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## ADVERTISEMENT

### INDIVIDUAL CONSULTANT PROCUREMENT NOTICE (ICPN)

**National Consultant:** To support review and amendment of Human Rights Commission of Sierra Leone (HRCSL) Act, 2004 to meet modern demands of National Human Rights Institution

**(IC – National).**

**Date: March 26, 2020**

**Procurement Notice No.: SLE/ICPN/2020/003**

**Country: Sierra Leone**

**Description of the assignment: National Consultant,** to support review and amendment of the Human Right Commission of Sierra Leone (HRCSL) Act, 2004 to meet modern demands of National Human Right Institution

**Project Name:** Support to capacity strengthening of the HRCSL effective promotion and protection of human rights

**Period of assignment: 60 working days**

Proposal should be submitted at the following address, UNDP, Fourah Close, Off Main Motor Road, Wilberforce, Freetown, Sierra Leone or by email to [procure.sle@undp.org](mailto:procure.sle@undp.org) no later than **17:00 hours, on Tuesday April 7, 2020.**

Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. UNDP Sierra Leone will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants

## 1. BACKGROUND

The support to the review and amendment of the HRCSL Act, 2004 forms part of the project on strengthening the capacity of the HRCSL to effectively deliver on its mandate of promotion and protection of human rights in Sierra Leone in accordance with the Human Rights Commission of Sierra Leone Act, 2004 (HRCSL Act, 2004) and international human rights norms and standards. The project is jointly funded by the Embassy of Ireland and UNDP to support the Commission's national priorities, as articulated in its third Strategic Plan (SP) (2016-2020), thereby complements the efforts of the Government of Sierra Leone. The key focus is on enhancing the institutional and human resource capacities of the Commission and fostering effective engagement with relevant stakeholders both at the national and regional levels on issues of human rights and enhancing accountability for human rights violations by the state and its agents. Within the broad objective of the project, support will be provided towards strengthening staff and institutional capacity as well as public awareness and empowerment of rights-holders to hold government accountable to their human rights commitment.

The project contributes to cluster four (Governance and Accountability for Results) of the Sierra Leone's Medium-term National Development Plan (MT-NDP 2019–2023), specifically to the broad result area 4.5 promoting inclusive and accountable justice institutions. The interventions are aligned with UNDP's Country Programme Document (CPD) Output 2.1: Capacities of targeted oversight and accountability institutions strengthened to perform their mandates and the Sustainable Development Goals (SDGs) 16: 'Promoting peace, justice and strong institutions' and SDG 5: 'Promoting gender equality and empowerment of women and girls' in order to enhance access to justice for women and to reduce violence against women (VAW). It aligns with the Irish Aid Mission Plan (IAMP), contributing to Output 10: National systems for delivering credible and inclusive elections and guaranteeing human rights are strengthened.

The HRCSL Act, 2004 provides the legal basis for the operations of the Commission as National Human Rights Institutions (NHRIs) with the mandate to ensure human rights protection and promotion. However, the HRCSL Act requires thorough review to meet the demands of modern National Human Rights Institutions (NHRIs). Although the Commission has a quasi-judicial mandate, it does not have the power to enforce the decisions emanating from the judicial process as in the case of South Africa, Kenya and Uganda, to name a few. The Act has no clarity on specific measures to institute to ensure the continued effective operations of the Commission in the event the posts of all five Commissioners become vacant before the expiration of their term of office and the appointment of new Commissioners. Furthermore, the creation of a new North-West region suggests the need for a representation of the region in the membership of the Commission. On the basis of the above issues which are non-exhaustive, UNDP seeks to recruit a consultant facilitator to work with a technical team from various institutions and civil society organizations.



## 2. OBJECTIVES AND SCOPE OF EVALUATION

The overall objective of the consultancy is to support the review of the HRCSL Act, 2004 and a draft revised HRCSL Act prepared for subsequent enactment. Accordingly, the prospective consultant will facilitate stakeholders' working group sessions to review the Act and ascertain an exhaustive list of gaps which will constitute the basis for amendment. He/she will therefore carry out the following key activities.

**Develop Terms of Reference (TOR) and establish Technical Working Group:** The consultant will work in collaboration with the HRCSL and UNDP to develop the ToR for a Technical Working Group (TWG) for the review of the Act. He/she will subsequently facilitate the functioning of the TWG to ensure the objectives of the TOR are achieved. The TWG will comprise officials and staff of the HRCSL, Ministry of Justice, Judiciary, Law Reform Commission (LRC), the Independent Police Complaint Board (IPCB) Civil society organisations (CSOs) including Human Rights Defenders.

**Facilitate Technical Working Group:** The consultant will serve as facilitator for the TWG and he/she will provide technical assistance and guidance to the operations of TWG. He/she has the responsibility for the overall management of the work of the TWG including convening and managing meetings as per TOR, engaging stakeholders, preparing presentations on best practices and reporting. He/she will organise and facilitate at least six (6) weekly sitting of the TWG and ensure signed minutes, including attendance, are prepared.

**Prepare a Comprehensive Report on the work of the TWG:** At the conclusion of the work of the TWG, the Consultant Facilitator will prepare a comprehensive report on the work of the TWG detailing all the relevant issues and lacunas identified and proposals for amendment of the Act as per discussions emanating from the TWG which will be eventually submitted to guide the work of the Legal Draftsperson in the Ministry of Justice.

### Expected Outputs and Deliverables

| Deliverables/ Outputs   | Estimated Duration to Complete | Target Due Dates | Review and Approvals Required (Indicate designation of person who will review output and confirm acceptance) |
|---|--------------------------------|------------------|--|
| An inception report developed establishing the methodology to be employed by the consultant in delivering | Seven days                     | 2020-04-21       | RoL Portfolio Manager  |

|   |            |            |                       |
|---|------------|------------|-----------------------|
| ToR developed and TWG established   | Ten days   | 2020-05-05 | RoL Portfolio Manager |
| Six-week sessions facilitated to review the HRCSL Act, 2004 and signed minutes are submitted. | Six weeks  | 2020-06-16 | RoL Portfolio Manager |
| A comprehensive report on the work of the TWGRA prepared and submitted                        | Seven days | 2020-06-25 | RoL Portfolio Manager |
|   |            |            |                       |

### 3. QUALIFICATIONS OF THE SUCCESSFUL INDIVIDUAL CONTRACTOR (IC)

|                               |   |
|-------------------------------|---|
| <b>Education:</b>             | Advanced university degree in Law, Human Rights, International Relations, Development Studies or Political Science.   |
| <b>Experience:</b>            | <ul style="list-style-type: none"> <li>▪ Minimum of seven (7) years of relevant experience in supporting technical capacity building programmes for rule of law and human rights institutions, the criminal justice system or civil society organisations.</li> <li>▪ Experience in facilitating stakeholders' forum including the development and/or review of laws, policies and strategic plans.</li> <li>▪ Demonstrate excellent skills in conducting research and experience in legal drafting.</li> <li>▪ Experience in developing PowerPoint presentations, training methodologies and facilitation of large and small groups.</li> <li>▪ Demonstrate experience in working with a variety of stakeholders;</li> <li>▪ Understanding of basic gender concepts and principles, skills, experience and commitment;</li> <li>▪ Strong writing and oral communications skills;</li> <li>▪ Strong analytical and reporting skills, and experience of presenting complex technical information in an easily comprehensible way.</li> </ul> |
| <b>Language Requirements:</b> | Strong ability to communicate clearly in written and spoken English.  |



#### 4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS.

##### APPLICATION PROCESS<sup>1</sup>

##### Recommended Presentation of Proposal:

- a) **Letter of Confirmation of Interest and Availability** using the template<sup>2</sup> provided by UNDP;
- b) **CV and a Personal History Form (P11 form<sup>3</sup>)**;
- c) **Brief description of approach to work/technical proposal** of why the individual considers him/herself as the most suitable for the assignment, and a proposed methodology on how they will approach and complete the assignment; (max 1 page)
- d) **Financial Proposal** that indicates the all-inclusive fixed total contract price and all other travel related costs (such as flight ticket, per diem, etc.), supported by a breakdown of costs,
  - e) as per template attached to the Letter of Confirmation of Interest template. If an applicant is employed by an organization/company/institution, and he/she expects his/her employer to charge a management fee in the process of releasing him/her to UNDP under Reimbursable Loan Agreement (RLA), the applicant must indicate at this point, and ensure that all such costs are duly incorporated in the financial proposal submitted to UNDP.

All application materials should be submitted to the address Fourah Bay Close, Off Main Motor Road, Wilberforce, Freetown in a sealed envelope indicating the following reference "To support review and amendment of the human Rights Commission of Sierra Leone(HRCSL) Act, 2004 to meet modern demands of National Human Rights Institution: 4904 or by email at the following address ONLY: [procure.sle@undp.org](mailto:procure.sle@undp.org) by the dead line as advertised. Incomplete applications will be excluded from further consideration.

##### Note:

- The information in the breakdown of the offered lump sum amount provided by the offeror will be used as the basis for determining best value for money, and as reference for any amendments of the contract.
- The agreed contract amount will remain fixed regardless of any factors causing an increase in the cost of any of the components in the breakdown that are not directly attributable to UNDP.
- Approved local travel related to this assignment will be arranged and paid by UNDP Sierra Leone.

**Please note that applications will only be considered if they include ALL of the items listed above. Also note that the UNDP job portal website only allows for one document to be uploaded, so please combine all of the abovementioned items into one single Word or PDF document before uploading.**

#### 5. FINANCIAL PROPOSAL

<sup>1</sup> Engagement of the consultants should be done in line with guidelines for hiring consultants in the POPP: <https://info.undp.org/global/popp/Pages/default.aspx>

<sup>2</sup> <https://intranet.undp.org/unit/bom/pso/Support%20documents%20on%20IC%20Guidelines/Template%20for%20Confirmation%20of%20Interest%20and%20Submission%20of%20Financial%20Proposal.docx>

<sup>3</sup> [http://www.undp.org/content/dam/undp/library/corporate/Careers/P11\\_Personal\\_history\\_form.doc](http://www.undp.org/content/dam/undp/library/corporate/Careers/P11_Personal_history_form.doc)

## PAYMENT MILESTONES AND AUTHORITY

The prospective consultant will indicate the cost of services for each deliverable in Leone **all-inclusive<sup>4</sup> lump sum contract amount** when applying for this consultancy. The consultant will be paid based on the effective UN exchange rate (where applicable), and only after approving authority confirms the successful completion of each deliverable as stipulated hereunder.

The qualified consultant shall receive his/her lump sum service fees upon certification of the completed tasks satisfactorily, as per the following payment schedule:

| Installment of Payment/Period | Deliverables or Documents to be Delivered                                     | Approval should be obtained | Percentage of Payment |
|-------------------------------|---|-----------------------------|-----------------------|
| 1 <sup>st</sup> Installment   | Upon submission and approval of inception report (7 days).                    | Yes                         | 20%                   |
| 2 <sup>nd</sup> Installment   | Upon submission and approval of TOR developed and TWGRA established (8 weeks) | Yes                         | 50%                   |
| 3 <sup>rd</sup> Installment   | Upon submission and approval of the TWG report (7 days).                      | Yes                         | 30%                   |

## 6. EVALUATION

*The UNDP Sierra Leone will choose among one of these two evaluation methods prior to submit the have the Individual Consultant Procurement Notice. Once the evaluation method has been selected the other one shall be deleted to avoid any misunderstanding*

### CRITERIA FOR SELECTING THE BEST OFFER

Offers received will be evaluated using a combined scoring method, where the qualifications and proposed methodology will be weighted 70%, and combined with the price offer, which will be weighted 30%. Only consultants obtaining a minimum of 49 points in the Technical Evaluation will be considered for the Financial Evaluation. Criteria to be used for rating the qualifications and methodology:

Applicants are reviewed based on Required Skills and Experience stated above and based on technical

<sup>4</sup> The term "All inclusive" implies that all costs (professional fees, travel costs, living allowances, communications, consumables, etc.) that could possibly be incurred by the Contractor are already factored into the final amounts submitted in the proposal



this weighted scoring method, the award of the contract will be made to the individual consultant whose offer has been evaluated and determined as:

- Being responsive/compliant/acceptable; and
- Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation where technical criteria weighs 70% and Financial criteria/proposal weighs 30%

**Technical evaluation criteria (total 70 points, 70%):**

**Technical evaluation criteria (total 70 points)**

- Proposed methodology of approach to the consultancy [25 marks].
- Demonstrated experience in similar work of facilitating stakeholders' engagement including the development and/or review of laws, policies and strategic plans for national human rights or government institutions in developing or post-conflict countries. [25 marks].
- Experience in developing and delivering training programmes, facilitation of large and small groups and experience in working with a variety of stakeholders including the UN Agencies. [20 marks].

**Financial evaluation (total 30 points)**

All technically qualified proposals will be rated out of 30 points. The maximum points (30) will be assigned to the lowest financial proposal.

| Criteria  | Weight     | Max. Point |
|---|------------|------------|
| <b>Technical Competence (based on CV, Proposal and interview (if required))</b> | <b>70%</b> | <b>700</b> |
| Methodology and approach to the consultancy (25%)                               |            |            |
| Work experience as related to the assignment (25%)                              |            |            |
| Academic qualification (20%)  |            |            |

|   |  |            |
|---|--|------------|
| <b>Financial (Lower Offer/Offer*100)</b><br><b>Financial evaluation (total 30 points):</b><br><br>All technically qualified proposals will be scored out 30 based on the formula provided below. The maximum points (30) will be assigned to the lowest financial proposal. All other proposals receive points according to the following formula: $p = y (\mu/z)$ where: p = points for the financial proposal being evaluated; y = maximum number of points for the financial proposal; $\mu$ = price of the lowest priced proposal; z = price of the proposal being evaluated. | <b>30%</b>   | <b>300</b> |
| <b>Total Score</b>  | <b>Technical Score * 70% + Financial Score * 30%</b> |            |

*UNDP is committed to achieving workforce diversity in terms of gender, nationality and culture. Individuals from minority groups, indigenous groups and persons with disabilities are equally encouraged to apply. All applications will be treated with the strictest confidence.*

  
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**Rokya Ye Dieng**  
**Deputy Resident Representative (P & O)**

## **ANNEX**

### **ANNEX 1- TERMS OF REFERENCES (TOR)**

### **ANNEX 2- INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS**





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## UNITED NATIONS DEVELOPMENT PROGRAMME

### TERMS OF REFERENCE



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| Basic Information   |  |
|---|--|
| <b>Title</b>  | Consultancy to support review and amendment of the Human Rights Commission of Sierra Leone (HRCSL) Act, 2004 to meet modern demands of National Human Rights Institution |
| <b>Department/Unit</b>  | Inclusive Democratic Governance Cluster  |
| <b>Supervisor</b>   | Rule of Law (RoL) Portfolio Manager  |
| <b>Duration</b>   | Sixty (60) Days  |
| <b>Type of Contract</b>   | National Consultant  |
| <b>Location</b>   | Freetown   |
| <b>Application deadline</b>   | 30 <sup>th</sup> March 2020  |
| <b>1.1.1 A. Project Title</b>   | Support to capacity strengthening of the HRCSL effective promotion and protection of human rights  |
| <b>1.1.1.1 B. Project Description</b>   |  |
| <p>The support to the review and amendment of the HRCSL Act, 2004 forms part of the project on strengthening the capacity of the HRCSL to effectively deliver on its mandate of promotion and protection of human rights in Sierra Leone in accordance with the Human Rights Commission of Sierra Leone Act, 2004 (HRCSL Act. 2004) and international human rights norms and standards. The project is jointly funded by the Embassy of Ireland and UNDP to support the Commission's national priorities, as articulated in its third Strategic Plan (SP) (2016-2020), thereby complements the efforts of the Government of Sierra Leone. The</p> |  |

key focus is on enhancing the institutional and human resource capacities of the Commission and fostering effective engagement with relevant stakeholders both at the national and regional levels on issues of human rights and enhancing accountability for human rights violations by the state and its agents. Within the broad objective of the project, support will be provided towards strengthening staff and institutional capacity as well as public awareness and empowerment of rights-holders to hold government accountable to their human rights commitment.

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#### **1.1.1.1.2 C. Scope of Work**

The overall objective of the consultancy is to support the review of the HRCSL Act, 2004 and a draft revised HRCSL Act prepared for subsequent enactment. Accordingly, the prospective consultant will facilitate stakeholders' working group sessions to review the Act and ascertain an exhaustive list of gaps which will constitute the basis for amendment. He/she will therefore carry out the following key activities.

**Develop Terms of Reference (TOR) and establish Technical Working Group:** The consultant will work in collaboration with the HRCSL and UNDP to develop the ToR for a Technical Working Group (TWG) for the review of the Act. He/she will subsequently facilitate the functioning of the TWG to ensure the objectives of the TOR are achieved. The TWG will comprise officials and staff of the HRCSL, Ministry of Justice, Judiciary, Law Reform Commission (LRC), the Independent Police Complaint Board (IPCB) Civil society



organisations (CSOs) including Human Rights Defenders.

**Facilitate Technical Working Group:** The consultant will serve as facilitator for the TWG and he/she will provide technical assistance and guidance to the operations of TWG. He/she has the responsibility for the overall management of the work of the TWG including convening and managing meetings as per TOR, engaging stakeholders, preparing presentations on best practices and reporting. He/she will organise and facilitate at least six (6) weekly sitting of the TWG and ensure signed minutes, including attendance, are prepared.

**Prepare a Comprehensive Report on the work of the TWG:** At the conclusion of the work of the TWG, the Consultant Facilitator will prepare a comprehensive report on the work of the TWG detailing all the relevant issues and lacunas identified and proposals for amendment of the Act as per discussions emanating from the TWG which will be eventually submitted to guide the work of the Legal Draftsperson in the Ministry of Justice.

#### 1.1.1.1.3 D. Expected Outputs and Deliverables

##### 1.1.1.1.4

| Deliverables/ Outputs   | Estimated Duration to Complete | Target Due Dates | Review and Approvals Required (Indicate designation of person who will review output and confirm acceptance) |
|---|--------------------------------|------------------|--|
| An inception report developed establishing the methodology to be employed by the consultant in delivering | Seven days                     | 2020-04-21       | RoL Portfolio Manager  |
| ToR developed and TWG established   | Ten days                       | 2020-05-05       | RoL Portfolio Manager  |
| Six-week sessions facilitated to review the HRCSL Act, 2004 and signed minutes are submitted.             | Six weeks                      | 2020-06-16       | RoL Portfolio Manager  |
| A comprehensive report on the work of the TWGRA prepared and submitted                                    | Seven days                     | 2020-06-25       | RoL Portfolio Manager  |
|   |                                |                  |  |

|   |   |
|---|---|
| <b>E. Institutional Arrangement</b>   |   |
| The consultant will work under the direct supervision of UNDP RoL Portfolio Manager and his team. He/she is directly responsible to RoL Portfolio Manager for all the relevant documents, presentations and outputs delivered by the consultant. He/she will keep UNDP and the HRCSL updated on a weekly basis on the progress made. His final report shall be shared with UNDP and the Commission for inputs before distribution to members of the TWG.                        |   |
| <b>F. Duration of the Work</b>  |   |
| The expected duration of work to be performed is sixty days. Work is expected to commence on 30 March 2020 and end upon satisfactory completion of deliverables/outputs, but not later than 21 May 2020.  |   |
| 1.1.1.1.4.1.1.1.1   | <b>G. Duty Station</b>  |
| The duty station for the prospective consultant is Freetown, where he/she is expected to ensure effective consultations and engagement with stakeholders. Within the duration of the work, he/she will work in collaboration with the Commission to organise and facilitate the weekly sittings of the TWG and therefore not required to be present at the HRCSL office on a daily basis. However he will ensure follow up with the Commission on his work on a constant basis. |   |
| <b>2 H. Required Qualification and Experience</b>   |   |
| <b>3</b>  |   |
| <b>Education:</b>   | Advanced university degree in Law, Human Rights, International Relations, Development Studies or Political Science.   |
| <b>Experience:</b>  | <ul style="list-style-type: none"> <li>▪ Minimum of seven (7) years of relevant experience in supporting technical capacity building programmes for rule of law and human rights institutions, the criminal justice system or civil society organisations.</li> <li>▪ Experience in facilitating stakeholders' forum including the development and/or review of laws, policies and strategic plans.</li> <li>▪ Demonstrate excellent skills in conducting research and experience in legal drafting.</li> <li>▪ Experience in developing PowerPoint presentations, training methodologies and facilitation of large and small groups.</li> <li>▪ Demonstrate experience in working with a variety of stakeholders;</li> <li>▪ Understanding of basic gender concepts and principles, skills, experience and commitment;</li> <li>▪ Strong writing and oral communications skills;</li> <li>▪ Strong analytical and reporting skills, and experience of presenting complex technical information in an easily comprehensible way.</li> </ul> |



|                               |  |
|-------------------------------|--|
| <b>Language Requirements:</b> | Strong ability to communicate clearly in written and spoken English. |
|-------------------------------|--|

#### I. Scope of Price Proposal and Schedule of Payments

The individual contactor will receive a lump sum amount as consideration for the satisfactory performance of services and certified by the RoL Portfolio Manager. Payment for services will be done in installment contingent upon the achievement of each deliverable or output according to the scheduled below.

| Deliverables/ Outputs   | Estimated Duration to Complete | Target Due Dates | Payment |
|---|--------------------------------|------------------|---------|
| An inception report developed portraying the methodology of approach to the consultancy | Seven days                     | 2020-04-21       | 20%     |
| ToR developed and TWGRA established   | Ten days                       | 2020-05-05       | 50%     |
| Six-week sessions facilitated to review the HRCSL Act, 2004.                            | Six weeks                      | 2020-06-16       |         |
| A comprehensive report on the work of the TWG prepared and submitted                    | Seven days                     | 2020-06-25       | 30%     |
|   |                                |                  |         |

#### J. Submission of Application

Qualified applicants are required to submit both technical and financial proposals through the link provided.

##### Technical proposal comprising of the following:

- Duly accomplished **Letter of Confirmation of Interest and Availability** using the template provided by UNDP;
- Personal CV or P11, indicating all past experience from similar consultancy, as well as the contact details (email and telephone number) of the candidate and three (3) professional references;
- Brief description (max. 1 page) of why you consider yourself as the most suitable for the assignment, and a methodology (max. 2 page) for how you will approach and complete the assignment;

**Financial proposal:** Financial proposals are expected to be realistic indicating the all-inclusive fixed total contract price, supported by a breakdown of costs.

For any further clarification, you may contact the Head Procurement.

#### **K. Criteria for Selection of the Best Offer**

Offers received will be evaluated using a combined scoring method, where the qualifications and proposed methodology will be weighted 70%, and combined with the price offer, which will be weighted 30%.

##### **Criteria to be used for rating the qualifications and methodology**

##### **Technical evaluation criteria (total 70 points)**

- Proposed methodology of approach to the consultancy [25 marks].
- Demonstrated experience in similar work of facilitating stakeholders' engagement including the development and/or review of laws, policies and strategic plans for national human rights or government institutions in developing or post-conflict countries. [25 marks].
- Experience in developing and delivering training programmes, facilitation of large and small groups and experience in working with a variety of stakeholders including the UN Agencies. [20 marks].

Only candidates obtaining a minimum of 49 points in the Technical Evaluation will be considered for the Financial Evaluation.

##### **Financial evaluation (total 30 points)**

All technically qualified proposals will be rated out of 30 points. The maximum points (30) will be assigned to the lowest financial proposal.

***UNDP is committed to achieving workforce diversity in terms of gender, nationality and culture. Individuals from minority groups, indigenous groups and persons with disabilities are equally encouraged to apply. All applications will be treated with the strictest confidence.***





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## UNDP

### GENERAL CONDITIONS OF CONTRACT FOR SERVICES

#### 1.0 LEGAL STATUS:

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

#### 2.0 SOURCE OF INSTRUCTIONS:

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

#### 3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

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

#### 4.0 ASSIGNMENT:

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

#### 5.0 SUB-CONTRACTING:

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-

contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

#### **6.0 OFFICIALS NOT TO BENEFIT:**

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

#### **7.0 INDEMNIFICATION:**

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

#### **8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:**

**8.1** The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

**8.2** The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

**8.3** The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

**8.4** Except for the workmen's compensation insurance, the insurance policies under this Article shall:

**8.4.1** Name UNDP as additional insured;

**8.4.2** Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;



**8.4.3** Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

**8.5** The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

**9.0 ENCUMBRANCES/LIENS:**

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

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

**11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:**

**11.1** Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

**11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

**11.3** At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.

**11.4** Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of the UNDP, shall be made available for use or inspection by the UNDP at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

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

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

**13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:**

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

**13.1** The recipient ("Recipient") of such information shall:

**13.1.1** use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and,

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

**13.2** Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:

**13.2.1** Any other party with the Discloser's prior written consent; and,

**13.2.2** the Recipient's employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under the Contract, and employees officials, representatives and agents of any legal entity that it controls, controls it, or with which it is under



common control, who have a need to know such Information for purposes of performing obligations under the Contract, provided that, for these purposes a controlled legal entity means:

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

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

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

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

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

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

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

#### **14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS**

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

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

14.3 Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.

14.4 The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

## 15.0 TERMINATION

15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.

15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.

15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

## 16.0 SETTLEMENT OF DISPUTES

16.1 **Amicable Settlement:** The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.



**16.2 Arbitration:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

#### **17.0 PRIVILEGES AND IMMUNITIES:**

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

#### **18.0 TAX EXEMPTION**

**18.1** Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

**18.2** Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP

with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

#### **19.0 CHILD LABOUR**

**19.1** The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

**19.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

#### **20.0 MINES:**

**20.1** The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

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

#### **21.0 OBSERVANCE OF THE LAW:**

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

#### **22.0 SEXUAL EXPLOITATION:**

**22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and



agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

**22.2** The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

**23.0 AUTHORITY TO MODIFY:**

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