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REQUEST FOR PROPOSAL (RFP)

National Open Bidding	DATE: November 27, 2014
	REFERENCE: RFP/UNDP/INDIA/2014/052

Dear Sir / Madam:

We request you to submit your Proposal for a **“Study on exploring the link between Skill training and Productivity”**.

Please be guided by the form attached hereto as Annex 1 & 2, in preparing your Proposal.

Annexure 1 – Description of Requirements

Annexure 2 – Terms of Reference

Annexure 3 – Form for submitting service provider’s Technical proposal

Annexure 4 – Form for submitting service provider’s financial proposal

Annexure 5 – General Terms and Conditions of the Contract

Your proposal comprising of technical proposal and financial proposal, in separate sealed envelopes, should reach on or before **11th December, 2014, 1730 hrs. (IST)** at the address below:

**United Nations Development Programme
55, Lodi Estate, New Delhi – 110 003
Mr. Surjit Singh
Fax: 91-11-24627612**

If the technical and financial proposals are not submitted in separate sealed envelopes, the proposal will be rejected.

Please also provide the technical proposal and its annexures (scanned copies in **ONE PDF FILE**) in a CD/DVD, which can be kept in the envelope containing the hard copy of the technical proposal. PLEASE NOTE THAT CD/DVD should not contain the Financial Proposal.

Your Proposal must be expressed in English language, and valid for a minimum period of One Hundred and Twenty (120) days.

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

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

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

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

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

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

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

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

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

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

Thank you and we look forward to receiving your Proposal.

Yours sincerely,

Irene Dabare,
Deputy Country Director (Operations)
UNDP, India

Description of Requirements

Context of the Requirement	UNDP and National Skill Development Authority (NSDA) propose to commission a study which explores the link between skill development and productivity in the Indian context.
Implementing Partner	Direct implementation by UNDP
Brief Description of the Required Services	<p>A study which explores the link between skill development and productivity in the Indian context focusing on the following:</p> <ol style="list-style-type: none"> 1. To evaluate the link between pre-hiring third party skill development training programmes (such as by training partners approved / empaneled / accredited by various ministries/ state governments/ National Skill Development Corporation (NSDC), etc. and the increase in process/activity productivity in identified Sectors 2. To identify the pre- hiring third party skill development training practices which best contribute towards improving employability and productivity in identified sectors 3. To examine employer perception of pre-hiring third party skill development training programmes with respect to productivity.
List and Description of Expected Outputs to be Delivered	A study which explores the link between skill development and productivity in the Indian context.
Person to Supervise the Work/Performance of the Service Provider	Programme Analyst, UNDP India
Frequency of Reporting	As mentioned below
Progress Reporting Requirements	Bi monthly
Location of work	Pan India
Expected duration of work	Seven months
Target start date	20 December 2014
Latest completion date	19 July 2015
Travels Expected	The assignment would include travel to States finalized after discussion with UNDP and NSDA.
Special Security Requirements	<input type="checkbox"/> Security Clearance from UN prior to travelling <input type="checkbox"/> Completion of UN's Basic and Advanced Security Training <input type="checkbox"/> Comprehensive Travel Insurance <input checked="" type="checkbox"/> Others [Not Applicable]
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	<input type="checkbox"/> Office space and facilities <input type="checkbox"/> Land Transportation <input checked="" type="checkbox"/> Others [Not Applicable]
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required
Names and curriculum vitae of individuals who	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required

will be involved in completing the services			
Currency of Proposal	<input type="checkbox"/> United States Dollars <input type="checkbox"/> Euro <input checked="" type="checkbox"/> Indian Rupees (INR)		
Value Added Tax on Price Proposal	<input type="checkbox"/> must be inclusive of VAT and other applicable indirect taxes <input checked="" type="checkbox"/> must be exclusive of VAT and other applicable indirect taxes		
Validity Period of Proposals (<i>Counting for the last day of submission of quotes</i>)	<input type="checkbox"/> 60 days <input type="checkbox"/> 90 days <input checked="" type="checkbox"/> 120 days In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.		
Partial Quotes	<input checked="" type="checkbox"/> Not permitted <input type="checkbox"/> Permitted		
Payment Terms	Condition for Payment Release : After satisfactory acceptance and approval of outputs / deliverables/ report by UNDP		
	Outputs	Percentage	Timing
	Submission of Inception report and work plan	20%	Within 7 days after award of contract.
	Submission of Preliminary Report	30%	Within 1 month from the date of award of contract.
	Submission of draft of the study report	20%	Within 5 months from the date of award of contract.
	Submission of final report on completion of all activities as per the ToR	30%	Within 7 months from the date of award of contract.
Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	Programme Analyst, UNDP India		
Type of Contract to be Signed	<input type="checkbox"/> Purchase Order <input checked="" type="checkbox"/> Institutional Contract <input type="checkbox"/> Contract for Professional Services		
Criteria for Contract Award	<input checked="" type="checkbox"/> Compliance on Preliminary Examination of Proposals <input checked="" type="checkbox"/> Compliance on Essential Eligibility/Qualification requirements <input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution) <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is a mandatory criteria and cannot be deleted regardless of		

	the nature of services required. Non acceptance of the GTC may be grounds for the rejection of the Proposal.
Criteria for Preliminary Examination of Proposals	<ol style="list-style-type: none"> 1. Bid received on or before the date and time specified 2. Technical Offer separately sealed from Financial Offer 3. Details of Personnel to be engaged in the Contract Submitted 4. Implementation Timetable submitted 5. Latest Certificate of Registration of Business submitted 6. Latest Audited Financial Statements submitted 7. Is the Offeror, or any of its joint venture member, included in UN Security Council 1267 List, Suspended and Removed vendors list 8. Is the performance of the offeror, any of its Joint Venture Member, or any of the proposed key personnel found satisfactory in previous assignments with UNDP
Criteria for Essential Eligibility/Qualification	<ul style="list-style-type: none"> • The bidding agency to have minimum of 3 years of experience in areas related to skill trainings and empirical research work on training and increased productivity • Team Leader having a minimum experience of 5 years in undertaking research and consultancy related to skill and productivity research / training. • The team members having at least minimum of 2 years of knowledge and experience in skill training/research/private sector skill and productivity research. <p>Note:</p> <ol style="list-style-type: none"> 1. If bidders do not meet any of the above listed criteria, their proposal will not be considered for further evaluation. 2. Bidders meeting above listed criteria are required to submit evidences (details / documents) in support – otherwise proposal may be disqualified.
Criteria for the Assessment of Proposal	<p><u>Technical Proposal (70%)</u></p> <p><input checked="" type="checkbox"/> Expertise and Experience of the Firm in undertaking primary research and consultancy on skill development, productivity measurement aspects. [30%]</p> <p><input checked="" type="checkbox"/> Methodology including framework of the study, sampling plan, methods of data collection, tools and plan for analysis of data [20%]</p> <p><input checked="" type="checkbox"/> Qualification and Expertise of Team Leader [10%]</p> <p><input checked="" type="checkbox"/> Qualification and Expertise of other Key Personnel [10%]</p> <p><u>Financial Proposal (30%)</u></p> <p>To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP.</p>
UNDP will award the contract to:	<p><input checked="" type="checkbox"/> One and only one Service Provider</p> <p><input type="checkbox"/> One or more Service Providers</p>

<p>Contact Person for Inquiries (Written inquiries only)</p>	<p>Surjit Singh Procurement Unit surjit.singh@undp.org</p> <p>Any delay in UNDP's response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.</p>
<p>Other Information <i>[pls. specify]</i></p>	<p>Outer envelope should bear RFP reference number and sender's name and address</p> <p>Proposals are invited from the institutions/organizations only. Proposal submitted by Individuals will not be accepted.</p>

Terms of Reference

Study on exploring the link between Skill training and Productivity

Background:

There is an increasing recognition of the challenge faced by both developed and developing nations in making economic growth inclusive. Skill gaps and mismatches are identified as one of the key inhibitors in sustained economic growth, innovation, sustainable human development, and poverty reduction. Improving skills generation has become a global priority. World Economic Forum report calls for a redesign for closing the skill gap to improve productivity, offer better jobs, and spur new enterprises, as availability of skilled manpower is crucial for company operations and profitability. The Planning Commission's approach paper to the 12th plan places emphasis on Skill building by seeing it as an instrument to empower the individual and improve his/her 'social acceptance' or 'value'¹.

The Government of India had formulated a National Policy on Skill Development in 2009 with the objective of empowering all individuals through improved skills, knowledge, nationally and internationally recognized qualifications to gain access to decent employment and ensure India's competitiveness in the global market. It has become an important agenda for the Governments at Centre as well as States.

Existing Research on Skill development and Productivity improvement

A host of research studies have emphasized the pivotal role of the private sector in delivering innovative and sustainable solutions to skills gap problem due to its financial capacity (Accenture 2013), absorption capacity (Deloitte 2009) said that skilled work force is critical to business success. Managerial practices, HR practices, organization culture are some of the variables which impact the quest for productivity by organizations in addition to skilled manpower.

A number of studies are available which look at the link between skill development and organizational performance and outcomes. Usually, a clear connection between higher skill and higher productivity is observed at intermediate skills level, wherein, it is found that higher average levels of labour productivity are closely related to greater skills and knowledge of workforce. Uptake of new equipment, and maintenance activities often serve as proxies for skill levels of the workforce (Mason and Wagner 2002).

Haskel and Hawkes (2003) report higher skill (qualification) levels support innovation and more sophisticated production processes and were associated with the production of higher quality products. Green et al. (2003) have also established a strong relationship between different levels of UK workforce skills and the sophistication of products. An OECD supported study found that higher qualification levels of both managers and staff boosted innovation (Albaladejo and Romijn, 2001) and was associated with higher technological complexity and originality. Others have shown a link of skill development to company survival (Reid, 2000).

Present proposal

In India anecdotal evidence is cited in support of the hypothesis that hiring skilled manpower supplied by the training institutes has improved their business. This is not backed by rigorous research. There is an urgent need to undertake an exploratory study to understand the linkages between skill training and productivity improvement. The proposed study would contribute to the ongoing debate on the optimal strategy for skill development in the country.

UNDP and NSDA propose to commission a study which explores the link between skill development and productivity in the Indian context. This would enable us to address issues of effectiveness and efficiency in the design and delivery of skill development programmes in India. The proposed study would be using the following definitions and conceptual framework:

1. The objective of Skill Development is to create a workforce empowered with the necessary and continuously upgraded skills, knowledge and internationally recognized qualifications to gain access to decent employment and ensure India's competitiveness in the dynamic global market. It aims at increasing the productivity and employability of workforce (wage and self-employed) both in the organized and the unorganized sectors. It seeks increased participation of youth, women, disabled and other disadvantaged sections and to synergize efforts of various sectors and reform the present system with the enhanced capability to adapt to changing technologies and labour market demands.
2. The National Skills Qualifications Framework (NSQF) defines "Skills" as the ability to apply knowledge and use know-how to complete tasks and solve problems. Skills are described as cognitive (involving the use of logical, intuitive and creative thinking) or practical (involving manual dexterity and the use of methods, materials, tools and instruments)²
3. In the Organization for Economic Cooperation and Development (OECD) Productivity Database, labour productivity is defined as "GDP (Gross Value Added in market prices) per hour worked". Hours worked reflect regular hours worked by full-time and part-time workers, paid and unpaid overtime, hours worked in additional jobs, and time not worked because of public holidays, annual paid leaves, strikes and labour disputes, bad weather, economic conditions and other reasons.³

Objectives of the study:

1. Evaluate the link between pre-hiring third party skill development training programmes (such as by training partners approved / empaneled / accredited by various ministries/ state governments/ NSDC etc.) and the increase in process/activity productivity in identified Sectors
2. To identify the pre- hiring third party skill development training practices which best contribute towards improving employability and productivity in identified sectors
3. To examine employer perception of pre-hiring third party skill development training programmes with respect to productivity.

Scope:

- The proposed study would build upon available global analytical and empirical studies and develop a suitable framework to capture the recent efforts in India in pre-employment third party skill development programmes in Construction (Residential/Commercial and infrastructure), Manufacturing (Automotive, Engineering), Healthcare, BPO, Apparel, and Leather.
- Analysis of pre-employment third party skilling and productivity of workers with no previous experience in organized entities (Large, medium, small enterprises) of the identified sectors over the first year of their employment
- Analysis of pre-employment third party skilling and employability of workers with no previous experience in organized entities (Large, medium, small enterprises) in the identified sectors
- Organization policies and procedures affecting productivity

² NSQF Notification, Ministry of Finance (Department of Economic Affairs) Notification, GoI, December 2013.

³ OECD Compendium of Productivity Indicators, 2013

Methodology: The methodology will be finalized in consultation with a steering group constituted by National Skill Development Agency and UNDP India. The methodology will include but not be limited to:

- Desk review of relevant national and international studies and documents
- Randomized controlled trials of workers (at process/ activity level) with or without skills training ahead of hiring, working under same or similar supervision and environmental conditions.
- The study would aim to cover at least 1200 workers in all with a minimum of 200 workers for each of the six sectors: Construction (Residential/Commercial and infrastructure), Manufacturing (Automotive, Engineering), Healthcare, BPO, Apparel, and Leather.
- Of the 200 workers 150 workers would have received skill development training and 50 workers would be those who have not received any skill training.
- Employer survey (Supervisor/HR/Training) to link training outcomes to productivity
- Consultations with relevant subject matter experts, Industry and training partners

Submission of Proposals

Interested agencies should submit their proposal clearly mentioning the following points in not more than 15 pages (excluding Annexures):

- Organizational strengths to undertake the task, particularly highlighting their strength in conducting studies on cooperatives especially financial cooperatives
- Clear methodology of undertaking the study – Sample frame, sampling process, data collection methods and tools, process of analyzing data and report format
- Details of core team members having knowledge and experience
- Justification of each team member with clearly defined roles and responsibilities
- Provide action plan to ensure that the task is completed within the given timelines

Expected Outcomes and Steps to be followed

Immediately after the award of the assignment/signing of the contract, the selected agency would be invited to an inception meeting to make a presentation and take necessary feedback on the study approach, methodology, study samples, report structure and the action plan. The expected output along with timelines are given in the data sheet.

Bibliography

1. **World Economic Forum (2010)**, "Global Redesign Initiative- Session Summaries from the World Economic Forum Annual Meeting 2010", Web link : www.weforum.org
2. **Albaladejo and Romijn (2001)** "Determinants of innovation capability in small UK firms." ECIS working paper No. 0013.
3. **Brewer, Laura,** "InFocus Programme on Skills, Knowledge and Employability, ILO, 2002, Skills Working Paper No. 19" Web link
4. Deloitte (2009), "*People and Profitability- A time for change*", The Manufacturing Institute (Oracle, Inc).
5. ILO, (2008) "*Conclusions on skills for improved productivity, employment growth and development*".
6. **Fernando Galindo-Rueda, Haskel, Jonathan (2005)**, " Skills, Workforce Characteristics and Firm-Level Productivity: Evidence from the Matched ABI/Employer Skills Survey.
7. **Freeman, Rebecca, (2008)** "*Labour Productivity Indicators - Comparison of Two OECD Databases Productivity differentials and the Balassa-Samuelson Effect*", OECD Statistics Directorate, Division of Structural Economic Statistics
8. **Haskel, J. Hawkes, D, (2003)**, How Much of the Productivity Spread is Explained by Skills? UK Evidence Using Matched Establishment / Workforce Survey Data, CeRIBA discussion paper, Centre for Research into Business Activity, London. Web link
9. **Mason, G. and Wagner, K., (2002)** Skills, performance and new technologies in the British and German automotive components industries, Research Report SPN1, London: Department for Education and Skills.
10. **The Planning Commission** : Approach to the 12th Plan : Enhancing Skills and Faster Generation of Employment.
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13. **OECD Employment outlook, "Improving Skills for More and Better Jobs: Does Training Make a Difference?", Chapter 4 OECD 2004**
14. **Shrivastav, Khyati, (2010)** "Brief Overview of Skills Development Sector Initiatives in India" Public Policy Research Center, New Delhi Web link: https://www.academia.edu/7524653/Skill_Development_Initiatives_India_brief_overview_of_Skill_Development_Sector_Initiatives_in_India
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17. National Policy on Skills Development (2009) Web link: <http://labour.nic.in/upload/uploadfiles/files/Policies/NationalSkillDevelopmentPolicyMar09.pdf>
18. **Tamkin, P., Giles, L., Campbell, M. and Hillage, J. (2004)** "Skills Pay: The Contribution of Skills to Business Success", SSDA, Weblink www.ssdamatrix.org.uk.

**FORM FOR SUBMITTING SERVICE PROVIDER'S
TECHNICAL PROPOSAL**

(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery⁴)

[insert: Location].

[insert: Date]

To: [insert: Name and Address of UNDP focal point]

Dear Sir/Madam:

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

A. Qualifications of the Service Provider

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

- a) Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations;
- b) Business Licenses – Registration Papers, Tax Payment Certification, etc.
- c) Latest Audited Financial Statement – income statement and balance sheet to indicate its financial stability, liquidity, credit standing, and market reputation, etc. ;
- d) Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contact references;
- e) Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.
- f) Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List.

B. Proposed Methodology for the Completion of Services

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

⁴ Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

C. **Qualifications of Key Personnel**

The Service Provider must provide:

- a) Names and qualifications of the key personnel that will perform the services indicating who is Team Leader, who are supporting, etc.;
- b) CVs demonstrating qualifications must be submitted if required by the RFP; and
- c) Written confirmation from each personnel that they are available for the entire duration of the contract.

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

[Designation]

[Date]

FORM FOR SUBMITTING SERVICE PROVIDER'S FINANCIAL PROPOSAL

A. Cost Breakdown per Deliverable*

	Deliverables [list them as referred to in the RFP]	Percentage of Total Price (Weight for payment)	Price (Lump Sum, All Inclusive)
1	Submission of Inception report and work plan	20%	
2	Submission of Preliminary Report	30%	
3	Submission of First draft of the Study Report	20%	
4	Submission of final report	30%	
	Total	100%	INR.....

*This shall be the basis of the payment tranches

B. Cost Breakdown by Cost Component:

Description of Activity	Remuneration per Unit of Time	Total Period of Engagement	No. of Personnel	Total Rate
I. Personnel Services				
1. Team Leader				
2. Other experts				
3. Cost of Hiring Field Investigators				
II. Out of Pocket Expenses				
1. Cost of Field Study - Cost of travel Including Boarding and lodging of the study team	<p style="color: red;">Bidders are not required to include travel cost in the financial proposal as the sites for field visit are yet to be finalized.</p> <p>Selected bidder will be asked to provide cost estimate after discussions over methodology and sampling and finalization of sites.</p>			
2. Cost of Communication , Overheads and contingencies				
4. Any other Costs, if any (please specify)				
TOTAL				INR...

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

[Designation]

[Date]

General Terms and Conditions for Services**1.0 LEGAL STATUS:**

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

2.0 SOURCE OF INSTRUCTIONS:

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

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

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

4.0 ASSIGNMENT:

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

5.0 SUB-CONTRACTING:

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

6.0 OFFICIALS NOT TO BENEFIT:

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

7.0 INDEMNIFICATION:

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

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

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

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

9.0 ENCUMBRANCES/LIENS:

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

10.0 TITLE TO EQUIPMENT:

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

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

- 11.1** Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.
- 11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.
- 11.3** At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.

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

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

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

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

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

15.0 TERMINATION

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

16.0 SETTLEMENT OF DISPUTES

- 16.1 Amicable Settlement:** The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the

conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

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

17.0 PRIVILEGES AND IMMUNITIES:

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

18.0 TAX EXEMPTION

- 18.1** Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.
- 18.2** Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 CHILD LABOUR

- 19.1** The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.
- 19.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20.0 MINES:

- 20.1** The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.
- 20.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21.0 OBSERVANCE OF THE LAW:

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

22.0 SEXUAL EXPLOITATION:

- 22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.
- 22.2** The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

23.0 AUTHORITY TO MODIFY:

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