



INVITATION TO BID

**Provision of Fiber Optic Internet Services on
Long Term Basis**

for

UNDP CO and Development Project Afghanistan

UNDP CO Afghanistan



United Nations Development Programme
November, 2017

Section 1. Letter of Invitation

Kabul, Afghanistan
November 9, 2017

Case Number: UNDP/AFG/2017/ITB/ 1799

Subject: Provision of Fiber Optic Internet Services for UNDP CO and Development Project

Dear Bidder,

The United Nations Development Programme (UNDP) Afghanistan Country Office, hereby invites you to submit a Bid to this Invitation to Bid (ITB) for the above-referenced subject.

This ITB includes the following documents:

- Section 1 – This Letter of Invitation
- Section 2 – Instructions to Bidders (including Data Sheet)
- Section 3 – Technical requirements, scope of services, list of goods
- Section 4 – Bid Submission Form
- Section 5 – Documents Establishing the Eligibility and Qualifications of the Bidder
- Section 6 – Technical Bid Forms
- Section 7 – Price Schedule
- Section 8 – Form for Bid Security (NA)
- Section 9 – Performance Security (NA)
- Section 10 - General Terms and Conditions and LTA Template
- Annex 1 Instruction Manual for Bidders (E-tendering)
- Annex 2 FAQ for Bidders (E-Tendering)

Your offer comprising of all required documents should be submitted in accordance with the instructions of bidding documents through the UNDP ATLAS E-Tendering system, which can be accessed at <https://etendering.partneragencies.org>.

No hard copy or email submissions will be accepted by UNDP:

The step by step instructions for registration of bidders and quotation/proposal submission through the UNDP ATLAS E-Tendering system is available in the instructions manual for the bidders (Annex-1 and 2), attached with this ITB. Should you require any training on the UNDP ATLAS E-Tendering system or face with any difficulties when registering your company or submitting your bid, please send an email to the E-Tendering Help Desk at procurement.af@undp.org or call +93790426786 during office hours to request for help.

The proposers are advised to use Internet Explorer (Version 10 or above) browser to avoid any compatibility issues with the E-Tendering system.

Please refer to E-Tendering system for closing date of this ITB.

Kindly go through this invitation letter and other documents attached here to this ITB. Should you have

any questions or require any clarification, please feel free to send an email to the procurement officer at
Email: procurement.af@undp.org

UNDP looks forward to receiving your Bid and thanks you in advance for your interest in UNDP procurement opportunities.

Yours sincerely,

Head of Procurement Unit
SCMO

Section 2: Instruction to Bidders

Definitions

- a) *“Bid”* refers to the Bidder’s response to the Invitation to Bid, including the Bid Submission Form, Technical Bid and Price Schedule and all other documentation attached thereto as required by the ITB.
- b) *“Bidder”* refers to any legal entity that may submit, or has submitted, a Bid for the supply of goods and provision of related services requested by UNDP.
- c) *“Contract”* refers to the legal instrument that will be signed by and between the UNDP and the successful Bidder, all the attached documents thereto, including the General Terms and Conditions (GTC) and the Appendices.
- d) *“Country”* refers to the country indicated in the Data Sheet.
- e) *“Data Sheet”* refers to such part of the Instructions to Bidders used to reflect conditions of the tendering process that are specific for the requirements of the ITB.
- f) *“Day”* refers to calendar day.
- g) *“Goods”* refer to any tangible product, commodity, article, material, wares, equipment, assets or merchandise that UNDP requires under this ITB.
- h) *“Government”* refers to the Government of the country where the goods and related services provided/rendered specified under the Contract will be delivered or undertaken.
- i) *“Instructions to Bidders”* refers to the complete set of documents which provides Bidders with all information needed and procedures to be followed in the course of preparing their Bid
- j) *“ITB”* refers to the Invitation to Bid consisting of instructions and references prepared by UNDP for purposes of selecting the best supplier or service provider to fulfil the requirement indicated in the Schedule of Requirements and Technical Specifications.
- k) *“LOI”* (Section 1 of the ITB) refers to the Letter of Invitation sent by UNDP to Bidders.
- l) *“Material Deviation”* refers to any contents or characteristics of the bid that is significantly different from an essential aspect or requirement of the ITB, and (i) substantially alters the scope and quality of the requirements; (ii) limits the rights of UNDP and/or the obligations of the offeror; and (iii) adversely impacts the fairness and principles of the procurement process, such as those that compromise the competitive position of other offerors.
- m) *“Schedule of Requirements and Technical Specifications”* refers to the document included in this ITB as Section 3 which lists the goods required by UNDP, their specifications, the related services, activities, tasks to be performed, and other information pertinent to UNDP’s receipt and acceptance of the goods.

- n) “*Services*” refers to the entire scope of tasks related or ancillary to the completion or delivery of the goods required by UNDP under the ITB.
- o) “*Supplemental Information to the ITB*” refers to a written communication issued by UNDP to prospective Bidders containing clarifications, responses to queries received from prospective Bidders, or changes to be made in the ITB, at any time after the release of the ITB but before the deadline for the submission of Bid.

A. GENERAL

1. UNDP hereby solicits Bids as a response to this Invitation to Bid (ITB). Bidders must strictly adhere to all the requirements of this ITB. No changes, substitutions or other alterations to the rules and provisions stipulated in this ITB may be made or assumed unless it is instructed or approved in writing by UNDP in the form of Supplemental Information to the ITB.
2. Submission of a Bid shall be deemed as an acknowledgement by the Bidder that all obligations stipulated by this ITB will be met and, unless specified otherwise, the Bidder has read, understood and agreed to all the instructions in this ITB.
3. Any Bid submitted will be regarded as an offer by the Bidder and does not constitute or imply the acceptance of any Bid by UNDP. UNDP is under no obligation to award a contract to any Bidder as a result of this ITB.
4. UNDP implements a policy of zero tolerance on proscribed practices, including fraud, corruption, collusion, unethical practices, and obstruction. UNDP is committed to preventing, identifying and addressing all acts of fraud and corrupt practices against UNDP as well as third parties involved in UNDP activities. (See http://www.undp.org/about/transparencydocs/UNDP_Anti_Fraud_Policy_English_FINAL_june_2011.pdf and http://www.undp.org/content/undp/en/home/operations/procurement/procurement_protest/ for full description of the policies)
5. In responding to this ITB, UNDP requires all Bidders to conduct themselves in a professional, objective and impartial manner, and they must at all times hold UNDP’s interests paramount. Bidders must strictly avoid conflicts with other assignments or their own interests, and act without consideration for future work. All Bidders found to have a conflict of interest shall be disqualified. Without limitation on the generality of the above, Bidders, and any of their affiliates, shall be considered to have a conflict of interest with one or more parties in this solicitation process, if they:
 - 5.1 Are, or have been associated in the past, with a firm or any of its affiliates which have been engaged UNDP to provide services for the preparation of the design, Schedule of Requirements and Technical Specifications, cost analysis/estimation, and other documents to be used for the procurement of the goods and related services in this selection process;
 - 5.2 Were involved in the preparation and/or design of the programme/project related to the goods and related services requested under this ITB; or
 - 5.3 Are found to be in conflict for any other reason, as may be established by, or at the discretion of, UNDP.

In the event of any uncertainty in the interpretation of what is potentially a conflict of interest,

Bidders must disclose the condition to UNDP and seek UNDP's confirmation on whether or not such conflict exists.

6. Similarly, the following must be disclosed in the Bid:

6.1 Bidders who are owners, part-owners, officers, directors, controlling shareholders, or key personnel who are family of UNDP staff involved in the procurement functions and/or the Government of the country or any Implementing Partner receiving the goods and related services under this ITB; and

6.4 Others that could potentially lead to actual or perceived conflict of interest, collusion or unfair competition practices.

Failure of such disclosure may result in the rejection of the Bid.

7. The eligibility of Bidders that are wholly or partly owned by the Government shall be subject to UNDP's further evaluation and review of various factors such as being registered as an independent entity, the extent of Government ownership/share, receipt of subsidies, mandate, access to information in relation to this ITB, and others that may lead to undue advantage against other Bidders, and the eventual rejection of the Bid.

8. All Bidders must adhere to the UNDP Supplier Code of Conduct, which may be found at this link: <http://web.ng.undp.org/procurement/undp-supplier-code-of-conduct.pdf>

B. CONTENTS OF BID

9. Sections of Bid

Bidders are required to complete, sign and submit the following documents:

9.1 Bid Submission Cover Letter Form (see ITB Section 4);

9.2 Documents Establishing the Eligibility and Qualifications of the Bidder (see ITB Section 5);

9.3 Technical Bid (see prescribed form in ITB Section 6);

9.4 Priced Bill of Quantities (see prescribed form in ITB Section 7);

9.5 Bid Security, if applicable (if required and as stated in the DS nos. 9-11, see prescribed Form in ITB Section 8);

9.6 Any attachments and/or appendices to the Bid (including all those specified under the Data Sheet)

10. Clarification of Bid

10.1 Bidders may request clarification of any of the ITB documents no later than the number of days indicated in the Data Sheet (DS no. 16) prior to the Bid submission date. Any request for clarification must be sent in writing via courier or through electronic means to the UNDP address indicated in the Data Sheet (DS no. 17). UNDP will respond in writing, transmitted by electronic means and will transmit copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Bidders who have provided confirmation of their intention to submit a Bid.

10.2 UNDP shall endeavor to provide such responses to clarifications in an expeditious manner, but any delay in such response shall not cause an obligation on the part of UNDP

to extend the submission date of the Bid, unless UNDP deems that such an extension is justified and necessary.

11. Amendment of Bid

11.1 At any time prior to the deadline for submission of Bid, UNDP may for any reason, such as in response to a clarification requested by a Bidder, modify the ITB in the form of a Supplemental Information to the ITB. All prospective Bidders will be notified in writing of all changes/amendments and additional instructions through Supplemental Information to the ITB and through the method specified in the Data Sheet (DS No. 18).

11.2 In order to afford prospective Bidders reasonable time to consider the amendments in preparing their Bid, UNDP may, at its discretion, extend the deadline for submission of Bid, if the nature of the amendment to the ITB justifies such an extension.

C. PREPARATION OF BID

12. Cost

The Bidder shall bear any and all costs related to the preparation and/or submission of the Bid, regardless of whether its Bid was selected or not. UNDP shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the procurement process.

13. Language

The Bid, as well as any and all related correspondence exchanged by the Bidder and UNDP, shall be written in the language (s) specified in the Data Sheet (DS No. 4). Any printed literature furnished by the Bidder written in a language other than the language indicated in the Data Sheet, must be accompanied by a translation in the preferred language indicated in the Data Sheet. For purposes of interpretation of the Bid, and in the event of discrepancy or inconsistency in meaning, the version translated into the preferred language shall govern. Upon conclusion of a contract, the language of the contract shall govern the relationship between the contractor and UNDP.

14. Bid Submission Form

The Bidder shall submit the Bid Submission Form using the form provided in Section 4 of this ITB.

15. Technical Bid Format and Content

Unless otherwise stated in the Data Sheet (DS no. 28), the Bidder shall structure the Technical Bid as follows:

15.1 Expertise of Firm/Organization – this section should provide details regarding management structure of the organization, organizational capability/resources, and experience of organization/firm, the list of projects/contracts (both completed and on-going, both domestic and international) which are related or similar in nature to the requirements of the ITB, manufacturing capacity of plant if Bidder is a manufacturer, authorization from the manufacturer of the goods if Bidder is not a manufacturer, and proof of financial stability and adequacy of resources to complete the delivery of goods and provision of related

services required by the ITB (see ITB Clause 18 and DS No. 26 for further details). The same shall apply to any other entity participating in the ITB as a Joint Venture or Consortium.

- 15.2 Technical Specifications and Implementation Plan – this section should demonstrate the Bidder’s response to the Schedule of Requirements and Technical Specifications by identifying the specific components proposed; how each of the requirements shall be met point by point; providing a detailed specification and description of the goods required, plans and drawings where needed; the essential performance characteristics, identifying the works/portions of the work that will be subcontracted; a list of the major subcontractors, and demonstrating how the bid meets or exceeds the requirements, while ensuring appropriateness of the bid to the local conditions and the rest of the project operating environment during the entire life of the goods provided. Details of technical bid must be laid out and supported by an Implementation Timetable, including Transportation and Delivery Schedule where needed, that is within the duration of the contract as specified in the Data Sheet (DS noS. 29 and 30).

Bidders must be fully aware that the goods and related services that UNDP require may be transferred, immediately or eventually, by UNDP to the Government partners, or to an entity nominated by the latter, in accordance with UNDP’s policies and procedures. All bidders are therefore required to submit the following in their bids:

- a) A statement of whether any import or export licences are required in respect of the goods to be purchased or services to be rendered, including any restrictions in the country of origin, use or dual use nature of the goods or services, including any disposition to end users;
- b) Confirmation that the Bidder has obtained license of this nature in the past, and have an expectation of obtaining all the necessary licenses, should their bid be rendered the most responsive; and
- c) Complete documentation, information and declaration of any goods classified or may be classified as “Dangerous Goods”.

- 15.3 Management Structure and Key Personnel – This section should include the comprehensive curriculum vitae (CVs) of key personnel that will be assigned to support the implementation of the technical bid, clearly defining their roles and responsibilities. CVs should establish competence and demonstrate qualifications in areas relevant to the requirements of this ITB.

In complying with this section, the Bidder assures and confirms to UNDP that the personnel being nominated are available to fulfil the demands of the Contract during its stated full term. If any of the key personnel later becomes unavailable, except for unavoidable reasons such as death or medical incapacity, among other possibilities, UNDP reserves the right to render the Bid non-responsive. Any deliberate substitution of personnel arising from unavoidable reasons, including delay in the implementation of the project of programme through no fault of the Bidder, shall be made only with UNDP’s acceptance of the justification for substitution, and UNDP’s approval of the qualification of the replacement who shall be either of equal or superior credentials as the one being replaced.

- 15.4 Where the Data Sheet requires the submission of the Bid Security, the Bid Security shall be included along with the Technical Bid. The Bid Security may be forfeited by UNDP, and reject the Bid, in the event of any or any combination of the following conditions:

- a) If the Bidder withdraws its offer during the period of the Bid Validity specified in the Data Sheet (DS no. 11), or;
- b) If the Bid Security amount is found to be less than what is required by UNDP as indicated in the Data Sheet (DS no. 9), or;
- c) In the case the successful Bidder fails:
 - i. to sign the Contract after UNDP has awarded it;
 - ii. to comply with UNDP's variation of requirement, as per ITB Clause 35; or
 - iii. to furnish Performance Security, insurances, or other documents that UNDP may require as a condition to rendering effective the contract that may be awarded to the Bidder.

16. Price Schedule (Priced Bill of Quantities)

The Price Schedule (priced Bill of Quantities) shall be prepared using the attached standard form (Section 7). It shall list all major cost components associated with the goods and related services, and the detailed breakdown of such costs. All goods and services described in the Technical Bid must be priced separately on a one-to-one correspondence. Any output and activities described in the Technical Bid but not priced in the Price Schedule, shall be assumed to be included in the prices of the items or activities, as well as in the final total price of the bid.

17. Currencies

All prices shall be quoted in the currency indicated in the Data Sheet (DS no. 15). However, where Bids are quoted in different currencies, for the purposes of comparison of all Bid:

- 17.1 UNDP will convert the currency quoted in the Bid into the UNDP preferred currency, in accordance with the prevailing UN operational rate of exchange on the last day of submission of Bid; and
- 17.2 In the event that the Bid found to be the most responsive to the ITB requirement is quoted in another currency different from the preferred currency as per Data Sheet (DS no. 15), then UNDP shall reserve the right to award the contract in the currency of UNDP's preference, using the conversion method specified above.

18. Documents Establishing the Eligibility and Qualifications of the Bidder

18.1 The Bidder shall furnish documentary evidence of its status as an eligible and qualified vendor, using the forms provided under Section 5, Bidder Information Forms. In order to award a contract to a Bidder, its qualifications must be documented to UNDP's satisfactions. These include, but are not limited to the following:

- a) That, in the case of a Bidder offering to supply goods under the Contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' manufacturer or producer to supply the goods in the country of final destination;
- b) That the Bidder has the financial, technical, and production capability necessary to perform the Contract; and
- c) That, to the best of the Bidder's knowledge, it is not included in the UN 1267 List or the UN Ineligibility List, nor in any and all of UNDP's list of suspended and removed vendors.

18.2 Bids submitted by two (2) or more Bidders shall all be rejected by UNDP if they are found to have any of the following:

1. they have at least one controlling partner, director or shareholder in common; or
2. any one of them receive or have received any direct or indirect subsidy from the other/s; or
3. they have the same legal representative for purposes of this ITB; or
4. they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about, or influence on the Bid of, another Bidder regarding this ITB process;
5. they are subcontractors to each other's bid, or a subcontractor to one bid also submits another Bid under its name as lead Bidder; or
6. an expert proposed to be in the bid of one Bidder participates in more than one Bid received for this ITB process. This condition does not apply to subcontractors being included in more than one Bid.

19. Joint Venture, Consortium or Association

If the Bidder is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Bid, they shall confirm in their Bid that : (i) they have designated one party to act as a lead entity, duly vested with authority to legally bind the members of the joint venture jointly and severally, and this shall be duly evidenced by a duly notarized Agreement among the legal entities, which shall be submitted along with the Bid; and (ii) if they are awarded the contract, the contract shall be entered into, by and between UNDP and the designated lead entity, who shall be acting for and on behalf of all entities that comprise the joint venture.

After the bid has been submitted to UNDP, the lead entity identified to represent the joint venture shall not be altered without the prior written consent of UNDP. Furthermore, neither the lead entity nor the member entities of the joint venture can:

- a) Submit another Bid, either in its own capacity; nor
- b) As a lead entity or a member entity for another joint venture submitting another Bid.

The description of the organization of the joint venture/consortium/association must clearly define the expected role of each of the entity in the joint venture in delivering the requirements of the ITB, both in the bid and in the Joint Venture Agreement. All entities that comprise the joint venture shall be subject to the eligibility and qualification assessment by UNDP.

Where a joint venture is presenting its track record and experience in a similar undertaking as those required in the ITB, it should present such information in the following manner:

- a) Those that were undertaken together by the joint venture; and
- b) Those that were undertaken by the individual entities of the joint venture expected to be involved in the performance of the services defined in the ITB.

Previous contracts completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture or those of its members, but should only be claimed by the individual experts

themselves in their presentation of their individual credentials.

If the Bid of a joint venture is determined by UNDP as the most responsive Bid that offers the best value for money, UNDP shall award the contract to the joint venture, in the name of its designated lead entity, who shall sign the contract for and on behalf of all the member entities.

20. Alternative Bid

Unless otherwise specified in the Data Sheet (DS nos. 5 and 6), alternative bid shall not be considered. Where the conditions for its acceptance are met, or justifications are clearly established, UNDP reserves the right to award a contract based on an alternative bid.

21. Validity Period

21.1 Bid shall remain valid for the period specified in the Data Sheet (DS no. 8), commencing on the submission deadline date also indicated in the Data Sheet (DS no. 21). A Bid valid for a shorter period shall be immediately rejected by UNDP and rendered non-responsive.

21.2 In exceptional circumstances, prior to the expiration of the Bid validity period, UNDP may request Bidders to extend the period of validity of their Bid. The request and the responses shall be made in writing, and shall be considered integral to the Bid.

22. Bidder's Conference

When appropriate, a Bidder's conference will be conducted at the date, time and location specified in the Data Sheet (DS no. 7). All Bidders are encouraged to attend. Non-attendance, however, shall not result in disqualification of an interested Bidder. Minutes of the Bidder's conference will be either posted on the UNDP website, or disseminated to the individual firms who have registered or expressed interest with the contract, whether or not they attended the conference. No verbal statement made during the conference shall modify the terms and conditions of the ITB unless such statement is specifically written in the Minutes of the Conference, or issued/posted as an amendment in the form of a Supplemental Information to the ITB.

D. SUBMISSION AND OPENING OF BID

23. Submission

23.1 The Technical Bid and the Price Schedule must be submitted together and sealed together in one and the same envelope, delivered either personally, by courier, or by electronic method of transmission. If submission will not be done by electronic means, the Technical Bid and Price Schedule must be sealed together in an envelope whose external side must :

- a) Bear the name of the Bidder;
- b) Be addressed to UNDP as specified in the Data Sheet (DS no.20); and
- c) Bear a warning not to open before the time and date for Bid opening as specified in the Data Sheet (DS no. 24).

If the envelope is not sealed nor labeled as required, the Bidder shall assume the responsibility for the misplacement or premature opening of Bid due to improper sealing

and labeling by the Bidder.

23.2 Bidders must submit their Bid in the manner specified in the Data Sheet (DS nos. 22 and 23). When the Bid is expected to be in transit for more than 24 hours, the Bidder must ensure that sufficient lead time has been provided in order to comply with UNDP's deadline for submission. UNDP shall indicate for its record that the official date and time of receiving the Bid is the actual date and time when the said Bid has physically arrived at the UNDP premises indicated in the Data Sheet (DS no. 20).

23.3 Bidders submitting Bid by mail or by hand shall enclose the original and each copy of the Bid, in separate sealed envelopes, duly marking each of the envelopes as "Original Bid" and the others as "Copy of Bid". The two envelopes, consisting of original and copies, shall then be sealed in an outer envelope. The number of copies required shall be as specified in the Data Sheet (DS no. 19). In the event of any discrepancy between the contents of the "Original Bid" and the "Copy of Bid", the contents of the original shall govern. The original version of the Bid shall be signed or initialed by the Bidder or person(s) duly authorized to commit the Bidder on every page. The authorization shall be communicated through a document evidencing such authorization issued by the highest official of the firm, or a Power of Attorney, accompanying the Bid.

23.4 Bidders must be aware that the mere act of submission of a Bid, in and of itself, implies that the Bidder accepts the General Contract Terms and Conditions of UNDP as attached hereto as Section 11.

24. Deadline for Submission of Bid and Late Bids

Bid must be received by UNDP at the address and no later than the date and time specified in the Data Sheet (DS no. 20 and 21).

UNDP shall not consider any Bid that arrives after the deadline for submission of Bid. Any Bid received by UNDP after the deadline for submission of Bid shall be declared late, rejected, and returned unopened to the Bidder.

25. Withdrawal, Substitution, and Modification of Bid

25.1 Bidders are expected to have sole responsibility for taking steps to carefully examine in detail the full consistency of its Bid to the requirements of the ITB, keeping in mind that material deficiencies in providing information requested by UNDP, or lack clarity in the description of goods and related services to be provided, may result in the rejection of the Bid. The Bidder shall assume any responsibility regarding erroneous interpretations or conclusions made by the Bidder in the course of understanding the ITB out of the set of information furnished by UNDP.

25.2 A Bidder may withdraw, substitute or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 23, duly signed by an authorized representative, and shall include a copy of the authorization (or a Power of Attorney). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be received by UNDP prior to the deadline for submission and submitted in accordance with ITB Clause 23 (except that withdrawal notices do not require copies). The respective envelopes shall be clearly marked "WITHDRAWAL,"

“SUBSTITUTION,” or MODIFICATION”.

25.3 Bid requested to be withdrawn shall be returned unopened to the Bidders.

25.4 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bid and the expiration of the period of Bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

26. Bid Opening

UNDP will open the Bid in the presence of an ad-hoc committee formed by UNDP of at least two (2) members. If electronic submission is permitted, any specific electronic Bid opening procedures shall be as specified in the Data Sheet (DS no. 23).

The Bidders' names, modifications, withdrawals, the condition of the envelope labels/seals, the number of folders/files and all other such other details as UNDP may consider appropriate, will be announced at the opening. No Bid shall be rejected at the opening stage, except for late submission, for which the Bid shall be returned unopened to the Bidder.

27. Confidentiality

Information relating to the examination, evaluation, and comparison of Bid, and the recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process, even after publication of the contract award.

Any effort by a Bidder to influence UNDP in the examination, evaluation and comparison of the Bid or contract award decisions may, at UNDP's decision, result in the rejection of its Bid.

In the event that a Bidder is unsuccessful, the Bidder may seek a meeting with UNDP for a debriefing. The purpose of the debriefing is discussing the strengths and weaknesses of the Bidder's submission, in order to assist the Bidder in improving the bid presented to UNDP. The content of other bid and how they compare to the Bidder's submission shall not be discussed.

E. EVALUATION OF BID

28. Preliminary Examination of Bid

UNDP shall examine the Bid to determine whether they are complete with respect to minimum documentary requirements, whether the documents have been properly signed, whether or not the Bidder is in the UN Security Council 1267/1989 Committee's list of terrorists and terrorist financiers, and in UNDP's list of suspended and removed vendors, and whether the Bid are generally in order, among other indicators that may be used at this stage. UNDP may reject any Bid at this stage.

29. Evaluation of Bid

29.1 UNDP shall examine the Bid to confirm that all terms and conditions under the UNDP General Terms and Conditions and Special Conditions have been accepted by the Bidder without any deviation or reservation.

29.2 The evaluation team shall review and evaluate the Bids on the basis of their responsiveness to the Schedule of Requirements and Technical Specifications and other documentation provided, applying the procedure indicated in the Data Sheet (DS No. 25). Absolutely no changes may be made by UNDP in the criteria after all Bids have been received.

29.1 UNDP reserves the right to undertake a post-qualification exercise, aimed at determining, to its satisfaction the validity of the information provided by the Bidder. Such post-qualification shall be fully documented and, among those that may be listed in the Data Sheet (DS No.33), may include, but need not be limited to, all or any combination of the following :

- a) Verification of accuracy, correctness and authenticity of the information provided by the bidder on the legal, technical and financial documents submitted;
- b) Validation of extent of compliance to the ITB requirements and evaluation criteria based on what has so far been found by the evaluation team;
- c) Inquiry and reference checking with Government entities with jurisdiction on the bidder, or any other entity that may have done business with the bidder;
- d) Inquiry and reference checking with other previous clients on the quality of performance on on-going or previous contracts completed;
- e) Physical inspection of the bidder's plant, factory, branches or other places where business transpires, with or without notice to the bidder;
- f) Testing and sampling of completed goods similar to the requirements of UNDP, where available; and
- g) Other means that UNDP may deem appropriate, at any stage within the selection process, prior to awarding the contract.

30. Clarification of Bid

To assist in the examination, evaluation and comparison of bids, UNDP may, at its discretion, ask any Bidder to clarify its Bid.

UNDP's request for clarification and the Bidder's response shall be in writing. Notwithstanding the written communication, no change in the prices or substance of the Bid shall be sought, offered, or permitted, except to provide clarification, and confirm the correction of any arithmetic errors discovered by UNDP in the evaluation of the Bid, in accordance with ITB Clause 35.

Any unsolicited clarification submitted by a Bidder in respect to its Bid, which is not a response to a request by UNDP, shall not be considered during the review and evaluation of the Bid.

31. Responsiveness of Bid

UNDP's determination of a Bid's responsiveness will be based on the contents of the Bid itself.

A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the ITB without material deviation, reservation, or omission.

If a Bid is not substantially responsive, it shall be rejected by UNDP and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.

32. Nonconformities, Reparable Errors and Omissions

32.3 Provided that a Bid is substantially responsive, UNDP may waive any non-conformities or omissions in the Bid that, in the opinion of UNDP, do not constitute a material deviation.

32.4 Provided that a Bid is substantially responsive, UNDP may request the Bidder to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

32.5 Provided that the Bid is substantially responsive, UNDP shall correct arithmetical errors as follows:

- a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of UNDP there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
- b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to the above.

32.6 If the Bidder does not accept the correction of errors made by UNDP, its Bid shall be rejected.

F. AWARD OF CONTRACT

33. Right to Accept, Reject, or Render Non-Responsive Any or All Bid

33.1 UNDP reserves the right to accept or reject any Bid, to render any or all of the Bids as non-responsive, and to reject all Bids at any time prior to award of contract, without incurring any liability, or obligation to inform the affected Bidder(s) of the grounds for UNDP's action. Furthermore, UNDP is not obligated to award the contract to the lowest price offer.

33.2 UNDP shall also verify, and immediately reject their respective Bid, if the Bidders are found to appear in the UN's Consolidated List of Individuals and Entities with Association to Terrorist Organizations, in the List of Vendors Suspended or Removed from the UN Secretariat Procurement Division Vendor Roster, the UN Ineligibility List, and other such lists that as may be established or recognized by UNDP policy on Vendor Sanctions. (See http://www.undp.org/content/undp/en/home/operations/procurement/procurement_protest/)

34. Award Criteria

Prior to expiration of the period of Bid validity, UNDP shall award the contract to the qualified and eligible Bidder that is found to be responsive to the requirements of the Schedule of Requirements

and Technical Specification, and has offered the lowest price (See DS No. 32).

35. Right to Vary Requirements at the Time of Award

At the time of award of Contract, UNDP reserves the right to vary the quantity of the goods and/or related services, 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.

36. Contract Signature

Within five (5) days from the date of receipt of the Contract, the successful Bidder shall sign and date the Contract and return it to UNDP.

Failure of the successful Bidder to comply with the requirement of ITB Section F.3 and this provision shall constitute sufficient grounds for the annulment of the award, and forfeiture of the Bid Security if any, and on which event, UNDP may award the Contract to the Bidder with the second highest rated Bid, or call for new Bid.

37. Performance Security

A performance security, if required, shall be provided in the amount and form provided in Section 9 and by the deadline indicated in the Data Sheet (DS no. 14), as applicable. Where a Performance Security will be required, the submission of the said document, and the confirmation of its acceptance by UNDP, shall be a condition for the effectivity of the Contract that will be signed by and between the successful Bidder and UNDP.

38. Bank Guarantee for Advanced Payment

Except when the interests of UNDP so require, it is the UNDP's preference to make no advanced payment(s) on contracts (i.e., payments without having received any outputs). In the event that the Bidder requires an advanced payment upon contract signature, and if such request is duly accepted by UNDP, and the said advanced payment exceeds 20% of the total Bid price, or exceed the amount of USD 30,000, UNDP shall require the Bidder to submit a Bank Guarantee in the same amount as the advanced payment. A bank guarantee for advanced payment shall be furnished in the form provided in Section 10.

39. Vendor Protest

UNDP's vendor protest procedure provides an opportunity for appeal to those persons or firms not awarded a purchase order or contract through a competitive procurement process. In the event that a Bidder believes that it was not treated fairly, the following link provides further details regarding UNDP vendor protest procedures:
<http://www.undp.org/procurement/protest.shtml>

Instructions to Bidders

DATA SHEET

The following data for the supply of goods and related services shall complement / supplement the provisions in the Instruction to Bidders. In the case of a conflict between the Instruction to Bidders and the Data Sheet, the provisions in the Data Sheet shall prevail.

DS No.	Cross Ref. to Instructions	Data	Specific Instructions / Requirements
1		Project Title:	UNDO Country Office and Development Projects
2		Title of Goods/Services/Work Required:	Provision of Internet Services to UNDP Case no: UNDP/AFG/2017/ITB/ 1799
3		Country:	Afghanistan (Multiple Provinces)
4	C.13	Language of the Bid:	<u>English</u>
5	C.20	Conditions for Submitting Bid for Parts or sub-parts of the Total Requirements	<input checked="" type="checkbox"/> Allowed <u>The bidders can bid for one province or several provinces or all provinces (according to their coverage). However, partial bid within any province is now allowed.</u>
6	C.20	Conditions for Submitting Alternative Bid	<u>Shall not be considered</u>
7	C.22	A pre-Bid conference will be held on:	Time: 10:00 AM Kabul Time Date: 15 November 2017 Venue: SCMO Conference Room, UNDP Country Office, UNOCA Compound, Jalalabad Road, Kabul, Afghanistan The UNDP focal point for the arrangement is: procurement.af@undp.org <u>Service Providers interested to attend the pre-bidding conference must send the following information to the above mentioned email address on or before 02:00 PM (local time) on 14th November 2017:</u> Participant's Name, Nationality, ID/Passport No., Company Name Please note that only 01 (one) person from each company will be allowed to participate.

			Please have your original National ID or Passport while visiting UNDP Office.
8	C.21.1	Period of Bid Validity commencing on the submission date	Bid shall remain valid for acceptance by UNDP for 90 days from the closing date.
9	B.9.5 C.15.4 b)	Bid Security	<input checked="" type="checkbox"/> <u>Not required</u>
10	B.9.5	Acceptable forms of Bid Security	<input checked="" type="checkbox"/> NA
11	B.9.5 C.15.4 a)	Validity of Bid Security	<input checked="" type="checkbox"/> NA
12		Advanced Payment upon signing of contract	<u>Not allowed</u>
13		Liquidated Damages	<input checked="" type="checkbox"/> NA However UNDP shall deduct the down time internet based on up time SLA agreement and provision of MRTG.
14	F.37	Performance Security	<input checked="" type="checkbox"/> NA
15	C.17 C.17.2	Preferred Currency of Bid and Method for Currency conversion	United States Dollars (US\$) or Local Currency AFN <i>For evaluation purposes bid prices expressed in different currencies shall be converted in: [US Dollars]</i> <i>The source of exchange rate shall be: [UN Exchange Rate]</i> <i>The date for the exchange rate shall be [UN Exchange rate for the month which bids are evaluated]</i>
16	B.10.1	Deadline for submitting requests for clarifications/ questions	<u>Seven (07) days before the submission date.</u> UNDP will endeavor to provide the above clarifications expeditiously, but any delay in providing such information will not be considered a reason for extending the submission date of a bid
17	B.10.1	Contact Details for submitting clarifications/questions	Focal Person in UNDP: E-mail: Procurement.af@undp.org <i>Note: This email address is officially designated by</i>

			<i>UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was officially received.</i>
18	B.11.1	Manner of Disseminating Supplemental Information to the ITB and responses/clarifications to queries	Supplemental Information will be up-loaded in the system (Atlas-E-Tendering System). Once uploaded, bidders who accepted Tender Invitation will be notified automatically by system that changes have occurred. It is the responsibility of the bidders to view the respective changes and clarifications in the system. Note: The Subject Line Email Should read, UNDP/AFG/2017/ITB/ 1799
19	D.23.3	No. of copies of Bid that must be submitted	Not Applicable- Bids must be submitted through E-Tendering Module.
20	D.23.1 b) D.23.2 D.24	Bid submission address	Online bidding in E-Tendering module. <input checked="" type="checkbox"/> Electronic submission of Bid https://Etendering.partneragencies.org
21	C.21.1 D.24	Deadline of Bid Submission	Date and Time: As specified in the system (note that time zone indicated in the system is New York Time zone). PLEASE NOTE:- 1-Date and time visible on the main screen of event (on E-Tendering portal) will be final and prevail over any other closing time indicated elsewhere, in case they are different. Please also note that the bid closing time shown in the PDF file generated by the system is not accurate due to a technical glitch that we will resolve soon. The correct bid closing time is as indicated in the E-Tendering portal and system will not accept any bid after that time. It is the responsibility of the bidder to make sure bids are submitted within this deadline. UNDP will not accept any bid that is not submitted directly in the system. Try to submit your bid a day prior or well before the closing time. Do not wait until last minute. If you face any issue submitting your bid at the last minute, UNDP may not be able to assist.
22	D.23.2	Manner of Submitting Bid	Your bid, comprising of requested documents, should be submitted thorough the UNDP ATLAS E-Tendering system. The step by step to be followed for bid submission

			<p>through the UNDP ATLAS E-Tendering system is available in the instruction manual for the bidders, attached with this ITB.</p> <p>The solicitation documents and the manual is also posted in following websites: http://www.af.undp.org http://procurement-notices-undp.org/index.cfm https://www.ungm.org/notices/notices.aspx</p> <p>Once uploaded, Prospective Proposers (i.e. Proposers that have accepted the bid invitation in the system) will be notified via email that changes have occurred. It is the responsibility of the Proposers to view the respective changes and clarifications in the system.</p>
23	D.23.2 D.26	Conditions and Procedures for electronic submission and opening, if allowed	<p>Official Address for e-submission: https://etendering.partneragencies.org</p> <p><input checked="" type="checkbox"/> Format : PDF, Word, JPG files only <input checked="" type="checkbox"/> Max. File Size per transmission: <i>[8 MB]</i> <input checked="" type="checkbox"/> Max. No. of transmission : <i>[not limited]</i> <input checked="" type="checkbox"/> No. of copies to be transmitted : <i>[one]</i> <input checked="" type="checkbox"/> Virus Scanning Software to be Used prior to transmission. <input checked="" type="checkbox"/> Time Zone to be Recognized: Bid closing date is according to New York Time Zone in E-Tendering System, so please convert it Kabul Time zone and submit your bid accordingly.</p>
24	D.23.1 c)	Date, time and venue for opening of Bid	<p>27 Nov 2017 at 11:00 AM Kabul Time, UNOCA Compound Kabul Jalalabad Road UNDP CO.</p> <p>Interested bidders can submit their details to procurement.af@undp.org one day prior to closing date by introducing their focal point attending the meeting.</p>
25		Evaluation method to be used in selecting the most responsive Bid	<p><input checked="" type="checkbox"/> Non-Discretionary “Pass/Fail” Criteria on the technical requirements <input checked="" type="checkbox"/> Lowest price offer of technically qualified / responsive bid <input checked="" type="checkbox"/> At-least 5 years of experience in field of Provision of Internet Services, <input checked="" type="checkbox"/> At-least 3 contracts in field of provision of fiber optic internet services for international organizations with 2 contracts value exceeding US\$ 200,000, <input checked="" type="checkbox"/> Availability of technical personnel and/or office at regional provinces (Kandahar, Jalalabad, Balkh and Herat) if the service provider operates in those provinces,</p>

			<input checked="" type="checkbox"/> Any other criteria stated in the technical requirements of the ITB, <input checked="" type="checkbox"/> ITB will be evaluated based on provinces and LTA will be awarded to the lowest bidder for their respective province,
25	E.28	Preliminary Evaluation Criteria (List of documents to qualify the bidder must be submitted)	<input checked="" type="checkbox"/> Valid business trade license <input checked="" type="checkbox"/> Valid business license from ATRA for provision of fiber optic internet services, <input checked="" type="checkbox"/> Physical Diagram on how the companies are connected with other upstream providers, <input checked="" type="checkbox"/> ISP License for provision of Internet Services, <input checked="" type="checkbox"/> Evidence of Local presence or representative for International Companies, <input checked="" type="checkbox"/> The ISP Should provide a detailed peering map to all the major internet backbone ISPs, <input checked="" type="checkbox"/> The company Profile <input checked="" type="checkbox"/> Statement of satisfactory performance for top 3 (three) clients in last five years, <input checked="" type="checkbox"/> Track records- list of clients for similar services as those required by UNDP, indicating description of the contract, scope, contract duration, contract value and reference. <input checked="" type="checkbox"/> Details of technical team available at Kabul and Regional Offices (Herat, Mazar, Kandahar and Jalalabad), <input checked="" type="checkbox"/> Any other documents and information stated in the technical requirements of the ITB,
25	C.15	Minimum Eligibility and Qualification Criteria (List of documents to qualify the bidder must be submitted)	<input checked="" type="checkbox"/> At-least 5 years of experience in field of Provision of Internet Services, <input checked="" type="checkbox"/> At-least 3 contracts in field of provision of fiber optic internet services for international organizations with 2 contracts value exceeding US\$ 200,000, <input checked="" type="checkbox"/> Availability of technical personnel and/or office at regional provinces (Kandahar, Jalalabad, Balkh and Herat) if the service provider operates in those provinces, <input checked="" type="checkbox"/> Any other criteria stated in the technical requirements of the ITB,
27		Other documents that may be Submitted to Establish Eligibility	N/A
28	C.15	Structure of the Technical Bid	<ul style="list-style-type: none"> • Scanned copy of duly filled, signed and company stamped bid submission form, • Scanned copy of duly filled, signed and company stamped technical compliance sheet,

			<ul style="list-style-type: none"> Scanned copy of duly filled, signed and company stamped technical bid form, Scanned copy of duly filled, signed and company stamped price schedule, Scanned copy of duly filled, signed and company stamped documents establishing eligibility of bidders,
29	C.15.2	Latest Expected date for commencement of Contract	<i>January 1, 2018</i>
30	C.15.2	Maximum Expected duration of contract	Initially the Long Term Agreement will be signed for one year with possibility of extension for additional period based on satisfactory performance at the discretion of UNDP.
31		UNDP will award the contract to:	<input checked="" type="checkbox"/> One or more bidders
32	F.34	Criteria for the Award and Evaluation of Bid	<u>Award Criteria</u> Technically Qualified Lowest Bidder
33	E.29	Post qualification Actions	<p>Verification of accuracy, correctness and authenticity of the information provided by the bidder on the legal, technical and financial documents submitted;</p> <p>Validation of extent of compliance to the ITB requirements and evaluation criteria based on what has so far been found by the evaluation team;</p> <p>Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed;</p> <p>Physical inspection of the bidder's plant, factory, branches or other places where business transpires, with or without notice to the bidder;</p>
34		Conditions for Determining Contract Effectivity	Upon signing of the Long Term Agreement and subsequent issuance of purchase order(s)
35		Other Information Related to the ITB	1. UNDP does not warrant that any quantity of Goods and/or Services will be purchased during the term of this arrangement, which shall be for three years. Call off orders for any Fiber Optic Internet Services under this arrangement shall be placed with the technically qualified and 1st lowest price offeror as 1st ranked LTA holder subject to the capacity of the LTA holder to mobilize the team and provide services within required time frame and as per demand. Call off orders for standby LTAs shall

			<p>be placed in the order of their ranking in the event if the services of higher ranked LTA holder is not availed.</p> <p>2. The supplier/contractor shall provide the types of services, goods and/or deliverables, quoted in this bidding process as and when negotiated by UNDP which shall be reflected in a non-binding long term agreement in the form attached hereto as the model long terms agreement for the provision of goods and or services to the UNDP.</p> <p>3. Such services and/or goods shall be at negotiated prices listed in the price schedule as applicable. The process shall remain in effect for a period of one year from entry into effect of the long term agreement. The period may be extended for additional years based on a satisfactory performance and at the sole discretion of UNDP.</p> <p>4. In the event of any advantageous, technical changes and/or downward pricing of the goods and/or services during the duration of this agreement, the supplier/contractor shall notify UNDP immediately. UNDP shall consider the impact of any such event and may request an amendment to the long terms agreement.</p>
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Section-3
Technical requirement provision of Fiber optic internet services

Background:

1. The United Nations Development Programme (UNDP) in Afghanistan has its main office in UNOCA Complex, Jalalabad Road, Kabul Afghanistan. In addition, UNDP operates in different locations across the Afghan territory.
2. Information about the locations where the service is currently obtained, including the bandwidth and Internet Service Provider (ISP) is detailed in Table 1 & 2.
3. UNDP relies on their information systems to run their operations. UNDP in Afghanistan has the challenge to have a modern and reliable ICT infrastructure to ensure business operations, and to minimize the cost and disruption.

I. Objective.

4. UNDP requires fiber optic Internet Services for its main office, development projects and all its regional offices. For this purpose, UNDP intends to enter into a Long-Term Agreement (LTA) with a service provider (or multiple service providers) with an initial duration of one year with possibility of extension.
5. An LTA refers to a written agreement between UNDP and a supplier that is established for specific goods or services at prescribed prices or pricing provisions for a defined period, against which specific orders (call-offs) can be placed at any time during the defined period and with no legal obligation to order any minimum or maximum quantity. In other organizations, it is also known as Umbrella Agreement, Framework Agreement, Systems Contract, Standing Offer Agreement, or Call-Off Agreement.
6. When multiple service providers are awarded with a LTA, call-offs would be based on one or more considerations of ranking based on preferential pricing, technicality, availability of requirements when needed and geographical coverage.
7. A price verification will be conducted by UNDP on semiannual basis and shall be revised accordingly if needed.
8. The LTA holders will not be allowed to increase the price once the LTA is signed and prices are fixed. However reduction in prices can be done on semiannual basis after verification request by UNDP.
9. UNDP will request visits to bidders' Network Operations Centre, during the evaluation stage of the bid, before awarding the contract and during the validity of the LTA (for performance assessment purposes).
 - Availability of NOC is must in Kabul and major cities
 - Availability of MRTG system for monitoring connections.
 - Availability of redundant systems
 - Availability of 24/7 technical engineers for monitoring and technical support in Kabul and major cities.
 - Helpdesk management application or ticketing system in line with the SLA in place.
 - Availability of Reporting and measurements for UNDP on daily and monthly issues.
 - NOC escalation procedure in Kabul and other locations
 - Power redundancy in NOC (evidence of city power, generators, UPS or solar power)
 - Availability of necessary spare parts in the stock.
 - Presentation on available upstream services providers (evidence of primary & secondary connections)

II. Technical Requirements.

10. The connection to the last end-point shall use RJ45 Network cable to the main router. Fiber optic connection is required.
11. The Internet Service Provider (ISP) can participate in the bidding process for provision of the relevant service:
 - Fiber Optic Internet services
12. The ISP must provide a fully redundant fiber optic internet connections with 70% backup on VSAT at their NOC level to UNDP, its project and affiliated agencies.
13. The ISP must provide evidence of 70% backup on VSAT at their NOC level.
14. The ISP must provide evidence of bandwidth availability of at least 300 Mbps with valid contract from upstream fiber optic internet service provider.
15. The fiber optic internet connection must be traffic-independent flat fee, unlimited usage, without any further restrictions of using (i.e. proxy, firewall, filtering and screaming server) and the internet bandwidth must be a dedicated (1:1) connection, not shared with other customers.
16. The ISP must not capture or record the receiving and sending transmission packets.
17. The ISP must provide cost table of per MB between 512Kbps and 20Mbps uplink and downlink in increments of 512Kbps dedicated with table cost and locations if applicable. The ISP should be able to provide burstable bandwidth upon request, on demand and depending on traffic utilization.
18. The ISP must provide written evidence (copy of contracts) of redundancy of physical connectivity on fiber optic and microwave from any boarder entering to Afghanistan and back boning any neighboring countries.
19. The ISP must provide written evidence of redundancy of physical land connectivity between UNDP, its project and affiliated agencies offices and the ISP's NOC.
20. The ISP must be capable of routing for any required protocols and virtual addresses of IPV4 and IPV6.
21. The ISP must provide a detailed peering map to all the major Internet backbones fiber optic internet providers.
22. The ISP is responsible to terminate its fiber optic connection to UNDP Afghanistan offices.
23. Data confidentiality guarantee; fiber optic internet services provider may not scan traffic (all WAN ports should be blocked and allow only requested ports).
24. Support Managed VPN Services, Service provider should provide VPN with preventing IP-addresses from being visible to the rest of the Internet users. VPN user (Regional Offices) should not be able to have access to CO office's internet, ISP should not keep any VPN logs, VPN services should provide SHA1, AES-128, AES-256 or RSA 4096 security encryption algorithm.
25. ISP must be able to manage the Customer Premises Equipment (CPE) to be installed in the UNDP designated locations.

26. The ISP must provide and install any required equipment to operate the WAN and Internet access such as Microwave. All provided equipment must be in good working condition preferably (Brand new).
27. The ISP must provide local DNS services for WAN resolutions and third-party DNS servers (nearest geographic location) should be provided for forwarders name resolutions. **Public DNS will not be accepted.**
28. ISPs must report and collaborate the technical issues, related to fiber optic internet services such as down times, trouble shooting and bandwidth issues directly with Country office, ICT unit.
29. Provision of VOIP on Fiber Optic service to enable call between country office and development projects.
30. Latency from client to destination as following.
 - Fiber Optic 200 milliseconds (ms)
31. Availability of technical staff in central regions of Afghanistan (Kabul, Mzar, Kandahar, Jalalabad and Herat).

Internet Bandwidth Requirements:

Table 1: Fiber optic Internet bandwidth

No	Uplink	Downlink	Ratio
1	512 Kbps	512 Kbps	CIR 1:1
2	1 Mbps	1 Mbps	CIR 1:1
3	2 Mbps	2 Mbps	CIR 1:1
4	3 Mbps	3 Mbps	CIR 1:1
5	4 Mbps	4 Mbps	CIR 1:1
6	5 Mbps	5 Mbps	CIR 1:1
7	6 Mbps	6 Mbps	CIR 1:1
8	7 Mbps	7 Mbps	CIR 1:1
9	8 Mbps	8 Mbps	CIR 1:1
10	9 Mbps	9 Mbps	CIR 1:1
11	10 Mbps	10 Mbps	CIR 1:1
12	15 Mbps	15 Mbps	CIR 1:1
13	20 Mbps	20 Mbps	CIR 1:1

32. Installation and locations:

Table 2: Site installation for Fiber optic connections

No	Location	Accessibility	Type connection	Contraction duration	Installation Timeline
1	Kabul city	Fiber Optic ring	Fiber Optic cable/ microwave with fiber optic back bone.	12 months with possibility of extension	3 days after issuance of Purchase order
2	Any location in all 34 provinces in Afghanistan: Badakhshan; Badghis; Baghlan; Balkh; Bamyan; Daykundi; Farah; Faryab; Ghazni; Ghor; Helmand; Herat; Jowzjan; Kabul; Kandahar; Kapisa; Khost; Konar; Kunduz; Laghman; Logar; Nangarhar; Nimruz; Nurestan; Oruzgan; Paktia; Paktika; Panjshir; Parvan; Samangan; Sare Pol; Takhar; Wardak; Zabol	Major cities Fiber Optic ring	Fiber Optic cable/ microwave with fiber optic back bone.	12 months with possibility of extension	5 days after issuance of Purchase order

33. **Hardware requirements.** The ISP should supply the software and hardware required to provide the service. The hardware should comply with the following minimum requirements:

- Fiber Optic connection, according to the Table 3 (Fiber Optic and Microwave, back end with fiber connection.)
- The hardware should be brand new or in a condition to provide a minimum of one year of service without failure.
- The replacement of hardware must be free of charge if the service provider continues with the required services. The ISP is responsible for transportation of new and under warranty equipment to and from the destination.
- The software and the operating system shall be up gradable when new update is available.
- The cost of required hardware should be apportioned in the monthly internet service charges for all provinces.
- UNDP shall not bear any additional cost for re-installation due to failure of equipment provided by the service provider.

Table 3: Fiber Optic and Microwave, back end with fiber connection.

No	Description	Hardware assurance	Quantity
1	Physical Fiber connection Single/ multi-mode from source fiber to UNDP terminals. Four cores.		As required
2	Microwave connection back boned with fiber connection. ✓ Microwave 3.4 / 3.6 Ghz ✓ Bandwidth capacity 30 Mb actual speed. ✓ Microwave modem. ✓ Power adopter. ✓ Data and power cables. ✓ Accessories.	<ul style="list-style-type: none"> • Upgrading to new version. • Replacement with new model after life cycle ends. • If the existing device does not fully support the required services provider should replace the required devices. 	
3	Details on life span of the hardware provided to UNDP, Afghanistan and provider is responsible once the life span is over or up gradation is required.		

III. Standards of Service and Reporting Requirements.

34. For any equipment that is installed by the ISP to operate the Internet access, the ISP shall ensure that there is sufficient spare equipment, cables or accessories on hand to quickly replace any faulty devices. Critical devices may need to be stored in UNDP designated locations.

35. Prospective ISP must include their proposed Service Level Agreement (SLA) terms and conditions that would be applicable to this engagement. Please note that the proposed SLA terms will be used for evaluation of the proposals and shall have impact on bid evaluation results.

36. The availability of the Internet Service for Leased Lines shall be a minimum of 97% as measured over the period of a calendar month. (< 45 minutes' downtime). Rebates should be included in the SLA for any downtime at a rate agreeable by both parties.

37. The ISP shall be able to provide public IP range of /29 /28 subnet as per the request of UNDP. Any renewal of Public IP should be communication with UNDP ICT team in advance.

38. The ISP shall have 24x7x365 technical assistance and/or helpdesk facilities and escalation procedures should be in place. A dedicated technical focal point and account manager are needed to be introduced to UNDP.
39. The ISP must be responsible for providing scheduled downtime reports to UNDP in advance of 24 hours ahead of time. Uncertain downtime needs to be coordinated immediately and once the services are restored.
40. If the unknown downtime is exceeding 2 hours, the ISP shall be responsible to provide alternative connectivity solution to any effected side.
41. Provision of real-time web-based MRTG tool daily, weekly, monthly and yearly utilization graphs with domestic, international and total bandwidth usage which can be used to monitor network condition against the SLA.
42. The ISP must provide web based and mobile based monitoring and notification tool. The tool must notify UNDP CO. ICT unit on any connection failure.
43. The selected ISP shall provide a field engineer / site technician to UNDP locations for troubleshooting and if required, to replace the equipment within the following time constraints:
 - Kabul and Major Cities within 3 hours.
 - Remote locations within 24 to 48 hours.
44. ISP would be responsible for travel, lodging and security arrangements of the field engineer / site technician.
45. The internet bandwidth must be a dedicated connection, not shared with other customers, with same internet speed after working hours and during the weekend.
46. The upgrade/downgrade of bandwidth whenever required should be processed based on request of UNDP. This process should complete within 5 working days. In case of any issue both parties should agree upon.
47. In case device failure or physical damage of CPE, the effected devices should be replaced within 3 hours.
48. In case of connection failure exceeding agreed duration, the recurring cost will be deducted per calculated hours/ days.
49. The technical support and replacement of any faulty device provided by the ISP (after faithfully diagnostic) must be carried out as following:
 - Fiber Optic in Kabul and Major Cities within 24 hours. Remote areas 48/72 hrs.
 - Microwave in Kabul and Major Cities within 24 hours.

Eligibility Criteria:

The service providers fulfilling the following requirements shall be eligible to be included in UNDP approved pre-qualified list.

Criteria	Description
Legal Registration	<p>Suppliers registered in Afghanistan or any other country with the relevant authorities to provide the requested services in Afghanistan can apply.</p> <ul style="list-style-type: none">i) Please provide copy of valid ISP License (for provision of fiber optic internet services to Kabul and all cities in Afghanistan)ii) Please provide copy of valid license for provision of VSAT Internet Services (license for VSAT).iii) Copy of authorization letter from Ministry of Communication for provision of fiber Optic internet services plus manage VPN services and VOIP in Afghanistan,
Technical	<p>The fiber optic internet services provider must provide the availability of the following technical criteria with evidence.</p> <ul style="list-style-type: none">i) Availability of NOC in Kabul and major cities (paragraph 7, Annex-3 technical requirement)ii) Availability of valid contracts with upstream service provider for provision of fiber optic internet services (with evidence of entering to Afghanistan from bordering fiber rings).iii) The ISP must provide a detailed peering map to all the major Internet backbones fiber optic internet providers.iv) The ISP must provide evidence of 70% backup on VSAT in case if the fiber optic goes down.v) The ISP must meet and comply with all the technical criteria mentioned in “Technical Requirement”.
Relevant Experience	<p>At least 5 Years’ proven experience for provision of fiber optic internet services to International & Government Organizations.</p> <ul style="list-style-type: none">1. Provide at-least 3 contracts in field of provision of fiber optic internet services for International organization.2. Experience of handling and successful completion of at-least two contracts with value of equal to or more than US\$ 200,000.3. Provide details of referees in Appendix IV4. Provide list of all cities in Afghanistan with evidence that your company can provide fiber optic internet services. <p>Note: UNDP may verify the information provided through Post-Qualification (site visit) assessment.</p>
Capacity of the supplier	<p>Provide company profile and provide other relevant details as attachment such as number of technical staff and after sale support facilities, list of required equipment and proof of having authorization letter to provide fiber optic internet services in Afghanistan.</p> <p>UNDP reserve the right to ask for additional information and or documents for verifying application’s capacity. In addition to verification of documents submitted, UNDP will undertake site visits as required for physical verification of applicant’s capacity and other facilities.</p>

Financial Status	<p>The bidder should demonstrate sound financial capacity to undertake provision of internet services. To validate the financial capacity of the bidder, the following document shall submit.</p> <ol style="list-style-type: none">1. Latest audited Financial Statement for last 3 years and/or Bank Account Statement for2. Average annual cash flow of minimum of US \$ 500,000 for last three years. <p>UNDP reserves the right to ask for additional information and/or documents for verifying the applicant's financial capacity.</p>
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Appendix II

Name of Company			
Address of Company			
		Primary Contact	Secondary Contact
	Name		
	Title		
	Phone Number		
	Email Address/Skype		
Year of Registration			
Copy of Trade License of Certificate of Incorporation	Applicant shall submit valid business license.		
Name of Parent Company (if Applicable)			
Country of Registration of Parent Company (if applicable)			
Countries of operation			
Annual cash flow for last three years	Year 2015: USD	Year 2016: USD	Year 2017: USD
List of Provinces covered under fiber optic internet coverage by your company			

“We are currently not on the removed or suspended vendor list of the UN or other such lists of other UN agencies, nor are we associated with, any company or individual appearing on the 1267/1989 list of the UN Security Council.”

Signature:

Company Seal:

Name:

Title:

Appendix III

Please indicate type of internet services that your company can provide:

Description	Type of Goods/Services
Fiber optic Internet service and relevant services through Fiber Optic Cable	Please explain here your responses in details with technical specifications.

Signature:

Company Seal:

Name:

Title:

Section 3b: Compliance Sheet

Goods and services to be Supplied and Technical Specifications	Your response	
	Compliance with technical specifications & Delivery Requirement	
	Yes, we comply	No, we cannot comply <i>(indicate discrepancies)</i>
Compliance for General Terms and Conditions for Goods/Services		
Comply with detailed Technical Specification outlined in Section 3		
Compliance with LTA special conditions		

Section 4: Bid Submission Form

(This should be written in the Letterhead of the Bidder. Except for indicated fields, no changes may be made in this template.)

Insert: Location

Insert: Date

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

Dear Sir/Madam:

We, the undersigned, hereby offer to supply the goods and related services required for UNDP/AFG/ITB/ XXXXXXXX in accordance with your Invitation to Bid dated Insert: bid date. We are hereby submitting our Bid, which includes the Technical Bid and Price Schedule.

We hereby declare that:

- a) All the information and statements made in this Bid are true and we accept that any misrepresentation contained in it may lead to our disqualification;
- b) We are currently not on the removed or suspended vendor list of the UN or other such lists of other UN agencies, nor are we associated with, any company or individual appearing on the 1267/1989 list of the UN Security Council;
- c) We have no outstanding bankruptcy or pending litigation or any legal action that could impair our operation as a going concern; and
- d) We do not employ, nor anticipate employing, any person who is or was recently employed by the UN or UNDP.

We confirm that we have read, understood and hereby fully accept the Schedule of Requirements and Technical Specifications describing the duties and responsibilities required of us in this ITB, and the General Terms and Conditions of UNDP's Standard Contract for this ITB.

We agree to abide by this Bid for *[insert: period of validity as indicated in Data Sheet]*.

We undertake, if our Bid is accepted, to initiate the supply of goods and provision of related services not later than the date indicated in the Data Sheet.

We fully understand and recognize that UNDP is not bound to accept this Bid, that we shall bear all costs associated with its preparation and submission, and that UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the evaluation.

We remain,

Yours sincerely,

Authorized Signature *[In full and initials]*: _____

Name and Title of Signatory: _____

Name of Firm: _____

Contact Details: _____

[Please mark this letter with your corporate seal, if available]

[Please mark this letter with your corporate seal, if available]

Section 5: Documents Establishing the Eligibility and Qualifications of the Bidder

Bidder Information Form

Date: *[insert date (as day, month and year) of Bid Submission]*

Page _____ of _____ pages

1. Bidder's Legal Name <i>[insert Bidder's legal name]</i>		
2. In case of Joint Venture (JV), legal name of each party: <i>[insert legal name of each party in JV]</i>		
3. Actual or intended Country/ies of Registration/Operation: <i>[insert actual or intended Country of Registration]</i>		
4. Year of Registration in its Location: <i>[insert Bidder's year of registration]</i>		
5. Countries of Operation	6. No. of staff in each Country	7. Years of Operation in each Country
8. Legal Address/es in Country/ies of Registration/Operation: <i>[insert Bidder's legal address in country of registration]</i>		
9. Value and Description of Top three (3) Biggest Contract for the past five (5) years		
10. Latest Credit Rating (Score and Source, if any)		
11. Brief description of litigation history (disputes, arbitration, claims, etc.), indicating current status and outcomes, if already resolved.		
12. Bidder's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>		
13. Are you in the UNPD List 1267.1989 or UN Ineligibility List ? <input type="checkbox"/> YES or <input type="checkbox"/> NO		
14. Attached are copies of original documents of: <ul style="list-style-type: none">• All eligibility document requirements listed in the Data Sheet• If Joint Venture/Consortium – copy of the Memorandum of Understanding/Agreement or Letter of Intent to form a JV/Consortium, or Registration of JV/Consortium, if registered• I case of Government Corporation or Government-owned/controlled entity, documents establishing legal and financial autonomy and compliance with commercial law.		

Joint Venture Partner Information Form (if Registered)

Date: *[insert date (as day, month and year) of Bid Submission]*

1. Bidder's Legal Name: <i>[insert Bidder's legal name]</i>		
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>		
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>		
4. Year of Registration: <i>[insert Party's year of registration]</i>		
5. Countries of Operation	6. No. of staff in each Country	7. Years of Operation in each Country
8. Legal Address/es in Country/ies of Registration/Operation: <i>[insert Party's legal address in country of registration]</i>		
9. Value and Description of Top three (3) Biggest Contract for the past five (5) years		
10. Latest Credit Rating (if any) :Click here to enter text.		
11. Brief description of litigation history (disputes, arbitration, claims, etc.), indicating current status and outcomes, if already resolved. Click here to enter text.		
12. JV's Party Authorized Representative Information Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>		
13. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i>		
<ul style="list-style-type: none"> • All eligibility document requirements listed in the Data Sheet • Articles of Incorporation or Registration of firm named in 2. • In case of government owned entity, documents establishing legal and financial autonomy and compliance with commercial law. 		

Section 6: Technical Bid Form

Case no: ITB/UNDP/AFG/

Name of Bidding Organization / Firm:	
Country of Registration:	
Name of Contact Person for this Bid:	
Address:	
Phone / Fax:	
Email:	

SECTION 1: EXPERTISE OF FIRM/ ORGANISATION

This section should fully explain the Bidder's resources in terms of personnel and facilities necessary for the performance of this requirement.

1.1 Brief Description of Bidder as an Entity: Provide a brief description of the organization / firm submitting the Bid, its legal mandates/authorized business activities, the year and country of incorporation, and approximate annual budget, etc. Include reference to reputation, or any history of litigation and arbitration in which the organisation / firm has been involved that could adversely affect or impact the delivery of goods and/or performance of related services, indicating the status/result of such litigation/arbitration.

1.2. Financial Capacity: Based on the latest Audited Financial Statement (Income Statement and Balance Sheet) describe the financial capacity (liquidity, stand-by credit lines, etc.) of the bidder to engage into the contract. Current ratio of not less than 1.0 shall be considered as financially viable bidder

1.3. Track Record and Experiences: Provide the following information regarding corporate experience within at least the last five (5) years which are related or relevant to those required for this Contract.

Name of project	Client	Contract Value	Period of activity	Types of activities undertaken	Status or Date Completed	References Contact Details (Name, Phone, Email)

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SECTION 2 - SCOPE OF SUPPLY, TECHNICAL SPECIFICATIONS, AND RELATED SERVICES

1. A detailed description of the approach and methodology for how the Bidder will deliver the required goods and services, keeping in mind the appropriateness to local conditions and project environment. Details how the different service elements shall be organized, controlled and delivered.
2. Explain whether any work would be subcontracted, to whom, how much percentage of the requirements, the rationale for such, and the roles of the proposed sub-contractors and how everyone will function as a team.
3. The methodology shall also include details of the Bidder's internal technical and quality assurance review mechanisms.
4. Implementation plan including a Gantt Chart or Project Schedule indicating the detailed sequence of activities that will be undertaken and their corresponding timing.
5. Structure of the team, including the names, position in the team and CVs of Key personnel.

SECTION 3: PERSONNEL

3.1 Management Structure: Describe the overall management approach toward planning and implementing the contract. Include an organization chart for the management of the contract, if awarded.

3.2 Staff Time Allocation: Provide a spreadsheet will be included to show the activities of each personnel involved in the implementation of the contract. Where the expertise of the personnel is critical to the success of the contract, UNDP will not allow substitution of personnel whose qualifications had been reviewed and accepted during the bid evaluation. (If substitution of such a personnel is unavoidable, substitution or replacement will be subject to the approval of UNDP. No increase in costs will be considered as a result of any substitution).

3.3 Qualifications of Key Personnel. Provide the CVs for key personnel (Team Leader, Managerial and general staff) that will be provided to support the implementation of this project. CVs should demonstrate qualifications in area of expertise relevant to the Contract. Please use the format below:

Name:		
Role in Contract Implementation:		
Nationality:		
Contact information:		
Countries of Relevant Work Experience:		
Language Skills:		
Education and other Qualifications:		
Summary of Experience: <i>Highlight experience in the region and on similar projects.</i>		
Relevant Experience (From most recent):		
Period: From – To	Name of activity/ Project/ funding organisation, if applicable:	Job Title and Activities undertaken/Description of actual role performed:
<i>e.g. June 2010-January 2013</i>		
<i>Etc.</i>		
<i>Etc.</i>		
References (minimum of 3):	<i>Name Designation Organization Contact Information – Address; Phone; Email; etc.</i>	
Declaration: I confirm my intention to serve in the stated position and present availability to serve for the term of the proposed contract. I also understand that any wilful misstatement described above may lead to my disqualification, before or during my engagement.		
_____ _____		
Signature of the Nominated Team Leader/Member		Date Signed

Section 7: Price Schedule Form

The Bidder is required to prepare the Price Schedule as indicated in the Instruction to Bidders.

The evaluation will be based on cost per provinces. Each company offering lower cost for the designated provinces will be awarded the LTA accordingly.

A. Cost Breakdown per Deliverable Items

Lot-1: Fiber Optic Connection Internet bandwidth				
No.	Description	Expected Date of Delivery /Completion	Percentage of Total Price	Price
1	<p>Fiber Optic Connection for 34 provinces in Afghanistan:</p> <p>Kabul, Badakhshan, Badghis, Baghlan, Balkh, Bamyán, Daykundi, Farah, Faryab, Ghazni, Ghor, Helmand, Herat, Jowzjan, Kandahar, Kapisa, Khost, Konar, Kunduz, Laghman, Logar, Nangarhar, Nimruz, Nurestan, Oruzgan, Paktia, Paktika, Panjshir, Parvan, Samangan, Sare Pol, Takhar, Wardak, Zabol</p> <p><i>NB: Bidders are required to mention the provinces that they could provide Fiber Connectivity</i></p>		<p>Payment will be made upon award of contract to the selected bidder.</p> <p>Payment will be made on monthly basis upon completion of each month, receipt of invoice and completion report for the satisfactory performance</p>	<p>Please indicate your company prices based on 1 Mbps bandwidth.</p> <p>In case of any special discount for ordering more than a specific bandwidth ceiling please specifies it separately.</p> <p>Please fill the below sheet.</p> <p>1 Mbps price will be considered as the basis for calculation of any additional or lower bandwidths required for each Province, for example: Price per Mbps per month x number of Mbps required = Total Cost per month</p>

Price Schedule: Fiber-Optic Internet Services

SN	Location	Bandwidths		Price Per Mbps per month *(Currency)
		Downlink	Uplink	
1	Badakhshan	1 Mbps	1 Mbps	
2	Badghis	1 Mbps	1 Mbps	
3	Baghlan	1 Mbps	1 Mbps	
4	Bamyan	1 Mbps	1 Mbps	
5	Daikundi	1 Mbps	1 Mbps	
6	Farah	1 Mbps	1 Mbps	
7	Faryab	1 Mbps	1 Mbps	
8	Ghazni	1 Mbps	1 Mbps	
9	Ghor	1 Mbps	1 Mbps	
10	Helmand	1 Mbps	1 Mbps	
11	Herat	1 Mbps	1 Mbps	
12	Jalalabad	1 Mbps	1 Mbps	
13	Jawzjan	1 Mbps	1 Mbps	
14	Kabul	1 Mbps	1 Mbps	
15	Kandahar	1 Mbps	1 Mbps	
16	Kapisa	1 Mbps	1 Mbps	
17	Khost	1 Mbps	1 Mbps	
18	Kunar	1 Mbps	1 Mbps	
19	Kunduz	1 Mbps	1 Mbps	
20	Laghman	1 Mbps	1 Mbps	
21	Logar	1 Mbps	1 Mbps	

22	Maidan Wardak	1 Mbps	1 Mbps	
23	Mazar e Sharif	1 Mbps	1 Mbps	
24	Nimroz	1 Mbps	1 Mbps	
25	Nuristan	1 Mbps	1 Mbps	
26	Paktika	1 Mbps	1 Mbps	
27	Paktya	1 Mbps	1 Mbps	
28	Panjshir	1 Mbps	1 Mbps	
29	Parwan	1 Mbps	1 Mbps	
30	Samangan	1 Mbps	1 Mbps	
31	Saripul	1 Mbps	1 Mbps	
32	Takhar	1 Mbps	1 Mbps	
33	Urozgan	1 Mbps	1 Mbps	
34	Zabul	1 Mbps	1 Mbps	

Note:

The ISP should supply the software and hardware required to provide the services. The hardware should comply with the minimum specified technical requirements

- The cost of required hardware should be included in the cost of internet service charges for all respective provinces.
- The hardware should be brand new or in good working conditions to provide uninterrupted internet services.
- UNDP shall not bear any additional cost for re-installation due to failure of equipment provided by the service provider.

1 Mbps price will be considered as the basis for calculation of any additional or lower bandwidths required for each Province, for example:
Price per Mbps per month x number of Mbps required =
Total Cost per month

Instructions:

1. Please fill the Price per Mbps per month.
2. *Please mention the currency.
3. Please provide your price only for the provinces that your company is able to cover internet services.

Current required bandwidth for UNDP CO and Developments Projects (for information purpose):

S/N	Site Name	Province	Bandwidth- Mbps (upload=download)
1	UNDP CO	Kabul	14
2	UNDP CO	Kabul	20
3	UNDP CO	Kabul	20
4	ALFA Compound	Kabul	3
5	UNDP EGEMA	Kabul	2
6	UNDP LOTFA - Site 1	Kabul	10
7	UNDP SDG	Kabul	3
8	UNDP LOTFA - Site 2	Kabul	10
9	ICSPA	Kabul	3
10	Jalalabad RO	Jalalabad	1
11	Herat RO	Herat	1
12	Kandahar RO	Kandahar	1

Section 8: FORM FOR BID SECURITY

(This must be finalized using the official letterhead of the Issuing Bank. Except for indicated fields, no changes may be made in this template.)

To: UNDP
[Insert contact information as provided in Data Sheet]

WHEREAS *[name and address of Contractor]* (hereinafter called "the Bidder") has submitted a Bid to UNDP dated *Click here to enter a date.* , to deliver goods and execute related services for *[indicate ITB title]* (hereinafter called "the Bid"):

AND WHEREAS it has been stipulated by you that the Bidder shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security in the event that the Bidder:

- a) Fails to sign the Contract after UNDP has awarded it;
- b) Withdraws its Bid after the date of the opening of the Bid;
- c) Fails to comply with UNDP's variation of requirement, as per ITB Section F.3; or
- d) Fails to furnish Performance Security, insurances, or other documents that UNDP may require as a condition to rendering the contract effective.

AND WHEREAS we have agreed to give the Bidder such this Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Bidder, up to a total of *[amount of guarantee] [in words and numbers]*, such sum being payable in the types and proportions of currencies in which the Price Bid is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[amount of guarantee as aforesaid]* without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

This guarantee shall be valid until 30 days after the date of validity of the bids.

SIGNATURE AND SEAL OF THE GUARANTOR BANK

Date

Name of Bank

Address

Section 9: FORM FOR PERFORMANCE SECURITY

(This must be finalized using the official letterhead of the Issuing Bank. Except for indicated fields, no changes may be made in this template.)

To: UNDP
[Insert contact information as provided in Data Sheet]

WHEREAS *[name and address of Contractor]* (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. *Click to enter* dated *Click to enter* , to deliver the goods and execute related services *Click here to enter text.* (hereinafter called "the Contract"):

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract:

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of *[amount of guarantee]* *[in words and numbers]*, such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[amount of guarantee as aforesaid]* without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

This guarantee shall be valid until a date 30 days from the date of issue by UNDP of a certificate of satisfactory performance and full completion of services by the Contractor.

SIGNATURE AND SEAL OF THE GUARANTOR BANK

Date

Name of Bank

Address

Section 11: General Terms and Conditions for Mixed Goods/Services

1. **LEGAL STATUS OF THE PARTIES:** The United Nations Development Programme (“UNDP”) 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* UNDP, 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 UNDP 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 UNDP, 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 UNDP:
 - 2.3.1 the qualifications of personnel proposed by the Contractor (*e.g.*, a curriculum vitae) may be reviewed by UNDP 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 UNDP 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, UNDP has reviewed the qualifications of such Contractor’s personnel, UNDP 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 UNDP 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 UNDP, 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 UNDP 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 UNDP 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 UNDP 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 UNDP 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 UNDP shall:
 - 2.6.1 undergo or comply with security screening requirements made known to the Contractor by UNDP, including but not limited to, a review of any criminal history;
 - 2.6.2 when within UNDP premises or on UNDP property, display such identification as may be approved and furnished by UNDP 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 UNDP for cancellation.

- 2.7 Within one working day after learning that any of Contractor's personnel who have access to any UNDP 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 UNDP about the particulars of the charges then known and shall continue to inform UNDP 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 UNDP premises or on UNDP property shall be confined to areas authorized or approved by UNDP. 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 UNDP premises or on UNDP property without appropriate authorization from UNDP.

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 UNDP. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, shall not be binding on UNDP. 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 UNDP. Any such unauthorized delegation, or attempt to do so, shall not be binding on UNDP.
- 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 UNDP 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 UNDP 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 UNDP. UNDP shall be entitled,

in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that UNDP reasonably considers is not qualified to perform

obligations under the Contract. UNDP shall have the right to require any subcontractor's removal from UNDP 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. **PURCHASE OF GOODS:** To the extent that the Contract involves any purchase of goods, whether in whole or in part, and unless specifically stated otherwise in the Contract, the following conditions shall apply to any purchases of goods under the Contract:
 - 5.1 **DELIVERY OF GOODS:** The Contractor shall hand over or make available the goods, and UNDP shall receive the goods, at the place for the delivery of the goods and within the time for delivery of the goods specified in the Contract. The Contractor shall provide to UNDP such shipment documentation (including, without limitation, bills of lading, airway bills, and commercial invoices) as are specified in the Contract or, otherwise, as are customarily utilized in the trade. All manuals, instructions, displays and any other information relevant to the goods shall be in the English language unless otherwise specified in the Contract. Unless otherwise stated in the Contract (including, but not limited to, in any "INCOTERM" or similar trade term), the entire risk of loss, damage to, or destruction of the goods shall be borne exclusively by the Contractor until physical delivery of the goods to UNDP in accordance with the terms of the Contract. Delivery of the goods shall not be deemed in itself as constituting acceptance of the goods by UNDP.
 - 5.2 **INSPECTION OF THE GOODS:** If the Contract provides that the goods may be inspected prior to delivery, the Contractor shall notify UNDP when the goods are ready for pre-delivery inspection. Notwithstanding any pre-delivery inspection, UNDP or its designated inspection agents may also inspect the goods upon delivery in order to confirm that the goods conform to applicable specifications or other requirements of the Contract. All reasonable facilities and assistance, including, but not limited to, access to drawings and production data, shall be furnished to UNDP or its designated inspection agents at no charge therefor. Neither the carrying out of any inspections of the goods nor any failure to undertake any such inspections shall relieve the Contractor of any of its warranties or the performance of any obligations under the Contract.
 - 5.3 **PACKAGING OF THE GOODS:** The Contractor shall package the goods for delivery in accordance with the highest standards of export packaging for the type and quantities and modes of transport of the goods. The goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law or by the transporters and manufacturers of the goods. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by UNDP as well as such other information

as is necessary for the correct handling and safe delivery of the goods. Unless otherwise specified in the Contract, the Contractor shall have no right to any return of the packing materials.

- 5.4 **TRANSPORTATION & FREIGHT:** Unless otherwise specified in the Contract (including, but not limited to, in any “INCOTERM” or similar trade term), the Contractor shall be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the goods in accordance with the requirements of the Contract. The Contractor shall ensure that UNDP receives all necessary transport documents in a timely manner so as to enable UNDP to take delivery of the goods in accordance with the requirements of the Contract.
- 5.5 **WARRANTIES:** Unless otherwise specified in the Contract, in addition to and without limiting any other warranties, remedies or rights of UNDP stated in or arising under the Contract, the Contractor warrants and represents that:
- 5.5.1 The goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such goods are ordinarily used and for any purposes expressly made known in writing in the Contract, and shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship;
 - 5.5.2 If the Contractor is not the original manufacturer of the goods, the Contractor shall provide UNDP with the benefit of all manufacturers’ warranties in addition to any other warranties required to be provided under the Contract;
 - 5.5.3 The goods are of the quality, quantity and description required by the Contract, including when subjected to conditions prevailing in the place of final destination;
 - 5.5.4 The goods are free from any right of claim by any third-party, including claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets;
 - 5.5.5 The goods are new and unused;
 - 5.5.6 All warranties will remain fully valid following any delivery of the goods and for a period of not less than one (1) year following acceptance of the goods by UNDP in accordance with the Contract;
 - 5.5.7 During any period in which the Contractor’s warranties are effective, upon notice by UNDP that the goods do not conform to the requirements of the Contract, the Contractor shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective goods with goods of the same or better quality or, at its own cost, remove the defective goods and fully reimburse UNDP for the purchase price paid for the defective goods; and,

- 5.5.8 The Contractor shall remain responsive to the needs of UNDP for any services that may be required in connection with any of the Contractor's warranties under the Contract.
- 5.6 **ACCEPTANCE OF GOODS:** Under no circumstances shall UNDP be required to accept any goods that do not conform to the specifications or requirements of the Contract. UNDP may condition its acceptance of the goods upon the successful completion of acceptance tests as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall UNDP be obligated to accept any goods unless and until UNDP has had a reasonable opportunity to inspect the goods following delivery. If the Contract specifies that UNDP shall provide a written acceptance of the goods, the goods shall not be deemed accepted unless and until UNDP in fact provides such written acceptance. In no case shall payment by UNDP in and of itself constitute acceptance of the goods.
- 5.7 **REJECTION OF GOODS:** Notwithstanding any other rights of, or remedies available to UNDP under the Contract, in case any of the goods are defective or otherwise do not conform to the specifications or other requirements of the Contract, UNDP, at its sole option, may reject or refuse to accept the goods, and within thirty (30) days following receipt of notice from UNDP of such rejection or refusal to accept the goods, the Contractor shall, in sole option of UNDP:
- 5.7.1 provide a full refund upon return of the goods, or a partial refund upon a return of a portion of the goods, by UNDP; *or,*
 - 5.7.2 repair the goods in a manner that would enable the goods to conform to the specifications or other requirements of the Contract; *or,*
 - 5.7.3 replace the goods with goods of equal or better quality; *and,*
 - 5.7.4 pay all costs relating to the repair or return of the defective goods as well as the costs relating to the storage of any such defective goods and for the delivery of any replacement goods to UNDP.
- 5.8 In the event that UNDP elects to return any of the goods for the reasons specified in Article 5.7, above, UNDP may procure the goods from another source. In addition to any other rights or remedies available to UNDP under the Contract, including, but not limited to, the right to terminate the Contract, the Contractor shall be liable for any additional cost beyond the balance of the Contract price resulting from any such procurement, including, *inter alia*, the costs of engaging in such procurement, and UNDP shall be entitled to compensation from the Contractor for any reasonable expenses incurred for preserving and storing the goods for the Contractor's account.
- 5.9 **TITLE:** The Contractor warrants and represents that the goods delivered under the Contract are unencumbered by any third party's title or other property rights, including, but not limited to, any liens or security interests. Unless otherwise expressly provided in the Contract, title in and to the goods shall pass from the Contractor to UNDP upon delivery of the goods and their acceptance by UNDP in accordance with the requirements of the Contract.

5.10 **EXPORT LICENSING:** The Contractor shall be responsible for obtaining any export license required with respect to the goods, products, or technologies, including software, sold, delivered, licensed or otherwise provided to UNDP under the Contract. The Contractor shall procure any such export license in an expeditious manner. Subject to and without any waiver of the privileges and immunities of UNDP, UNDP shall lend the Contractor all reasonable assistance required for obtaining any such export license. Should any Governmental entity refuse, delay or hinder the Contractor's ability to obtain any such export license, the Contractor shall promptly consult with UNDP to enable UNDP to take appropriate measures to resolve the matter.

6. **INDEMNIFICATION:**

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

6.1.1 allegations or claims that the possession of or use by UNDP of any patented device, any copyrighted material, or any other goods, property or services provided or licensed to UNDP 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*,

6.1.2 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.

6.2 The indemnity set forth in Article 6.1.1, above, shall not apply to:

6.2.1 A claim of infringement resulting from the Contractor's compliance with specific written instructions by UNDP 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*

6.2.2 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 UNDP or another party acting under the direction of UNDP made such changes.

6.3 In addition to the indemnity obligations set forth in this Article 6, the Contractor shall be obligated, at its sole expense, to defend UNDP and its officials, agents and employees, pursuant to this Article 6, regardless of whether the suits, proceedings,

claims and demands in question actually give rise to or otherwise result in any loss or liability.

- 6.4 UNDP 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 UNDP or any matter relating thereto, for which only UNDP itself is authorized to assert and maintain. UNDP 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.
- 6.5 In the event the use by UNDP of any goods, property or services provided or licensed to UNDP 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:
 - 6.5.1 procure for UNDP the unrestricted right to continue using such goods or services provided to UNDP;
 - 6.5.2 replace or modify the goods or services provided to UNDP, or part thereof, with the equivalent or better goods or services, or part thereof, that is non-infringing; *or*,
 - 6.5.3 refund to UNDP the full price paid by UNDP for the right to have or use such goods, property or services, or part thereof.

7. **INSURANCE AND LIABILITY:**

- 7.1 The Contractor shall pay UNDP promptly for all loss, destruction, or damage to the property of UNDP 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.
- 7.2 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:
 - 7.2.1 insurance against all risks in respect of its property and any equipment used for the performance of the Contract;
 - 7.2.2 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;

- 7.2.3 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*,
- 7.2.4 such other insurance as may be agreed upon in writing between UNDP and the Contractor.
- 7.3 The Contractor's liability policies shall also cover subcontractors and all defense costs and shall contain a standard "cross liability" clause.
- 7.4 The Contractor acknowledges and agrees that UNDP 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.
- 7.5 Except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by UNDP, 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:
 - 7.5.1 name UNDP as an additional insured under the liability policies, including, if required, as a separate endorsement under the policy;
 - 7.5.2 include a waiver of subrogation of the Contractor's insurance carrier's rights against UNDP;
 - 7.5.3 provide that UNDP 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*,
 - 7.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to UNDP.
- 7.6 The Contractor shall be responsible to fund all amounts within any policy deductible or retention.
- 7.7 Except for any self-insurance program maintained by the Contractor and approved by UNDP 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 UNDP. Prior to the commencement of any obligations under the Contract, the Contractor shall provide UNDP with evidence, in the form of certificate of insurance or such other form as UNDP may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of

the Contract. UNDP 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 7.5.3, above, the Contractor shall promptly notify UNDP concerning any cancellation or material change of insurance coverage required under the Contract.

- 7.8 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.
8. **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 UNDP 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 UNDP.
9. **EQUIPMENT FURNISHED BY UNDP TO THE CONTRACTOR:** Title to any equipment and supplies that may be furnished by UNDP to the Contractor for the performance of any obligations under the Contract shall rest with UNDP, and any such equipment shall be returned to UNDP at the conclusion of the Contract or when no longer needed by the 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, and the Contractor shall be liable to compensate UNDP for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.
10. **COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:**
 - 10.1 Except as is otherwise expressly provided in writing in the Contract, 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 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. The Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP.
 - 10.2 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, UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to 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.
 - 10.3 At the request of 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 UNDP in compliance with the requirements of the applicable law and of the Contract.

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

11. **PUBLICITY, AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR 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 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 the United Nations in connection with its business or otherwise without the written permission of UNDP.

12. **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:

12.1 The Recipient shall:

12.1.1 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*,

12.1.2 use the Discloser’s Information solely for the purpose for which it was disclosed.

12.2 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 12, the Recipient may disclose Information to:

12.2.1 any other party with the Discloser’s prior written consent; *and*,

12.2.2 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:

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

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

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

- 12.3 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 UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.
- 12.4 UNDP 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.
- 12.5 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.
- 12.6 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.

13. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:

- 13.1 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.
- 13.2 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, UNDP shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 14, "Termination," except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, UNDP 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.

13.3 *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 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.

14. **TERMINATION:**

14.1 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 17 "Settlement of Disputes," below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract.

14.2 UNDP may terminate the Contract at any time by providing written notice to the Contractor in any case in which the mandate of UNDP applicable to the performance of the Contract or the funding of UNDP 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, UNDP may terminate the Contract without having to provide any justification therefor.

14.3 In the event of any termination of the Contract, upon receipt of notice of termination that has been issued by UNDP, the Contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing:

14.3.1 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;

14.3.2 refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice;

14.3.3 place no further subcontracts or orders for materials, services, or facilities, except as UNDP and the Contractor agree in writing are necessary to complete any portion of the Contract that is not terminated;

14.3.4 terminate all subcontracts or orders to the extent they relate to the portion of the Contract terminated;

- 14.3.5 transfer title and deliver to UNDP the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;
 - 14.3.6 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 UNDP thereunder;
 - 14.3.7 complete performance of the work not terminated; *and*,
 - 14.3.8 take any other action that may be necessary, or that UNDP 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 UNDP has or may be reasonably expected to acquire an interest.
- 14.4 In the event of any termination of the Contract, UNDP shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, UNDP shall not be liable to pay the Contractor except for those goods delivered and services provided to UNDP 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 UNDP or prior to the Contractor's tendering of notice of termination to UNDP.
- 14.5 UNDP may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:
- 14.5.1 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;
 - 14.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;
 - 14.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;
 - 14.5.4 a Receiver is appointed on account of the insolvency of the Contractor;
 - 14.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; *or*,
 - 14.5.6 UNDP 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.
- 14.6 Except as prohibited by law, the Contractor shall be bound to compensate UNDP for all damages and costs, including, but not limited to, all costs incurred by UNDP in any legal or non-legal proceedings, as a result of any of the events specified in Article 14.5, 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 UNDP of the occurrence of any of the events specified in Article 14.5, above, and shall provide UNDP with any information pertinent thereto.

- 14.7 The provisions of this Article 14 are without prejudice to any other rights or remedies of UNDP under the Contract or otherwise.
15. **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.
16. **NON-EXCLUSIVITY:** Unless otherwise specified in the Contract, UNDP shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and UNDP 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.
17. **SETTLEMENT OF DISPUTES:**
- 17.1 **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.
- 17.2 **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 17.1, 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.

18. **PRIVILEGES AND IMMUNITIES:** Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

19. **TAX EXEMPTION:**

19.1 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 UNDP from such taxes, restrictions, duties, or charges, the Contractor shall immediately consult with UNDP to determine a mutually acceptable procedure.

19.2 The Contractor authorizes UNDP to deduct from the Contractor's invoices any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP 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 UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized, and UNDP shall reimburse the Contractor for any such taxes, duties, or charges so authorized by UNDP and paid by the Contractor under written protest.

20. **MODIFICATIONS:**

20.1 Pursuant to the Financial Regulations and Rules of UNDP, only the Chief Procurement Officer of UNDP, or such other contracting authority as UNDP has made known to the Contractor in writing, 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 the Chief Procurement Officer of UNDP, or such other contracting authority as UNDP has made known to the Contractor in writing. .

20.2 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 20.1, above.

20.3 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 UNDP nor in any way shall constitute an agreement by

UNDP thereto unless any such undertakings, licenses or other forms are the subject of a valid amendment concluded in accordance with Article 20.1, above.

21. AUDITS AND INVESTIGATIONS:

- 21.1 Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by UNDP other than in accordance with the terms and conditions of the Contract.
- 21.2 UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the 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.
- 21.3 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 UNDP 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 UNDP hereunder.

22. LIMITATION ON ACTIONS:

- 22.1 Except with respect to any indemnification obligations in Article 6, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 17.2, above, arising out of the Contract must be commenced within three years after the cause of action has accrued.
- 22.2 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.

- 23. **ESSENTIAL TERMS:** The Contractor acknowledges and agrees that each of the provisions in Articles 24 to 29 hereof constitutes an essential term of the Contract and that any breach of any of these provisions shall entitle UNDP to terminate the Contract or any other contract with

UNDP immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

24. **SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its obligations under the Contract. Should any authority external to UNDP seek to impose any instructions concerning or restrictions on the Contractor's performance under the Contract, the Contractor shall promptly notify UNDP and provide all reasonable assistance required by UNDP. 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 UNDP or the United Nations, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of UNDP.
25. **OFFICIALS NOT TO BENEFIT:** The Contractor warrants that it has not and shall not offer to any representative, official, employee, or other agent of UNDP or the United Nations any direct or indirect benefit arising from or related to the performance of the Contract or of any other contract with UNDP or the United Nations or the award thereof or for any other purpose intended to gain an advantage for the Contractor.
26. **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 UNDP, as such obligations are set forth in UNDP vendor registration procedures.
27. **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.
28. **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.
29. **SEXUAL EXPLOITATION:**
 - 29.1 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.

- 29.2 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.

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LONG TERM AGREEMENT FOR THE PROVISION OF SERVICES

TO THE UNITED NATIONS DEVELOPMENT PROGRAMME

This Long Term Agreement is made between the United Nations Development Programme, a subsidiary organ of the United Nations, having its headquarters at 1 UN Plaza, New York, NY 10017 (hereinafter “UNDP”) and _____ (hereinafter called “Contractor”) with its headquarters at _____.

WHEREAS, UNDP desires to enter into a Long Term Agreement for the provision of services by the Contractor to UNDP, pursuant to which UNDP country offices world-wide can conclude specific contractual arrangements with the Contractor, as provided herein;

WHEREAS pursuant to the Request for Proposal[to complete] the offer of the Contractor was accepted;

NOW, THEREFORE, UNDP and the Contractor (hereinafter jointly the “Parties) hereby agree as follows:

Article 1: SCOPE OF WORK

1. The Contractor shall provide the types of services and deliverables, which are listed in Annex 1 hereto (“Services/Terms of Reference”), as and when negotiated by UNDP headquarters or a UNDP country office and reflected in a contract for professional services, in the form attached hereto as Annex 2.
2. Such Services shall be at the discount prices listed in Annex 3. The prices shall remain in effect for a period of two years from Entry into Force of this Agreement.
3. UNDP does not warrant that any quantity of Services will be purchased during the term of this Agreement, which shall be for two years.

Article 2: CHANGES IN CONDITION

4. In the event of any advantageous technical changes and/or downward pricing of the Services during the duration of this Agreement, the Contractor shall notify UNDP immediately. UNDP shall consider the impact of any such event and may request an amendment to the Agreement.

Article 3: CONTRACTOR'S REPORTING

5. The Contractor will report semi-annually to UNDP on the Services provided to UNDP, including its country offices.

Article 4: GENERAL AND SPECIAL TERMS AND CONDITIONS

6. The standard UNDP General Conditions for Professional Services, attached as Annex 4, shall apply to this Agreement, and any subsequent contracts concluded in accordance with paragraph 1 above.

Article 5: ACCEPTANCE

7. This Agreement supersedes all prior oral or written agreements, if any, between the Parties and constitutes the entire agreement between the parties with respect to the provision of the Services hereunder.

8. This Agreement shall enter into force on the date of the last signature by the representatives of the Parties and shall remain in force for a period of two years, and may be extended for [one additional] year by mutual agreement of the Parties.

IN WITNESS WHEREOF, the duly authorized representative of the PARTIES have signed this agreement.

For and on behalf of:

UNITED NATIONS
DEVELOPMENT PROGRAMME

Date: _____

Date: _____