



Date: 8 April 2021

**REQUEST FOR QUOTATION
 RFQ N° UNFPA/ASRO/RFQ/21/004**

Dear Sir/Madam,

The United Nations Population Fund, Arab States Regional Office (UNFPA ASRO) the United Nations sexual and reproductive health agency, is seeking qualified bids for the conduction of: **An in-depth regional research and analysis examining sexual & reproductive health & reproductive rights, gender gaps & disability-related data titled "Disability in the Arab region: a challenged vulnerability"**

Deliverable (specific output)	Delivery date
Proposed methodology, suggested selection of countries and detailed timeframe – including schedule of monitoring efforts - to be presented to UNFPA ASRO	one week following contract award
Draft Regional study report submitted in English	Within 4 months from clearing the methodology
Presentation of results at a virtual regional Expert Group Meeting	Within the first week of October 2021
Final, designed and edited research report integrating the inputs of UNFPA and recommendations of the EGM.	October 31, 2021
Policy brief summarizing the research findings with higher level policy- and programme-focused recommendations.	November 15, 2021

This Request for Quotation is open to all legally-constituted companies, research institutions, universities, international NGOs that can provide the requested services and have legal capacity to deliver the requested, or through an authorized representative.

I. About UNFPA

UNFPA is the lead UN agency for delivering a world where every pregnancy is wanted, every childbirth is safe and every young person's potential is fulfilled.

UNFPA is the lead UN agency that expands the possibilities for women and young people to lead healthy sexual and reproductive lives. To read more about UNFPA in the Arab region, please visit our website: arabstates.unfpa.org



II. Technical specification: Annex I

Objective:

The objective of the RFQ is to conduct a regional in-depth research examining sexual and reproductive health and reproductive rights, gender gaps and disability related data in the Arab region. The selected vendor is expected to provide such service(s)/product(s), based on specific contract and Purchase Orders submitted to the vendor.

Questions

Questions or requests for further clarifications should be submitted in writing to the contact person below:

Name of contact person at	<i>Ola El Guebaly</i>
Tel N°:	<i>00201015150297</i>
Email address of contact person:	elguebaly@unfpa.org

The deadline for submission of questions is [**Thursday 15 April 2021 – 4pm Cairo time**]. Questions will be answered in writing and shared with all parties as soon as possible after this deadline.

III. Content of quotations

Quotations should be submitted in a single email whenever possible, depending on file size. Quotations must contain two separate files:

- a) **Technical proposal, in response to the requirements outlined in the service requirements / TORs.**
- b) **Price quotation, to be submitted strictly in accordance with the price quotation form.**

All pages of the Technical proposal and quotation must be signed by the bidding company's relevant authority and submitted in PDF format.

IV. Instructions for submission

Proposals should be prepared based on the guidelines set forth in Section III above, along with a properly filled out and signed price quotation form, and are to be sent by email to the contact person indicated below no later than **Thursday 29 April 2021, at 4pm Cairo time**.

Name of contact person at	<i>ASRO Tenders</i>
Email address of contact person:	asro.tenders@unfpa.org asro.tenders@unfpa.org

Please note the following guidelines for electronic submissions:



- The following reference must be included in the email subject line **UNFPA/ASRO/Rfq/21/004 – An in-depth regional analysis examining sexual & reproductive health & reproductive rights, gender gaps & disability-related data Disability in the Arab region**. Proposals, including both **technical and financial** proposals, that do not contain the correct email subject line may be overlooked by the procurement officer and therefore not considered.
- The total email size may not exceed **20 MB (including email body, encoded attachments and headers)**. Where the technical details are in large electronic files, it is recommended that these be sent separately before the deadline.
- Any quotation submitted will be regarded as an offer by the bidder and does not constitute or imply the acceptance of any quotation by UNFPA. UNFPA is under no obligation to award a contract to any bidder as a result of this RFQ.

IV. Overview of Evaluation Process

The evaluation will be carried out in a two-step process by an ad-hoc evaluation panel. Technical proposals will be evaluated and scored first, prior to the evaluation and scoring of price quotations

Technical Evaluation

Technical proposals will be evaluated based on their responsiveness to the service requirements /TORs listed in Section II and in accordance with the evaluation criteria below.



The following scoring scale will be used to ensure objective evaluation: Criteria	[A] Maximum Points	[B] Points attained by Bidder	[C] Weight (%)	[B] x [C] = [D] Total Points
Technical approach, methodology and level of understanding of the objectives of the project	100		25%	
Work plan/time scales given in the proposal and its adequacy to meet the project objectives	100		25%	
Professional experience of the staff that will be employed to the project providing demonstrated expertise in the subject matter and related processes (CVs, etc.)	100		15%	
Specific experience and expertise relevant to the assignment and expertise in the Arab region or similar contexts	100		20%	
Profile of the company and relevance to the Project.	100		15%	
<i>Grand Total All Criteria</i>	500		100%	

Financial Evaluation

Price quotes will be evaluated only for bidders whose technical proposals achieve a minimum score of 60% points in the technical evaluation.

Price quotes will be evaluated based on your responsiveness with the price quote form. The maximum number of points for the price quote is 100, which will be allocated to the lowest total price provided in the quotation or based on the specific formula indicated in the TORs. All other price quotes will receive points in inverse proportion according to the following formula:

Financial score =	$\frac{\text{Lowest quote (\$)}}{\text{Quote being scored (\$)}} \times 100$	(Maximum score)
-------------------	--	-----------------

Total score

The total score for each proposal will be the weighted sum of the technical score and the financial score. The maximum total score is 100 points.

$\text{Total score} = 70\% \text{ Technical score} + 30\% \text{ Financial score}$
--



V. Award Criteria

In case of a satisfactory result from the evaluation process, UNFPA intends to award a Purchase Order (PO) to the Bidder(s) that obtain the highest total score.

VI. Right to Vary Requirements at Time of Award

UNFPA reserves the right at the time of award of contract to increase or decrease by up to 20% the volume of services specified in this RFQ without any change in unit prices or other terms and conditions.

VII. Payment Terms

UNFPA payment terms are net 30 days upon receipt of invoice and delivery/acceptance of the milestone deliverables linked to payment as specified in the contract.

VIII. Fraud and Corruption

UNFPA is committed to preventing, identifying, and addressing all acts of fraud against UNFPA, as well as against third parties involved in UNFPA activities. UNFPA's policy regarding fraud and corruption is available here: [Fraud Policy](#). Submission of a proposal implies that the Bidder is aware of this policy.

Suppliers, their subsidiaries, agents, intermediaries and principals must cooperate with the UNFPA Office of Audit and Investigations Services as well as with any other oversight entity authorized by the Executive Director and with the UNFPA Ethics Advisor as and when required. Such cooperation shall include, but not be limited to, the following: access to all employees, representatives, agents and assignees of the vendor; as well as production of all documents requested, including financial records. Failure to fully cooperate with investigations will be considered sufficient grounds to allow UNFPA to repudiate and terminate the Agreement, and to debar and remove the supplier from UNFPA's list of registered suppliers.

A confidential Anti-Fraud Hotline is available to any Bidder to report suspicious fraudulent activities at [UNFPA Investigation Hotline](#).

IX. Zero Tolerance

UNFPA has adopted a zero-tolerance policy on gifts and hospitality. Suppliers are therefore requested not to send gifts or offer hospitality to UNFPA personnel. Further details on this policy are available here: [Zero Tolerance Policy](#).

X. RFQ Protest

Bidder(s) perceiving that they have been unjustly or unfairly treated in connection with a solicitation, evaluation, or award of a contract may submit a complaint to the UNFPA Head of the Business Unit Dr. Luay Shabaneh, at shabaneh@unfpa.org. Should the supplier be unsatisfied with the reply provided by the UNFPA Head of the Business Unit, the supplier may contact the Chief, Procurement Services Branch at procurement@unfpa.org.

XI. Disclaimer



United Nations Population Fund
70A, ElNahda street, Intersection with street #22,
Maadi Sarayat
Cairo, Egypt
Tel: +202 25223908
E-mail: asrovacancies@unfpa.org
Website: www.unfpa.org

Should any of the links in this RFQ document be unavailable or inaccessible for any reason, bidders can contact the Procurement Officer in charge of the procurement to request for them to share a PDF version of such document(s).



PRICE QUOTATION FORM

Name of Bidder:	
Date of the quotation:	Click here to enter a date.
Request for quotation N°:	UNFPA/ASRO/RFQ/21/004
Currency of quotation:	USD
Validity of quotation:	<i>(The quotation shall be valid for a period of at least 3 months after the submission deadline.)</i>

- Quoted rates must be **exclusive of all taxes**, since UNFPA is exempt from local taxes.

Item	Description	Number & Description of Staff by Level	Hourly Rate	Hours to be Committed	Total
1. Professional Fees					
Total Professional Fees					USD
2. Out-of-Pocket expenses					
Total Out of Pocket Expenses					USD
Total Contract Price (Professional Fees + Out of Pocket Expenses)					USD

Vendor's Comments:

I hereby certify that the entity mentioned above, which I am duly authorized to sign for, has reviewed UNFPA/ASRO/RFQ/21/004 including all annexes, amendments to the RFQ document (if applicable) and the responses provided by UNFPA on clarification questions from the prospective service providers. Further, the company accepts the General Conditions of Contract for UNFPA and we will abide by this quotation until it expires.

	Click here to enter a date.
Name and title	Date and place



TERMS OF REFERENCE

TERMS OF REFERENCE (to be completed by Hiring Office)	
Hiring Office:	UNFPA Arab States Regional Office (ASRO) - Sexual and Reproductive Health (SRH) Team
Purpose of consultancy:	<p><i>"Disability in the Arab region: a challenged vulnerability"</i> <i>An in-depth regional analysis examining sexual & reproductive health & reproductive rights, gender gaps & disability-related data.</i></p> <p>This Terms of Reference outlines the background, objectives, expected outputs/deliverables, methodology, and the overall timeframe of the regional study of SRH, Gender including Gender Based Violence (GBV) and Data availability/disaggregation issues as they affect and influence programming for, and the mainstreaming of disabilities in development programmes in the Arab States Region.</p> <p>1. <u>Background</u></p> <p>Despite the fact that the Arab region has experienced significant positive improvements across several social development dimensions and narrowing a multitude of development gaps, the premise of leaving no-one behind (LNOB) brings an additional critical milestone. The commitment of Arab governments to the SDGs and the enshrined LNOB principle makes it an opportune moment for developing a deeper understanding on social and structural inequities that affect more than sixty million persons with disabilities in the Arab region.</p> <p>For the purpose of this study, the definition of persons with disabilities adopted is the definition approved in the Convention on the Rights of Persons with Disabilities (CRPD), which recognises persons with disabilities as ‘those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’.</p> <p>Globally, the total burden of disability increased by 52% between 1990 and 2017 and is estimated to be affecting around 1.15 billion persons. It is also estimated that the prevalence of disabilities goes up to 20% in developing countries and to go even higher in humanitarian settings. Persons with disability are often disproportionately affected at times of conflict and emergencies where they are unable to flee, unaware of the dangers facing them and oftentimes left behind by their families and caregivers. For example, up to 27% of people aged 12 and above within Syria were found to have a disability, with slight variations between population groups: internally displaced persons (IDPs); returnees, those who fled but have returned to their place of origin within 2019. “A recent assessment on disability among adults in western Aleppo, Idlib and Ar-Raqqa governorates revealed that an average of 45 percent of surveyed persons injured during the Syria crisis are expected to sustain a permanent impairment and require specialist support which will far outlast the crisis”.¹</p> <p>Estimates in the Arab region are therefore expected to be higher as a result of the ongoing conflicts and the increase in the elderly population that is normally associated with higher prevalence of disabilities. Lack of accurate data on persons with disabilities and their needs in the Arab region is a key contributor to making them invisible to policy and decision makers. In the rare event that statistical systems track data on disabilities, it’s unlikely to have it disaggregated by age group, residency/population group status e.g. internally displaced, refugee...etc.</p> <p>The vulnerability of women and young people with disabilities increases as they often experience several barriers from accessing sexual and reproductive health initiatives & services, gender-based violence services, education and information. Decisions about their bodies are often taken for them, including human rights violations such as forced contraception, forced sterilization, and forced abortion.</p>

¹ https://hno-syria.org/data/downloads/en/full_hno_2019.pdf



	<p>UNFPA Arab states regional office, realizing the critical importance of addressing SRH needs of persons with disabilities, their protection from GBV, and the urgency of adopting a comprehensive approach to programming, invested heavily in bringing issues affecting this vulnerable group to the forefront of the development dialogue, and organized together with UNFPA HQ and Women Enabled International, a regional workshop on SRH & RR of persons with disabilities in Casablanca, Morocco in 2019. Among the recommendations that came out of the workshop is to integrate disabilities-focused research and programming in the regional priorities.</p> <p>Building on these endeavours, UNFPA ASRO is launching the subject regional interdisciplinary research guided by UNFPA global momentum to operationalize the LNOB principle. It will use qualitative and quantitative data to provide comprehensive assessment of the current status of persons of disability in selected Arab region countries.</p>
<p>Scope of work: <i>(Description of services, activities, or outputs)</i></p>	<p>2. Objectives</p> <p>This research initiative aims to provide concrete evidence-informed recommendations and qualitative insights contributing to achieving the three transformative results of UNFPA’s strategic plan, namely zero unmet need for family planning, zero preventable maternal mortality and zero gender based violence.</p> <p>The overall objective of the study is to reach an in depth understanding of the sexual and reproductive health and rights concerns, gender disparity and gender based violence, effects of age, and data needed to address challenges related to disabilities² in the Arab region. Scarcity and poor quality of available data on disabilities in the region on SRH & RR, and GBV for different age groups is a crucial issue to be explored through this research.</p> <p>The analysis and recommendations are expected to be both policy and programme-oriented highlighting entry points and opportunities to advance UNFPA position in the area of disabilities and development as the leading global reproductive health agency.</p> <p>The study will capitalize on available literature in the region and beyond, building on the results of the desk review conducted by UNFPA ASRO in 2020. An in-depth analysis of the situation in the Arab states should follow using, for example, qualitative focus group discussions, key informant interviews with persons with disabilities, organizations working with disabled persons, families and caregivers, and concerned national authorities in selected Arab countries in humanitarian as well as development contexts.</p> <p>A virtual expert group meeting (EGM) in the region to validate the study results and recommendations for the different stakeholders including UNFPA and the development community will be organized by UNFPA to solicit expert views and reflections on the report.</p> <p>The contract awardee is expected to present the preliminary results during the EGM and integrate received inputs into the final version of the report.</p> <p>The actual research and development of the final report should be concluded by 31 October 2021.</p> <p>3. Methodology</p> <p>The methodology/tools of research will be finalized in discussion/agreement with the awardee. However, the study should combine quantitative and qualitative analyses in a minimum of five selected countries in the Arab region reflective of region’s diversities, and reflect the realities/challenges that are facing persons with disabilities regard to SRH &</p>

² The analysis should look at the SRH & RR – including accessibility to family planning information, services and commodities - needs of persons with disabilities paying special attention to highlighting disabilities that may result from reproductive health related illnesses e.g. obstetric fistula where applicable.



	<p>reproductive rights (RR), GBV and age-related violence, discrimination, and data on disabilities in each of selected countries.</p> <p>More specifically, tools should be looking at social and structural challenges faced by persons with disabilities with regard to sexual and reproductive health and reproductive rights and gender based violence, with focus on specific age groups to determine age related vulnerabilities e.g. young people and older persons, and gaps in data and evidence to inform policies and programmes.</p> <p>The selection of countries representing both development as well as humanitarian³ contexts and different levels of socio-economic development will be agreed upon in consultation with the awardee.</p> <p>The awardee is encouraged to collaborate with disabled persons organizations (international or regional or local in the selected countries) to enhance integration of perspectives of persons with disabilities in the research.</p> <p>The awardee is responsible for obtaining any required ethical clearances and permissions from local authorities to conduct the required research.</p> <p>4. <u>Expected outputs/deliverables</u></p> <p>Below are the expected deliverables:</p> <ol style="list-style-type: none"> I. Proposed methodology, suggested selection of countries and detailed timeframe – including schedule of monitoring efforts - to be presented to UNFPA ASRO within one week of the contract award II. Draft Regional study report submitted in English within 4 months of the clearance of the methodology III. Presentation of results at a virtual regional Expert Group Meeting (EGM) IV. Final research report (edited and designed according to UNFPA branding policy requirements) integrating the inputs of UNFPA and recommendations of the EGM. The report should include practical guidance and advice on entry points and opportunities to advance UNFPA position in the area of disabilities and development at regional and country levels in humanitarian and development settings. V. A policy brief summarizing the research findings with higher level policy- and programme-focused recommendations. <p>The final edited and graphically designed study report should be submitted to UNFPA ASRO by 31 October 2021.</p> <p>The final edited and graphically designed policy brief should be submitted to UNFPA ASRO by 15 November 2021.</p>
Duration and working schedule:	1 June to 31 December 2021
Place where services are to be delivered:	In the selected countries (to be agreed upon jointly with the contract awardee)

³ *The analysis needs to differentiate between disabilities that resulted from the crises and disabilities that already existed before a particular crisis erupted*



<p>Delivery dates and how work will be delivered (e.g. electronic, hard copy etc.):</p>	<p>The awardee is expected to submit the deliverables based on the following timeline:</p> <table border="1" data-bbox="472 360 1469 1057"> <thead> <tr> <th data-bbox="472 360 970 421">Deliverable (specific output)</th> <th data-bbox="970 360 1469 421">Delivery date</th> </tr> </thead> <tbody> <tr> <td data-bbox="472 421 970 589">Proposed methodology, suggested selection of countries and detailed timeframe – including schedule of monitoring efforts - to be presented to UNFPA ASRO</td> <td data-bbox="970 421 1469 589">one week following contract award</td> </tr> <tr> <td data-bbox="472 589 970 680">Draft Regional study report submitted in English</td> <td data-bbox="970 589 1469 680">Within 4 months from clearing the methodology</td> </tr> <tr> <td data-bbox="472 680 970 772">Presentation of results at a virtual regional Expert Group Meeting</td> <td data-bbox="970 680 1469 772">Within the first week of October 2021</td> </tr> <tr> <td data-bbox="472 772 970 940">Final, designed and edited research report integrating the inputs of UNFPA and recommendations of the EGM.</td> <td data-bbox="970 772 1469 940">October 31, 2021</td> </tr> <tr> <td data-bbox="472 940 970 1057">Policy brief summarizing the research findings with higher level policy- and programme-focused recommendations.</td> <td data-bbox="970 940 1469 1057">November 15, 2021</td> </tr> </tbody> </table>	Deliverable (specific output)	Delivery date	Proposed methodology, suggested selection of countries and detailed timeframe – including schedule of monitoring efforts - to be presented to UNFPA ASRO	one week following contract award	Draft Regional study report submitted in English	Within 4 months from clearing the methodology	Presentation of results at a virtual regional Expert Group Meeting	Within the first week of October 2021	Final, designed and edited research report integrating the inputs of UNFPA and recommendations of the EGM.	October 31, 2021	Policy brief summarizing the research findings with higher level policy- and programme-focused recommendations.	November 15, 2021
Deliverable (specific output)	Delivery date												
Proposed methodology, suggested selection of countries and detailed timeframe – including schedule of monitoring efforts - to be presented to UNFPA ASRO	one week following contract award												
Draft Regional study report submitted in English	Within 4 months from clearing the methodology												
Presentation of results at a virtual regional Expert Group Meeting	Within the first week of October 2021												
Final, designed and edited research report integrating the inputs of UNFPA and recommendations of the EGM.	October 31, 2021												
Policy brief summarizing the research findings with higher level policy- and programme-focused recommendations.	November 15, 2021												
<p>Monitoring and progress control, including reporting requirements, periodicity format and deadline:</p>	<ul style="list-style-type: none"> • The awardee is requested to submit a detailed timeline with monthly progress milestones that will be used for monitoring by UNFPA ASRO. • The selection of countries representing both development as well as humanitarian⁴ contexts and different levels of socio-economic development will be agreed upon in consultation with the awardee. • The awardee is encouraged to collaborate with disabled persons organizations (international or regional or local in the selected countries) to enhance integration of perspectives of persons with disabilities in the research. • The awardee is responsible for obtaining any required ethical clearances and permissions from local authorities to conduct the required research. • The awardee is required to have a schedule of monitoring field work shared with UNFPA. 												
<p>Supervisory arrangements:</p>	<p>The overall coordination of this assignment is through the Sexual and Reproductive Health Team at UNFPA ASRO.</p>												
<p>Expected travel:</p>	<p>N/A</p>												
<p>Required expertise, qualifications and competencies, including language requirements:</p>	<p>Research institution needs to submit the CVs of the research team as part of their technical proposal.</p>												

⁴ The analysis needs to differentiate between disabilities that resulted from the crises and disabilities that already existed before a particular crisis erupted



	<p>Previous expertise in conducting regional research on social, development and humanitarian issues. Research institution needs to share their expertise in these issues including providing samples of their previous productions</p> <p>Familiarity with the Arab region and issues related to persons with disabilities is desirable.</p>
<p>Inputs/services to be provided by UNFPA or implementing partner (e.g. support services, office space, equipment), if applicable:</p>	<p>UNFPA ASRO will share with the awardee reports of relevance e.g. UNFPA strategies and guidelines to ensure alignment of the research with UNFPA priorities and approaches.</p>
<p>Other relevant information or special conditions, if any:</p>	<p>Important notes:</p> <ul style="list-style-type: none"> • The selection of countries representing both development as well as humanitarian⁵ contexts and different levels of socio-economic development will be agreed upon in consultation with the awardee. • The awardee is encouraged to collaborate with disabled persons organizations (international or regional or local in the selected countries) to enhance integration of perspectives of persons with disabilities in the research. • The awardee is responsible for obtaining any required ethical clearances and permissions from local authorities to conduct the required research. <p>Please refer to the request for proposals for special conditions</p>

⁵ The analysis needs to differentiate between disabilities that resulted from the crises and disabilities that already existed before a particular crisis erupted



ANNEX II:

GENERAL CONDITIONS OF CONTRACT CONTRACTS FOR THE PROVISION OF SERVICES

CONTRACTS FOR THE PROVISION OF SERVICES REV.: MAY 2012

1. **LEGAL STATUS OF THE PARTIES:** UNFPA (a subsidiary organ of the United Nations established by the General Assembly in resolution 3019 (XXVII)) 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* UNFPA, 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 UNFPA 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 UNFPA, 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 UNFPA:

2.3.1 the qualifications of personnel proposed by the Contractor (*e.g.*, a curriculum vitae) may be reviewed by UNFPA 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 UNFPA 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, UNFPA has reviewed the qualifications of such Contractor’s personnel, UNFPA 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 UNFPA 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 UNFPA, 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 UNFPA 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 UNFPA 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 UNFPA 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 UNFPA 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 UNFPA shall:

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

2.6.2 when within UNFPA premises or on UNFPA property, display such identification as may be approved and furnished by UNFPA, 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 UNFPA for cancellation.

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

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

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 UNFPA 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 UNFPA 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 UNFPA. UNFPA shall be entitled, in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that UNFPA reasonably considers is not qualified to perform obligations under the Contract. UNFPA shall have the right to require any subcontractor's removal from UNFPA premises without having to give any justification therefor.

Any such rejection or request for removal shall not, in and of itself, entitle the Contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract, and the Contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

5. INDEMNIFICATION:

5.1 The Contractor shall indemnify, defend, and hold and save harmless, UNFPA, 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 UNFPA, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to:

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

5.1.2 any acts or omissions of the Contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers' compensation.

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

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

5.2.2 A claim of infringement resulting from additions to or changes in any goods, property, materials



equipment, supplies or any components thereof furnished under the Contract if UNFPA or another party acting under the direction of UNFPA made such changes.

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

5.4 UNFPA shall advise the Contractor about any such suits, proceedings, claims, demands, losses or liability within a reasonable period of time after having received actual notice thereof. The Contractor shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of the United Nations, including its subsidiary organs, or any matter relating thereto, for which only UNFPA itself is authorized to assert and maintain. UNFPA shall have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.

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

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

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

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

6. INSURANCE AND LIABILITY:

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

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

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

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

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

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

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

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

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

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

6.5.2 include a waiver of subrogation of the Contractor's insurance carrier's rights against UNFPA;

6.5.3 provide that UNFPA shall receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage; *and*,

6.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to UNFPA.

6.6 The Contractor shall be responsible to fund all amounts within any policy deductible or retention.

6.7 Except for any self-insurance program maintained by the Contractor and approved by UNFPA 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 UNFPA. Prior to the commencement of any obligations under the Contract, the Contractor shall provide UNFPA with evidence, in the form of certificate of insurance or such other form as UNFPA may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of the Contract. UNFPA reserves the right, upon written notice to the



Contractor, to obtain copies of any insurance policies or insurance program descriptions required to be maintained by the Contractor under the Contract. Notwithstanding the provisions of Article 6.5.3, above, the Contractor shall promptly notify UNFPA concerning any cancellation or material change of insurance coverage required under the Contract.

6.8 The Contractor acknowledges and agrees that neither the requirement for taking out and maintaining insurance as set forth in the Contract nor the amount of any such insurance, including, but not limited to, any deductible or retention relating thereto, shall in any way be construed as limiting the Contractor's liability arising under or relating to the Contract.

7. ENCUMBRANCES AND LIENS: The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNFPA 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 UNFPA.

8. EQUIPMENT FURNISHED BY UNFPA TO THE CONTRACTOR: Title to any equipment and supplies that may be furnished by UNFPA to the Contractor for the performance of any obligations under the Contract shall rest with UNFPA, and any such equipment shall be returned to UNFPA at the conclusion of the Contract or when no longer needed by the Contractor. Such equipment, when returned to UNFPA, 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 UNFPA for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.

9. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

9.1 Except as is otherwise expressly provided in writing in the Contract, UNFPA 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 UNFPA 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 UNFPA.

9.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, UNFPA does not and shall not claim any ownership interest thereto, and the Contractor grants to UNFPA a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

9.3 At the request of UNFPA, 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 UNFPA in compliance with the requirements of the applicable law and of the Contract.

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

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

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

11.1 The Recipient shall:

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

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

11.2 Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 11, the Recipient may disclose Information to:

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

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

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



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

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

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

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

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

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

12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:

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

12.2 If the Contractor is rendered unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Contract, UNFPA shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 13, "Termination," except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, UNFPA shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in case the Contractor is unable to perform its obligations, wholly or in part, by reason of *force majeure* for any period in excess of ninety (90) days.

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

13. TERMINATION:

13.1 Either Party may terminate the Contract for cause, in whole or in part, upon thirty (30) day's notice, in writing, to the other Party. The initiation of conciliation or arbitral proceedings in accordance with Article 16 "Settlement of Disputes," below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract.

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

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

13.3.1 take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum;

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

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

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

13.3.5 transfer title and deliver to UNFPA the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;



13.3.6 deliver all completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to UNFPA thereunder;

13.3.7 complete performance of the work not terminated; *and*,

13.3.8 take any other action that may be necessary, or that UNFPA 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 UNFPA has or may be reasonably expected to acquire an interest.

13.4 In the event of any termination of the Contract, UNFPA shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, UNFPA shall not be liable to pay the Contractor except for those goods delivered and services provided to UNFPA 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 UNFPA or prior to the Contractor's tendering of notice of termination to UNFPA.

13.5 UNFPA may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:

13.5.1 the Contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent;

13.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;

13.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;

13.5.4 a Receiver is appointed on account of the insolvency of the Contractor;

13.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; *or*,

13.5.6 UNFPA reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.

13.6 Except as prohibited by law, the Contractor shall be bound to compensate UNFPA for all damages and costs, including, but not limited to, all costs incurred by UNFPA in any legal or non-legal proceedings, as a result of any of the events specified in Article 13.5, above, and resulting from or relating to a termination of the Contract, even if the Contractor is adjudged bankrupt, or is granted a moratorium or stay or is declared insolvent. The Contractor shall immediately inform UNFPA of the occurrence of any of the events specified in Article 13.5, above, and shall provide UNFPA with any information pertinent thereto.

13.7 The provisions of this Article 13 are without prejudice to any other rights or remedies of UNFPA under the Contract or otherwise.

14. **NON-WAIVER OF RIGHTS:** The failure by either Party to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Contract.

15. **NON-EXCLUSIVITY:** Unless otherwise specified in the Contract, UNFPA shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and UNFPA shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity described in the Contract, from any other source at any time.

16. SETTLEMENT OF DISPUTES:

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

16.2 **ARBITRATION:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim measures") and Article 34 ("Form and effect of the award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

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

18. TAX EXEMPTION:

18.1 Article II, Section 7, of the Convention on the Privileges and Immunities of the United Nations provides, *inter alia*, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs restrictions, duties, and charges of a similar nature in respect of articles imported or exported for its official



use. In the event any governmental authority refuses to recognize the exemptions of UNFPA from such taxes, restrictions, duties, or charges, the Contractor shall immediately consult with UNFPA to determine a mutually acceptable procedure.

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

19. MODIFICATIONS:

19.1 Pursuant to the Financial Regulations and Rules of UNFPA, only the Chief of the Procurement Services Branch of UNFPA or such other contracting authority as made known to the Contractor in writing, possesses the authority to agree on behalf of UNFPA to any modification of or change in the Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in the Contract shall be valid and enforceable against UNFPA unless provided by a valid written amendment to the Contract signed by the Contractor and the Chief of the Procurement Services Branch of UNFPA or such other contracting authority.

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

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

20. AUDITS AND INVESTIGATIONS:

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

20.2 UNFPA may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the Contractor generally relating to performance of the Contract at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract.

20.3 The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its personnel and any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to UNFPA 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 UNFPA or the United Nations hereunder.

21. LIMITATION ON ACTIONS:

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

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

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

23. **SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to UNFPA in connection with the performance of its obligations under the Contract. Should any authority external to UNFPA seek to impose any instructions concerning or restrictions on the Contractor's performance under the Contract, the Contractor shall promptly notify UNFPA and provide all reasonable assistance required by UNFPA. 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 UNFPA, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of the United Nations and UNFPA.



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

25. **OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract. In addition, the Contractor shall maintain compliance with all obligations relating to its registration as a qualified vendor of goods or services to UNFPA, as such obligations are set forth in the United Nations and UNFPA vendor registration procedures.

26. **CHILD LABOR:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiary or affiliated entities (if any) is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, *inter alia*, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

27. **MINES:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiaries or affiliated entities (if any) is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.

28. **SEXUAL EXPLOITATION:**

28.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by its employees or any other persons engaged and controlled by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all reasonable and appropriate measures to prohibit its employees or other persons engaged and controlled by it from exchanging any money, goods, services, or other things of value, for sexual favors or activities, or from engaging any sexual activities that are exploitive or degrading to any person.

28.2 UNFPA 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.

– oOOo –