



## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

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**15 December 2017**

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**Country:** Turkey

**Description of the Assignment:** Project Development Expert

**Reference Code:** UNDP-TUR-IC-2017-72

**Related Project Names:** Developing a Model to Improve Technology Use in OIZs

**Period of Assignment/Services:** 1 January 2018 – 30 April 2018

Proposal should be submitted by email to [tr.ic.proposal@undp.org](mailto:tr.ic.proposal@undp.org) no later than **22 December 2017**, COB.

Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. UNDP will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants.

### **1 Background**

Please see Annex 1 (Terms of Reference).

### **2 Scope of Work, Responsibilities and Description of the Proposed Analytical Work**

Please see Annex 1 (Terms of Reference).

### **3 Requirements for Experience and Qualifications**

Please see Annex 1 (Terms of Reference).

## 4 Documents to be Included when Submitting the Proposals

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

- A one-page Letter of Interest, explaining why they are the most suitable for the work,
- Personal updated CV and UN Personal History Form (P11 Form) including past experience in similar projects and easily accessible contact details (preferably mobile phones) and at least 3 references.

## 5 Financial Proposal

The candidates, who will be determined as technically qualified during technical evaluation will be requested to submit 'Financial Proposals'.

The financial proposals shall be submitted in UNDP's standard format which will be communicated to technically qualified candidates.

## 6 Evaluation

The evaluation will be based on cumulative analysis (i.e. technical qualifications and price proposal). The weight of the technical criteria is 70%; the weight of the financial proposal is 30%.

Candidates that obtain a minimum of 70 pts out of a maximum 100 pts will be considered for the financial evaluation.

Candidates that do not meet the minimum requirements will be disqualified.

Criteria	Weight	Maximum Points
<b><u>Technical</u></b>	<b>70%</b>	<b>100 pts</b>
General Qualifications	21%	30 pts
General Professional Experience	21%	30 pts
Specific Professional Experience	28%	40 pts
<b><u>Financial</u></b>	<b>30%</b>	<b>100 pts</b>

## 7 Payments

The Consultant will be hired under an Individual Contract and be paid on the basis of the submission of deliverables detailed in Annex 1 Terms of Reference upon acceptance and approval of the deliverables by UNDP. Without submission and approval (by the UNDP) of the deliverables, the Consultant shall not be entitled to receive any payment from UNDP even if he/she invests time in the assignment.

The amount paid shall be gross and inclusive of all associated costs such as social security, pension and income tax.

The consultant will be paid in TRY in case s/he is a Turkish national otherwise in USD upon submission of the deliverables as detailed above. The price proposal will be given in USD. The rate of exchange shall be the official rate applied by the United Nations on the day the UNDP instructs its bank to effect the payment(s).

## **8 Annexes**

The following annexes are an integral part of this procurement notice. In case of any conflict between the provisions of the Annex 3 and the procurement notice and/or Annex 1 and/or Annex 2, the provisions of Annex 3 are applicable.

- Annex 1: Terms of Reference
- Annex 2: OIS Format as a Sample
- Annex 3: General Conditions of Contract for the Services of Individual Contractors

## **Annex 1 - Terms of Reference (ToR)**

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### **Project Development Expert**

#### **1. Background and Project Context**

UNDP Turkey aims to find practical solutions to Turkey's development challenges and manages projects together with the Turkish Government and other partners to address them. Since 1986 it has implemented over 80 programs across the country. In addition, the UNDP has played a major role in response to crises and disasters in Turkey and the surrounding region.

UNDP Turkey has positioned to contribute through three core areas: 1) Inclusive and Democratic Governance (IDG); 2) Inclusive and Sustainable Growth (ISG); and 3) Climate Change and Environment (CCE); and in addition to these core areas, UNDP Turkey is emphasizing the role of Strategic Partnerships that cut across the entire country program as well as regionally and globally.

The ISG Portfolio is geared towards addressing structural economic problems, such as productivity, innovation, the middle-income trap, multi-dimensional poverty, energy security and regional disparities, as well as challenges with social, environmental and economic repercussions, such as urbanization.

Within the scope of the Economic-Growth and Competitiveness Cluster of the ISG portfolio, UNDP aims to support Turkey in its economic and social development and to enhance competitiveness. Increasing productivity is critical for improvement of the manufacturing capacity, enhancement of competitiveness and acceleration of growth and thus economic and social development.

The development of innovation, and access to and effective use of technology in enterprises emerge as a significant constituent of competitiveness in today's global economic sphere of rising competition. It is well known that enhanced technological capacity of enterprises does not depend merely on enterprise-level activities. Effective functioning of the elements of entrepreneurial ecosystem, as in developed countries, alleviates problems in this area. In this sense, it is a permanent agenda item that cooperation and collaboration should be improved not only among entrepreneurs, SMEs but also among universities, research centers, chambers, commodity exchanges and industrial and technology development zones.

One of the crucial developmental requirements for Turkey is that her innovation ecosystem should become more competent and, with all actors involved, contribute more effectively to Turkey's growth performance. Such requirement is always a priority in all major policy documents and highlighted in the relevant plans and programs. Organized Industrial Zones (OIZs) in Turkey have matured to some extent in quantitative terms. It is therefore important in the context of the vision of sustainable and competitive growth that OIZs which serve industries should take up roles in effective use of technology. A review of effectively functioning technology development ecosystems in the world immediately reveals that all actors work in harmony within the framework of a shared vision, legal framework and support mechanisms.

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**Developing a Model to Improve Technology Use in OIZs Project** is designed to contribute to enhancing competitiveness of Turkey through developing such models that will enable Organized Industrial Zones (OIZs) to assume an active role in entrepreneurship, innovation and technology development. The project has three main components; **Baseline Analyses and Model** with the purpose to undertake an overall assessment of current situation of all actors within the technology development ecosystem; **A Piloting Phase** to pilot short term actions with a view to test enabling factors of the proposed model upon the findings of the Component 1 and test some of the findings in order to fine-tune proposed model and the roadmap and **Development of Institutional Competence** Phase to develop awareness-raising and competence-building programs for the relevant institutions including mainly the Ministry of Science, Industry and Technology (MoSIT) and OIZs in line with the requirements of the Technology Development and Use (TD&U) value chain analyses. Public institutions and organizations such as universities, TUBITAK, KOSGEB, Development Agencies etc. included in the national and local technology development ecosystem will be among the key stakeholders where long term respective action lines will be identified within the roadmap. Within the first component of the project, the desk research for the Baseline Analyses were conducted and reported, the institutional interviews were conducted and reported, the selection of the OIZs to conduct the research has been completed. Following the selection of the OIZs, the pilot field study has been conducted in the pilot OIZ and reported.

With a view to contribute to the Development of Institutional Competence component of the project, a project development expert will be mobilized to develop fully fledged Project Proposals in the context of the projects.

## 2. Scope of Work

The objective of the assignment is to assist the UNDP Turkey Country Office in development of three sets of project documents including Project identification sheet, Project Plan and pre-feasibility report. The proposal formats may either be Operation Identification Sheet, Description of Action and/or Concept Note in line with professional standards to be considered in different financial resources. The OIS Format is shared in Annex 2 for information purposes only. The proposal format to be prepared by the Individual Contractor is not limited to the OIS Format. The project proposals will address the improvement of the institutional capacity of the relevant ministries and other institutions affiliated with the ministries, such as OIZ managements, etc.

The proposals may be considered for different financial sources such as IPA, investment budget or Horizon 2020 etc. The Project Development Expert will be informed on the requested format during the assignment.

The project budget analysis and project budget should be submitted with the proposals.

## 3. Acronyms and Abbreviations

Unless otherwise noted;

- OIS refers to the Operation Identification Sheet
- DoA refers to the Description of Action
- MoD refers to Ministry of Development
- MoSIT refers to Ministry of Science, Industry and Technology
- OIZ refers to Organized Industrial Zone
- IC refers to Individual Consultant
- UNDP refers to United Nations Development Programme Country Office in Turkey

#### 4. Duties and Responsibilities of the Individual Consultant (IC)

Within the scope of the assignment; UNDP will mobilize a Project Development Expert as an Individual Consultant (IC) to develop three fully fledged Project Proposals.

The **Project Development Expert** will:

- Review the background documents and project reports to be provided by UNDP, MoD and MoSIT.
- Meet the representatives of UNDP, MoD, MoSIT and other ecosystem actors to collect all necessary data from possible beneficiaries which may be used for fulfilling project proposals in consultation with the Project Team,
- Develop an Inception Report demonstrating the initial findings of the desk review and annotated outline of the Project Proposals,
- Develop and submit the draft version of the three Project Proposals in requested formats for different financial sources through incorporating the financial analysis and project budget breakdown,
- Develop and submit the Project Proposals based on the feedback received from UNDP, MoD and MoSIT,
- Finalize and submit the final versions of the Project Proposals,
- Regularly consulting UNDP at different steps of projects' development.

The Individual Contractor whom shall be assigned to this assignment cannot apply for any job openings within the context of the Projects developed as a consequence of the Project Proposals which have arisen within the scope of this Terms of Reference in order to avoid a conflict of interest.

#### 5. Expected Deliverables and Output

Under the overall supervision of the Inclusive and Sustainable Growth Portfolio Manager and “Developing a Model to Improve Technology Use in OIZs” Project Manager, the IC is to complete the following tasks:

	Tasks and Deliverables	Timelines	Estimated Number of Man/Days
1.	Inception Report and Annotated Outlines of three proposals	15 January 2018	8
2.	Draft version of the Project Proposal #1	13 February 2018	6
3.	Final version of the Project Proposal #1	11 March 2018	6
4.	Draft version of the Project Proposal #2&3	30 March 2018	8
5.	Final version of the Project Proposal #2&3	15 April 2018	12
	<b>Estimated Total</b>		<b>40 days</b>



## 6. Duration and Place of Work

The assignment will start in December 2017, from the date of signature of an Individual Contract and shall be completed by 30 April 2018.

Duty station of work for the assignment is home-based and may require travels with respect to project needs and the duties and responsibilities of the consultant are stated in Item 4. The cost and terms of reimbursement of any travel authorized by UNDP for Individual Contractors must be negotiated prior to travel. During the travels specified in the ToR or in case of a need for additional travels that were unforeseen in the ToR, the respective travels of the consultant may either be;

- Arranged and covered by UNDP CO from the respective project budget without making any reimbursements to the IC or
- Reimbursed to the consultant upon the submission of the receipts/invoices of the expenses by the consultant and approval of the UNDP. The reimbursement of each cost item subject to following constraints/conditions provided in below table;
- Covered by the combination of the above options

The following guidance on travel compensation is provided per UNDP practice.

Cost item	Constraints	Conditions of Reimbursement
Travel (intercity transportation)	full-fare economy class tickets	1- Approval of UNDP before the initiation of travel  2- Submission of the invoices/receipt, etc. by the consultant with the UNDP's F-10 Form  3- Approval of UNDP
Accommodation	Up to 50% of the effective DSA rate of UNDP for the respective location	
Breakfast	Up to 6% of the effective DSA rate of UNDP for the respective location	
Lunch	Up to 12% of the effective DSA rate of UNDP for the respective location	
Dinner	Up to 12% of the effective DSA rate of UNDP for the respective location	
Other Expenses (intra city transportations, transfer cost from /to terminals, etc.)	Up to 20% of effective DSA rate of UNDP for the respective location	

## 7. Minimum Qualification Requirements of the Successful Individual Contractor

	Minimum Requirements (70 points)	Assets (30 points)
<b>General Qualifications</b>	<ul style="list-style-type: none"> <li>• University degree in social studies, engineering, or in relevant fields</li> <li>• Good command of spoken and written English</li> </ul>	<ul style="list-style-type: none"> <li>• Master or PhD degree in relevant fields will be an asset</li> </ul>
<b>Professional Experience and Qualifications</b>	<ul style="list-style-type: none"> <li>• Minimum 10 years working experience</li> </ul>	<ul style="list-style-type: none"> <li>• More than 10 years of professional experience will be asset</li> <li>• Experience in working in or with public organizations, civil society organizations and international organizations</li> </ul>
<b>Specific Professional Experience</b>	<ul style="list-style-type: none"> <li>• Experience in preparation of at least <b>five</b> project proposals</li> <li>• At least <b>two</b> years of experience working with the relevant donors providing funds to industrial sector projects</li> <li>• Proven track record of at least two project proposals' success rate (i.e. number of projects approved)</li> </ul>	<ul style="list-style-type: none"> <li>• Proven track record of more than two project proposals' success rate (i.e. number of projects approved)</li> <li>• Experience in developing project documents on innovation and technology based capacity building programs in industrial sector (private and/or related governmental institutions)</li> </ul>
<b>Notes:</b> <ul style="list-style-type: none"> <li>• Internships (paid/unpaid) are not considered professional experience.</li> <li>• Obligatory military service is not considered professional experience.</li> <li>• Experience gained prior to completion of undergraduate studies is not considered professional experience.</li> </ul>		



## 8. Payments

The payments shall be realized within 30 days upon submission of each Deliverable listed in below table by the Consultant and approval by UNDP, on the basis of actual number of days invested by the Consultant for the respective deliverable:

	Tasks and Deliverables	Timelines	Estimated Number of Man/Days*	Payment
1.	Inception Report and Annotated Outlines of three proposals	15 January 2018	8	Payment upon approval and acceptance by UNDP
2.	Draft version of the Project Proposal #1	13 February 2018	6	Payment upon approval and acceptance by UNDP
3.	Final version of the Project Proposal #1	11 March 2018	6	Payment upon approval and acceptance by UNDP
4.	Draft version of the Project Proposal #2&3	30 March 2018	8	Payment upon approval and acceptance by UNDP
5.	Final version of the Project Proposal #2&3	15 April 2018	12	Payment upon approval and acceptance by UNDP
	<b>Estimated Total</b>		<b>40 days</b>	

\*While the Consultant may invest less or more than the estimated number of man/days stated above, the total man/days dedicated to the assignment shall not exceed 40 days.

The maximum total amount to be paid to the Consultant within the scope of this assignment cannot exceed equivalent of 40 man/days. If any of the deliverables mentioned in the Article 5 of the Terms of Reference are not produced and delivered by the expert in due time and to the satisfaction of UNDP, no payment will be made even if the expert has invested man/days to produce and deliver such deliverables.

The consultant shall be paid in US\$ if he/she resides in a country different than Turkey. If he/she resides in Turkey, the payment shall be realized in TRY through conversion of the US\$ amount by the official UN Operational Rate of Exchange valid on the date of money transfer.

The daily fee to be paid to the Consultant is fixed regardless of changes in the cost components. The daily fee amount should be indicated in gross terms and hence should be inclusive of costs related to tax, social security premium, pension, visa (if needed) etc. UNDP will not make any further clarification on costs related to tax, social security premium, pension, visa etc. It is the applicants' responsibility to make necessary inquiries on these matters.

## Annex 2 - OIS Format as a Sample

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- a) Title of the Operation
- b) Operating Structure
- c) Body Responsible for the Implementation of the Operation
- d) Compatibility and coherence with the Sector Operational Programme
  - a. Title of the programme
  - b. Title of the action
  - c. End recipient of assistance
- e) Description of the Operation
  - a. Contribution to the achievement of the Sector Operational Programme
  - b. Overall Objective
  - c. Operation Purpose
  - d. Indicative location(s)
  - e. Duration
  - f. Target group(s)
  - g. Results with measurable indicators
  - h. Indicative activities
- f) Indicative implementation arrangements
  - a. Institutional framework
  - b. Proposed monitoring structure and methodology
  - c. Required procedures and contracts for the implementation of the operation and their sequencing
- g) Risks and Assumptions
- h) Expected impact of the operation on the target group and multiplier/spill over effects
- i) Sustainability
- j) Equal opportunity, minorities and vulnerable groups (where relevant)
- k) Requested financing from the European Commission
- l) Co-financing
- m) Budget breakdown
- n) Cash flow requirements by source of funding (to be filled by the DoEUI)
- o) Revenue generating operations
- p) Environment

# GENERAL CONDITIONS OF CONTRACT

## FOR THE SERVICES OF INDIVIDUAL CONTRACTORS



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

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

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

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

**3. TITLE RIGHTS, COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS:** Title to any equipment and supplies that may be furnished by UNDP to the Individual contractor for the performance of any obligations under the Contract shall rest with UNDP, and any such equipment and supplies shall be returned to UNDP at the conclusion of the Contract or when no longer needed by the Individual contractor. Such equipment and supplies, when returned to UNDP, shall be in the same condition as when delivered to the Individual contractor, subject to normal wear and tear, and the Individual contractor shall be liable to compensate UNDP for any damage or degradation of the equipment and supplies that is beyond normal wear and tear.

UNDP shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Individual contractor has developed for UNDP under the Contract and which bear a direct relation to, or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Individual contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP. However, to the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Individual contractor: (a) that pre-existed the performance by the Individual

contractor of his or her obligations under the Contract, or (b) that the Individual contractor may develop or acquire, or may have developed or acquired, independently of the performance of his or her obligations under the Contract, UNDP does not and shall not claim any ownership interest thereto, and the Individual 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. At the request of UNDP, the Individual contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to UNDP in compliance with the requirements of the applicable law and of the Contract. Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents and all other data compiled by or received by the Individual contractor under the Contract shall be the property of UNDP, shall be made available for use or inspection by UNDP at reasonable times and in reasonable places, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of services under the Contract.

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

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

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

In the event of death, injury or illness of the Individual contractor which is attributable to the performance of services on behalf of UNDP under the terms of the Contract while the Individual contractor is traveling at UNDP expense or is



performing any services under the Contract in any offices or premises of UNDP, the Individual contractor or the Individual contractor's dependents, as appropriate, shall be entitled to compensation equivalent to that provided under the UNDP insurance policy, available upon request.

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

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

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

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

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

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

**12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:** In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform his or her obligations and meet his or her responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any

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

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

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

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

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

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

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

**16. AUDITS AND INVESTIGATIONS:** Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP. The Individual contractor acknowledges and agrees that UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, and the obligations performed thereunder.

The Individual contractor shall provide full and timely cooperation with any post-payment audits or investigations hereunder. Such cooperation shall include, but shall not be limited to, the Individual contractor's obligation to make available any relevant documentation and information for the purposes of a post-payment audit or an investigation at reasonable times and on reasonable conditions. The Individual contractor shall require his or her employees, subcontractors and agents, if any, including, but not limited to, the Individual contractor's attorneys, accountants or other advisers, to reasonably cooperate with any post-payment audits or investigations carried out by UNDP hereunder.

If the findings or circumstances of a post-payment audit or investigation so warrant, UNDP may, in its sole discretion, take any measures that may be appropriate or necessary, including, but not limited to, suspension of the Contract, with no liability whatsoever to UNDP.

The Individual contractor shall refund to UNDP any amounts shown by a post-payment audit or investigation to have been paid by UNDP other than in accordance with the terms and conditions of the Contract. Such amount may be deducted by UNDP from any payment due to the Individual contractor under the Contract.

The right of UNDP to conduct a post-payment audit or an investigation and the Individual contractor's obligation to comply with such shall not lapse upon expiration or prior termination of the Contract.

**17. SETTLEMENT OF DISPUTES:**

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

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

**18. LIMITATION ON ACTIONS:** Except with respect to any indemnification obligations in Article 9, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 17, above, arising out of the Contract must be commenced within three (3) years after the cause of action has accrued.

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,

**19. 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.

