



**UNODC**

United Nations Office on Drugs and Crime



## **INDIVIDUAL CONSULTANT PROCUREMENT NOTICE**

### **National Individual**

**UNDP-IC-2023-012**

**09 January 2023**

**Country:** Pakistan

**Description of the assignment:** Senior Legislative Expert

**Project name:** Support to the Rule of Law in Balochistan

**Duty Station:** Home based with possible travel within Pakistan

**Period of assignment/services:** 52 working days during the period of 7 months

**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 to the following.

**Email [bids.pk@undp.org](mailto:bids.pk@undp.org) not later than 24<sup>th</sup> January 2023 at 1500 HRS Pakistan Standard Time.** Hand delivery is not acceptable.

**Important note for email submissions:** Please put **UNDP-IC-2023-012 – Senior Legislative Expert** in the subject line. Further, our system will not accept emails those are more than 30 MB size. If required, segregate your emails to accommodate email data restrictions. For segregated emails please use sequence of emails like Email 1, Email 2 .... in the subject line. For attachment purposes please only use MS Word, Excel, Power Point or PDF formats.

If you request additional information, please write to [pakistan.procurement.info@undp.org](mailto:pakistan.procurement.info@undp.org) 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.

**UN 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.**

**UN does not tolerate sexual exploitation and abuse, any kind of harassment, including sexual harassment, and discrimination. All selected candidates will, therefore, undergo reference and background checks.**

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**TERMS OF REFERENCE****1. BACKGROUND**

The United Nations Office on Drugs and Crime (UNODC) is currently supporting the Government of Balochistan (GoB) to implement the Rule of Law Roadmap through a Rule of Law Programme funded by the European Union (EU). The Roadmap is being delivered by the Delivery Unit set up by the GoB. The governance and oversight of the Roadmap is provided by the Steering Committee, chaired by GoB.

The Roadmap process identified a need to review and amend aspects of legislative frameworks that govern criminal justice institutions, i.e., the Police, Levies, Prisons, Reclamation and Probation, and Prosecution. The respective frameworks were lately reviewed by UNODC with the assistance of international and domestic experts and close coordination of counterpart departments of GoB. The reviews helped to identify key themes for reform in the laws concerning these institutions.

Considering the capacity constraints of relevant GoB institutions, the legislative drafting assistance was also provided by UNODC to the above-named GoB institutions to develop the following materials: (i) Draft of amendments in Police Act of 2011; (ii) Draft of amendments in Levies Act of 2010; (iii) Draft of amendments in Prosecution Act of 2003; (iv) Draft of Legislative Bill for the New Prisons Act; and (v) Draft of Legislative Bill for the new Probation and Parole Act. As and when the above amendment proposals of parent Acts are approved by the legislative Assembly of Balochistan, significant legislative drafting will again be required to develop subsidiary rules and regulations pursuant to each of the above laws to govern and regulate a host of procedural areas.

Legislative drafting is a highly skilled and technical area. Legislative drafting may be differentiated from legal drafting – the two are inherently different involving distinct skill set, knowledge and expertise. A legislative drafter will have thorough understanding of policy objectives of the Government, constitutional and legal systems within which such objectives will be met, and stakeholder priorities in respect of the objectives. He or she will ensure quality and clarity of legislation in accordance with the defined policies, constitutional and legislative requirements, and international best practice.

The capacity for legislative drafting is extremely limited in Balochistan. This can potentially affect the quality, object and effectiveness of legislation in Balochistan and undermine the policy aims of the GoB and interest of the public at large. In this context, UNODC provided five training sessions on Legislative Drafting to the officials from all the criminal justice institutions of Balochistan.

In order to support the ongoing legislative reform activities, the Criminal Justice and Legal Reforms programme requires the services of a national Senior Legislative Expert to assist in the delivery of a capacity building programme of legislative drafting for the drafters of Law Departments, and Legal Sections of other government agencies responsible for legislative drafting across the country along with provision of technical support to the Balochistan Prosecution Department in drafting Rules of Business and Annual Report under section 11 of Prosecution Act 2003 of Balochistan.

## **2. MAIN OBJECTIVES, RESPONSABILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK.**

The main objectives of this assignment are to:

- (a) To develop a programme of capacity building for legislative drafting so as to address the national current and future needs in this behalf; and
- (b) To train the drafters of Law Departments, and Legal Sections of other government agencies responsible for legislative drafting.
- (c) Provide technical support to Balochistan Prosecution Department in the development of Draft Rule of Business along with Annual Report

## **3. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK**

The nature of consultancy assignment shall be consultative, participatory and communicative. It will be built around the capacity need for legislative drafting of the Law Department, and Law Sections of other government departments that are tasked with the responsibility to draft legislative proposals. It will involve broad-level consultation with the stakeholders to validate information, processes and schedules prepared for the capacity building programme; and will include extensive communication with the law officers.

The national Senior Legal Expert shall be responsible:

- (a) to review and update the Manual of Legislative Drafting which will be provided to the legislative drafters;
- (b) to prepare specific training modules built around different themes of legislative drafting for the capacity building of legislative drafters;
- (c) to hold consultations with the key stakeholders on the training programme;
- (d) to conduct trainings on legislative drafting and processes, based on the training modules; and
- (e) to draft Rule of Business for Balochistan Prosecution Department and Annual Report under section 11 of Balochistan Prosecution Act 2003.

## **4. Expected Deliverables:**

The following deliverables are expected out of this assessment:

- Review and update of Manual of Legislative Drafting.
- Specific training modules on different themes of legislative drafting.
- 04 Training Workshops on legislative drafting and processes, based on the training modules.
- Draft Rule of Business for Prosecution Department of Balochistan
- Draft Annual Report for Prosecution Department of Balochistan

### **Institutional Arrangement/Reporting:**

The consultant will be reporting to the UNODC Adviser Criminal Justice, SPII in close collaboration with Criminal Justice and Rule of Law Coordinator.

### **5. Payment Schedule:**

#### **Dates and details as to how the work must be delivered (preliminary timeline):**

Payments will be made upon satisfactory completion and/or submission of outputs/deliverables.

<b>Deliverable</b>	<b>Description of task (deliverable)</b>	<b>Days</b>	<b>Timelines</b>
1	Draft Rules of Business for Prosecution Department of Balochistan	15 Days	Feb/Mar 23
2	Review and update of Manual of Legislative Drafting	10 Days	Mar 23
3	Draft Annual Report for Prosecution Department of Balochistan	5 Days	Mar/Apr 23
4	Specific training modules on different themes of legislative drafting	10 Days	Apr 23
5	First Training Workshops on legislative drafting and processes, based on the training modules	3 Days	May 23
6	Second Training Workshops on legislative drafting and processes, based on the training modules	3 Days	Jun 23
7.	Third Training Workshops on legislative drafting and processes, based on the training modules	3 Days	Jul 23
8.	Fourth Training Workshops on legislative drafting and processes, based on the training modules	3 Days	Aug 23
		<b>52 Days</b>	

#### **Indicators to evaluate the consultant's performance**

- Revised/updated Manual for Legal Drafters
- Written communications
- Draft Rules of Business
- Draft Annual Report
- Documents editing and review
- Presentations
- Training Reports

## **7. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS**

### I. Academic Qualifications:

- Master's Degree in Law, Criminology, Political Science, Public Policy, Public Administration or other relevant fields of study is required. Bachelor's Degree in the relevant field and 3 years of experience could substitute the master's degree.

### II. Years of experience:

- Minimum 15 years of relevant legal experience including 10 years of working with government institutions on legislative and regulatory reforms, policy analysis, and legal counselling.

### III. Competencies:

- Thorough knowledge of constitutional and legal systems of the country;
- Sound understanding of policy frameworks and legislative processes;
- Proven ability of legislative review and drafting. Capacity to undertake independent study and analysis, and ability to produce reports/presentations;
- Demonstrated experience to impart trainings;
- Excellent verbal and written communication skills in English.
- Excellent analytical skills and ability to summarize disparate information in a clear and concise manner. Capacity to review documents, conduct reviews, and undertake independent study as well as ability to identify and assess issues;
- Knowledge of Rule of Law related programme and/or policy, legal, institutional and judicial reforms;
- Sound knowledge of Government structures and policies at the federal and provincial level, including of drugs and crime mandate areas;

**Note: Consultant would be required to share technical proposal presenting the methodology of the assignment.**

## **8. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS.**

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

### 1. Technical Proposal:

- I. Explaining why they are the most suitable for the work
- II. Provide a brief methodology on how they will approach and conduct the assigned task

### 2. Financial proposal

### 3. Personal CV including past experience in similar projects and at least 3 references

### 4. P-11 Form duly completed.

## 9. FINANCIAL PROPOSAL

- **Lump sum contracts**

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in installments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount (including travel, per diems, and number of anticipated working days).

### **Travel:**

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should not accept travel costs exceeding those of an economy class ticket. Should the IC wish to travel on a higher class he/she should do so using their own resources. In the case of unforeseeable travel, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and Individual Consultant, prior to travel and will be reimbursed.

## 10. EVALUATION

Individual consultants will be evaluated based on the following methodologies:

### 1. Lowest price and technically compliant offer

*When using this method, the award of a contract should be made to the individual consultant whose offer has been evaluated and determined as both:*

- a) responsive/compliant/acceptable, and*
- b) offering the lowest price/cost*

*"responsive/compliant/acceptable" can be defined as fully meeting the TOR provided.*

### 2. Cumulative analysis

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

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

\* Technical Criteria weight; 70

\* Financial Criteria weight; 30

Only candidates obtaining a minimum of 49 out of 70 points would be considered for the Financial Evaluation:

Criteria		Weight	Max. Point
<u>Technical Competencies</u>		70	
Master’s Degree in Law, Criminology, Political Science, Public Policy, Public Administration or other relevant fields of study is required. Bachelor’s Degree in the relevant field and 3 years of experience could substitute the master’s degree.		Yes/No	
Minimum 15 years of relevant legal experience.		Yes/No	
Technical proposal presenting the methodology of the assignment		20	
10 years of working with government institutions on legislative and regulatory reforms, policy analysis, and legal counselling.		15	
Thorough knowledge of constitutional and legal systems of the country; Sound understanding of policy frameworks and legislative processes;		15	
Demonstrated experience to review and draft legislation. Capacity to undertake independent study and analysis, and ability to produce reports/presentations;		10	
Demonstrated experience to impart trainings; Excellent verbal and written communication skills in English. Knowledge of Rule of Law related programme and/or policy, legal, institutional and judicial reforms; Sound knowledge of Government structures and policies at the federal and provincial level, including of drugs and crime mandate areas;		10	
		70	
<u>Total Score</u>		Technical score 70 + 30 Financial	
Weight per Technical Competence			
Weak: Below 70%	The individual consultant/contractor has demonstrated a <b>WEAK</b> capacity for the analyzed competence		
Satisfactory : 70-75%	The individual consultant/contractor has demonstrated a <b>SATISFACTORY</b> capacity for the analyzed competence		
Good: 76-85%	The individual consultant/contractor has demonstrated a <b>GOOD</b> capacity for the analyzed competence		
Very Good: 86-95%	The individual consultant/contractor has demonstrated a <b>VERY GOOD</b> capacity for the analyzed competence		
Outstanding: 96-100%	The individual consultant/contractor has demonstrated a <b>OUTSTANDING</b> capacity for the analyzed competence		

## **ANNEXES**

<b>ANNEX</b>	<b>1- TERMS OF REFERENCES (TOR)</b>
<b>ANNEX</b>	<b>2- INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS</b>
<b>ANNEX</b>	<b>3- PROPOSAL SUBMISSION FORM</b>
<b>ANNEX</b>	<b>4- OFFEROR'S LETTER TO UNDP</b>
<b>ANNEX</b>	<b>5- FINANCIAL PROPOSAL</b>
<b>ANNEX</b>	<b>6- P 11 FORM</b>
<b>ANNEX</b>	<b>7- STATEMENT OF HEALTH</b>



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

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

**2. STANDARDS OF CONDUCT:** In General: The Individual contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its obligations under the Contract. Should any authority external to UNDP seek to impose any instructions on the Contract regarding the Individual contractor’s performance under the Contract, the Individual contractor shall promptly notify UNDP and shall provide all reasonable assistance required by UNDP. The Individual contractor shall not take any action in respect of its performance of the Contract or otherwise related to its obligations under the Contract that may adversely affect the interests of UNDP, and the Individual contractor shall perform its obligations under the Contract with the fullest regard to the interests of UNDP. The Individual contractor warrants that it has not and shall not offer any direct or indirect benefit arising from or related to the performance of the Contract or the award thereof to any representative, official, employee or other agent of UNDP. The Individual contractor shall comply with all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract. In the performance of the Contract the Individual contractor shall comply with the standards of conduct set in the Secretary General’s Bulletin ST/SGB/2002/9 of 18 June 2002, entitled “Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Expert on Mission”. The individual contractor must comply with all Security Directives issued by UNDP. Failure to comply with such security directives is grounds for termination of the Individual contractor for cause.

Prohibition of Sexual Exploitation and Abuse: In the performance of the Contract, the Individual contractor shall comply with the standards of conduct set forth in the Secretary-General’s bulletin ST/SGB/2003/13 of 9 October 2003, concerning “Special measures for protection from sexual exploitation and sexual abuse”. In particular, the Individual contractor shall not engage in any conduct that would constitute sexual exploitation or sexual abuse, as defined in that bulletin.

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

**3. TITLE RIGHTS, COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS:** Title to any equipment and supplies that may be furnished by UNDP to the Individual contractor for the performance of any obligations under the Contract shall rest with UNDP, and any such equipment shall be returned to UNDP at

the conclusion of the Contract or when no longer needed by the Individual contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Individual contractor, subject to normal wear and tear, and the Individual contractor shall be liable to compensate UNDP for any damage or degradation of the equipment that is beyond normal wear and tear.

UNDP shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Individual contractor has developed for UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Individual contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP. However, to the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Individual contractor: (a) that pre-existed the performance by the Individual contractor of its obligations under the Contract, or (b) that the Individual contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, UNDP does not and shall not claim any ownership interest thereto, and the Individual contractor grants to UNDP a perpetual licence to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract. At the request of UNDP, the Individual contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to UNDP in compliance with the requirements of the applicable law and of the Contract. Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents and all other data compiled by or received by the Individual contractor under the Contract shall be the property of UNDP, shall be made available for use or inspection by UNDP at reasonable times and in reasonable places, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under the Contract

**4. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:** Information and data that are considered proprietary by either UNDP or the Individual contractor or that are delivered or disclosed by one of them ("Discloser") to the other ("Recipient") during the course of performance of the Contract, and that are designated as confidential ("Information"), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate, and the Recipient may otherwise use the Discloser's Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser's prior written consent, as well as to the Recipient's employees, officials, representatives and agents who have a need to know such confidential Information solely for purposes of performing obligations under the Contract. Subject to and without any waiver of the privileges and immunities of UNDP, the Individual contractor may disclose Information to the extent required by law, *provided that* the Individual contractor will give UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made. UNDP may disclose Information to the extent as required pursuant to the Charter of the United Nations, resolutions or regulations of the General Assembly or its other governing bodies, or rules promulgated by the Secretary-General. The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely

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

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

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

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

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

**7. SUBCONTRACTORS:** In the event that the Individual contractor requires the services of subcontractors to perform any obligations under the Contract, the Individual contractor shall obtain the prior written approval of UNDP for any such subcontractors. UNDP may, in its sole discretion, reject any proposed subcontractor or require such subcontractor's removal without having to give any justification therefore, and such rejection shall not entitle the Individual contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract. The Individual contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

**8. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS:** The Individual contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNDP, nor shall the Individual contractor, in any manner whatsoever, use the

name, emblem or official seal of UNDP, or any abbreviation of the name of UNDP, in connection with its business or otherwise without the written permission of UNDP.

9. **INDEMNIFICATION:** The Individual contractor shall indemnify, defend, and hold and save harmless UNDP, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to: (a) allegations or claims that the use by UNDP of any patented device, any copyrighted material or any other goods or services provided to UNDP for its use under the terms of the Contract, in whole or in part, separately or in combination, constitutes an infringement of any patent, copyright, trademark or other intellectual property right of any third party; or (b) any acts or omissions of the Individual contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers' compensation.

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

11. **ENCUMBRANCES AND LIENS:** The Individual contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNDP against any monies due to the Individual contractor or to become due for any work done or against any goods supplied or materials furnished under the Contract, or by reason of any other claim or demand against the Individual contractor.

12. **FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:** In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event, which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in conditions or occurrence, the Individual contractor shall also submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract.

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

the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event, which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in conditions or occurrence, the Individual contractor shall also submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract.

*Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, or any other acts of a similar nature or force, *provided that* such acts arise from causes beyond the control and without the fault or negligence of the Individual contractor. The Individual contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Individual contractor must perform in or for any areas in which UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delay or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute *force majeure* under the Contract

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

In the event of any termination of the Contract, upon receipt of notice of termination by UNDP, the Individual contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing: (a) take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum; (b) refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice; (c) deliver all completed or partially completed plans, drawings, information and other property that, if the Contract had been completed, would be required to be furnished to UNDP thereunder; (d) complete performance of the work not terminated; and (e) take any other action that may be necessary, or that UNDP may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Individual contractor and in which UNDP has or may be reasonably expected to acquire an interest.

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

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

15. **TAXATION:** Article II, section 7, of the Convention on the Privileges and Immunities of the United Nations provides, *inter alia*, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs restrictions, duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the exemptions of the United Nations from such taxes, restrictions, duties or charges, the Individual contractor shall immediately consult with UNDP to determine a mutually acceptable procedure. UNDP shall have no liability for taxes, duties or other similar charges payable by the Individual contractor in respect of any amounts paid to the Individual contractor under this Contract, and the Individual contractor acknowledges that UNDP will not issue any statements of earnings to the Individual contractor in respect of any such payments.

16. **AUDITS AND INVESTIGATIONS:**

Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP at any time during the term of the Contract and for a period of two (2) years following the expiration or prior termination of the Contract. UNDP shall be entitled to a refund from the Individual contractor for any amounts shown by such audits to have been paid by UNDP other than in accordance with the terms and conditions of the Contract.

The Individual contractor acknowledges and agrees that, from time to time, UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the Individual contractor generally relating to performance of the Contract. The right of UNDP to conduct an investigation and the Individual contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Individual contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Individual contractor's obligation to make available its personnel and any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to UNDP access to the Individual contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Individual contractor's personnel and relevant documentation. The Individual contractor shall require its agents, including, but not limited to, the Individual contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

17. **SETTLEMENT OF DISPUTES:**

**AMICABLE SETTLEMENT:** UNDP and the Individual contractor shall use their best efforts to amicably settle any dispute, controversy or claim arising out of the Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules then obtaining of the United Nations Commission on International Trade Law ("UNCITRAL"), or according to such other procedure as may be agreed between the parties in writing.

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

either of the parties to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy or claim.

18. **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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