**INDIVIDUAL CONSULTANT (National)**
**PROCUREMENT NOTICE**

**Date: 24th January 2022**
**Ref: UNDP-IC-2022-033**

**Country:** ***Pakistan***

**Description of the assignment:** "Holding of consultation forums on electoral reforms with key electoral stakeholders"

**Project name:** Strengthening Electoral and Legislative Processes (SELP) project -UNDP

**Period of assignment/services (if applicable**): The assignment will be for 30 working days spread over six months.

**Location:** Lahore.

**Important Note:** Final selected IC will be required to provide a statement of health certificate along with proof of health insurance.

Please submit your Technical and Financial proposals **via email** to the following address:

bids.pk@undp.org no later than **07th February 2022 at 12:30 PM (Pakistan Standard Time).** Hand delivery is not acceptable.

**Important note for email submissions:** Please put **"UNDP-IC-2022-033- Holding of consultation forums on electoral reforms with key electoral stakeholders"** 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 with reference number in the email subject line. 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.

**ANNEX- I**

# Terms of Reference
# Engagement of Individual Consultant for holding of consultation forums on electoral reforms with key electoral stakeholders

**A. Project Title:** Strengthening Electoral and Legislative Processes (SELP) project

**B. Project Description**

UNDP is a key development partner supporting the Government of Pakistan in achieving its own development objectives as well as in working toward the internationally agreed Sustainable Development Goals (SDGs). UNDP promotes transformational change by fostering strategic partnerships with national counterparts with the federal, provincial and district governments, in addition to fostering partnerships with civil society, the private sector, and the local and international community. UNDP supports transformational change by providing technical assistance focusing on developing capacity within the national and local authorities, providing solutions with strong monitoring and evaluation tools, and delivering programs with maximum efficiency, transparency, and accountability.

One area of UNDP's work is in democratic governance, where we work to provide technical assistance to support the institutional development of the Election Commission of Pakistan (ECP), the Senate, the National and Provincial Assemblies. One focus of program activities is providing support to parliamentary committees, developing the capacity of the members and government officials to improve legislation, and the linkages with-in the government institutes and with the public. We also work closely with ECP to enhance their capacity to deliver its Strategic Plan, strengthen electoral laws and procedures and improve the engagement of citizens.

**C. Description of Assignment**

The project is looking to engage an Individual Consultant (IC) having extensive experience in democratic governance particularly in holding sessions, dialogues, forums with electoral stakeholders on electoral reforms. The assignment is to provide support to carrying out individual and consultation forums with electoral stakeholders such as political parties, civil society, media, and electoral experts on electoral reforms. There is an ongoing political process at federal and provincial levels and opportune topics may depend on the context of the meeting/dialogue. A policy recommendation paper will be developed and shared with relevant stakeholders as an outcome of these dialogues/seminars.

The activities envisaged under this ToR are expected to start from start-February till end-July 2022. The information dialogues/seminars can be organized virtually or in person, dependent on the on-going COVID-19 pandemic. It is expected, however, that some meetings will be held in person.

## D. Scope of Work

The assignment includes planning, coordination/communication with relevant stakeholders, preparation of talking points, substantive support to the conduct of meetings, discussion forums, facilitating sessions, drafting of event reports, compilation of recommendations and development of a recommendations paper for relevant stakeholders, in coordination with UNDP.

The IC will work under the overall guidance of the Chief Technical Advisor with and in coordination through the election team lead/SELP. The IC will be required to prepare a comprehensive recommendation paper based on discussions, dialogues and meetings carried out with stakeholders, to be shared with relevant forums to support lawmakers for informed decisions on electoral reforms and legislation on local government system. The forums/meetings/discussions and recommendation paper shall include (but are not limited to) the following topics/areas:

- Election (Amendment) Act 2021 (passed by NA)
- Proposed reforms from political parties
- Proposed reforms from civil society, media and other stakeholders
- Proposed reforms from marginalized groups (women, transgender, youth, PWDs and minorities)
- Recommendations proposed by ECP for electoral reforms (annual reports, other forums)
- Punjab Local Government ordinance 2021
- Punjab local government act and proposed amendment bill

Forums/meetings/discussions could be carried out with the following key stakeholders:

- Senior representatives from mainstream political parties
- Members of parliament
- Media representatives
- Representatives from civil society
- Electoral experts
- Technology experts on electoral technologies
- Election Commission of Pakistan, Ministry of IT, Ministry of Science and Technology, and other relevant government department

## E. Expected Outputs

Major outputs of the assignment will be:

1. Planning, coordination, and communication with stakeholders for preparation and

execution of forums/seminars/meetings/discussions

2. Conduct and facilitate forums/meetings/discussions with the key electoral stakeholders on electoral reforms
3. Prepare event/activity reports based on the discussions in the events
4. Prepare recommendation paper for electoral reforms based on the findings from the forums/meetings/discussions
5. Prepare recommendation paper for amendments in local government acts based on the findings from the forums/meetings/discussions
6. Distribution/sharing of recommendation papers to relevant stakeholders

## F. Schedule of Payment

Payment(s) will be made based on deliverables for the services rendered by the IC. All payments would be based on the financial proposal submitted by the applicant and agreed upon in the contract to be signed upon successful bidding. Consultancy will be in Lahore for 30 (Thirty) working days spread over six months. IC services are for coordination and thematic expertise while event costs would be borne by UNDP. However, in case any of outstation national travel, UNDP will make necessary arrangements for boarding / lodging as per UNDP guidelines.

The financial proposal therefore must include the amount of the assignment (per day).

| Sr. No | Deliverables/ Outputs | % of Payments |
|---|---|---|
| 1. | Submission of event report, including talking points, agenda, summary of session/forum/discussion with political party leaders and electoral experts regarding electoral reforms. | 20% |
| 2. | Submission of event report, including talking points, agenda, summary of session/forum/discussion with political party leaders and legal and electoral experts regarding local government legislation | 20% |
| 3. | Submission of event report, including talking points, agenda, summary of session/forum/discussion with political party leaders, civil society, and media at provincial level for local government legislation | 20% |
| 4. | Submission of event report, including talking points, agenda, summary of session/forum/discussion with political party leaders, electoral and technology experts; including submission of policy recommendation paper | 20% |
| 5. | Submission of event report, including talking points, agenda, summary of session/forum/discussion with political party leaders, electoral and legal experts; including submission of policy recommendations paper on local government legislation | 20% |

**G. Impact of Results**

As a result of these activities, coordination among the electoral stakeholders is improved, understanding of lawmakers on electoral and local government issues is enhanced, that will contribute to prepare inclusive legislation and will enhance trust on the electoral reform process and at provincial level legislation.

**H. Institutional Arrangement**

The duration of the contract will be from start-February till end-July 2022. The Consultant will report to the CTA of the SELP project.

**I. Duration of the Work:**

Consultancy will be for 30 (thirty) working days spread over six months

**J. Duty Station**

Lahore.

**K. Scope of Price Proposal and Schedule of Payments**

Consultant must send a financial proposal based on 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 output, i.e. upon delivery of the services specified in the TOR. The output deliverable achieved report will be approved by the ARR, DGU-UNDP.

**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 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**, on 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.

**L. Underlying Mandatory Requirements**

The selected individual and its staff are expected to conform to the following mandatory requirements:

- Act in strict conformity to the laws of the country
- Not be affiliated or linked to any political party
- Maintain strict neutrality and refrain from any activities which could be interpreted as biased
- Act in accordance with the United Nations Code of Conduct

**M. 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 felicitation.

- Qualification Criteria
- 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 |
|---|---|---|
| **Qualification Criteria** | | |
| Minimum bachelor's degree | Yes/No | |
| Minimum Experience – 10 years with political parties, parliament and other electoral stakeholders in governance, electoral and legislative processes. | Yes/No | |
| **Technical Evaluation Criteria** | **70** | |
| Minimum 10 years' demonstrated experience in the field of governance, electoral reform processes, legal/political analysis, parliamentary practices in lawmaking, political parties, and a closely related field | 30 | |
| Technical proposal presenting the methodology of the assignment | 25 | |
| Background of working with development organizations and government counterparts at policy making level | 15 | |
| **Financial** | **30** | |
| **Total score** | **Technical score 70+30 Financial** | |
| **Weight per Technical Competence** | | |
| Weak: Below 70% | The individual consultant has demonstrated a **WEAK** capacity for the analyzed competence | |
| Satisfactory: 70-75% | The individual consultant has demonstrated a **SATISFACTORY** capacity for the analyzed competence | |
| Good: 76-85% | The individual consultant has demonstrated a **GOOD** capacity for the | |

| | |
|---|---|
| | analyzed competence |
| Very Good: 86-95% | The individual consultant has demonstrated a **VERY GOOD** capacity for the analyzed competence |
| Outstanding: 96-100% | The individual consultant has demonstrated an **OUTSTANDING** capacity for the analyzed competence |

## ANNEX

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

**ANNEX II**

## 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 donor 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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