Contract.

## **28. LIMITATION ON ACTIONS:**

**28.1** Except with respect to any indemnification obligations in Article 12, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 23.2, above, arising out of the Contract must be commenced within three years after the cause of action has accrued.

**28.2** The Parties further acknowledge and agree that, for these purposes, a cause of action shall accrue when the breach actually occurs, or, in the case of latent defects, when the injured Party knew or should have known all of the essential elements of the cause of action, or in the case of a breach of warranty, when tender of delivery is made, except that, if a warranty extends to future performance of the goods or any process or system and the discovery of the breach consequently must await the time when such goods or other process or system is ready to perform in accordance with the requirements of the Contract, the cause of action accrues when such time of future performance actually begins.

**29. ESSENTIAL TERMS:** The Contractor acknowledges and agrees that each of the provisions in Articles 30 to 36 hereof constitutes an essential term of the Contract and that any breach of any of these provisions shall entitle UNDP to terminate the Contract or any other contract with UNDP immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind. In addition, nothing herein shall limit the right of UNDP to refer any alleged breach of the said essential terms to the relevant national authorities for appropriate legal action.

**30. SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its obligations under the Contract. Should any authority external to UNDP seek to impose any instructions concerning or restrictions on the Contractor's performance under the Contract, the Contractor shall promptly notify UNDP and provide all reasonable assistance required by UNDP. The Contractor shall not take any action in respect of the performance of its obligations under the Contract that may adversely affect the interests of UNDP or the United Nations, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of UNDP.



**31. STANDARDS OF CONDUCT:** The Contractor warrants that it has not and shall not offer any direct or indirect benefit arising from or related to the performance of the Contract, or the award thereof, to any representative, official, employee or other agent of UNDP. The Contractor shall comply with all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract. In addition, in the performance of the Contract, the Contractor shall comply with the Standards of Conduct set forth in the Secretary General's Bulletin ST/SGB/2002/9 of 18 June 2002, entitled "Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Expert on Mission" and ST/SGB/2006/15 of 26 December 2006 on "Post-employment restrictions", and shall also comply with and be subject to the requirements of the following documents then in force at the time of signature of the Contract:

**31.1** The UN Supplier Code of Conduct;

**31.2** UNDP Policy on Fraud and other Corrupt Practices ("UNDP Anti-fraud Policy");

**31.3** UNDP Office of Audit and Investigations (OAI) Investigation Guidelines;

**31.4** UNDP Social and Environmental Standards (SES), including the related Accountability Mechanism;

**31.5** UNDP Vendor Sanctions Policy; and

**31.6** All security directives issued by UNDP.

The Contractor acknowledges and agrees that it has read and is familiar with the requirements of the foregoing documents which are available online at [www.undp.org](http://www.undp.org) or at <http://www.undp.org/content/undp/en/home/operations/procurement/business/>. In making such acknowledgement, the Contractor represents and warrants that it is in compliance with the requirements of the foregoing, and will remain in compliance throughout the term of this Contract.

**32. OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract. In addition, the Contractor shall maintain compliance with all obligations relating to its registration as a qualified vendor of goods or services to UNDP, as such obligations are set forth in UNDP vendor registration procedures.

**33. CHILD LABOR:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiary or affiliated entities (if any) 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.

**34. MINES:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiaries or affiliated entities (if any) is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.

**35. SEXUAL EXPLOITATION:**

**35.1** In the performance of the Contract, the Contractor shall comply with the Standards of Conduct set forth in the Secretary-General's bulletin ST/SGB/2003/13 of 9 October 2003, concerning "Special measures for protection from sexual exploitation and sexual abuse." In particular, the Contractor shall not engage in any conduct that would constitute sexual exploitation or sexual abuse, as defined in that bulletin.

**35.2** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by its employees or any other persons engaged and controlled 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 reasonable and appropriate measures to prohibit its employees or other persons engaged and controlled by it from exchanging any money, goods, services, or other things of value, for sexual favors or activities, or from engaging any sexual activities that are exploitive or degrading to any person.

**35.3** 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.

**36. ANTI-TERRORISM:** The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under the Contract is used to provide support to individuals or entities associated with terrorism and that recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to Resolution 1267 (1999). The list can be accessed via [https://www.un.org/sc/suborg/en/sanctions/1267/aq\\_sanctions\\_list](https://www.un.org/sc/suborg/en/sanctions/1267/aq_sanctions_list). This provision must be included in all sub-contracts or sub-agreements entered into under the Contract.