

REQUEST FOR QUOTATION (RFQ)

GIS Spatial Planning Database project for the municipalities of Mitrovica South, Vushtrri/Vucitrn and Skenderaj

NAME & ADDRESS OF FIRM:	DATE:
	25 March 2020
	REFERENCE:
	RFQ/02_REV/2020

Dear Sir/Madam:

We kindly request you to submit quotation for **"GIS Spatial Planning Database project for Mitrovica South, Vushtrri/Vucitrn and Skenderaj Programme"** as per the details outlined in this RFQ. When preparing your quotation, please be guided by the form attached hereto as Annex 1, 2, 3 and 4.

We would appreciate receiving your quotation on or before **13 April 2020 15:00 hrs** by email to **procurement@unhabitat-kosovo.org**.

Quotations submitted by email must be limited to a maximum of 5MB, virus-free and no more than 3 transmissions. They must be free from any form of virus or corrupted contents, or the quotations shall be rejected.

It shall remain your responsibility to ensure that your quotation will reach the address above on or before the deadline. Quotations that are received by UN-Habitat after the deadline indicated above, for whatever reason, shall not be considered for evaluation. If you are submitting your quotation by email, kindly ensure that they are signed and in the pdf format, and free from any virus or corrupted files.

Please take note of the following requirements and conditions pertaining to the supply of the abovementioned services:

CONDITIONS	
Completion Schedule	Required
Payment Terms	100% within 30days upon completion and satisfactory receipt of services and deliverables
Validity of Quotation	30 DAYS ¹
Preliminary Examination - Completeness of quotation.	Partial bids are not permitted .
Submission Date	On or before 13 April 2020, 15:00 hrs
Interested bidders are encouraged to attend the pre-bid meeting for obtaining further information/clarification which shall take place as per the following schedule:	Pre-bid meeting date and time: Monday, 6th April 2020, 10:00 hrs Pre-bid meeting location: Subject to further developments of the coronacrisis situation, the pre-bid meeting will be held online via internet or in person at Ministries Building 'Rilindja' 10th floor (t.b.c.)
All documents, products, deliverables, materials and communication shall be in this language	English
TAX EXEMPTION	All quotations submitted shall be without VAT and other taxes. Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter

¹ In exceptional circumstances, UN-Habitat may request the Vendor to extend the validity of the Quotation beyond what has been initially indicated in this RFQ. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Quotation.

	alia, that the United Nations, including its subsidiaries organs, is exempt from all direct taxes, except charges for utilities services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use															
Documents to be submitted:	<div><div><div>1. Duly Accomplished Form as provided in Annex 2, and in accordance with the list of requirements in Annex 1; Financial offer expressed in EUR, VAT excluded. The bidder is expected to foresee and include the manpower required to complete this assignment and include it in the financial offer .</div><div>2. Company's profile (brief of your company and experience) and Quality Certificate if any (e.g., ISO 9001, ISO 14001 and other, etc.) and / or other similar certificates, accreditations, awards and citations received</div><div>3. Latest Business Registration Certificate²;</div><div>4. CVs of team members</div><div>5. List of relevant projects (ref requirement in the Annex 2)³ of comparable volume and character performed within the last three years as per the following format:</div></div><table><tr><th>Description</th><th>Year of execution</th><th>Contract Value</th><th>Client</th><th>Contract details for reference check (e-mail, phone)</th></tr><tr><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td></tr></table></div>	Description	Year of execution	Contract Value	Client	Contract details for reference check (e-mail, phone)										
Description	Year of execution	Contract Value	Client	Contract details for reference check (e-mail, phone)												
Evaluation Criteria	<div><div><div>1. Full compliance to requirements and lowest price 4</div><div>2. Delivery time and terms</div><div>3. Full acceptance of the PO/Contract General Terms and Conditions (mandatory criteria)</div><div>4. Proven and solid knowledge and experience in providing similar services to similar organisations in the field of spatial planning and GIS</div><div>5. Able to provide user training and related documents</div></div><div>UN-Habitat Kosovo withholds the right to check the quotation with one or more potential suppliers before an award decision is made. Purpose of this check is to seek further clarification on the submitted proposal and learn more about the background and previous experiences of the potential company and their works / products.</div></div>															
Type of Contract to be signed	Purchase Order															
Conditions for Release of Payment	<div><div><div>1. Certification by the programme management on satisfactory completion of work</div><div>2. Written acceptance of deliverables based on full compliance with RFQ requirements</div><div>3. Submission of Invoice</div></div></div>															
Annexes to this RFQ	<div><div><div>1. ToR (Annex 1)</div><div>2. Form for Submission of Quotation (Annex 2)</div><div>3. Data tables MDP, MZM, DRP (Annex 3)</div><div>4. UN General Terms and Conditions (Annex 4).</div></div><div>Non-acceptance of the terms of the General Terms and Conditions shall be grounds for disqualification from this procurement process</div></div>															
Contact Person for Inquiries (Written inquiries only)	<div><div>Programme Management Unit</div><div>procurement@unhabitat-kosovo.org</div><div>Any delay in UN-Habitat's response shall be not used as a reason for extending the deadline for submission, unless UN-Habitat determines that such an extension is necessary and communicates a new deadline to the Proposers.</div></div>															
General Terms and Conditions	This RFQ is subject to the attached UN General Terms and Conditions															

² Local vendors must comply with any applicable laws regarding doing business in other currencies. Conversion of currency into the UN preferred currency, if the offer is quoted differently from what is required, shall be based only on UN Operational Exchange Rate prevailing at the time of issuance of Purchase Order.

³ The list of relevant projects shall include their value, year of execution and contacts of clients (e-mail addresses) for reference checking purposes. If available, relevant references should also be submitted.

⁴ UN-Habitat reserves the right not to award the contract to the lowest priced offer, if the second lowest price among the responsive offer is found to be significantly more superior and the budget can sufficiently cover the price difference. The term "more superior" used in this provision refers to offers that have exceeded the pre-determined requirements established in the specification of services

Services and products offered shall be reviewed based on completeness and compliance of the quotation with the minimum specifications described above and any other annexes providing details of UN-Habitat requirements.

The quotation that complies with all of the specifications, requirements and offers the lowest price, as well as all other evaluation criteria indicated, shall be selected. Any offer that does not meet the requirements shall be rejected.

Any discrepancy between the unit price and the total price (obtained by multiplying the unit price and quantity) shall be re-computed by UN-Habitat. The unit price shall prevail and the total price shall be corrected. If the supplier does not accept the final price based on UN-Habitat's re-computation and correction of errors, its quotation will be rejected.

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

Any Purchase Order that will be issued as a result of this RFQ shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a quotation implies that the vendor accepts without question the General Terms and Conditions of UN herein attached as Annex 4. UN-Habitat is not bound to accept any quotation, nor award a contract/Purchase Order, nor be responsible for any costs associated with a Supplier's preparation and submission of a quotation, regardless of the outcome or the manner of conducting the selection process.

UN-Habitat encourages every prospective Vendor to avoid and prevent conflicts of interest, by disclosing to UN-Habitat if you, or any of your affiliates or personnel, were involved in the preparation of the requirements, design, specifications, cost estimates, and other information used in this RFQ.

UN-Habitat implements a zero tolerance on fraud and other proscribed practices, and is committed to identifying and addressing all such acts and practices against UN-Habitat, as well as third parties involved in UN-Habitat activities. UN-Habitat expects its suppliers 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 quotation



NAME: Gwendoline Menetrier,
FUNCTIONAL TITLE: Chief Technical Advisor,

DATE: 25 March 2020

ANNEX 1

Terms of Reference

GIS Spatial Planning Database project for municipalities of Mitrovica South, Vushtrri/Vucitrn and Skenderaj

BACKGROUND

UN-Habitat has been actively assisting Kosovo institutions in the field of governance, spatial planning and municipal administration since 1999. Building on the results and tools generated by the Municipal Spatial Planning Support Programme, UN-Habitat is now implementing the Inclusive Development Programme (2016-20), which aims to provide a strategic, comprehensive package of support to build municipal planning and management capacities, strengthen the social contract and social cohesion, and enhance coordination within a framework of inter-municipal cooperation and multi-level governance, with a view to foster inclusive development and good governance in northern Kosovo. The Programme is financed by the Swedish International Development Agency and jointly implemented with PAX and Community Building Mitrovica (CBM). It covers 7 municipalities in the northern Kosovo region: Leposavic/Leposaviq, Mitrovica South, Mitrovica North, Skenderaj/Srbica, Vushtrri/Vucitrn, Zubin Potok, and Zvecan. For general information on UN-Habitat in Kosovo refer to the website: <http://www.unhabitat-kosovo.org>

OBJECTIVE/PURPOSE OF THE ASSIGNMENT

The Inclusive Development Programme, respectively UN-Habitat team located in Mitrovica South, Vushtrri/Vucitrn and Skenderaj/Srbica is tasked to support the municipal staff (various departments) in establishment and operationalization of the spatial planning database (local level) in relation to the drafting process of respective planning documents (Municipal Development Plan, Municipal Zoning Map, Urban Mobility Plan and Detailed Regulatory Plans). In this regard, UN-Habitat intends to engage an GIS expert/consulting company to aid in the development and operationalization of this database.

The GIS expert/consulting company will work closely with the UN-Habitat appointed planner and official team, municipal staff and respective staff of the Ministry of Environment and Spatial Planning. The consultancy will consist of the following main activities:

- 1) Design/ establish the GIS database structure (local level).
- 2) Design the data collection questionnaires/ templates for MDP and MZM. The questionnaires should be designed in electronic form/application (Microsoft Access or other) linked directly with GIS database, in order to register (real time) field data with maps.
- 3) Install (and test) GIS database in municipal equipment.
- 4) Design and distribute a guidance paper for administrative use of GIS database
- 5) Deliver trainings for municipal staff in 3 municipalities (MS, VU, SK).
- 6) Provide on-the job assistance to the municipal staff of 3 municipalities according to their identified needs
- 7) Submit all produced products (in respective formats) and transfer all rights (use and ownership) to UN-Habitat, respectively municipalities.

ACTIVITIES/SCOPE OF SERVICE

The GIS expert/consulting company will be responsible for the establishment of spatial planning database structure but also for strengthening municipal capacities in the use of it. The activities will be closely coordinated and jointly implemented with the Programme counterparts, MESP.

Main tasks are:

- **Brainstorming/ info session** between the UN-Habitat team and GIS expert/company in relation to the existing documents/ ideas (existing data tables and initial ideas on the GIS database structure outlined by the existing document) with the aim to reach a common understanding regarding the structure of spatial planning database.
- **Design/ establish the GIS based spatial planning database structure (local level)** based on the attached outline and the data tables. The system should be designed as follows:
 - It must be an internal geodatabase and plan-drafting platform used by various municipal directorates through the existing intranet system. At later stages, it could be upgraded and linked to the central level as well as be reshaped into a publicly opened platform depending on the privilege granted. Both the geodatabase and plan-drafting components would use the open source applications such as GeoServer/ MapServer respectively QGIS.
 - The database application should have a plan-based structure with the **Data Centre** where all the data (spatial and non-spatial) should be accommodated in a following pattern:
 - MDP with the group layers on profile and planned situation for the thematic fields (based on the AI no. 11/2015 on MDP);
 - MZM with the group layers on basic data, zoning, infrastructure, informal settlements and DRP, and actions proposed (based on the AI no. 24/2015 on MZM);
 - DRP with the group layers on basic data of planned area, development concept, regulation of the area, infrastructure and actions proposed (based on the AI no. 01/2018 on DRP);
 - Other spatial planning documents with the group layers on basic data and planned data;
 - Group layers for monitoring plans' implementation;
 - As well as the **Map Layouts** corresponding to each aforementioned plan with the respective map templates.
- In addition, spatial planning database (local level) structure will also have these features:
 - For most of the thematic fields there will be spatial data and alphanumeric / photo related data - attributes, whereas for certain thematic fields there will be only alphanumeric data;
 - Data viewing, analysis and use should be enabled between the layers/ shapefiles with a selection mode for the data needed;
 - From the layers/ shapefiles of current situation should be enabled a direct saving mode of the attribute tables to PDF (following the requirements of the annex of the AI no 11/2015 on MDP);
 - The "adopted mode" should be enabled for the maps and certain attributes of the three aforementioned plans, meaning no intervention can be made on them after their approval from the municipal assembly.
 - Direct entering of alphanumeric data through excel/ or another application/ file should also be enabled.
 - Technical Solutions for generating reports.
 - Nomenclature, symbology and colors should be used following the AI on technical norms of spatial planning.
- **Design templates/ questionnaires for data collection** for MDP and MZM. These templates/ questionnaires (Microsoft Access or other) should be in line/compliance with the data tables.
- **Operationalize spatial planning database (local level)** by installing the developed application into the municipal equipment's and connecting them through the existing intranet.

- **Develop further the guidance paper for administrative use of spatial planning database (local level).**
- **Provide introductory training sessions** for municipal officers (VU, SK, MS) in QGIS and SPAK, data management (collection/ digitizing/ migrating/ analyzing/ updating/ presenting) and drafting spatial plans/ drafting implementation reports by using the GIS database put in place. Due to the large number of potential participants, two training will be held subsequently. 5-day trainings will be divided in 2 (QGIS and SPAK) and 3 days (GIS database put in place).
- **Provide on-the-job training** for municipal officers related to the data migration, using the current situation data to draft the MDP maps, using land use and other maps of MDP for preliminary zoning (MZM), preparing the annual reporting maps of plan implementation, etc. 5-day training session will be held for each municipality during a two months period.

GEOGRAPHICAL COVERAGE

The project target area is the municipality of Mitrovica South, Vushtrri/Vucitrn and Skenderaj/Srbica.

PROGRAMME SCHEDULE

The action shall be implemented within a period of 135 calendar days. It will include the products as described below:

#	Activities	Parties involved	Estimated working days	Over a period of (calendar days)	Deliverables
1.	Brainstorming session and presentation of current documents/ideas (existing data tables, outlined ideas on the spatial planning database (local level) structure, etc.)	UN-Habitat, GIS expert/ company	1	5	-
2.	Establish/build the spatial planning database (local level) structure (<i>including presentation and adjustment</i>).	Expert/s UN-Habitat staff	45	70	Spatial planning database (local level) structure (GIS based) with the aforementioned specifications developed and operationalized in three municipalities
3.	Operationalize the spatial planning database (local level) – install the upgraded application into the municipal equipment's.	Expert/s Municipal staff UN-Habitat	3		
4.	Design the data collection templates/ questionnaires (<i>including presentation and adjustment</i>)	Expert/s UN-Habitat staff	10		Data collection templates/ questionnaires prepared for MDP and MZM
5.	Develop further and distribute the guidance paper for administrative use of spatial planning database (local level)	Expert/s UN-Habitat staff Municipal staff	10	60	Guidance paper drafted and distributed to all three municipalities
6.	Delivery of training sessions “ <i>QGIS& in general and use of the GIS database put in place</i> ” for the 3 municipalities (Skenderaj, Vushtrri/Vucitrn and Mitrovica South).	Expert/s, MESP/ISP Municipal staff UN-Habitat	15		5-day training sessions delivered for the three municipalities (2 sessions subsequently). The training venue/ equipment will be provided by the Programme -training materials delivered

7.	On-the-job training for the 3 municipalities (Skenderaj, Mitrovica South and Vushtrri/Vucitrn)	Expert/s Municipal staff UN-Habitat	15		5-day on-the-job trainings delivered for each of the three municipalities for the GIS database activities accordingly applied to a municipality
Total:			99	135	

CRITERIA FOR SELECTION

- Contractor must be a legal entity
- Contractor must be a reputable company with prior rich experience in the field
- Proven and solid knowledge and experience in providing similar services to similar organisations
- Able to provide user training and related documents

UN-Habitat Kosovo withholds the right to check the quotation with one or more potential suppliers before an award decision is made. Purpose of this check is to seek further clarification on the submitted proposal and learn more about the background and previous experiences of the potential company and their works/products.

ANNEX 2

FORM FOR SUBMITTING SUPPLIER'S QUOTATION⁵

(This Form must be submitted only using the Supplier's Official Letterhead⁶)

We, the undersigned, hereby accept in full the UN General Terms and Conditions, and hereby offer to supply the items listed below in conformity with the specification and requirements of UN-Habitat Kosovo as per **RFQ Reference RFQ/02_REV/2020**.

All other information that we have not provided automatically implies our full compliance with the requirements, terms and conditions of the RFQ.

Deliverable	Total price in EUR
Spatial planning database (local level) structure (QGIS based) with the aforementioned specifications developed and operationalized in three municipalities	
Data collection templates/questionnaires prepared for MDP and MZM	
Guidance paper for the administrative use of the database drafted and distributed to all three municipalities	
5 day training sessions delivered for the three municipalities (2 sessions subsequently) including delivery of training materials	
5 day on-the-job trainings delivered for each of the three municipalities for the GIS database activities accordingly applied to a municipality <i>(the price shall exclude logistics costs, such as training room, coffees and water, since this will be directly provided by UN-Habitat)</i>	
Grand Total	

(Name and Signature of the Supplier's Authorized Person)

(Title)

(Date)

(Stamp)

⁵ This serves as a guide to the Supplier in preparing the quotation and price schedule

⁶ Official Letterhead/Stationery must indicate contact details - addresses, email, phone and fax numbers -for verification purposes

ANNEX 3

1	Data table MDP
2	Data table MZM
3	Data table DRP

All data outlined below is attached in softcopy in Excel file formats

UNITED NATIONS NATIONS UNIES

GENERAL CONDITIONS OF CONTRACT

CONTRACTS FOR THE PROVISION OF SERVICES

1. **LEGAL STATUS OF THE PARTIES:** The United Nations and the Contractor shall also each be referred to as a “Party” hereunder, and:
 - 1.1 Pursuant, *inter alia*, to the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations, the United Nations, including its subsidiary organs, has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfillment of its purposes.
 - 1.2 The Contractor shall have the legal status of an independent contractor *vis-à-vis* the United Nations, and nothing contained in or relating to the Contract shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. The officials, representatives, employees, or subcontractors of each of the Parties shall not be considered in any respect as being the employees or agents of the other Party, and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.
2. **RESPONSIBILITY FOR EMPLOYEES:** To the extent that the Contract involves the provision of any services to the United Nations by the Contractor’s officials, employees, agents, servants, subcontractors and other representatives (collectively, the Contractor’s “personnel”), the following provisions shall apply:
 - 2.1 The Contractor shall be responsible for the professional and technical competence of the personnel it assigns to perform work under the Contract and will select reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.
 - 2.2 Such Contractor personnel shall be professionally qualified and, if required to work with officials or staff of the United Nations, shall be able to do so effectively. The qualifications of any personnel whom the Contractor may assign or may propose to assign to perform any obligations under the Contract shall be substantially the same, or better, as the qualifications of any personnel originally proposed by the Contractor.
 - 2.3 At the option of and in the sole discretion of the United Nations:
 - 2.3.1 the qualifications of personnel proposed by the Contractor (*e.g.*, a curriculum vitae) may be reviewed by the United Nations prior to such personnel’s performing any obligations under the Contract;
 - 2.3.2 any personnel proposed by the Contractor to perform obligations under the Contract may be interviewed by qualified staff or officials of the United Nations prior to such personnel’s performing any obligations under the Contract; and,
 - 2.3.3 in cases in which, pursuant to Article 2.3.1 or 2.3.2, above, the United Nations has reviewed the qualifications of such Contractor’s personnel, the United Nations may reasonably refuse to accept any such personnel.
 - 2.4 Requirements specified in the Contract regarding the number or qualifications of the Contractor’s personnel may change during the course of performance of the Contract. Any such change shall be made only following written notice of such proposed change and upon written agreement between the Parties regarding such change, subject to the following:
 - 2.4.1 The United Nations may, at any time, request, in writing, the withdrawal or replacement of any of the Contractor’s personnel, and such request shall not be unreasonably refused by the Contractor.
 - 2.4.2 Any of the Contractor’s personnel assigned to perform obligations under the Contract shall not be withdrawn or replaced without the prior written consent of the United Nations, which shall not be unreasonably withheld.



2.4.3 The withdrawal or replacement of the Contractor's personnel shall be carried out as quickly as possible and in a manner that will not adversely affect the performance of obligations under the Contract.

2.4.4 All expenses related to the withdrawal or replacement of the Contractor's personnel shall, in all cases, be borne exclusively by the Contractor.

2.4.5 Any request by the United Nations for the withdrawal or replacement of the Contractor's personnel shall not be considered to be a termination, in whole or in part, of the Contract, and the United Nations shall not bear any liability in respect of such withdrawn or replaced personnel.

2.4.6 If a request for the withdrawal or replacement of the Contractor's personnel is *not* based upon a default by or failure on the part of the Contractor to perform its obligations in accordance with the Contract, the misconduct of the personnel, or the inability of such personnel to reasonably work together with United Nations officials and staff, then the Contractor shall not be liable by reason of any such request for the withdrawal or replacement of the Contractor's personnel for any delay in the performance by the Contractor of its obligations under the Contract that is substantially the result of such personnel's being withdrawn or replaced.

2.5 Nothing in Articles 2.2, 2.3 and 2.4, above, shall be construed to create any obligations on the part of the United Nations with respect to the Contractor's personnel assigned to perform work under the Contract, and such personnel shall remain the sole responsibility of the Contractor.

2.6 The Contractor shall be responsible for requiring that all personnel assigned by it to perform any obligations under the Contract and who may have access to any premises or other property of the United Nations shall:

2.6.1 undergo or comply with security screening requirements made known to the Contractor by the United Nations, including but not limited to, a review of any criminal history;

2.6.2 when within United Nations premises or on United Nations property, display such identification as may be approved and furnished by the United Nations security officials, and that upon the withdrawal or replacement of any such personnel or upon termination or completion of the Contract, such personnel shall immediately return any such identification to the United Nations for cancellation.

2.7 Within one working day after learning that any of Contractor's personnel who have access to any United Nations premises have been charged by law enforcement authorities with an offense other than a minor traffic offense, the Contractor shall provide written notice to inform the United Nations about the particulars of the charges then known and shall continue to inform the United Nations concerning all substantial developments regarding the disposition of such charges.

2.8 All operations of the Contractor, including without limitation, storage of equipment, materials, supplies and parts, within United Nations premises or on United Nations property shall be confined to areas authorized or approved by the United Nations. The Contractor's personnel shall not enter or pass through and shall not store or dispose of any of its equipment or materials in any areas within United Nations premises or on United Nations property without appropriate authorization from the United Nations.

3. ASSIGNMENT:

3.1 Except as provided in Article 3.2, below, the Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of the UN. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, shall not be binding on the United Nations. Except as permitted with respect to any approved subcontractors, the Contractor shall not delegate any of its obligations under this Contract, except with the prior written consent of the UN. Any such unauthorized delegation, or attempt to do so, shall not be binding on the United Nations.

3.2 The Contractor may assign or otherwise transfer the Contract to the surviving entity resulting from a reorganization of the Contractor's operations, *provided that*:

3.2.1 such reorganization is not the result of any bankruptcy, receivership or other similar proceedings;
and,



- 3.2.2 such reorganization arises from a sale, merger, or acquisition of all or substantially all of the Contractor's assets or ownership interests; *and*,
- 3.2.3 the Contractor promptly notifies the United Nations about such assignment or transfer at the earliest opportunity; *and*,
- 3.2.4 the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the Contract, and such writing is promptly provided to the United Nations following the assignment or transfer.

4. **SUBCONTRACTING:** In the event that the Contractor requires the services of subcontractors to perform any obligations under the Contract, the Contractor shall obtain the prior written approval of the United Nations. The United Nations shall be entitled, in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that the United Nations reasonably considers is not qualified to perform obligations under the Contract. The United Nations shall have the right to require any subcontractor's removal from United Nations premises without having to give any justification therefor. Any such rejection or request for removal shall not, in and of itself, entitle the 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, and the 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.

5. **INDEMNIFICATION:**

5.1 The Contractor shall indemnify, defend, and hold and save harmless, the United Nations, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature brought by any third party against the United Nations, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to:

5.1.1 allegations or claims that the possession of or use by the United Nations of any patented device, any copyrighted material, or any other goods, property or services provided or licensed to the United Nations under the terms of the Contract, in whole or in part, separately or in a combination contemplated by the Contractor's published specifications therefor, or otherwise specifically approved by the Contractor, constitutes an infringement of any patent, copyright, trademark, or other intellectual property right of any third party; *or*,

5.1.2 any acts or omissions of the 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.

5.2 The indemnity set forth in Article 5.1.1, above, shall not apply to:

5.2.1 A claim of infringement resulting from the Contractor's compliance with specific written instructions by the United Nations directing a change in the specifications for the goods, property, materials, equipment or supplies to be or used, or directing a manner of performance of the Contract or requiring the use of specifications not normally used by the Contractor; *or*

5.2.2 A claim of infringement resulting from additions to or changes in any goods, property, materials equipment, supplies or any components thereof furnished under the Contract if the United Nations or another party acting under the direction of the United Nations made such changes.

5.3 In addition to the indemnity obligations set forth in this Article 5, the Contractor shall be obligated, at its sole expense, to defend the United Nations and its officials, agents and employees, pursuant to this Article 5, regardless of whether the suits, proceedings, claims and demands in question actually give rise to or otherwise result in any loss or liability.

5.4 The United Nations shall advise the Contractor about any such suits, proceedings, claims, demands, losses or liability within a reasonable period of time after having received actual notice thereof. The Contractor shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of the United Nations or any matter relating thereto, for which only the United



Nations itself is authorized to assert and maintain. The United Nations shall have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.

- 5.5 In the event the use by the United Nations of any goods, property or services provided or licensed to the United Nations by the Contractor, in whole or in part, in any suit or proceeding, is for any reason enjoined, temporarily or permanently, or is found to infringe any patent, copyright, trademark or other intellectual property right, or in the event of a settlement, is enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, shall, promptly, either:

5.5.1 procure for the United Nations the unrestricted right to continue using such goods or services provided to the United Nations;

5.5.2 replace or modify the goods or services provided to the United Nations, or part thereof, with the equivalent or better goods or services, or part thereof, that is non-infringing; *or*,

5.5.3 refund to the United Nations the full price paid by the United Nations for the right to have or use such goods, property or services, or part thereof.

6. INSURANCE AND LIABILITY:

- 6.1 The Contractor shall pay the United Nations promptly for all loss, destruction, or damage to the property of the United Nations caused by the Contractor's personnel or by any of its subcontractors or anyone else directly or indirectly employed by the Contractor or any of its subcontractors in the performance of the Contract.

- 6.2 Unless otherwise provided in the Contract, prior to commencement of performance of any other obligations under the Contract, and subject to any limits set forth in the Contract, the Contractor shall take out and shall maintain for the entire term of the Contract, for any extension thereof, and for a period following any termination of the Contract reasonably adequate to deal with losses:

6.2.1 insurance against all risks in respect of its property and any equipment used for the performance of the Contract;

6.2.2 workers' compensation insurance, or its equivalent, or employer's liability insurance, or its equivalent, with respect to the Contractor's personnel sufficient to cover all claims for injury, death and disability, or any other benefits required to be paid by law, in connection with the performance of the Contract;

6.2.3 liability insurance in an adequate amount to cover all claims, including, but not limited to, claims for death and bodily injury, products and completed operations liability, loss of or damage to property, and personal and advertising injury, arising from or in connection with the Contractor's performance under the Contract, including, but not limited to, liability arising out of or in connection with the acts or omissions of the Contractor, its personnel, agents, or invitees, or the use, during the performance of the Contract, of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor; *and*,

6.2.4 such other insurance as may be agreed upon in writing between the United Nations and the Contractor.

- 6.3 The Contractor's liability policies shall also cover subcontractors and all defense costs and shall contain a standard "cross liability" clause.

- 6.4 The Contractor acknowledges and agrees that the United Nations accepts no responsibility for providing life, health, accident, travel or any other insurance coverage which may be necessary or desirable in respect of any personnel performing services for the Contractor in connection with the Contract.

- 6.5 Except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by the United Nations, in its sole discretion, for purposes of fulfilling the Contractor's requirements for providing insurance under the Contract, the insurance policies required under the Contract shall:

6.5.1 name the United Nations as an additional insured under the liability policies, including, if required, as a separate endorsement under the policy;



- 6.5.2 include a waiver of subrogation of the Contractor's insurance carrier's rights against the United Nations;
- 6.5.3 provide that the United Nations shall receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage; *and*,
- 6.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to the United Nations.
- 6.6 The Contractor shall be responsible to fund all amounts within any policy deductible or retention.
- 6.7 Except for any self-insurance program maintained by the Contractor and approved by the United Nations for purposes of fulfilling the Contractor's requirements for maintaining insurance under the Contract, the Contractor shall maintain the insurance taken out under the Contract with reputable insurers that are in good financial standing and that are acceptable to the United Nations. Prior to the commencement of any obligations under the Contract, the Contractor shall provide the United Nations with evidence, in the form of certificate of insurance or such other form as the United Nations may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of the Contract. The United Nations reserves the right, upon written notice to the Contractor, to obtain copies of any insurance policies or insurance program descriptions required to be maintained by the Contractor under the Contract. Notwithstanding the provisions of Article 6.5.3, above, the Contractor shall promptly notify the United Nations concerning any cancellation or material change of insurance coverage required under the Contract.
- 6.8 The Contractor acknowledges and agrees that neither the requirement for taking out and maintaining insurance as set forth in the Contract nor the amount of any such insurance, including, but not limited to, any deductible or retention relating thereto, shall in any way be construed as limiting the Contractor's liability arising under or relating to the Contract.
7. **ENCUMBRANCES AND 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 United Nations against any monies due to the Contractor or that may 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 Contractor or the United Nations.
8. **EQUIPMENT FURNISHED BY THE UNITED NATIONS TO THE CONTRACTOR:** Title to any equipment and supplies that may be furnished by the United Nations to the Contractor for the performance of any obligations under the Contract shall rest with the United Nations, and any such equipment shall be returned to the United Nations at the conclusion of the Contract or when no longer needed by the Contractor. Such equipment, when returned to the United Nations, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear, and the Contractor shall be liable to compensate the United Nations for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.
9. **COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:**
- 9.1 Except as is otherwise expressly provided in writing in the Contract, the United Nations 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 United Nations 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. The Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the United Nations.
- 9.2 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 United Nations does not and shall not claim any ownership interest thereto, and the Contractor grants to the United Nations 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.
- 9.3 At the request of the United Nations, 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 United Nations in compliance with the requirements of the applicable law and of the Contract.



9.4 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 United Nations, shall be made available for use or inspection by the United Nations at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to United Nations authorized officials on completion of work under the Contract.

10. **PUBLICITY, AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS:** The Contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with the United Nations, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of the United Nations, or any abbreviation of the name of the United Nations in connection with its business or otherwise without the written permission the United Nations.

11. **CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:** Information and data that is considered proprietary by either Party or 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:

11.1 The Recipient shall:

11.1.1 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*,

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

11.2 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 11, the Recipient may disclose Information to:

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

11.2.2 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:

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

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

11.2.2.3 for the United Nations, a principal or subsidiary organ of the United Nations established in accordance with the Charter of the United Nations.

11.3 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 United Nations sufficient prior notice of a request for the disclosure of Information in order to allow the United Nations to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

11.4 The United Nations may disclose Information to the extent as required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder.

11.5 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.

11.6 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.



12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:

- 12.1 In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the affected Party shall give notice and full particulars in writing to the other Party, of such occurrence or cause if the affected Party is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The affected Party shall also notify the other Party of any other changes in condition 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 condition or occurrence, the affected Party shall also submit a statement to the other Party of estimated expenditures that will likely be incurred for the duration of the change in condition or the event of *force majeure*. On receipt of the notice or notices required hereunder, the Party not affected by the occurrence of a cause constituting *force majeure* shall take such action as it reasonably considers to be appropriate or necessary in the circumstances, including the granting to the affected Party of a reasonable extension of time in which to perform any obligations under the Contract.
- 12.2 If the Contractor is rendered unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Contract, the United Nations shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 13, "Termination," except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, the United Nations shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in case the Contractor is unable to perform its obligations, wholly or in part, by reason of *force majeure* for any period in excess of ninety (90) days.
- 12.3 *Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, 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 Contractor. The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in areas in which the United Nations 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.

13. TERMINATION:

- 13.1 Either Party may terminate the Contract for cause, in whole or in part, upon thirty (30) day's notice, in writing, to the other Party. The initiation of conciliation or arbitral proceedings in accordance with Article 16 "Settlement of Disputes," below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract.
- 13.2 The United Nations may terminate the Contract at any time by providing written notice to the Contractor in any case in which the mandate of the United Nations applicable to the performance of the Contract or the funding of the United Nations applicable to the Contract is curtailed or terminated, whether in whole or in part. In addition, unless otherwise provided by the Contract, upon sixty (60) day's advance written notice to the Contractor, the United Nations may terminate the Contract without having to provide any justification therefor.
- 13.3 In the event of any termination of the Contract, upon receipt of notice of termination that has been issued by the United Nations, the Contractor shall, except as may be directed by the United Nations in the notice of termination or otherwise in writing:
- 13.3.1 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;
 - 13.3.2 refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice;
 - 13.3.3 place no further subcontracts or orders for materials, services, or facilities, except as the United Nations and the Contractor agree in writing are necessary to complete any portion of the Contract that is not terminated;
 - 13.3.4 terminate all subcontracts or orders to the extent they relate to the portion of the Contract terminated;



- 13.3.5 transfer title and deliver to the United Nations the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;
 - 13.3.6 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 the United Nations thereunder;
 - 13.3.7 complete performance of the work not terminated; *and*,
 - 13.3.8 take any other action that may be necessary, or that the United Nations may direct in writing, for the minimization of losses and for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Contractor and in which the United Nations has or may be reasonably expected to acquire an interest.
- 13.4 In the event of any termination of the Contract, the United Nations shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, the United Nations shall not be liable to pay the Contractor except for those goods delivered and services provided to the United Nations in accordance with the requirements of the Contract, but only if such goods or services were ordered, requested or otherwise provided prior to the Contractor's receipt of notice of termination from the United Nations or prior to the Contractor's tendering of notice of termination to the United Nations.
- 13.5 The United Nations may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:
- 13.5.1 the Contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent;
 - 13.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;
 - 13.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;
 - 13.5.4 a Receiver is appointed on account of the insolvency of the Contractor;
 - 13.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; *or*,
 - 13.5.6 the United Nations reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.
- 13.6 Except as prohibited by law, the Contractor shall be bound to compensate the United Nations for all damages and costs, including, but not limited to, all costs incurred by the United Nations in any legal or non-legal proceedings, as a result of any of the events specified in Article 13.5, above, and resulting from or relating to a termination of the Contract, even if the Contractor is adjudged bankrupt, or is granted a moratorium or stay or is declared insolvent. The Contractor shall immediately inform the United Nations of the occurrence of any of the events specified in Article 13.5, above, and shall provide the United Nations with any information pertinent thereto.
- 13.7 The provisions of this Article 13 are without prejudice to any other rights or remedies of the United Nations under the Contract or otherwise.
14. **NON-WAIVER OF RIGHTS:** The failure by either Party to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Contract.
15. **NON-EXCLUSIVITY:** Unless otherwise specified in the Contract, the United Nations shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and the United Nations shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity described in the Contract, from any other source at any time.
16. **SETTLEMENT OF DISPUTES:**
- 16.1 **AMICABLE SETTLEMENT:** The Parties 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.

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. 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”) and Article 34 (“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. **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.

18. **TAX EXEMPTION:**

18.1 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 Contractor shall immediately consult with the United Nations to determine a mutually acceptable procedure.

18.2 The Contractor authorizes the United Nations to deduct from the Contractor’s invoices any amount representing such taxes, duties or charges, unless the Contractor has consulted with the United Nations before the payment thereof and the United Nations has, in each instance, specifically authorized the Contractor to pay such taxes, duties, or charges under written protest. In that event, the Contractor shall provide the United Nations with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized, and the United Nations shall reimburse the Contractor for any such taxes, duties, or charges so authorized by the United Nations and paid by the Contractor under written protest.

19. **MODIFICATIONS:**

19.1 Pursuant to the Financial Regulations and Rules of the United Nations, only the Chief of the United Nations Procurement Division, or such other Contracting authority as the United Nations has made known to the Contractor in writing, possesses the authority to agree on behalf of the United Nations to any modification of or change in the 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 the Contract shall be valid and enforceable against the United Nations unless provided by a valid written amendment to the Contract signed by the Contractor and the Chief of the United Nations Procurement Division or such other contracting authority.

19.2 If the Contract shall be extended for additional periods in accordance with the terms and conditions of the Contract, the terms and conditions applicable to any such extended term of the Contract shall be the same terms and conditions as set forth in the Contract, unless the Parties shall have agreed otherwise pursuant to a valid amendment concluded in accordance with Article 19.1, above.



19.3 The terms or conditions of any supplemental undertakings, licenses, or other forms of agreement concerning any goods or services provided under the Contract shall not be valid and enforceable against the United Nations nor in any way shall constitute an agreement by the United Nations thereto unless any such undertakings, licenses or other forms are the subject of a valid amendment concluded in accordance with Article 19.1, above.

20. AUDITS AND INVESTIGATIONS:

20.1 Each invoice paid by the United Nations shall be subject to a post-payment audit by auditors, whether internal or external, of the United Nations or by other authorized and qualified agents of the United Nations at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. The United Nations shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by the United Nations other than in accordance with the terms and conditions of the Contract.

20.2 The United Nations 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 Contractor generally relating to performance of the Contract at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract.

20.3 The 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 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 the United Nations access to the Contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Contractor's personnel and relevant documentation. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by the United Nations hereunder.

21. LIMITATION ON ACTIONS:

21.1 Except with respect to any indemnification obligations in Article 5, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 16.2, above, arising out of the Contract must be commenced within three years after the cause of action has accrued.

21.2 The Parties further acknowledge and agree that, for these purposes, a cause of action shall accrue when the breach actually occurs, or, in the case of latent defects, when the injured Party knew or should have known all of the essential elements of the cause of action, or in the case of a breach of warranty, when tender of delivery is made, except that, if a warranty extends to future performance of the goods or any process or system and the discovery of the breach consequently must await the time when such goods or other process or system is ready to perform in accordance with the requirements of the Contract, the cause of action accrues when such time of future performance actually begins.

22. **ESSENTIAL TERMS:** The Contractor acknowledges and agrees that each of the provisions in Articles 23 to 28 hereof constitutes an essential term of the Contract and that any breach of any of these provisions shall entitle the United Nations to terminate the Contract or any other contract with the United Nations immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

23. **SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to the United Nations in connection with the performance of its obligations under the Contract. Should any authority external to the United Nations seek to impose any instructions concerning or restrictions on the Contractor's performance under the Contract, the Contractor shall promptly notify the United Nations and provide all reasonable assistance required by the United Nations. The Contractor shall not take any action in respect of the performance of its obligations under the Contract that may adversely affect the interests of the United Nations, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of the United Nations.

24. **OFFICIALS NOT TO BENEFIT:** The Contractor warrants that it has not and shall not offer to any representative, official, employee, or other agent of the United Nations any direct or indirect benefit arising from or related to the performance of the Contract or of any other contract with the United Nations or the award thereof or for any other purpose intended to gain an advantage for the Contractor.



25. **OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract. In addition, the Contractor shall maintain compliance with all obligations relating to its registration as a qualified vendor of goods or services to the United Nations, as such obligations are set forth in the United Nations vendor registration procedures.
26. **CHILD LABOR:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiary or affiliated entities (if any) 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.
27. **MINES:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiaries or affiliated entities (if any) is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.
28. **SEXUAL EXPLOITATION:**
- 28.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by its employees or any other persons engaged and controlled 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 reasonable and appropriate measures to prohibit its employees or other persons engaged and controlled by it from exchanging any money, goods, services, or other things of value, for sexual favors or activities, or from engaging any sexual activities that are exploitive or degrading to any person.
- 28.2 The United Nations 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.

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