

**INDIVIDUAL CONSULTANT (National)  
PROCUREMENT NOTICE**



**Date: 24<sup>th</sup> July 2020**  
**Ref: UNDP-IC-2020-238**  
**ORPS: 180**

**Country:** **Pakistan**

**Description of the assignment:** "Preparation of Green Building Design Standards and Reducing Utility Cost and Carbon Footprint of Public Sector Buildings and Organizations in Balochistan Through Deployment of Energy Conservation and Efficiency Measures"

**Project name:** Balochistan SDGs Accelerated Delivery Project -DPU

**Period of assignment/services (if applicable):** The duration of the contract will be 04 months (88 Working days).

**Location:** Home Based, However, the consultant will coordinate, lead and attend personally, all meetings/discussion with key stakeholders in Quetta.

Please submit your Technical and Financial proposals to the following address not later than **07<sup>th</sup> August 2020 at 12:30 PM PST**

**UNDP-IC-2020-238**

**UNDP Registry, Quotation/Bids/Proposals**

United Nations Development Programme  
Serena Business Complex, 2<sup>nd</sup> Floor, Khayaban-e-Suharwardy,  
Islamabad, Pakistan  
Tel: 051-8355600 Fax: 051-2600254-5

or by email to [bids.pk@undp.org](mailto:bids.pk@undp.org) no later than **07<sup>th</sup> August 2020 at 12:30 PM PST**

**Kindly write the following on top left side of the envelop or email subject line "UNDP-IC-2020-238 "Preparation of Green Building Design Standards and Reducing Utility Cost and Carbon Footprint of Public Sector Buildings and Organizations in Balochistan Through Deployment of Energy Conservation and Efficiency Measures".**

**Important note for email submissions:** Please put "UNDP-IC-2020-238" in the subject line. Further, our system will not accept emails those are more than 30 MB size. If required, segregate your emails to accommodate email data restrictions. For segregated emails please use sequence of emails like Email 1, Email 2 .... in the subject line. For attachment purposes please only use MS Word, Excel, Power Point or PDF formats.

If you request additional information, please write to [pakistan.procurement.info@undp.org](mailto:pakistan.procurement.info@undp.org). The team will provide necessary information within due date. However, any delay in providing such information will not be considered a reason for extending the submission date of your proposal. All/any query regarding the submission of the proposal may be sent prior to the deadline at the e-mail/address mentioned above.

### **TERMS OF REFERENCE**

## **IC- Preparation of Green Building Design Standards and Reducing Utility Cost and Carbon Footprint of Public Sector Buildings and Organizations in Balochistan Through Deployment of Energy Conservation and Efficiency Measures**

**A. Project Title:** Balochistan SDGs Accelerated Delivery Project

**B. Project Description:**

Pakistan has prioritized the Sustainable Development Goals and was the first country to adopt SDGs 2030 agenda through a unanimous resolution of parliament. The Sustainable Development Goals (SDGs) is a universal call to leave no one behind and reaching the furthest with a central focus on people, planet, prosperity, peace and partnership. To pursue the commitment along with Government of Pakistan, UNDP is supporting and working closely with the Government in implementation of Sustainable Development Goals. Under the Project Mainstreaming Acceleration and Policy Support (MAPS) for Sustainable Development Goals (SDGs), UNDP is supporting Ministry of Planning, Development & Reform, Government of Pakistan and Provincial Planning and Development Departments for the implementation of SDGs in Pakistan.

In Balochistan, the SDG unit has taken various steps towards localization of the 2030 Agenda in the province. The efforts mainly include Provincial SDGs Framework for Balochistan, updation of Balochistan Comprehensive Development Strategy and development of District Localization Plans on pilot basis. Environment and Climate Change are critical to the SDG agenda and are a key concern for Balochistan.

Currently, the building sector is not monitored for its energy performance, Buildings in Balochistan are mostly without energy conservation and efficiency measures. The design of the existing buildings or new constructions do not take into account green features. Hence energy efficiency and conservation measures are necessary at the provincial level which will largely contribute to minimize carbon emission activities and to reduce fossil fuel usage and reduce GHG emissions through better designs. Similarly, architectural and engineering design of new buildings (to be constructed) do not have any green building standards to follow. There is need to define standards and also introduce green building certification system. In this regard, UNDP is seeking services of a consultant to work closely with the Government of Balochistan to identify public sector building and conduct an energy conservation assessment to identify interventions for energy conservation, design green building standards and certification system. The consultant will also impart training to architects and designers on green building designs and certification system.

**C. Purpose of the Assignment:**

Purpose of the assignment is to introduce green building concepts, bringing into practice design and implementation of green buildings and assess current public-sector buildings to explore options of making them as green as possible thus reducing carbon footprint

**D. Scope of Work:**

The scope of this activity is to assess and select four sites/buildings for the demonstration of energy efficiency and energy management measures. The consultant will propose solutions to reduce utility cost and carbon footprint of the pilot sites and to reshape current buildings and provide guidelines on

how to construct new buildings in such a way to minimize carbon emission activities through better designs, identification and recommendation of energy conservation measures. The consultant will perform the following tasks:

- Literature review concerning current building design practices and use of type of construction material.  
Hold meetings with the stakeholders to get further insight into the design practices and requirements.
- In consultation with provincial government, the consultant will identify 4 public sector sites/buildings for the energy conservation pilot study based on some criteria developed by the consultant. This can be a combination of standalone buildings as well as organizations, each of which incur utility cost (electricity or gas) of at least PKR 3.5 million per month. Examples of sites that could potentially be included in the study are the provincial assembly, government run hospitals, schools and universities, amongst other provincial department buildings.
- Prepare buildings profile: (type of building, construction year, floor area, height of building, construction system, weekly operating hours/ number of users/ types of cooling/heating system etc).
- Identify building envelope characteristics (insulation type and properties, material used, windows, roof, ventilation etc).
- Determine baseline energy profile of the building (types of energies used in building and its cost). The consultant will review electricity and gas bills to identify anomalies in billing, ensuring optimum tariff structure and application of appropriate taxes.
- Stock taking of appliances used in the sites/buildings and their electrical power ratings.
- Conduct a thorough study and observe various operations by keeping focus on energy consuming appliances and assess the operating usage, characterizes, operating and maintenance procedures.
- Identify the energy efficiency measures taken in the building to reduce energy usage.
- Recommend possible low cost/no cost energy efficiency interventions to identify cost saving opportunities within operational process and green building standards (both for public and private sectors).
- In context of Balochistan, recommend Green design features for public sector and private sectors buildings.
- In context of Balochistan, provide capacity to Energy Department in their proposals and brief for energy efficiency and conservation related projects and specifically where such projects will accelerate progress towards SDGs.
- Suggest building material types for green building design for new construction type buildings.
- Propose structure for Green building certification system and thereby recommend any legal actions that are required.
- Recommend possible capital improvements to make the sites more energy efficient.
- Conduct cost and benefit analysis of the identified energy efficiency/energy conservation measures.
- Recommend ways to decrease roof heating of existing building type by assessing the following methods or any other:
  - a) Roof top solar assessment and installation potential
  - b) Green roof and roof insulation

- The consultant will complete assessment within a 4-month period. At the end of assessment, the consultant will share a short findings and recommendations report which will cover the following areas:
  - i) Areas where inefficiencies and cost saving potential exist.
  - ii) Solution(s) and methodology to realize cost savings and reduce carbon footprint.
  - iii) Estimated annual savings in rupee and carbon footprint through each solution (through stepwise calculation).
  - iv) Estimated investment value by implementation of the proposed solution inclusive of payback period.
  - v) Green building design standards in context of Balochistan
  - vi) Structure of the green building certification system order program with Proposed legal actions required to implement the certification system

All the proposed solutions will be realistic and achievable,

- After submission of assessment report, the consultant in consultation with P&DD, Balochistan and UNDP will develop an action plan for implementation.
- The consultant will develop and conduct training of local architects and engineers on Green building design practices / features, requirements of the Green building certification and energy conservation to ensure design and delivery of energy efficient and green infrastructure in the province – in line with the provincial government's interest to introduce and adopt legislature to promote energy conservation.

**Note:** The consultant is encouraged to include additional factors in the final report beyond the descriptions outlined above if he/she believe it will add to the quality of the final deliverables.

## **E. Expected Outputs and Deliverables.**

The duration of the consultancy is expected to take 88 working days, which is further broken down below as per deliverables and payments:

<b>S.No</b>	<b>Deliverables/Outputs</b>	<b>Estimated Duration to Complete</b>	<b>Target Due Dates</b>	<b>Payment Schedule</b>	<b>Review and Approvals Required</b>
1	Submission of detailed methodology and timelines	2nd week from contract signing	September 2020	20%	Each deliverable will be reviewed and approved by P&DD, Government of Balochistan and UNDP
2	Draft Main report	Within two months	October 2020	30%	
3	Action plan and Training report	Within three months	November 2020	20%	
4	Final report (it must contain findings, and recommendation, appropriate tables of data and graphical presentations, pictures of placed surveyed to support the explanations).	One week before the end of the prescribed time for the assignment	December 2020	30%	

## **F. Institutional Arrangement**

- Reporting of the consultancy will be to Assistant Resident Representative (ARR DPU) UNDP CO, Provincial Representative UNDP Sub Quetta and Chief of Section (SDGs), Planning & Development Department (P&DD), Government of Balochistan. The consultant will also engage with Environment and Climate Change Unit.
- Progress at each phase of the consultancy is mandatory and therefore, continuous liaison for support and technical inputs will be done with the P&DD and UNDP.
- UNDP will not provide any additional financial support for logistics during travel or for the induction of support staff.

## **G. Duration of the Work**

The duration of contract will be 4 months (88 working days) from the date of signing of contract.

## **H. Duty Station**

While it is not mandatory for the consultant to be based in Quetta however, he/she will coordinate, lead and attend personally, all meetings/discussion with key stakeholders in Quetta. In this regard, it is the responsibility of the consultant to do the relevant arrangements including traveling and logistics.

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

The financial proposal shall specify a total lump sum amount and the breakdown of this lump sum against each deliverable (including travel, per diems, and number of anticipated working days). Payments are based upon outputs, i.e. upon delivery of the services specified in the TOR.

## **Documents to be included when submitting the Proposals:**

The following documents are requested:

- a) Duly accomplished Letter of Confirmation of Interest and Availability using the template provided by UNDP;
- b) Proposal on how your qualifications and experience can lead towards the successful deliverable of this assignment within the required timeframe, and provide a brief methodology on how you will approach and conduct the assignment;
- c) Personal CV or P11, indicating all past experiences from similar projects, as well as the contact details (email and telephone number) and at least three (3) professional references;
- d) Brief description of why the individual considers him/herself as the most suitable for the assignment, and a methodology and how they will approach and complete the assignment.
- e) Financial Proposal that indicates the all-inclusive fixed total contract price, supported by a breakdown of costs, as per template provided.

## **J. Evaluation**

Individual consultants will be evaluated based on the following methodologies Cumulative analysis. The award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

- a) Responsive/compliant/ acceptable, and
- b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

- Technical Criteria weight; [70%]
- Financial Criteria weight; [30%]

Only candidates obtaining a minimum of 70% (49 out of 70) point would be considered for the financial evaluation.

Criteria		Weight	Max. Point
<b>Technical</b>		<b>70</b>	
Consultant must have master’s degree or Ph.D in energy or building services related field such as building services engineering with focus on green building features, civil engineering, electrical engineering or any other related discipline.		10	
Minimum 8-10 years of experience in the relevant field at international or national level.		10	
Strong analytical skills and ability to clearly synthesize and present findings, draw practical conclusions and to prepare well-written reports in a timely manner;		10	
Technical Proposal / Methodology & Approach		40	
<b>Financial</b>		<b>30</b>	
<b>Total score</b>	<b>Technical score 70+30 Financial</b>		
<b>Weight per Technical Competence</b>			
Weak: Below 70%	The individual consultant has demonstrated a <b>WEAK</b> capacity for the analyzed competence		
Satisfactory: 70-75%	The individual consultant has demonstrated a <b>SATISFACTORY</b> capacity for the analyzed competence		
Good: 76-85%	The individual consultant has demonstrated a <b>GOOD</b> capacity for the analyzed competence		
Very Good: 86-95%	The individual consultant has demonstrated a <b>VERY GOOD</b> capacity for the analyzed competence		
Outstanding: 96-100%	The individual consultant has demonstrated an <b>OUTSTANDING</b> capacity for the analyzed competence		

## **ANNEX**

<b>ANNEX</b>	<b>1- TERMS OF REFERENCES (TOR)</b>
<b>ANNEX</b>	<b>2- INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS</b>
<b>ANNEX</b>	<b>3- PROPOSAL SUBMISSION FORM</b>
<b>ANNEX</b>	<b>4- OFFEROR'S LETTER TO UNDP</b>
<b>ANNEX</b>	<b>5- FINANCIAL PROPOSAL</b>
<b>ANNEX</b>	<b>6-P11 Form</b>
<b>ANNEX</b>	<b>7- Statement of Good Health</b>

## INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS

### GENERAL CONDITIONS OF CONTRACT FOR THE SERVICES OF INDIVIDUAL CONTRACTORS

**1. LEGAL STATUS:** The Individual contractor shall have the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP), and shall not be regarded, for any purposes, as being either a “staff member” of UNDP, under the UN’ Staff Regulations and Rules, or an “official” of UNDP, for purposes of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946. Accordingly, nothing within or relating to the Contract shall establish the relationship of employer and employee, or of principal and agent, between UNDP and the Individual contractor. The officials, representatives, employees or subcontractors of UNDP and of the Individual contractor, if any, shall not be considered in any respect as being the employees or agents of the other, and UNDP and the Individual contractor shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

**2. STANDARDS OF CONDUCT:** In General: The Individual 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 on the Contract regarding the Individual contractor’s performance under the Contract, the Individual contractor shall promptly notify UNDP and shall provide all reasonable assistance required by UNDP. The Individual contractor shall not take any action in respect of its performance of the Contract or otherwise related to its obligations under the Contract that may adversely affect the interests of UNDP, and the Individual contractor shall perform its obligations under the Contract with the fullest regard to the interests of UNDP. The Individual 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 Individual contractor shall comply with all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract. In the performance of the Contract the Individual contractor shall comply with the standards of conduct set 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”. The individual contractor must comply with all Security Directives issued by UNDP. Failure to comply with such security directives is grounds for termination of the Individual contractor for cause.

**Prohibition of Sexual Exploitation and Abuse:** In the performance of the Contract, the Individual 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 Individual contractor shall not engage in any conduct that would constitute sexual exploitation or sexual abuse, as defined in that bulletin.

The Individual contractor acknowledges and agrees that any breach of any of the provisions hereof shall constitute a breach of an essential term of the Contract, and, in addition to any other legal rights or remedies available to any person, shall give rise to grounds for termination of the Contract. In addition, nothing herein shall limit the right of UNDP to refer any alleged breach of the foregoing standards of conduct to the relevant national authorities for appropriate legal action.

**3. TITLE RIGHTS, COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS:** Title to any equipment and supplies that may be furnished by UNDP to the Individual 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 Individual contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Individual contractor, subject to normal wear and tear, and the Individual contractor shall be liable to compensate UNDP for any damage or degradation of the equipment that is beyond normal wear and tear.

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 Individual 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, and the Individual contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP. However, to the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Individual contractor: (a) that pre-existed the performance by the Individual contractor of its obligations under the Contract, or (b) that the Individual 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 Individual contractor grants to UNDP a perpetual licence to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract. At the request of UNDP, the Individual 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. 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 Individual 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

**4. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:** Information and data that are considered proprietary by either UNDP or the Individual contractor or that are delivered or disclosed by one of them ("Discloser") to the other ("Recipient") during the course of performance of the Contract, and that are designated as confidential ("Information"), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall 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 the Recipient may otherwise use the Discloser's Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser's prior written consent, as well as to the Recipient's employees, officials, representatives and agents who have a need to know such confidential Information solely for purposes of performing obligations under the Contract. Subject to and without any waiver of the privileges and immunities of UNDP, the Individual contractor may disclose Information to the extent required by law, *provided that* the Individual 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. UNDP may disclose Information to the extent as required pursuant to the Charter of the United Nations, resolutions or regulations of the General Assembly or its other governing bodies, or rules promulgated by the Secretary-General. 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. 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.

**5. TRAVEL, MEDICAL CLEARANCE AND SERVICE INCURRED DEATH, INJURY OR ILLNESS:** If the Individual contractor is required by UNDP to travel beyond commuting distance from the Individual contractor's usual place of residence, and upon prior written agreement, such travel shall be at the expense of UNDP. Such travel shall be at economy care when by air.

UNDP may require the Individual contractor to submit a Statement of Good Health from a recognized physician prior to commencement of work in any offices or premises of UNDP or before engaging in any travel required by UNDP or connected with the performance of the Contract. The Individual contractor shall provide such a Statement of Good Health as soon as practicable following such request, and prior to engaging in any such travel, and the Individual contractor warrants the accuracy of any such Statement, including, but not limited to, confirmation that the Individual contractor has been fully informed regarding the requirements for inoculations for the country or countries to which travel may be authorized.

In the event of the death, injury or illness of the Individual contractor which is attributable to the performance of services on behalf of UNDP under the terms of the Contract while the Individual contractor is traveling at UNDP expense or is performing any services under the Contract in any offices or premises of UNDP, the Individual contractor or the Individual contractor's dependants, as appropriate, shall be entitled to compensation equivalent to that provided under the UNDP insurance policy, available upon request.

**6. PROHIBITION ON ASSIGNMENT; MODIFICATIONS:** The Individual contractor may not assign, delegate, transfer, pledge or make any other disposition of the Contract, of any part thereof, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of UNDP, and any attempt to do so shall be null and void. The terms or conditions of any supplemental undertakings, licences or other forms of Contract concerning any goods or services to be provided under the Contract shall not be valid and enforceable against UNDP nor in any way shall constitute an Contract by UNDP thereto, unless any such undertakings, licences or other forms of Contract are the subject of a valid written undertaking by UNDP. No modification or change in the Contract shall be valid and enforceable against UNDP unless provided by means of a valid written amendment to the Contract signed by the Individual contractor and an authorized official or appropriate contracting authority of UNDP.

**7. SUBCONTRACTORS:** In the event that the Individual contractor requires the services of subcontractors to perform any obligations under the Contract, the Individual contractor shall obtain the prior written approval of UNDP for any such subcontractors. UNDP may, in its sole discretion, reject any proposed subcontractor or require such subcontractor's removal without having to give any justification therefore, and such rejection shall not entitle the Individual 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. The Individual 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.

**8. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS:** The Individual 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 Individual contractor, in any manner whatsoever, use the name, emblem or official seal of UNDP, or any abbreviation of the name of UNDP, in connection with its business or otherwise without the written permission of UNDP.

**9. INDEMNIFICATION:** The Individual 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, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to: (a) allegations or claims that the use by UNDP of any patented device, any copyrighted material or any other goods or services provided to UNDP for its use

under the terms of the Contract, in whole or in part, separately or in combination, constitutes an infringement of any patent, copyright, trademark or other intellectual property right of any third party; or (b) any acts or omissions of the Individual 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.

**10. INSURANCE:** The Individual contractor shall pay UNDP promptly for all loss, destruction or damage to the property of UNDP caused by the Individual contractor, or of any subcontractor, or anyone directly or indirectly employed by them in the performance of the Contract. The Individual contractor shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of its obligations under the Contract, as well as for arranging, at the Individual contractor's sole expense, such life, health and other forms of insurance as the Individual contractor may consider to be appropriate to cover the period during which the Individual contractor provides services under the Contract. The Individual contractor acknowledges and agrees that none of the insurance arrangements the Individual contractor may make shall, in any way, be construed to limit the Individual contractor's liability arising under or relating to the Contract.

**11. ENCUMBRANCES AND LIENS:** The Individual 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 Individual contractor or to 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 Individual contractor.

**12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:** In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions 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 conditions or occurrence, the Individual contractor shall also submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract.

In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions 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 conditions or occurrence, the Individual contractor shall also submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract.

*Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, 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 Individual contractor. The Individual contractor acknowledges and

agrees that, with respect to any obligations under the Contract that the Individual contractor must perform in or for any areas in which UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delay 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

**13. TERMINATION:** Either party may terminate the Contract, in whole or in part, upon giving written notice to the other party. The period of notice shall be five (5) days in the case of Contracts for a total period of less than two (2) months and fourteen (14) days in the case of contracts for a longer period. The initiation of conciliation or arbitral proceedings, as provided below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract. UNDP may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that: (a) the Individual contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, applies for moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent; (b) the Individual contractor is granted a moratorium or a stay or is declared insolvent; the Individual contractor makes an assignment for the benefit of one or more of its creditors; (c) a Receiver is appointed on account of the insolvency of the Individual contractor; (d) the Individual contractor offers a settlement in lieu of bankruptcy or receivership; or (e) UNDP reasonably determines that the Individual contractor has become subject to a materially adverse change in its financial condition that threatens to endanger or otherwise substantially affect the ability of the Individual contractor to perform any of its obligations under the Contract.

In the event of any termination of the Contract, upon receipt of notice of termination by UNDP, the Individual contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing: (a) 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; (b) refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice; (c) 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; (d) complete performance of the work not terminated; and (e) take any other action that may be necessary, or that UNDP may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Individual contractor and in which UNDP has or may be reasonably expected to acquire an interest.

In the event of any termination of the Contract, UNDP shall only be liable to pay the Individual contractor compensation on a pro rata basis for no more than the actual amount of work performed to the satisfaction of UNDP in accordance with the requirements of the Contract. Additional costs incurred by UNDP resulting from the termination of the Contract by the Individual contractor may be withheld from any amount otherwise due to the Individual contractor from UNDP..

**14. NON-EXCLUSIVITY:** UNDP shall have no obligation respecting, and no limitations on, its right to obtain goods of the same kind, quality and quantity, or to obtain any services of the kind described in the Contract, from any other source at any time.

**15. TAXATION:** 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 the United Nations from such taxes, restrictions, duties or charges, the Individual contractor shall immediately consult with UNDP to determine a mutually acceptable procedure. UNDP shall have no liability for taxes, duties or other similar charges payable by the Individual contractor in respect of any amounts paid to the Individual contractor under this

Contract, and the Individual contractor acknowledges that UNDP will not issue any statements of earnings to the Individual contractor in respect of any such payments.

**16. AUDITS AND INVESTIGATIONS:** 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 two (2) years following the expiration or prior termination of the Contract. UNDP shall be entitled to a refund from the Individual contractor for any amounts shown by such audits to have been paid by UNDP other than in accordance with the terms and conditions of the Contract.

The Individual contractor acknowledges and agrees that, from time to time, 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 Individual contractor generally relating to performance of the Contract. The right of UNDP to conduct an investigation and the Individual contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Individual 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 Individual 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 Individual contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Individual contractor's personnel and relevant documentation. The Individual contractor shall require its agents, including, but not limited to, the Individual contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

#### **17. SETTLEMENT OF DISPUTES:**

**AMICABLE SETTLEMENT:** UNDP and the Individual contractor 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.

**ARBITRATION:** Any dispute, controversy or claim between the parties arising out of the Contract, or the breach, termination, or invalidity thereof, unless settled amicably, as provided above, shall be referred by either of the parties 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.

**18. LIMITATION ON ACTIONS:** Except with respect to any indemnification obligations in Article 9, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 17, above, arising out of the Contract must be commenced within three (3) years after the cause of action has accrued.

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,

**19. 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.

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