



INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 5 August 2019

Country: Serbia

Description of the assignment: International Senior Expert on Tax System

Project name: Accountable Public Finance Management Platform

Period of assignment/services (if applicable): 27 August 2019 – 10 December 2019

Duty Station: Belgrade, Serbia

Contract type: Individual Contract (IC)

Proposal should be submitted at the following address: <http://www.rs.undp.org/serbia/en/home.html> under section "Jobs" **no later than 18 August 2019.**

Any request for clarification must be sent by standard electronic communication to the e-mail vacancy.rs@undp.org. The procuring UNDP entity will respond by standard electronic mail and will send response, including an explanation of the query without identifying the source of inquiry, to all consultants.

1. BACKGROUND

The Government of the Republic of Serbia adopted the Public Financial Management Reform Program (PFM RP) in November 2015. It represents a comprehensive and integrated framework for planning, coordinating, implementing and monitoring the progress in the implementation of a set of sustainable actions to improve macro fiscal stability, to ensure efficient and effective allocation and use of public resources and to improve service delivery by the Serbian public administration, whilst at the same time fulfilling the necessary requirements for European Union (EU) accession. In that sense, it addresses a broad range of issues grouped under six pillars: (1) Sustainable Medium-Term Macro-Fiscal and Budgetary Framework, (2) Planning and Budgeting of Public Expenditures, (3) Efficient and Effective Budget Execution, (4) Effective Financial Control (5) Accounting Monitoring and Financial Reporting and (6) External Scrutiny of Public Finances.

The implementation of this program has been readily supported by the European Commission, SIDA, SECO, SDC, UNDP and GIZ since 2015 and while much has been done in the previous two years, actual implementation of the reform measures has been moderate due to challenges that the public administration has been faced with in the previous period. Nevertheless, the PFM RP represents a key development since it provides a basis for planning and implementing essential reforms in a structured manner. Also, in 2015, the Serbian government adopted the National Program for Suppression of the Shadow Economy. The goal of the National Program is to downgrade the shadow economy to the average of the countries of Central and Southeast Europe (CSE) until

2020.

The Serbian Tax Administration has been implementing the Tax Administration Transformation program since June 2015, in line with the PFM Reform Program and the Economic Reform Programs for the period 2017-2019 and 2018-2020. The basic objectives of the Tax Administration Transformation Program include the rationalisation and optimisation of core business processes, introducing new methods and solutions for increasing tax collection, upgrading the existing infrastructure and working environment and increasing the overall quality of work, while at the same time, maximising services provided to taxpayers.

The Action Plan of the Transformation Program for the period 2018-2023 defines the structural changes aimed at strengthening the capacity of the Tax Administration in performing its core business activities. The document encloses a list of activities that are considered basic, as well as a list of activities that are considered as secondary and expected to be extracted from the Tax Administration or organized under a special organizational unit of the Tax Administration, whereby the Tax Administration will focus on basic tax activities and the first phase of consolidation of organizational units.

The Republic of Serbia in the past decade has established a set of new institutions for overseeing the management of public finances, to implement the reform measures. Their capacities have been gradually developed and they are in position today to unveil irregularities in the public finance system. UNDP in Serbia supports the Government's efforts in this area and closely collaborates with the key institutions involved in these processes - such as the State Audit Institution (SAI), the Ministry of Finance (MoF), the Public Procurement Office (PPO), Commission for Protection of Rights in Public Procurement Procedures (Commission), Tax Administration, Standing Conference of Towns and Municipalities (SCTM), Judicial Academy (JA) and other relevant entities.

The support planned to be provided under the project will contribute to strengthening capacities of the Tax Administration through a further simplification and unification of tax procedures, training of Tax Administration staff as well as improving operational activities in combating the grey economy.

The project will aim to support the transformation of Tax Administration through the following segments:

a) Reducing tax evasion by strengthening the capacities of the Tax Police for operational analysis and intelligence activities

The project will provide advisory support to the Tax Police based on comparative best practise defining its (1) Organizational structure, (2) Competencies and authority, (3) Work processes, (4) the role of the unit responsible for intelligence activity and analysis processes, (5) the methods and types of data collection (operational and intelligence), (6) Databases (of operational/intelligence data), (7) Data processing, database entry, data structure, connection with other databases, data crossing, (8) the application for working on databases (in matters of intelligence and operational activity) and (9) Methods of data analysis, analysis products and analysis results, application of analysis software.

It will also help the Tax Police in defining where it is at this point in time in respect to its role in the overall national system for revenue collection, where it will be in the future (defining its long-term vision), what resources it requires to undertake its full mandate.

The project will also support the Tax Police in implementing the defined strategic solutions and in particular, activities aimed at (1) Strengthening operational capacities by creating and developing an operational intelligence database with database management tools and (2) strengthening human capacities by providing training for the existing and new staff (i.e. operational analysts and Tax Inspectors) on data collection and assessment)

b) Exchanging experience with the Swedish Tax Authorities

The basic goal of improving cooperation between the two tax authorities through exchange of experiences is to enable the Serbian Tax Administration to gain access to innovative approaches and means implemented by the

Swedish Tax Authorities in the past which had a positive impact in reinstalling tax payer confidence in the Swedish Tax Authorities which led to a stable and sustained increase in voluntary tax payer compliance.

The exchange of experience and good practice will encompass but will not be limited to issues such as the organization and competencies of the Swedish Tax Administration, the legal status of employees, business processes related to tax issues in all domains of the work of Tax Administration and will be implemented through structured study visits and workshops as well as possible technical expert support which would be provided by the staff of the Swedish Tax Administration to the staff of the Serbian Tax Administration.

The key issues that the Serbian Tax Administration would like to gain an insight in and learn from their Swedish counterparts include:

- Tax procedures and operational procedures that are implemented for basic and auxiliary functions;
- The effectiveness of measures for combating tax fraud
- Risk analysis in the framework of the control function, use of e-tools and fight against fiscal fraud and international tax evasion, as well as the detection of tax offences;
- Familiarization with methodologies, procedures and practices in disclosure and investigations in the process before and after registration of VAT payers;
- Organization of the function of providing taxpayer services and education of employees;
- Experience in establishing integrated management of staff performance through coordination of senior management and a staff retention plan;
- Experience in implementing organisation reforms (the challenges they faced, risk to the ongoing operations and ways of mitigating them)
- Exchange of experiences in the areas of the tax system defined by the Tax Administration Diagnostic Assessment Tool (TADAT) methodology and organization.

b) Improving the corporate image - changing business culture and perceptions of the public

The Swedish Tax Administration has undergone a decade long transformation of corporate identity in order to achieve the level of sophistication and recognition by the public as one of the most progressive state administration bodies and also as a preferred employer.

Similar to Serbia, the impetus for undergoing a radical transformation process was the low esteem and poor image that the Swedish Tax Administration acquired during time due to inefficient and unqualified management and the excessive bureaucracy practiced by Tax officers which estranged them from the tax payers.

In that sense, the Serbian Tax Administration would like to gain an insight in and learn from their Swedish counterparts on the following topics:

- Definition of stakeholders and analysis of perceptions of stakeholders as well as impact on the image
- Defining the channels of communication and accountability in the Tax Administration (Internal Communication Strategy)
- Defining channels of communication and accountability to external stakeholders
- The strategy of communication of the Tax Administration with interested parties
- Survey of taxpayers for the purpose of monitoring public confidence trends in the tax administration. (in accordance with TADAT methodology and performance area 9, indicator P9-27-Public integrity perception)
- Campaigning in order to raise awareness of taxpayers

The ultimate result of the exchange between the two tax authorities as well as the technical support provided would be a Road Map for improving corporate values, culture, identity and image, such as the concepts that precede the building of corporate image.

d) Developing a Register of Business Invoices

Due to the abolition of seals and the recognition of electronic invoices in the economic activity of the Republic of Serbia, there is an outstanding need to establish a Business Invoice Registry, similar to the practice exercised by tax authorities in many EU member states, which will facilitate the work and increase the efficiency of the Tax Administration in many aspects.

Such a register will serve as a basic tool for performing controls and comparing data on the turnover of all taxpayers who are subject to control. The Register of Business Invoices will improve the effectiveness of the controls performed over taxpayers in an environment in which the Tax Administration is rationalising its network of branches with the aim of optimising business processes. As such it will contribute to increasing the efficiency of desk-based controls which have substituted on site audits due to the rationalisation of the previously overly complex and extensive network of Tax Administration offices throughout Serbia.

The project will provide the Serbian Tax Administration with the necessary support in drafting the legislative framework for introducing the Register of Business Invoices, building technical capacities within the Tax Administration for the introduction of the new Register and preparing a technical specification for the procurement of the software solution for introducing the Register of Business Invoices.

In line with the abovementioned, the UNDP in Serbia is seeking a qualified and experienced senior expert to assist the Serbian Tax Administration in the transformation process – in improving the corporate image of the Tax Administration.

2. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK

The consultant will provide both on-site and off-site advice to the top management of the Serbian Tax Administration (STA) within the scope of the project's topics agreed upon.

More precisely, the selected candidate shall provide expert support to the Tax Administration in the following strategic activities:

- in improving the internal organization and functionality of Tax Administration, its corporate image and facilitating the automatization of desk-based tax audits;
- in rationalisation and optimisation of core business processes, introducing new methods and solutions for increasing tax collection, upgrading the existing infrastructure and working environment and increasing the overall quality of work, while at the same time, maximising services provided to taxpayers;
- In further simplification and unification of tax procedures, training of Tax Administration staff as well as improving operational activities in combating the grey economy;
- in introducing new methodologies and strengthening the capacities of the Tax Police Department (TPD) for preventing tax evasion, improving the functionality and directing the existing human and material resources to prevent and suppress the types of tax crimes that pose the greatest threat in tax collections which are in the competence of the Tax Administration;
- in strengthening of organisational and technical capacities of the TPD for processing intelligence and operational data and analysis. strengthening the intelligence system (operational analysis and intelligence activity) in order to counteract various types of tax evasion more effectively.

3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

Competencies

- Consistently ensures timeliness and quality of project work.
- Demonstrates strong oral and written communication skills.
- Evidence of ability to express ideas clearly; to work independently and in teams.
- Ability to summarize and systematize complex information and identify priorities for follow up activities.
- Shares knowledge and experience.
- Focuses on results and responds positively to feedback.
- Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability.
- Demonstrates integrity by modelling ethical standards.

Qualifications

- PhD in public economics. Specialization in tax systems or tax culture would be considered as advantage;
- Tax Administration Diagnostic Assessment Tool (TADAT) Certification would be considered as advantage;
- Knowledge of Serbian Tax system shall be considered as an advantage;
- Track record of relevant international professional experience in the tax system reform field of minimum 7 years;
- Previous experience in working with government institutions would be considered an advantage.

Language

Full working proficiency in English; knowledge of Serbian would be considered as advantage.

4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS.

Application Procedure:

Qualified and interested candidates are asked to submit their applications via UNDP Web site: [UNDP in Serbia](#) under section "Jobs" **no later than 18 August 2019**.

Application should include:

- CV containing date of birth and contact information;
- Offeror's Letter (only PDF format will be accepted) confirming Interest and availability for the Individual Contractor (IC) Assignment. Can be downloaded from the following link: <http://www.undp.org.rs/download/ic/Confirmation.docx>.
- The Offeror's Letter should include financial proposal specifying a total lump sum amount for the tasks specified in this announcement with a breakdown of costs.
- Offeror's Letter must also include the methodology concept containing a preliminary plan of work (no more than two pages).

5. FINANCIAL PROPOSAL

Lump sum contracts

The financial proposal shall specify a total lump sum amount, and payment terms around specific and

measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in installments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount (including travel, per diems, and number of anticipated working days).

Travel

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should not accept travel costs exceeding those of an economy class ticket. Should the IC wish to travel on a higher class he/she should do so using their own resources.

6. EVALUATION

1. Cumulative analysis

When using this weighted scoring method, the award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

a) responsive/compliant/acceptable, and

b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

* Technical Criteria weight; 70%

* Financial Criteria weight; 30%

Only candidates obtaining a minimum of 49 points would be considered for the Financial Evaluation

Criteria	Weight	Max. Points
<u>Technical</u>	70%	points
<u>Criteria A</u>	Proven expert knowledge of the tax systems	20
<u>Criteria B</u>	Proven international experience in tax administration reforms	20
<u>Criteria C</u>	Demonstrable experience in training and capacity building of national stakeholders and institutions	10
<u>Criteria D</u>	Qualifications	20
<u>Financial</u>	30%	30 points

ANNEX 1- TERMS OF REFERENCES (TOR)

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.