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## ADVERTISEMENT

### INDIVIDUAL CONSULTANT PROCUREMENT NOTICE (ICPN)

**International Consultant: To Develop Data Protection Policy, Regulation and Act for Sierra Leone**

**(IC – International).**

**Date: July 14, 2021**

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**Procurement Notice No.: SLE/ICPN/2021/008**

**Country: Sierra Leone**

**Description of the assignment: National Consultant, Consultancy to Develop Data Protection Policy, Regulation and Act for Sierra Leone**

**Project Name: Inclusive Democratic Governance**

**Period of assignment: Forty-Two Days (42) days**

Proposal should be submitted at the following address, UNDP, Fourah Close, Off Main Motor Road, Wilberforce, Freetown, Sierra Leone or by email to [procure.sle@undp.org](mailto:procure.sle@undp.org) no later than **13:00 hours, on July 23, 2021.**

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

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## 1. BACKGROUND

Sierra Leone commenced the development of an integrated civil register with a civil registration policy and National Civil Registration Act 2016. This established the National Civil Registration Authority (NCRA) mandated to collect and manage data on vital events on a continuous basis. The population data was established in 2017, data was concurrently collected for voter registration and then followed by registration of non-voting population including resident aliens. Over time, this data has been relied on to support critical governance processes including verification of identities of public servants and government payroll among others.

While the NCRA Act provides for data sharing with other MDAs including Statistics Sierra Leone, NASSIT, National Electoral Commission among others, the legal and regulatory environment for the effective transfer of data between MDAs and other international institutions/beneficiaries does not currently exist. The NCRA Policy and Act 2016 also make provision for data harvesting on commercial basis but the legal environment within which this could be done is currently not in place.

Sierra Leone established a Right to Access Information Act and commission in 2013, conducted an open data readiness assessment in 2015 and is currently developing a cyber security bill. The missing piece in all this development is the Data Protection Policy, Regulation and Act that will guide the collection, management, use and transfer of personal data and other sensitive information.

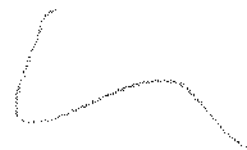
The NCRA with support from UNDP and Embassy of Ireland are seeking the services of an experienced Data Protection Expert to formulate a data protection policy, regulations and drafting instructions for a bill in consultation with stakeholders and in view of regional trends and best practice.

## 2. OBJECTIVES

The specific objectives of this assignment are as follows:

- To develop a data protection policy, regulation and drafting instructions for data protection bill
- Consult with stakeholders on the context and data protection needs of Sierra Leone
- Reflect regional practices and international best practices in the documentations as is

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relevant and appropriate for the context

- Finalise the policy and regulation in a nationally represented validation workshop

#### ***Expected Outputs and Deliverables***

The assignment will be conducted in Sierra Leone with possible travel to regional headquarters towns for consultations with stakeholders.

<b>DELIVERABLES</b>	<b>Estimated duration</b>	<b>Target due date</b>	<b>Review/Approval (1 day turn around)</b>
Desk Review and reflection of regional data protection trends/best practices in the current draft documents developed	7 days	7 days after signing the contract.	NCRA/UNDP
Report on Stakeholder consultations	10 day	TBC	NCRA/UNDP
Drafting Instructions for the Data Protection Bill	10 days	TBC	NCRA/UNDP
Finalised Data protection policy and regulation	15 days	TBC	NCRA/UNDP
Total number of days.	42 days		NCRA/UNDP

### **3. DURATION OF THE WORK**

The duration of the assignment is for a maximum of 42 days.

### **4. QUALIFICATION AND EXPERIENCE**

1. Masters degree in the Law (LLM) with particular expertise in Intellectual Property and Data Protection an added advantage.
2. Seven years demonstrated capacity in conducting legal instrument development, research and practice in the relevant sector;
3. Proven experience in researching, developing data protection in the Sub-region/continent
4. Ability to engage and work with a range of key stakeholders at sub national level
5. Excellent report writing and oral communications in English language, working knowledge of the local languages is an added advantage
6. Proven experience of undertaking such an exercise with reputable organizations;

## Scope of price proposal and schedule of payments

Interested individual consultants should submit their financial proposal as stated below:

The offer will be a lump sum linked to deliverables, inclusive, with all costs (professional fees, travel costs, living allowances, communications, consumables etc) that could possibly be incurred by the consultant and should be factored into the final amounts submitted in the proposal. Once agreed the contract price will remain fixed regardless of changes in the cost's component

Payment for this consultancy will be a daily lump sum on each deliverable based on the UNDP national consultancy fee rate and final sum payable upon submission and acceptance by the UNJT on HIV of the final detail report.

### Payment Schedule

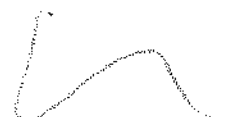
- 1<sup>st</sup> payment - 20% payment upon signing of the contract and submission of inception report.
- 2<sup>nd</sup> payment - 40% payment on submission of the report on stakeholders consultations and drafting instructions.
- 3<sup>rd</sup> payment - 30% payment on submission of Data protection policy and regulation by the consultant and accepted by NCRA/UNDP.

## 5. SUBMISSION OF APPLICATION

Interested qualified individual consultants that meet the requirements are invited to submit the following:

- Cover letter/EOI that indicate how the consultants meet the selection criteria and state the specific posts applied.
- Curriculum Vitae that includes list of previous work, contractual responsibility and successful completion of consultancy services related including name, contact numbers and email address of focal persons for each contract.
- Technical Proposal providing details of the methodology envisaged for the assignment.
- Financial proposal stating: Lump sum cost that includes a) fees or daily rate and minor miscellaneous expenses b) travel and living costs
- Application to be dropped off at UNDP Country Office, Fourah Bay Close, Off Main Motor Road Wilberforce, Freetown, Sierra Leone.
- This Opportunity is open to male and female candidates. Applications from qualified female candidates are encouraged.

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

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

Qualified and interested candidates are hereby requested to apply. The application should contain the following:

- Cover letter
- Personal CV, indicating education background/professional qualifications, all experience from similar projects, as well as the contact details (email and telephone number) of the Candidate and at least three (3) professional references;([P11 form<sup>2</sup>](#));

Financial proposal that indicates all-inclusive fixed total contract price supported by a breakdown of costs

(including professional fee, and specified other costs if applicable, including travel costs and DSA).

All application materials should be submitted to the address Fourah Bay Close, Off Main Motor Road, Wilberforce, Freetown in a sealed envelope indicating the following reference “: **To Develop Data Protection Policy, Regulation and Act for Sierra Leone**” or by email at the following address ONLY: [procure.sle@undp.org](mailto:procure.sle@undp.org) by the dead line as advertised. Incomplete applications will be excluded from further consideration.

#### Note:

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

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

## 8. EVALUATION CRITERIA

The procurement modality will be least cost where the lowest financial proposal<sup>3</sup> with the highest technical score will garner the highest point. The technical proposal is evaluated based on its responsiveness to the Terms of Reference (TOR) as per the evaluation criteria below. Minimum Qualification: Any CV's getting below 50% in each of the criterion will not be eligible for short-listing.

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

<sup>2</sup> [http://www.undp.org/content/dam/undp/library/corporate/Careers/P11\\_Personal\\_history\\_form.doc](http://www.undp.org/content/dam/undp/library/corporate/Careers/P11_Personal_history_form.doc)

<sup>3</sup>With consideration to the costs of travel.

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Criteria	Points
<b>Consultants Experience</b>	
1. <b>Applicable Experience.</b> Record of previous and actual engagement and/or work experience including quality of performance in similar assignments.	<b>30</b>
2. <b>Relevant Projects for similar international organization.</b> Applicable experience that contributes to the overall understanding and experience of the assignment with projects funded by other government agencies and/or international organizations.	<b>20</b>
3. <b>Qualifications and relevant training or specialization:</b> Qualification of consultant/personnel to be assigned to the project compared to the complexity of the undertaking. This includes the education and applicable length of experience related to the project to be undertaken.	<b>20</b>
4. <b>Total Technical proposal</b>	<b>70</b>
5. <b>Total Financial proposal</b>	<b>30</b>
6. <b>Overall</b>	<b>100</b>

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

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**Rokya Ye Dieng**  
 Deputy Resident Representative

#### **ANNEX**

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

**ANNEX 2- INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITION**

# UNITED NATIONS DEVELOPMENT PROGRAMME

## TERMS OF REFERENCE



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<b>Position</b>	<b>Consultancy to Develop Data Protection Policy, Regulation and Act for Sierra Leone</b>
<b>Location</b>	<b>Freetown</b>
<b>Type of Contract</b>	<b>Individual Contract</b>
<b>Duration</b>	<b>42 days</b>
<b>Start Date</b>	<b>2<sup>nd</sup> July 2021</b>
<b>Responsible Programme</b>	<b>Inclusive Democratic Governance Cluster</b>

### 1.0 Background and context

Sierra Leone commenced the development of an integrated civil register with a civil registration policy and National Civil Registration Act 2016. This established the National Civil Registration Authority (NCRA) mandated to collect and manage data on vital events on a continuous basis. The population data was established in 2017, data was concurrently collected for voter registration and then followed by registration of none voting population including resident aliens. Over time, this data has been relied on to support critical governance processes including verification of identities of public servants and government payroll among others.

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The NCRA with support from UNDP and Embassy of Ireland are seeking the services of an experienced Data Protection Expert to formulate a data protection policy, regulations and drafting

instructions for a bill in consultation with stakeholders and in view of regional trends and best practice.

## 2.0 Objectives and scope of work

The specific objectives of this assignment are as follows:

- To develop a data protection policy, regulation and drafting instructions for data protection bill
- Consult with stakeholders on the context and data protection needs of Sierra Leone
- Reflect regional practices and international best practices in the documentations as is relevant and appropriate for the context
- Finalise the policy and regulation in a nationally represented validation workshop

## 3.0 Scope of work and implementation arrangement

The assignment will be conducted in Sierra Leone with possible travel to regional headquarter towns for consultations with stakeholders.

### 3.0.1 Deliverables

DELIVERABLES	Estimated duration	Target due date	Review/Approval (1 day turn around)
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Total number of days	42 days		NCRA/UNDP

## 5.0 Qualification and Experience

7. Masters degree in the Law (LLM) with particular expertise in Intellectual Property and Data Protection an added advantage.
8. Seven years demonstrated capacity in conducting legal instrument development, research and practice in the relevant sector;
9. Proven experience in researching, developing data protection in the Sub-region/continent
10. Ability to engage and work with a range of key stakeholders at sub national level
11. Excellent report writing and oral communications in English language, working knowledge of the local languages is an added advantage.
12. Proven experience of undertaking such an exercise with reputable organizations;

## 6.0 Scope of price proposal and schedule of payments

Interested individual consultants should submit their financial proposal as stated below:

The offer will be a lump sum linked to deliverables, inclusive, with all costs (professional fees, travel costs, living allowances, communications, consumables etc) that could possibly be incurred by the consultant and should be factored into the final amounts submitted in the proposal. Once agreed the contract price will remain fixed regardless of changes in the cost's component

6.0.1 Payment for this consultancy will be a daily lump sum on each deliverable based on the UNDP national consultancy fee rate and final sum payable upon submission and acceptance by the UNJT on HIV of the final detail report.

### 6.0.2 Payment Schedule

- 1<sup>st</sup> payment - 20% payment upon signing of the contract and submission of inception report.
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- 3<sup>rd</sup> payment - 30% payment on submission of Data protection policy and regulation by the consultant and accepted by NCRA/UNDP.

## 7.0 Evaluation and Selection

The procurement modality will be least cost where the lowest financial proposal<sup>4</sup> with the highest technical score will garner the highest point. The technical proposal is evaluated based on its responsiveness to the Terms of Reference (TOR) as per the evaluation criteria below. Minimum Qualification: Any CV's getting below 50% in each of the criterion will not be eligible for short-listing.

Criteria	Points
<b>Consultants Experience</b>	
7. <b>Applicable Experience.</b> Record of previous and actual engagement and/or work experience including quality of performance in similar assignments.	30
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10. <b>Total Technical proposal</b>	70
11. <b>Total Financial proposal</b>	30
12. <b>Overall</b>	100

<sup>4</sup>With consideration to the costs of travel.

## **8.0 Application Procedure**

- 8.1 Interested qualified individual consultants that meet the above requirements are invited to submit the following:
- 8.2 Cover letter/EOI that indicate how the consultants meet the selection criteria and state the specific posts applied.
- 8.3 Curriculum Vitae that includes list of previous work, contractual responsibility and successful completion of consultancy services related including name, contact numbers and email address of focal persons for each contract.
- 8.4 Technical Proposal providing details of the methodology envisaged for the assignment
- 8.5 Financial proposal stating: Lump sum cost that includes a) fees or daily rate and minor miscellaneous expenses b) travel and living costs
- 8.6 Application to be dropped off at UNDP Country Office, Fourah Bay Close, Off Main Motor Road Wilberforce, Freetown, Sierra Leone
- 8.7 This Opportunity is open to male and female candidates. Applications from qualified female candidates are encouraged.



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## UNDP

### GENERAL CONDITIONS OF CONTRACT FOR SERVICES

#### 1.0 LEGAL STATUS:

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

#### 2.0 SOURCE OF INSTRUCTIONS:

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

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

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

#### 4.0 ASSIGNMENT:

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

## **5.0 SUB-CONTRACTING:**

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

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

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

## **7.0 INDEMNIFICATION:**

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

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

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

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

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

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

**8.4.1** Name UNDP as additional insured;

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

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

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

**9.0 ENCUMBRANCES/LIENS:**

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

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

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

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

**11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the

performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may

develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**14.1** In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such

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

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

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

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

## **15.0 TERMINATION**

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

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

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

**15.4** Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to

any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

## **16.0 SETTLEMENT OF DISPUTES**

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

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

## **17.0 PRIVILEGES AND IMMUNITIES:**

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

## **18.0 TAX EXEMPTION**

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

or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

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

## **19.0 CHILD LABOUR**

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

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

## **20.0 MINES:**

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

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

**21.0 OBSERVANCE OF THE LAW:**

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

**22.0 SEXUAL EXPLOITATION:**

**22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the

Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

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

**23.0 AUTHORITY TO MODIFY:**

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