



## REQUEST FOR PROPOSAL (RFP)

<b>UNDP Europe and the CIS, Bratislava Regional Centre Grosslingova 35, 811 09 Bratislava, Slovak Republic</b>	DATE: December 20, 2013
	REFERENCE: <b>2013/29/RFP - Transfer of Czech Best Practice and Lessons Learned: Local Self-Government's Role in Creating Environment without Discrimination and Stigmatization of PLHIV to the Representatives from the Republic of Serbia</b>

Dear Sir / Madam:

We kindly request you to submit your Proposal for **2013/29/RFP - Transfer of Czech Best Practice and Lessons Learned: Local Self-Government's Role in Creating Environment without Discrimination and Stigmatization of PLHIV to the Representatives from the Republic of Serbia**.

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

Proposals may be submitted on or before **16:00 CET, Friday, January 24, 2013** via courier mail to the address below:

**United Nations Development Programme  
Bratislava Regional Centre  
Grosslingova 35, 811 09 Bratislava, Slovak Republic  
Mr. Miroslav Hrenovic  
Tel: 00421 2 59337 111**

Your Proposal must be expressed in the English, and valid for a minimum period of 120 days.

In the course of preparing your Proposal, it shall remain your responsibility to ensure that it reaches the address above on or before the deadline. Proposals that are received by UNDP after the deadline indicated above, for whatever reason, shall not be considered for evaluation.

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

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

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

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

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a Proposal implies that the Service Provider accepts without question the General Terms and Conditions of UNDP, herein attached as Annex 3.

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

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

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

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

Thank you and we look forward to receiving your Proposal.

**Andrey Pogrebnyak**  
*Assistant Director (Operations)*  
20/12/2013

## Description of Requirements

Context of the Requirement	<p>AIDS epidemic and vulnerability to HIV are directly dependent on understanding and respecting of the human rights of key populations at higher risk of HIV, marginalized groups and PLHIV. Human rights abuses and violations are fueling AIDS epidemic. The international system of human rights explicitly recognizes HIV status as a basis for discrimination<sup>1</sup>. Worldwide, an increased infection has been registered among women, children, poor and marginalized, thus drawing attention to the fact that these groups are also vulnerable when it comes to HIV infection. In this sense, availability of HIV prevention, treatment, care and support services to key populations and PLHIV can significantly be influenced by stigma and discrimination. In Serbia, the Law on Prohibition of Discrimination (AD Law) provides national mechanism for protection against discrimination. The other relevant mechanism is the Commissioner for Protection of Equality (CPE), who receives and considers complaints, provides opinions and recommendations and orders measures to address discrimination issues. Nevertheless, protection against discrimination is under-utilized, due insufficient knowledge of both citizens and NGOs on how to use the mechanism effectively; relatively low visibility of the CPE and their work; lack of understanding and knowledge on how the mechanism can be used without exposure of individuals, which is particularly affecting key population at higher risk of HIV and PLHIV.</p> <p>Serbia is a low HIV prevalence country with the cumulative number (1984-2012) of 2,725 of all registered cases, while the main mode of transmission is unprotected sex, mainly among MSM (52% of all registered cases in 2011). The main vulnerable groups are MSM, SW, IDUs, prisoners, poor and marginalized groups. According to the latest UNDP research on public opinion "Citizens' Attitudes on Discrimination in Serbia", discrimination of persons living with HIV/AIDS is present. It is generated by deeply rooted prejudices stemming from different types of fear, lack of basic knowledge and wrongfully adopted information on ways of transfer and nature of the illness. Expressive forms of discrimination of these individuals are numerous and include: denial of the right to primary and secondary education, loss of employment, denial of urgent medical care to injured persons with HIV/AIDS, a media campaign and sensationalist media revelations of critical events where persons with HIV/AIDS were participants.</p> <p>For instance, 38.2% objected on having and HIV positive friend, 21.3% of the sample would not decide to live in the same neighborhood with and HIV positive person, 55.4% of the sample would not have an HIV positive teacher and 79.5 % would not accept an HIV positive person in the family. Almost all studies on quality of life of people living with HIV in Serbia showed that most respondents have experienced stigma in the health system. In the PLHIV Stigma Index 2, more than one fifth of respondents reported that they were denied health care services in the past 12 months, including dental care, because of their HIV status, while 12% were often denied services. Of those who had the opportunity to plan a family, this service was</p>
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<sup>2</sup>Conducted in 2012, Draft paper

	<p>denied to 16% of respondents, while 5.7% were denied services related to sexual and reproductive health because of their HIV status.</p> <p>20.9% respondents lost their jobs or other sources of income due to HIV positive status in the past 12 months, while 8.3% were rejected employment or the ability to work, solely because of their HIV status.</p> <p>15.6% of PLHIV respondents in this study stated violation of their rights in the last 12 months, while 22.7% had attempted to obtain a remedy for the violation of law, but not one case has been resolved. Not a single case on discrimination of PLHIV has been recorded in the last couple of years, which implies fear of disclosure of HIV status and ineffective use of mechanisms for protection against discrimination.</p> <p>The purpose of the study tour is to learn from Czech best practices and lessons learnt, in particular with regards to access to mechanisms for protection against discrimination by marginalized groups including PLHIV, increased knowledge among institutions, local authorities, CSOs and individuals in Serbia on legal provisions pertaining to protection against discrimination and on effective use of the protection mechanisms provided by the AD Law. The study tour should also contribute to better understanding and alignment with national plans and policies within the Health in Post 2015 Agenda: AIDS, health and human rights: Toward the end of AIDS in the Post-2015 Development Era.</p> <p>In addition to the linkages with the ongoing activities in the field of HIV/AIDS, the study tour will be closely associated to a relatively new initiative that UNDP Serbia developed in 2012. Namely, the project “Improving Service Delivery at the Local Level” has been prepared in order to contribute to more efficient implementation of the local development strategies by providing support in improving service delivery at the local level, based on the selected strategic priorities. The basis for this business model lies in establishing real/mutually reinforcing partnerships with local self-governments, whereby UNDP is providing much needed policy advice to representatives of local authorities enabling them to implement local development strategies in a more efficient manner. Strategic areas covered by this initiative include social inclusion and work with vulnerable groups. Programme budget has so far reached US\$ 1.2 million over the period of 2 years (2013-2014). In line with this strategy, participants of the study tour will include representatives of municipal authorities.</p> <p>UNDP supports national authorities in Serbia and partner’s organization in implementation of the National HIV/AIDS policy through advocacy, knowledge generation and support to specific disease control interventions. This initiative intends to offer the possibility to the representatives of local self-governments, public sector and civil society organizations in Serbia to visit relevant institutions, as well as other relevant platform organizations, providing services to at-risk populations and responsible for designing specific HIV and AIDS prevention programmes, in order to familiarize themselves with structures, programmes, policies and best practices in the Czech Republic. Special focus of this tour will be on decentralization of services, developing public/private/CSO partnerships at local level and mechanisms and tools used to prevent stigmatization and discrimination and ensure equity.</p>
Implementing Partner of	UNDP

UNDP	
Brief Description of the Required Services	<p>With this initiative UNDP will support:</p> <ul style="list-style-type: none"> <li>• Capacity building of Serbian delegates on systematic measures and methods used, particularly by the local level governance structures, to decrease the risk of spreading HIV/AIDS and creating environment without discrimination and stigmatization (Study tour)</li> <li>• Exchange of experiences and building longer-term collaboration in the field of HIV/AIDS prevention between relevant stakeholders of two low-prevalence countries.</li> </ul> <p>Specific activities:</p> <ul style="list-style-type: none"> <li>• Developing curriculum and organizing the two, one-week study tour on HIV prevention and fight against stigmatization and discrimination in the Czech Republic. Preparation of the Study Tour materials, documentation, guidelines, hand-outs for participants</li> <li>• Identify possibilities on long-term collaboration between Czech/EU and Serbian participants and explore fundraising options for the return visit to Serbia of Czech counterparts.</li> </ul>
List and Description of Expected Outputs to be Delivered	<ul style="list-style-type: none"> <li>A. Inception report on Study tour preparation (2 weeks before the start of study tours) (with key contacts and institutions at Czech side) the draft agenda and evaluation framework/questionnaire</li> <li>B. Draft paper outlining framework on longer-term collaboration and fundraising option (2-pager), 2 weeks after the study tour</li> <li>C. Final report in English (hard copy and electronic file) within 4 weeks after the study tour on the tour, lessons learned, key presentations, and recommendations for the longer term exchange and collaboration between partners' institutions including list/database of Czech experts and relevant institutions which can be used for further consultations and networking. This report shall include detailed evaluations and relevant financial reports in accordance with UNDP rules.</li> </ul>
Person to Supervise the Work/Performance of the Service Provider	UNDP Project Manager, Support to the UN Theme Group on HIV / AIDS, Serbia; Programme Associate of Czech-UNDP Trust Fund, Bratislava Regional Centre
Frequency of Reporting	The Contractor will report directly to the UNDP Project Manager, Support to the UN Theme Group on HIV / AIDS, Serbia; Programme Associate of Czech-UNDP Trust Fund, Bratislava Regional Centre. During the fulfillment of their works, the Contractor will ensure regular communication with the UNDP Project Manager, Support to the UN Theme Group on HIV / AIDS, Serbia; Programme Associate of Czech-UNDP Trust Fund, Bratislava Regional Centre prior to the delivery of expected results. The Contractor shall ensure quality and timely delivery of the expected results, and will regularly inform the UNDP Project Manager, Support to the UN Theme Group on HIV / AIDS, Serbia; Programme Associate of Czech-UNDP Trust

	Fund, Bratislava Regional Centre of the progress as well as any obstacles that might occur and on demand.
Progress Reporting Requirements	<p>Programmatic and financial reporting must conform to the requirements specified in the Contract, signed between the contractor and UNDP. Also the contractor will be responsible for the timely collection of all necessary documents, such as procurement related documents, account invoices, receipts, payroll records and other documents that confirm the legality of expenditures.</p> <p>In addition, the Contractor should provide to UNDP all photos and other visual materials collected/made during this project. Printed and electronic versions of reports should be delivered to UNDP BRC and UNDP in Serbia. Electronic version of the report should be saved as MS Word. All reports must be typed in ARIAL, size 11, A4.</p>
Location of work	<input checked="" type="checkbox"/> Home based, and in the Czech Republic (Prague)
Expected duration of work	Maximum 3 months
Target start date	1 February 2014
Latest completion date	30 April 2014
Travels Expected	Prague, Czech Republic (study tour venue), preferably in March 2014
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	<input checked="" type="checkbox"/> Return flight ticket for 12 Serbian participants to visit the study tour
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required
Names and curriculum vitae of individuals who will be involved in completing the services	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required
Currency of Proposal	<input checked="" type="checkbox"/> United States Dollars
Value Added Tax on Price Proposal	<input checked="" type="checkbox"/> must be exclusive of VAT and other applicable indirect taxes  Please note that the contract will be signed between UNDP Bratislava Regional Centre and the winning entity. For your information, we don't have Tax registration number assigned and have a status of Diplomatic mission in Slovakia. We recommend you to consult your local tax office to obtain correct information on VAT implications in this respect. The total price in the offer has to be calculated based on this information (i.e. – if VAT isn't applicable you shouldn't include it and vice versa).
Validity Period of Proposals ( <i>Counting for the last day of submission of quotes</i> )	<input checked="" type="checkbox"/> 120 days  In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.

Partial Quotes	<input checked="" type="checkbox"/> Not permitted			
Payment Terms	Outputs	Percentage	Timing (preferable)	Condition for Payment Release
	Inception Report	25%	28 February	a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and b) Receipt of invoice from the Service Provider.
	2-Pager on fundraising and long-term collaboration options	25%	31 March	
	Final Report	50%	15 April	
Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	UNDP Project Manager, Support to the UN Theme Group on HIV / AIDS, Serbia; Programme Associate of Czech-UNDP Trust Fund, Bratislava Regional Centre			
Type of Contract to be Signed	<input checked="" type="checkbox"/> Contract for Professional Services			
Criteria for Contract Award	<input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution). Only proposals that achieve at least 70% on the technical part will be considered as technically compliant. <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is a mandatory criteria and cannot be deleted regardless of the nature of services required. Non acceptance of the GTC may be grounds for the rejection of the Proposal.			
Criteria for the Assessment of Proposal	<p><b>Technical Proposal (70%)</b></p> <input checked="" type="checkbox"/> Expertise of Firm / Organization submitting Proposal <input checked="" type="checkbox"/> Proposed Work Plan and Approach <input checked="" type="checkbox"/> Personnel <p><b>Financial Proposal (30%)</b></p> <p>To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP.</p> <p>The Offeror shall seal the Proposal in one outer and two inner envelopes. Both inner envelopes shall indicate the name and address of the Offeror. The first inner envelope shall contain the information specified in Annex 2 (Proposal form), with the duly marked "Original". The second inner envelope shall include the price schedule duly identified as such.</p> <p>A two-stage procedure is utilized in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being opened</p>			

and compared. The price proposal of the Proposals will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 70 points in the evaluation of the technical proposals.

The technical proposal is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

In the Second Stage, the price proposal of all contractors, who have attained minimum 30% score in the price evaluation, will be compared. The contractor will be awarded to the Contractor offering the lowest price.

Summary of Technical and Financial Proposal Evaluation		Points Obtainable	Company/Entity/Others		
			A	B	C
1.	Expertise of Firm / Organization submitting Proposal	30			
2.	Proposed Work Plan and Approach	20			
3.	Personnel	20			
<b>Total for technical proposal</b>		<b>70</b>			
<b>Total for financial proposal</b>		<b>30</b>			
<b>TOTAL – max obtainable points</b>		<b>100</b>			

**Technical Proposal (70%)**

The obtainable number of points specified for each evaluation criterion indicates the relative significance or weight of the item in the overall evaluation process. The Technical Proposal Evaluation Forms are:

- Form 1: Expertise of Firm / Organisation Submitting Proposal
- Form 2: Proposed Work Plan and Approach
- Form 3: Personnel

Technical Proposal Evaluation Form 1		Points obtainable	Company / Other Entity		
			A	B	C
Expertise of firm / organisation submitting proposal					
1.1	Minimum of 7 years of experience on Czech best practices in the sphere of governance, HIV/AIDS prevention, fight against stigma or discrimination	5			
1.2	Demonstrated experience with cooperation with different stakeholders: CSO/NGOs as well as	5			



	private sector subjects, line ministries, municipal associations, local governments etc.				
1.3	Experience in preparation and facilitation of study tours and workshops, especially for participants from SEE	5			
1.4	Track record of at least three relevant projects	5			
<b>Total Part 1</b>		20			
Technical Proposal Evaluation Form 2		Points Obtainable	Company / Other Entity		
			A	B	C
Proposed Work Plan and Approach					
2.1	Is the scope of task well defined and does it correspond to the TOR?	5			
2.2	Is the methodology of elaboration of requested documents well prepared and complex?	5			
2.3	Is the proposal well structured, work plan clear and is the sequence of activities logical, realistic and promise efficient implementation to the project?	5			
2.4	Have the important aspects of the task been addressed in sufficient detail?	5			
<b>Total Part 2</b>		20			
Technical Proposal Evaluation Form 3		Points Obtainable	Company / Other Entity		
			A	B	C
Personnel					
3.1	At least one qualified specialist assigned with minimum of 5 years of experience on in the sphere of governance, HIV/AIDS prevention, fight against stigma or discrimination	10			

	3.2	Professional facilitators and experienced trainers in the area of HIV prevention programmes; with good understanding of Serbian or SEE countries HIV epidemic context (knowledge of the EU institutional framework is an asset)	5			
	3.3	Experience in preparation and facilitation of study tours and workshops, especially for participants from SEE	5			
	3.4	Good communication skills of the staff in English (Both written and spoken)	5			
	3.5	Excellent communication and facilitation skills as well as reporting experience	5			
		<b>Total Part 3</b>	30			
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider					
Annexes to this RFP	<input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> Detailed TOR (Annex 3) <input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 4) <sup>3</sup> <input checked="" type="checkbox"/> Form for Submission of Financial Proposal (Annex 5) – <b><u>THIS MUST BE SUBMITTED IN A SEPARATE ENVELOPE</u></b>  <b>In addition to one hard copy (1x technical proposal; 1x financial proposal in a separate envelope), please also provide all the information on CD-R (one CD for financial offer, one for technical offer).</b>					
Contact Person for Inquiries (Written inquiries only) <sup>4</sup>	Ms. Ingrid Antalkova Procurement Associate <a href="mailto:ingrid.antalkova@undp.org">ingrid.antalkova@undp.org</a>  Any delay in UNDP’s response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.					
Other Information [pls. specify]	The Proposal should include <b>Methodology with detailed Working Plan</b> on proposed activities.					

<sup>3</sup> Service Providers are alerted that non-acceptance of the terms of the General Terms and Conditions (GTC) may be grounds for disqualification from this procurement process.

<sup>4</sup> This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was received.

## FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL<sup>5</sup>

*(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery<sup>6</sup>)*

[insert: Location]

[insert: Date]

To:

UNDP, Europe and CIS Bratislava Regional Centre, Grosslingova 35, 811 09 Bratislava, Slovak Republic

Dear Sir/Madam:

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

### A. Qualifications of the Service Provider

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

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

### B. Proposed Methodology for the Completion of Services

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

### C. Qualifications of Key Personnel

*As required by the RFP, the Service Provider must provide:*

- a) *Names and qualifications of the key personnel that will perform the services indicating who is Team*

<sup>5</sup> This serves as a guide to the Service Provider in preparing the Proposal.

<sup>6</sup> Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

- Leader, who are supporting, etc.;*
- b) CVs demonstrating qualifications must be submitted if required by the RFP; and*
  - c) Written confirmation from each personnel that they are available for the entire duration of the contract.*

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

## ***General Terms and Conditions for Services***

### **1.0 LEGAL STATUS:**

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

### **2.0 SOURCE OF INSTRUCTIONS:**

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

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

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

### **4.0 ASSIGNMENT:**

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

### **5.0 SUB-CONTRACTING:**

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

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

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

### **7.0 INDEMNIFICATION:**

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

material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

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

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

#### **9.0 ENCUMBRANCES/LIENS:**

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

#### **10.0 TITLE TO EQUIPMENT:**

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

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

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

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

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

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

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

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

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

- 13.2.2.1** a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,
- 13.2.2.2** any entity over which the Party exercises effective managerial control; or,
- 13.2.2.3** for the UNDP, an affiliated Fund such as UNCDF, UNIFEM and UNV.

- 13.3** The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the UNDP sufficient prior notice of a request for the disclosure of Information in order to allow the UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.
- 13.4** The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.
- 13.5** The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.
- 13.6** These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

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

- 14.1** In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.
- 14.2** If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.
- 14.3** Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.
- 14.4** The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

#### **15.0 TERMINATION**



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

## **16.0 SETTLEMENT OF DISPUTES**

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

## **17.0 PRIVILEGES AND IMMUNITIES:**

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

## **18.0 TAX EXEMPTION**

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

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

#### **19.0 CHILD LABOUR**

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

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

#### **20.0 MINES:**

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

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

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

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

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

**22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons

engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

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

**23.0 AUTHORITY TO MODIFY:**

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