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Resilient nations.*

## **REQUEST FOR PROPOSALS (RFP)**

**Provision of Clearing and Forwarding Services to the UN Agencies in Tanzania  
(Mainland & Zanzibar) based on Long Term Agreement (LTA)**

**Dar es Salaam, Tanzania**

**May 2014.**

## CONTENTS

Section 1.	Letter of Invitation
Section 2.	Instruction to Proposers
	A. General
	B. Contents of the Proposal
	1. Sections of the Proposal
	2. Clarification of Proposal
	3. Amendment of Proposal
	C. Preparation of Proposals
	1. Cost of Proposal
	2. Language of Proposal
	3. Proposal Submission Form
	4. Technical Proposal Format and Content
	5. Financial Proposal
	6. Currencies of Proposal
	7. Documents Establishing Eligibility and Qualification of the Proposer
	8. Joint Venture, Consortium and Association
	9. Alternative Proposal
	10. Period of Validity
	D. Submission and Opening of Proposals
	1. Submission and Opening of Proposals
	2. Deadline for Submission of Proposals and Late Proposals
	3. Withdrawal, Substitution and Modification of Proposals
	4. Proposal Opening
	E. Evaluation and Comparison of Proposals
	1. Confidentiality
	2. Clarification of Proposals
	3. Preliminary Examination of Proposals
	4. Evaluation of Proposals
	5. Responsiveness of Proposals
	6. Non Conformities, Errors and Omissions
	7. Fraud and Corruption
	F. Award of Contract
	1. Right to Accept, Reject or Render Non-Responsive Any or All Proposals
	2. Award Criteria
	3. Right to Vary at the Time of Award
	4. Contract Signature
	5. Performance Security
	6. Bank Guarantee for Advanced Payment
	7. Proposer's Conference
	8. Vendor Protest
	G. Data Sheet
Section 3.	Terms of Reference
Section 4.	Proposal Submission Form

- Section 5. Documents Establishing the Eligibility and Qualification of the Proposer
- Section 6. Technical Proposal Form
- Section 7. Financial Proposal Form
- Section 8. Performance Security (if applicable)
- Section 9. Advanced Payment Guarantee (if applicable)
- Section 10. Contract for Professional Services including General Terms and Conditions

## **Section 1. Letter of Invitation**

Dar es Salaam, Tanzania

### **Provision of Customs Clearing and Forwarding Services to the UN Agencies in Tanzania (Mainland and Zanzibar) base on Long Term Agreement (LTA) basis.**

Dear Sir/Madam,

1. The United Nations Development Programme (UNDP) hereby invites you to submit Technical and Financial Proposals (RFP) in respect of the above subject.
2. This Tender Document (RFP) includes the following documents:
  - Section 1 – This Letter of Invitation
  - Section 2– Instructions to Proposers (including Data Sheet)
  - Section 3– Terms of Reference
  - Section 4– Proposal Submission Form
  - Section 5– Documents Establishing the Eligibility and Qualifications of the Proposer
  - Section 6– Technical Proposal Form
  - Section 7– Financial Proposal Form
  - Section 8– Performance Security **(to be completed by successful bidder (s) at contract stage)**
  - Section 9 – Contract for Professional Services, including General Terms and Conditions
3. Your offer comprising of a Technical and Financial Proposal, in separate sealed envelopes, should be submitted in accordance with Section 1, Clause 17.
4. You are kindly requested to submit an acknowledgment letter to UNDP via the following addressee and location:

**United Nations Development Programme  
6<sup>th</sup> Floor, International House  
Shabaan Robert Road/Garden Avenue  
Dar es Salaam, Tanzania  
Attention: Registry Supervisor, UNDP Tanzania**

5. The letter should be received by UNDP no later than Monday, 12 May 2014 before close of business (16.30 hours Local Time).
6. The letter should advise whether your company intends to submit a Proposal and if not, we would appreciate your kind indication of the reason, for our records purposes. Please be further informed that transferring this invitation to another firm is not allowed without notification to UNDP.
5. Should you need further clarification, kindly communicate with the contact person indicated in the attached Bid Data Sheet duly assigned to handle all queries for this RFP.
6. We look forward to your Proposal and thank you in advance for your interest in UNDP procurement opportunities.

Yours sincerely,

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**Titus Osundina**

**Deputy Country Director (Operations)**

**UNDP Tanzania**

## Section 2: Instruction to Proposers<sup>1</sup>

### Definitions of Terms

- a) “Contract” refers to the agreement that will be signed by and between the UNDP and the successful proposer, all the attached documents thereto, including the General Terms and Conditions (GTC) and the Appendices.
- b) “Country” refers to the country indicated in the Data Sheet.
- c) “Data Sheet” refers to such part of the Instructions to Proposers used to reflect conditions of the tendering process that are specific for the requirements of the RFP.
- d) “Day” refers to calendar day.
- e) “Government” refers to the Government of the country that will be receiving the services provided/rendered specified under the Contract.
- f) “Instructions to Proposers” (Section 2 of the RFP) refers to the complete set of documents which provides Proposers with all information needed and procedures to be followed in the course of preparing their Proposals
- g) “LOI” (Section 2 of the RFP) refers to the Letter of Invitation being sent by UNDP to the Proposers.
- h) “Proposal” refers to the Proposer’s response to the Request for Proposal, including the Proposal Submission Form, Technical and Financial Proposal and all other documentation attached thereto as required by the RFP.
- i) “Proposer” refers to any legal entity that may submit, or has submitted, a Proposal for the provision of services requested by UNDP.
- j) “RFP” refers to the Request for Proposals consisting of instructions and references prepared by UNDP for purposes of selecting the best service provider to perform the services described in the Terms of Reference.
- k) “Services” refers to the entire scope of tasks and deliverables requested by UNDP under the RFP.
- l) “Supplemental Information to the RFP” refers to a written communication issued by UNDP to prospective Proposers containing clarifications, responses to queries received from prospective Proposers, or changes to be made in the RFP, **and it takes place after the advertisement of the RFP but** before the deadline for the submission of Proposals.

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<sup>1</sup>Note: this Section 2 - Instructions to Proposers shall not be modified. Any necessary changes to address specific country and project issues, shall be introduced only through the Data Sheet, including adding new paragraphs.

- m) *“Terms of Reference”* (TOR) refers to the document included in RFP as Section 3 which describes the objectives, scope of services, activities, tasks to be performed, respective responsibilities of the proposer, expected results and deliverables and other data pertinent to the performance of the range of duties and services expected of the successful proposer.

#### **A. GENERAL**

1. UNDP solicits Proposals in response to this Request for Proposal (RFP). Proposers must strictly adhere to all the requirements of this RFP. No changes, substitutions or other alterations to the provisions stipulated in this RFP will be accepted unless approved in writing by UNDP. However, whilst fully complying with the RFP requirements, Proposers are encouraged to provide any suggestions and solutions that may achieve a more cost-effective and value-for-money approach to fulfilling the requirements of this RFP.
2. Submission of a Proposal shall be deemed to constitute an acknowledgement by the Proposer that all obligations stipulated by this RFP will be met and unless specified otherwise, the Proposer has read, understood and agreed to all the instructions provided in this RFP.
3. Any Proposal submitted will be regarded as an offer by the Proposer and not as an acceptance of an offer of any Proposal by UNDP. This RFP does not commit UNDP to award a contract.
4. A Proposer shall not be in any position of conflict of interest arising from their current or future work with respect to UNDP. All Proposers found to have a conflict of interest shall be disqualified. Proposers may be considered to have a conflict of interest with one or more parties in this solicitation process, if they:
  - 4.1 are or have been associated in the past, with a firm or any of its affiliates which have been engaged by UNDP to provide services for the preparation of the design, specifications, Cost Analysis, Terms of Reference and other documents to be used for the procurement of the goods and services to be purchased in this solicitation process;
  - 4.2 were involved in the preparation and/or design of the programme/project related to the services requested under this RFP;
  - 4.3 have owners, officers, directors, controlling shareholders, or key personnel who are related by blood or affinity up to third civil degree to UNDP staff involved in procurement functions and/or the Government of the country receiving services under this RFP;
  - 4.4 submit more than one Proposal in this RFP, either as an individual entity, or through its membership with a joint venture/consortium/association that is also submitting a Proposal for the same contract. However, this does not limit the participation of subcontractors in more than one Proposal;
  - 4.5 have combined functions of consulting and supply of goods and the advisory services may lead to the procurement of such goods;
  - 4.6 are found to be in conflict for any other reason, as may be established by, or at the discretion of, UNDP.

In the event of any uncertainty in the interpretation of what is potentially a conflict of interest, proposers must disclose the condition to UNDP and seek UNDP's confirmation on whether or not such conflict exists.

5. The eligibility of Proposers that are wholly or partly owned by the Government shall be subject to UNDP's further evaluation and review of various factors such as extent of Government ownership, receipt of subsidies, mandate, and access to information in relation to this RFP, and others that may lead to undue advantage against other Proposers.
6. Proposers must adhere to the UNDP Supplier Code of Conduct, which may be found at this link: <http://web.ng.undp.org/procurement/undp-supplier-code-of-conduct.pdf>

## **B. CONTENTS OF PROPOSAL**

### **6. Sections of Proposal**

Proposers are required to complete, sign and submit in the number of copies the following documents:

- 6.1 Proposal Submission Covering Letter Form (see RFP Section 4);
- 6.2 Documents Establishing the Eligibility and Qualifications of the Proposer (see RFP Section 5 and Data Sheet);
- 6.3 Technical Proposal(see prescribed form in RFP Section 6);
- 6.4 Financial Proposal(see prescribed form in RFP Section 7);
- 6.5 Proposal Security, if applicable(if required and as stated in the **Data Sheet**, see prescribed Form in RFP Section 8);
- 6.6 Any attachments and/or appendices to the Proposal (including those specified under the **Data Sheet**)

### **7. Clarification of Proposal**

Proposers may request a clarification of any of the RFP documents no later than the number of days indicated in the **Data Sheet** before the proposal submission date. Any request for clarification must be sent in writing, or by electronic means to the UNDP address indicated in the **Data Sheet**. UNDP will respond in writing or by electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Proposers who have provided confirmation of their intention to submit a Proposal.

UNDP shall endeavor to provide such responses to clarifications in an expeditious manner, but any delay in such response shall not cause an obligation on the part of UNDP to extend the submission date of the Proposals, unless UNDP deems that such an extension is justified and necessary.



## **8. Amendment of Proposals**

At any time prior to the deadline for submission of Proposals, UNDP may for any reason, such as in response to a clarification requested by a Proposer, modify the RFP in the form of a Supplemental Information to the RFP. All Proposers who have provided confirmation of their intention to submit a Proposal will be notified in writing of all amendments to the RFP.

In order to afford prospective Proposers reasonable time to consider the amendments in preparing their Proposals, UNDP may, at its discretion, extend the deadline for submission of Proposals, if the nature of the amendment to the RFP justifies such extension.

## **C. PREPARATION OF PROPOSALS**

### **9. Cost of Proposal**

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

### **10. Language of Proposal**

The Proposal, as well as all related correspondence exchanged by the Proposer and UNDP, shall be written in the language (s) specified in the **Data Sheet**. Any printed literature furnished by the Proposer written in a language other than the language indicated in the **Data Sheet**, must be accompanied by a translation in the preferred language indicated in the **Data Sheet**. For purposes of interpretation of the Proposal, and in the event of discrepancy or inconsistency in meaning, the version translated into the preferred language shall govern.

### **11. Proposal Submission Form**

The Proposer shall submit the Proposal Submission Form using the form furnished in Section 4 of the RFP.

### **12. Technical Proposal Format and Content**

Unless otherwise stated in the **Data Sheet**, the Proposer shall structure the Technical Proposal as follows:

- 12.1 Expertise of Firm/Organization – this section should provide details regarding management structure of the organization, organizational capability/resources, and experience of organization/firm, the list of projects/contracts (both completed and ongoing, both domestic and international) which are related or similar in nature to the requirements of the RFP, and proof of financial stability and adequacy of resources to complete the services required by the RFP (see RFP Clause 15 for further details).

- 12.2 Proposed Methodology, Approach and Implementation Plan – this section should demonstrate the Proposer’s response to the Terms of Reference by identifying the specific components proposed, how the requirements shall be addressed, as specified, point by point; providing a detailed description of the essential performance characteristics proposed; identifying the works/portions of the work that will be subcontracted; and demonstrating how the proposed methodology meets or exceeds the specifications, while ensuring appropriateness of the approach to the local conditions and the rest of the project operating environment. This methodology must be laid out in an implementation timetable that is within the duration of the contract as specified in the **Data Sheet**.

**When RFP requires the Proposer to use their special skill sets or expertise in providing solution to the problems mentioned in the TOR, the solutions must be proposed as innovatively as possible in the offer but without deviating from the scope of the TOR and framework of the RFP. (Note: this is proposed addition to this section, if it makes sense)**

- 12.3 Management Structure and Key Personnel – This section should include the comprehensive curriculum vitae (CVs) of key personnel that will be assigned to support the implementation of the proposed methodology, clearly defining the roles and responsibilities vis-à-vis the proposed methodology. CVs should establish competence and demonstrate qualifications in areas relevant to the TOR.

In complying with this section, the Proposer assures and confirms to UNDP that the personnel being nominated are available for the Contract on the dates proposed. If any of the key personnel later becomes unavailable, except for unavoidable reasons such as death or medical incapacity, UNDP reserves the right to render the proposal non-responsive. Any substitution arising from unavoidable reasons shall be made only with the approval of UNDP.

- 12.4 Other Information as may be relevant to the Proposal.

**The Technical Proposal shall not include any financial information. A Technical Proposal containing any form of financial information that could lead to the determination of the price offer may be declared non-compliant.**

### **13. Financial Proposals**

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

Where the **Data Sheet** requires the submission of the Proposal Security, the Proposal Security shall be inside the Financial Proposal. The Proposal Security may be forfeited by UNDP under any or any combination of the following conditions:

- If the Proposer withdraws its offer during the period of the Bid Validity specified in the **Data Sheet**, or;
- If the Proposal Security is found to be less than what is required by UNDP as indicated in the **Data Sheet**, or;
- In the case the successful Proposer fails:
  - to sign the Contract after UNDP has awarded it; or
  - to furnish Performance Security, if UNDP requires it as a condition to rendering the contract effective.

#### **14. Currencies of Proposals**

All prices from Proposers originating from outside the Country specified in the **Data Sheet** shall be quoted in the currency indicated in the **Data Sheet**. However, where Proposals are quoted in different currencies, for the purposes of comparison of all Proposals --

- 14.1 UNDP will convert the currency quoted in the Proposal to US Dollar, in accordance with the prevailing UN operational rate of exchange on the last day of submission of Proposals; and
- 14.2 In the event that said proposal is found to be the most responsive to the RFP requirement, then UNDP shall reserve the right to award the contract in the currency of UNDP's preference.

#### **15. Documents Establishing the Eligibility and Qualifications of the Proposer**

The Proposer shall furnish evidence of its status as an eligible and qualified vendor, using the forms provided under Section 5, Proposer Information Forms. The documentary evidence of the Proposer's qualifications to perform the Contract, if the contract is awarded to the Proposer, shall be established to the UNDP's satisfaction. This evidence shall include, and must demonstrate, the following:

- 15.1 that, in the case of a Proposer offering to supply goods under the Contract which the Proposer did not manufacture or otherwise produce, the Proposer has been duly authorized by the goods' manufacturer or producer to supply the goods in the country of final destination; and
- 15.2 that the Proposer has the financial, technical, and production capability necessary to perform the Contract.

#### **16. Joint Venture, Consortium or Association**

If the Proposer is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to UNDP for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to legally bind the joint venture, consortium, or association.

The leader or lead entity, composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of UNDP.

The description of the organization of the joint venture/consortium/association must be clearly defined in the course of establishing the eligibility of the Proposer, by defining the expected role of each of its component/member firm in the course of performing the services defined in the TOR.

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

- Those that were undertaken together by the joint venture/consortium/association jointly and severally; and
- Those that were undertaken by the individual members of the joint venture/consortium/association expected to be involved in the performance of the services defined in the TOR.

Previous contracts completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture/consortium/association or those of its members, but should only be claimed by the individual experts themselves in their presentation of their credentials.

#### **17. Alternative Proposals**

Unless otherwise specified in the **Data Sheet**, alternative proposals shall not be considered.

#### **18. Period of Validity**

Proposals shall remain valid for the period specified in the **Data Sheet**, commencing on the submission deadline date also indicated in the **Data Sheet**. A Proposal valid for a shorter period shall be immediately rejected by UNDP and rendered non-responsive.

In exceptional circumstances, prior to the expiration of the proposal validity period, UNDP may request Proposers to extend the period of validity of their Proposals. The request and the responses shall be made in writing, and shall be considered integral to the Proposal.

### **D. SUBMISSION AND OPENING OF PROPOSALS**

#### **19. Submission and Opening of Proposals**

19.1 The Financial Proposal and the Technical Proposal Envelopes **MUST BE COMPLETELY SEPARATED** and each of them must be submitted sealed individually and clearly marked on the outside as either "TECHNICAL PROPOSAL" or "FINANCIAL PROPOSAL", as appropriate. Each envelope **MUST** also bear the name of the Proposer. The inner and outer envelopes shall:

- bear the name and address of the Proposer
- be addressed to UNDP as specified in the **Data Sheet** and
- bear a warning not to open before the time and date for proposal opening, as

specified in the **Data Sheet**. *(Note: If the intention of doing this is to let the proposers witness receipt of their Offers by UNDP, it is understandable. However, it should be noted that this is an additional step to the RFP process and it requires additional time, logistics arrangement and spending of other resources as well).*

If all envelopes are not sealed and marked as required, UNDP will assume no responsibility for the misplacement or premature opening of the Proposal.

19.2 Proposers may always submit their Proposals by mail/courier or by hand delivery. When so specified in the **Data Sheet**, Proposers shall have the option of submitting their Proposals electronically. When the Proposals are expected to be in transit for over 24 hours, the Proposer must ensure that sufficient lead time has been provided in order to comply with UNDP's deadline for submission. Under such circumstances, the Proposer must inform UNDP of the exact date and time of their dispatch, through the submission of the official receipt and supporting documents (airway bill, etc.) issued by the forwarding/courier company that will deliver the Proposal to UNDP.

19.3 Proposers submitting Proposals by mail or by hand shall enclose the original and each copy of the Proposal, in separate sealed envelopes, duly marking the envelopes as "Original Proposal" and "Copy of Proposal" as appropriate. The number of copies required shall be as specified in the **Data Sheet**. In the event of any discrepancy between them, the original shall govern. The original and copies of the Proposal shall be signed by the Proposer or person(s) duly authorized to commit the Proposer. The authorization shall be communicated through a document evidencing such authorization issued by the highest official of the firm, or a Power of Attorney, accompanying the Proposal. The Proposer shall submit the original and copies of the Proposal in separate envelopes, marked "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer envelope. *(Note: Since we are overhauling the RFP format and templates, may be this is high time we consider whether we can eliminate the requirement of the "Copy of Proposals", as it hardly adds value to the quality of proposals submitted. Doing this will also help UNDP reduce the paper consumption drastically when all UNDP offices around the globe are taken together – small action demonstrating UNDP's environmental considerations).*

## 20. Deadline for Submission of Proposals and Late Proposals

20.1 Proposals must be received by UNDP at the address and no later than the date and time specified in the **Data Sheet**.

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

## 21. Withdrawal, Substitution, and Modification of Proposals

21.1 Proposers are expected to have sole responsibility for taking steps to carefully examine in details the full consistency of its Proposals to the requirements of the RFP, keeping in mind

that material deficiencies providing information requested by UNDP, or clarity in the description of services to be provided, may result in the rejection of the Proposal. UNDP shall not assume any responsibility regarding erroneous interpretations or conclusions made by the Proposer in the course of understanding the RFP out of the data furnished by UNDP.

21.2 A Proposer may withdraw, substitute or modify its Proposal after it has been submitted by sending a written notice in accordance with RFP Clause 19, duly signed by an authorized representative, and shall include a copy of the authorization (or a Power of Attorney). The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be received by UNDP prior to the deadline for submission and submitted in accordance with Clause 19 (except that withdrawal notices do not require copies). The respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION".

21.3 Proposals requested to be withdrawn shall be returned unopened to the Proposers.

21.4 No Proposal may be withdrawn, substituted, or modified in the interval between the deadline for submission of Proposals and the expiration of the period of proposal validity specified by the Proposer on the Proposal Submission Form or any extension thereof.

## **22. Proposal Opening**

22.1 UNDP will open the Proposals in the presence of an ad-hoc committee formed by UNDP. If electronic submission is permitted, any specific electronic proposal opening procedures shall be as specified in the **Data Sheet**.

22.2 The Proposers' names, modifications, withdrawals, the presence or absence of documents, and such other details as UNDP may consider appropriate, will be announced at the opening. No Proposal shall be rejected at the opening stage, except for late submission, for which the Proposal shall be returned unopened to the Proposer.

## **E. EVALUATION AND COMPARISON OF PROPOSALS**

### **23. Confidentiality**

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

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

23.3 In the event that a Proposer is unsuccessful, the Proposer may seek a meeting with UNDP for debriefing, but said debriefing shall be limited to the discussions of the strengths and

weaknesses of the Proposal of said Proposer, and no information relating to the Proposal or rating of other Proposers may be discussed.

#### **24. Clarification of Proposals**

To assist in the examination, evaluation and comparison of Proposals, UNDP may, at its discretion, ask any Proposer for a clarification of its Proposal.

UNDP's request for clarification and the response shall be in writing. Notwithstanding the written communication, no change in the prices or substance of the Proposal shall be sought, offered, or permitted, except to provide clarification, and confirm the correction of any arithmetic errors discovered by UNDP in the evaluation of the Proposals, in accordance with RFP Clause 28.

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

#### **25. Preliminary Examination of Proposals**

UNDP shall examine the Proposals to determine whether they are complete, whether the documents have been properly signed, and whether the Proposals are generally in order. UNDP reserves the right to reject any Proposal after preliminary examination of Proposal, if UNDP finds justifiable reason for such rejection, including but not limited to the discovery of significant or material deviation, conflict of interest, fraud, among others.

#### **26. Evaluation of Proposals**

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

26.2 The evaluation committee shall review and evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and other documentation provided, applying the evaluation criteria, sub-criteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical score. A Proposal shall be rendered non-responsive at this stage if it does not substantially respond to the RFP, and particularly the Terms of Reference, or if it fails to achieve the minimum technical score indicated in the **Data Sheet**. Absolutely no changes may be made by UNDP in the criteria, sub-criteria and point system indicated in the **Data Sheet** after all Proposals have been received.

26.3 At the second stage, only the Financial Proposal of those Proposers who achieve the minimum technical score will be opened for evaluation for comparison and review. The Financial Proposal Envelopes corresponding to Proposals that did not meet the minimum passing technical score shall be returned to the Proposer unopened. The overall evaluation score will either be based either on a combination of the technical score and the financial offer, or the lowest evaluated financial proposal of the technically qualified

Proposers. The evaluation method that applies for this RFP shall be as indicated in the **Data Sheet**,

- 26.4 UNDP shall reserve the right to determine to its satisfaction the validity of information provided by the Proposer, through verification and reference checking, among other means that it deems appropriate, at any stage within the selection process.

## **27. Responsiveness of Proposal**

- 27.1 **UNDP's determination of a Proposal's responsiveness is to be based on the contents of the Proposal itself.**
- 27.2 **A substantially responsive Proposal is one that conforms to all the terms, conditions, and specifications of the RFP without material deviation, reservation, or omission.**
- 27.3 **If a Proposal is not substantially responsive, it shall be rejected by UNDP and may not subsequently be made responsive by the Proposer by correction of the material deviation, reservation, or omission.**

## **28. Nonconformities, Errors and Omissions**

- 28.1 Provided that a Proposal is substantially responsive, UNDP may waive any non-conformities or omissions in the Proposal that do not constitute a material deviation.
- 28.2 Provided that a Proposal is substantially responsive, UNDP may request the Proposer to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Proposal related to documentation requirements. Such omission shall not be related to any aspect of the price of the Proposal. Failure of the Proposer to comply with the request may result in the rejection of its Proposal.
- 28.3 Provided that the Proposal is substantially responsive, UNDP shall correct arithmetical errors on the following basis:
- 28.3.1 if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of UNDP there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
  - 28.3.2 if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
  - 28.3.3 if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to the above.
- 28.4 If the Proposer does not accept the correction of errors made by UNDP, its Proposal shall be rejected.



## **29. Fraud and Corruption**

UNDP implements a policy of zero tolerance on fraud and corrupt practices and is committed to preventing, identifying and addressing all acts of fraud and corrupt practices against UNDP as well as third parties involved in UNDP activities.

## **F. AWARD OF CONTRACT**

### **30. Right to Accept, Reject, or Render Non-Responsive Any or All Proposals**

UNDP reserves the right to accept or reject any Proposal, to render any or all Proposals as non-responsive, and to annul the solicitation process and reject all Proposals at any time prior to award of contract, without thereby incurring any liability to the affected Proposer, or any obligation to inform the affected Proposer(s) of the grounds for UNDP's action. UNDP shall neither be obliged to award the contract to the lowest price offer.

### **31. Award Criteria**

Prior to expiration of the period of proposal validity, UNDP shall award the contract to the qualified Proposer with the highest evaluated score based on the evaluation method indicated in the **Data Sheet**.

### **32. Right to Vary Requirements at the Time of Award**

At the time of award of Contract, UNDP reserves the right to vary the quantity of services and/or goods, by up to a maximum 15% of the total price offer, without any change in the unit price or other terms and conditions.

### **33. Contract Signature**

Within fifteen (15) days from the date of receipt of the Contract, the successful Proposer shall sign and date the Contract and return it to UNDP.

### **34. Performance Security**

34.1 A performance security, if required, shall be provided in the amount and form provided in Section 8 and by the deadline indicated in the **Data Sheet**, as applicable.

34.2 Failure of the successful Proposer to comply with the requirement of RFP Clause 33 or RFP Clause 34.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the performance security if any, on which event UNDP may award the Contract to the Proposer with the second highest rated Proposal, or call for new Proposals.

### **35. Bank Guarantee for Advanced Payment**

In the event that the advanced payment requested exceeds 20% of the total proposal price, or

exceed the amount of \$30,000, UNDP shall require the Proposer to submit a Bank Guarantee in the same amount as the advanced payment. A bank guarantee for advanced payment shall be furnished in the form provided in Section 9, and by the deadline indicated in the **Data Sheet**, as applicable.

### 36. Proposer's Conference

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

### 37. Vendor Protest

UNDP vendor protest procedure provides an opportunity for appeal to those persons or firms not awarded a purchase order or contract through a competitive procurement process. This procedure is not available to non-responsive or untimely Proposers or to those with rejected Proposals. In the event that you believe you have not received fair treatment, the following link provides further details regarding UNDP vendor protest procedures:  
<http://www.undp.org/procurement/protest.shtml>

### 38. Information to the Unsuccessful Proposers

**UNDP shall write a letter of regret or an email to inform all unsuccessful Proposers as soon as contract is signed with the most responsive offeror.**

*[Note: Like we do in the case of HR recruitment, the notion of regret letter is proposed with a view to maintain good relationship with the unsuccessful Proposers/vendors so that they are encouraged to apply in the future business opportunities with UNDP. It becomes particularly helpful in situations where UNDP either has to operate in the market with the limited number of suppliers (for particular services) or under crisis situations].*

## Instructions to Proposers

### DATA SHEET<sup>2</sup>

The following data for the services to be procured shall complement, supplement, or amend the provisions in the Instruction to Proposers. In the case of a conflict between the Instruction to Proposers and the Data Sheet, the provisions in the Data Sheet shall prevail.

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<sup>2</sup> Pls. check the appropriate boxes. Comments in brackets and footnotes provide guidance for the preparation of the Data Sheet; they should not appear on the final RFP to be delivered to the prospective Proposers

Project Context :	LTA for Customs Clearing and Forwarding Services
Title of Services/Work:	Clearance of incoming/outgoing cargo for UN Agencies in Tanzania covering both Mainland and Zanzibar
Country:	Tanzania
Language of the Proposal:	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Spanish <input type="checkbox"/> Others (pls. specify) _____
Conditions for Submitting Proposals for Parts or sub-parts of the TOR	<input type="checkbox"/> Allowed [if yes, describe how] <input checked="" type="checkbox"/> <b>Not allowed</b>
Conditions for Submitting Alternative Proposals	<input type="checkbox"/> shall not be considered  <input type="checkbox"/> shall be considered. A proposer may submit an alternative proposal only with a proposal for the base case. UNDP shall only consider the alternative proposals offered by the Proposer whose proposal for the base case was determined to be the proposal with the highest evaluated score.  <input type="checkbox"/> shall be considered. A proposer may submit an alternative proposal with or without a proposal for the base case. UNDP shall consider proposals offered for alternatives as specified in Section 6, Technical Proposal Form. All proposals received for the base case, as well as alternative proposals meeting the specified requirements, shall be evaluated on their own merits in accordance with the same procedures, as specified in the RFP Clause 26.
A pre-proposal conference will be held <sup>3</sup> :	<input type="checkbox"/> No  <input checked="" type="checkbox"/> <b>Yes</b> Time: 11.00 hours Date: 8 May 2014 Venue: UNDP, Conference Room 1B  The UNDP focal point for the arrangement is: Yonah Samo Address: UNDP Tanzania Telephone: +255 22 2112576 Facsimile: +255 22 2111168 E-mail: tenders.tz@undp.org

<sup>3</sup>This is strongly recommended, regardless of simplicity or complexity of the procurement

Period of Proposal Validity commencing on the submission date	<input type="checkbox"/> 60 days <input type="checkbox"/> 90 days <input checked="" type="checkbox"/> <b>120 days</b>
Proposal Security	<input checked="" type="checkbox"/> Required Amount : US\$ 10,000 Form: Bank Guarantee  <input type="checkbox"/> Not Required
Acceptable forms of Proposal Security	<input type="checkbox"/> <b>Bank Guarantee (See Section 9 for template)</b> <input type="checkbox"/> Manager's Check / Cashier's Check / Certified Check <input type="checkbox"/> Others: <b><u>Certified Insurance Bond</u></b>
Validity of Proposal Security	120 days from the last day of Proposal submission
Proposal Prices shall be subjected to Taxation	<input type="checkbox"/> Yes, pls. submit a price inclusive of all applicable taxes <input checked="" type="checkbox"/> <b>No, pls. submit a price exclusive of all taxes</b> <input type="checkbox"/> Others: <i>[pls. specify]</i>
Advanced Payment upon signing of contract	<input type="checkbox"/> Allowed up to a maximum of ____% of contract <sup>4</sup> <input checked="" type="checkbox"/> <b>Not allowed</b>
Liquidated Damages	<input type="checkbox"/> <b>Will not be imposed</b> <input type="checkbox"/> Will be imposed under the following conditions : Percentage of contract price _____ No. of days of delay _____ Maximum amount prior to termination _____
Performance Security	<input checked="" type="checkbox"/> <b>Required</b> Amount : Will be determined at contract stage Form: Will be determined at contract stage  <input type="checkbox"/> Not Required
Preferred Currency of Bid Proposal and Method for Currency conversion	Single Currency: United States Dollars  Reference date of exchange rates : N/A
Deadline for submitting requests for clarifications/ questions	<b>14 days</b> before the submission date.
Contact Details for submitting	Focal Person in UNDP: Yonah Samo

<sup>4</sup>If the advanced payment that the Proposer will submit will exceed 20% of the Price Offer, or will exceed the amount of US\$ 30,000, the Proposer must be willing to submit an Advanced Payment Security, using the document in Section 9

clarifications/questions	Address: C/O UNDP, Tanzania <hr/> Fax No. : +255 22 21111168 Tenders.tz@undp.org
No. of copies of Proposal that must be submitted	Original : 1 Copies : 4
Proposal submission address	
Deadline of Submission	Date : Thursday, 22 May 2014 Time : 16.00 hours (Local Time)
Procedures and condition for submitting Proposals by electronic means	Max. File Size : N/A Other conditions: N/A
Date, time and venue for opening of Proposals	Date : N/A Time : N/A Venue : N/A
Procedures and conditions for electronic opening of the Proposals	<input type="checkbox"/> <b><u>Not Allowed</u></b> <input type="checkbox"/> Allowed Max. File Size : N/A Digital Signature: N/A Addressee: N/A Other Conditions : N/A
Evaluation method to be used in selecting the most responsive Proposal	<input type="checkbox"/> Lowest financial offer of technically qualified Proposals <input checked="" type="checkbox"/> <b>Combined Scoring Method, using the 70%-30% distribution for technical and financial proposals, respectively</b>  The formula for the combined scoring method shall be :  $p = y (x/z)$ <u>Where:</u> p = points for the financial proposal being evaluated y = maximum number of points for the financial proposal x = price of the lowest priced proposal z = price of proposal being evaluated
Required Documents that must be Submitted to Establish Qualification of Proposers (In "Certified True Copy" form only)	<input type="checkbox"/> <b>Company Profile, which should <u>not</u> exceed fifteen (15) pages, including printed brochures and product catalogues relevant to the goods/services being procured</b>

<p><i>[check all that applies, delete those that will not be required.]</i></p>	<p><input type="checkbox"/> Members of the Governing Board and their Designations duly certified by the Corporate Secretary, or its equivalent document if Proposer is not a corporation</p> <p><input type="checkbox"/> <b>List of Shareholders and Other Entities Financially Interested in the Firm owning 5% or more of the stocks and other interests, or its equivalent if Proposer is not a corporation</b></p> <p><input type="checkbox"/> <b>Tax Registration/Payment Certificate issued by the Internal Revenue Authority evidencing that the Proposer is updated with its tax payment obligations, or Certificate of Tax exemption, if any such privilege is enjoyed by the Proposer</b></p> <p><input type="checkbox"/> <b>Certificate of Registration of the business, including Articles of Incorporation, or equivalent document if Proposer is not a corporation</b></p> <p><input type="checkbox"/> <b>Trade name registration papers, if applicable</b></p> <p><input type="checkbox"/> Local Government permit to locate and operate in the current location of office or factory</p> <p><input type="checkbox"/> Official Letter of Appointment as local representative, if Proposer is submitting a Proposal in behalf of an entity located outside the country</p> <p><input type="checkbox"/> <b>Quality Certificate (e.g., ISO, etc.) and/or other similar certificates, accreditations, awards and citations received by the Proposer, if any</b></p> <p><input type="checkbox"/> Environmental Compliance Certificates, Accreditations, Markings/Labels, and other evidences of the Proposer's practices which contributes to the ecological sustainability of reduction of environment impact (e.g., use of non-toxic substances, recycled raw materials, energy-efficient equipment, reduced carbon emission, etc.)</p>
Other documents that may be Submitted to Establish Eligibility	N/A
Expected date for commencement of Contract	Sept/Oct 2014
<b>Expected Duration of Contract Commencement</b>	<b>Yearly, renewable to 3 years based on service satisfactory performance</b>

Criteria for the Evaluation of Proposals	(See Tables below) <i><b>Important Note:</b> The points indicated below are only suggested distribution, but may be modified based on the nature and demands of the TOR. However, ABSOLUTELY NO CHANGES on this table may be made by UNDP after Proposal Envelopes have been received.</i>
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Summary of Technical Proposal Evaluation Forms		Score Weight	Points Obtainable
1.	Expertise of Firm / Organization	30%	300
2.	Proposed Methodology, Approach and Implementation Plan	40%	400
3.	Management Structure and Key Personnel	30%	300
<b>Total</b>			<b>1000</b>

Technical Proposal Evaluation Form 1		Points obtainable
<b>Expertise of the Firm/Organization</b>		
1.1	Reputation of Organization and Staff / Credibility / Reliability / Industry Standing	50
1.2	General Organizational Capability which is likely to affect implementation <ul style="list-style-type: none"> <li>- Financial stability</li> <li>- loose consortium, holding company or one firm</li> <li>- age/size of the firm</li> <li>- strength of project management support</li> <li>- project financing capacity</li> <li>- project management controls</li> </ul>	90
1.3	Extent to which any work would be subcontracted (subcontracting carries additional risks which may affect project implementation, but properly done it offers a chance to access specialized skills.	15
1.4	Quality assurance procedures, warranty	25
1.5	Relevance of: <ul style="list-style-type: none"> <li>- Specialized Knowledge</li> <li>- Experience on Similar Programme / Projects</li> <li>- Experience on Projects in the Region</li> </ul> Work for UNDP/ major multilateral/ or bilateral programmes	120
		<b>300</b>

Technical Proposal Evaluation Form 2		Points Obtainable
Proposed Methodology, Approach and Implementation Plan		
2.1	To what degree does the Offeror understand the task?	30
2.2	Have the important aspects of the task been addressed in sufficient detail?	25
2.3	Are the different components of the project adequately weighted relative to one another?	20
2.4	Is the proposal based on a survey of the project environment and was this data input properly used in the preparation of the proposal?	55
2.5	Is the conceptual framework adopted appropriate for the task?	65
2.6	Is the scope of task well defined and does it correspond to the TOR?	120
2.7	Is the presentation clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project?	85
		400

Technical Proposal Evaluation Form 3			Points Obtainable
Management Structure and Key Personnel			
3.1	Project Manager		140
	Sub-Score		
	General Qualification		120
	Suitability for the Project		
	- Experience in handling UN Shipments	25	
	- Training Experience	20	
	- Professional Experience in the area of specialization	45	
	- Knowledge of the region	30	
	- Language Qualifications	20	
			140
3.2	Senior Officer Designated for UN Portfolio		120
	Sub-Score		
	General Qualification		100
	Suitability for the Project		
	- International Experience	15	
	- Training Experience	15	
	- Professional Experience in the area of specialization	45	
	- Experience in handling UN Shipments	25	
	- Language Qualifications	20	
			120



3.3	Back for UN Portfolio Focal Person			40
			Sub-Score	
	General Qualification		30	
	Suitability for the Project			
	- Experience in handling UN Shipments	5		
	- Training Experience	5		
	- Professional Experience in the area of specialization	10		
	- Knowledge of the region	10		
	- Language Qualification		10	
			40	
	Total Part 3			300

### Section 3: Terms of Reference (TOR)<sup>5</sup>

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#### CUSTOMS CLEARANCE, FREIGHT FORWARDING AND INLAND TRANSPORTATION SERVICES TO VARIOUS UN AGENCIES IN TANZANIA

##### 1. Background:

In order to achieve cost efficiency from economies of scale while ensuring outstanding quality of service, UNDP and other UN Agencies wishes to enter into a Long Term Agreement with three most competent companies for provision of customs clearance, freight forwarding and inland transportation services in the United Republic of Tanzania.

The service provider (s) will be required to possess necessary equipment such trucks, cranes, forklift including drivers/operators to enable smooth and timely provision of services to the UN System in Tanzania. Equally, the service provider (s) must have qualified personnel, expertise that are capable to perform customs clearance, freight forwarding and inland transportation and related services in accordance with the best commercial practices.

##### 2. Objectives:

To provide comprehensive, high quality, efficient and well managed customs clearance and Freight Forwarding services for the following UN Agencies in Tanzania

- |               |               |
|---------------|---------------|
| 1. UNDP       | 10. WFP       |
| 2. UNESCO     | 11. UNAIDS    |
| 3. UNHCR      | 12. UNHABITAT |
| 4. World Bank | 13. IFAD      |
| 5. UNICEF     | 14. IOM       |
| 6. UNFPA      | 15. UNIDO     |
| 7. FAO        | 16. UNWOMEN   |
| 8. IMF        | 18. WHO       |
| 9. UNEP       | 19. UNODC     |

The total customs clearance and freight forwarding volume of all UN Agencies in Tanzania for 3 years is estimated at USD 15 million.

**The above indicated amount is a fair estimate of the customs clearance and freight forwarding spent by UN agencies in Tanzania for a period of 3 years. However, any agreement resulting from this Request for Proposal carries with it no guarantee of same amount in future. It may be more or less.**

**UN reserves the right to contract any other agency, as it may seem prudent.**

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<sup>5</sup> This document serves as a guide to Requestor on how to write the TOR for the RFP, by suggesting contents. This document is not to be shared with Proposers in this current state and form. The TOR actually written by the Requestor shall be the TOR that will be attached to this part of the RFP.

### **3. Scope of services:**

The services to be provided by service provider (s) shall include freight and cargo handling, customs documentation, clearance, stuffing/un-stuffing of containers, packing or re-packing of cargo/consignments, use/lease of equipment required for loading/offloading operations.

The successful service provider (s) shall:

Provide services for the Clearance of goods, motor vehicles and other consignments arriving into Tanzania ports for mission use, development projects and for the non-resident agencies. Personal shipments are not under this arrangement. Particularly, the service will include but not limited to.

1. Timely processing of clearance of shipment after arrival and ensure that UN agencies are not billed demurrage charges and related storage costs.
2. In case of disputed storage charge, the clearing and forwarding agent is expected to act honestly on behalf of UN agency to launch a waiver with relevant authority.
3. Proper liaison with focal persons at the UN agencies and keep them updated.
4. Give such timely notice of any loss, damage or delay in respect of the goods as may be required under the applicable contract of carriage or other contract, or under the applicable transport document.
5. Timely and properly notify and consult with the UN agency focal person on any problems encountered with respect to the UN agency consignments.
6. Provide free storage for a period of 4 weeks before the consignment is ultimately delivered to the final destination. After 4 weeks, a minimum storage will be agreed upon.
7. Properly and timely inform the UN any policy, regulation or procures that may affect delivery of shipments, hence, implementation of programmes.
8. Submit accurate bills to the UN immediately after completion of clearance and delivery of shipment for payment purposes. One dedicate person at senior position will be expected to follow up the payment; multiple or chain of people are not encouraged.
10. To ensure that at all time, any form of taxation is not passed over to the UN unless it was expressly agree upon before clearance of the consignment.
10. Ensure that UN shipments are delivered intact and in the right quantity and quality without any damages. Open an insurance claim in case of physical loss or damage and properly keep the UN informed at every stage.
11. In case of vehicles, motorcycles and other earthly moving equipment (motor grader etc), undertake registration, obtain number plate, arrange third party insurance and provision of safety and security equipment such as Multi-Lock etc. The related cost will be borne by the respective UN agency.

13. Provide Handling and processing of export documentation, if required;

The service provider shall initially receive notifications of shipment arrivals from the UN agency. The UN agency will provide exemption and duly completed customs documents to the service provider well in advance. The service provider shall monitor the arrival of the vessels and/or airplanes and undertake clearance without delay.

The service provider will perform functions mentioned above (1-12) properly and accurately.

The service provider shall invoice the UN agency immediately after delivery of shipment to the agreed destination and receipt acknowledge by the end user. Other agencies, may wish to settle bills on monthly basis. This option is left at discretion of the concern UN agency. Invoices shall be submitted in English, and including a breakdown of costs detailing all corresponding charges per consignment to avoid any misunderstanding. All invoices submitted to the UN agency must show detailed breakdown of services and charges and a copy of Original Bill of Lading, Master Airway Bill or other pertinent transport document must be attached to the invoices together with proof of expenditures for payment done on behalf of UN agency.

**4. Anticipated result of the services:**

- Dependability - strict adherence to contracted obligations;
- Job knowledge - professional and technical expertise;
- Quality of work - High quality of work;
- Cooperation - integration with all levels of staff;
- Inter-personal - responsiveness and recognition of cultural diversity;
- Judgment - highest form of integrity

**5. Reports:**

The service provider is expected to submit reports on goods cleared on a monthly basis to the focal persons in UN agencies for reconciliation and proper record.

**6. Duration:**

The successful service provider shall be contracted for the provision of the above detailed services for an initial period of one (1) year (where the first three (3) months will be probationary). This Agreement may be renewed, at the sole option of the UN agencies, on the same terms and conditions, for two (2) additional periods of one (1) year each, by means of a written notification of such renewal by the UN agencies to the Contractor and upon satisfactory evaluation of Annual Performance of the services provided .

Dedicated Staff to the UN Portfolio should be conversant with Tanzania Revenue Authority's procedures and highly experienced in customs clearance and other related services as may be requested by UN from time to time.

In the process of preparing a TOR, one should deliberately and seriously take on the perspective and situation of a Proposer who may have not heard or does not know about the project and its requirements until the RFP documents were received.

When proposals have already been received by UNDP, it would not be fair for UNDP to look for offers that were not originally sought in the TOR. Hence, the more complete the TOR, the better are the chances of generating responsive offers to undertake the work.

It is hoped that the UNDP Business Units shall endeavour to comply with the herein recommended contents of the TOR in order to generate proposals that are most responsive to the needs of the project.

#### **K. Annexes to the TOR**

Existing literature or documents that will help provide Proposers with a better comprehension of the project situation and the work required should be immediately provided as annex/es to the TOR, especially if such literature or documents are not confidential.

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#### Section 4: Proposal Submission Form

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[insert: Location, Date]

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

Dear Sir/Madam:

We, the undersigned, hereby offer to provide professional services for [insert: title of services] in accordance with your Request for Proposal dated [insert: Date] and our Proposal. We are hereby submitting our Proposal, which includes the Technical Proposal and Financial Proposal sealed under a separate envelope.

We hereby declare that all the information and statements made in this Proposal are true and we accept that any misinterpretation contained in it may lead to our disqualification.

We confirm that we have read, understood and hereby accept the Terms of Reference describing the duties and responsibilities required of us in this RFP, and the General Terms and Conditions of UNDP's Contract for Professional Services.

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

We undertake, if our Proposal is accepted, to initiate the services not later than the date indicated in the Data Sheet.

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

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Contact Details : \_\_\_\_\_

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

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#### Section 4: Documents Establishing the Eligibility and Qualifications of the Proposer

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##### Proposer Information Form

*[The Proposer shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]*

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

RFP No.: *[insert number of bidding process]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Proposer's Legal Name <i>[insert Proposer's legal name]</i>
2. In case of Joint Venture (JV), legal name of each party: <i>[insert legal name of each party in JV] (Since we have separate form for the JV information, clear link shall be established between the two) or maybe we do not need it here.</i>
3. Proposer's actual or intended Country of Registration: <i>[insert actual or intended Country of Registration]</i>
4. Proposer's Year of Registration: <i>[insert Proposer's year of registration]</i>
5. Proposer's Legal Address in Country of Registration: <i>[insert Proposer's legal address in country of registration]</i>
<b>....Proposer's Years of Experience in Solicited Service/s</b> <i>[insert number of years Proposer has been in the service required by the RFP in question]</i>  <i>(Note: This requirement will help the Proposer narrow down the focus while preparing the RFP). If it is decided to adopt, same shall be applied for the next form, i.e. 'Joint Venture Partner Information Form' as well.</i>
6. Proposer's Authorized Representative Information  Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>

<p>7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i></p> <p><input type="checkbox"/> Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.</p> <p><input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement.</p> <p><input type="checkbox"/> In case of government owned entity, documents establishing legal and financial autonomy and compliance with commercial law.</p>
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Joint Venture Partner Information Form (Not applicable)

*[The Proposer shall fill in this Form in accordance with the instructions indicated below].*

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

RFP No.: *[insert number of bidding process]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

<p>1. Proposer's Legal Name: <i>[insert Proposer's legal name]/Lead Partner's Legal Name?</i></p> <p><b><i>(Note: a) As indicated in Article 16 above, Lead partner in the JV is supposed to offer the proposal on behalf of all partners.)</i></b></p> <p><b><i>b) Alternately, if this form is intended for each of the partners in JV, do we need to have point number 2 in the above 'Proposer Information Form'?) This needs to be looked.</i></b></p>
<p>2. JV's Party legal name: <i>[insert JV's Party legal name]</i></p>
<p>3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i></p>
<p>4. JV's Party Year of Registration: <i>[insert JV's Party year of registration]</i></p>
<p>5. JV's Party Legal Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i></p>
<p>6. JV's Party Authorized Representative Information</p> <p>Name: <i>[insert name of JV's Party authorized representative]</i></p> <p>Address: <i>[insert address of JV's Party authorized representative]</i></p> <p>Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i></p> <p>Email Address: <i>[insert email address of JV's Party authorized representative]</i></p>
<p>7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i></p>



- ☐ Articles of Incorporation or Registration of firm named in 2.
- ☐ In case of government owned entity, documents establishing legal and financial autonomy and compliance with commercial law.

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## Section 6: Technical Proposal Form

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<b>TECHNICAL PROPOSAL FORMAT</b> <b>INSERT TITLE OF THE SERVICES</b>
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**Note: Technical Proposals not submitted in this format may be rejected. The financial proposal should be included in separate envelope.**

<b>Name of Proposing Organization / Firm:</b>	
<b>Country of Registration:</b>	
<b>Name of Contact Person for this Proposal:</b>	
<b>Address:</b>	
<b>Phone / Fax:</b>	
<b>Email:</b>	

<b>SECTION 1: EXPERTISE OF FIRM/ ORGANISATION</b>
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<b>SECTION 2 - APPROACH AND IMPLEMENTATION PLAN</b>
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*This section should demonstrate the Proposer's responsiveness to the specification by identifying the specific components proposed, addressing the requirements, as specified, point by point; providing a detailed description of the essential performance characteristics proposed; and demonstrating how the proposed methodology meets or exceeds the specifications.*

2.1. Approach to the Service/Work Required: Please provide a detailed description of the methodology for how the organisation/firm will achieve the Terms of Reference of the project, keeping in mind the appropriateness to local conditions and project environment.

2.2. Technical Quality Assurance Review Mechanisms: The methodology shall also include details of the Proposer's internal technical and quality assurance review mechanisms.

2.3. Reporting and Monitoring: Please provide a brief description of the mechanisms proposed for this project for reporting to the UNDP and partners, including a reporting schedule.

2.4. Partnerships: Explain any partnerships with local, international or other organizations that are planned for the implementation of the project. Special attention should be given to providing a clear picture of the role of each entity and how everyone will function as a team. Letters of commitment from partners and an indication of whether some or all have successfully worked

together on other previous projects is encouraged.

2.5. Subcontracting: Explain whether any work would be subcontracted, to whom, how much percentage of the work, the rationale for such, and the roles of the proposed sub-contractors. Special attention should be given to providing a clear picture of the role of each entity and how everyone will function as a team.

2.6. Risks / Mitigation Measures: Please describe the potential risks for the implementation of this project that may impact achievement and timely completion of expected results as well as their quality. Describe measures that will be put in place to mitigate these risks.

2.7. Anti-Corruption Strategy: Define the anti-corruption strategy that will be applied in this project to prevent the misuse of funds. Describe the financial controls that will be put in place.

2.8 Implementation Timelines: The Proposer shall submit a Gantt Chart or Project Schedule indicating the detailed sequence of activities that will be undertaken and their corresponding timing.

2.9 Sstatement of Full Disclosure: This is intended to disclose any potential conflict in accordance with the definition of “conflict” under Section 4 of this document, if any.

2.10 Other: Any other comments or information regarding the project approach and methodology that will be adopted.

## Section 7: Financial Proposal Form

Bidders are requested to use below tariff for comparison purpose.

### TARIFF FOR CUSTOMS CLEARANCE OF UN SHIPMENTS

<b>AGENCY FEE:</b>	
As % of CIF value	
Min. Agency Fee (T.Shs)	
Up to US\$ 50,000	
\$50,001 – 100,000	
\$100,001 – 500,000	
Beyond US\$ 500,001	
<b>COMMISSION ON DISBURSEMENT</b> (% - of disbursed value)	
<b>TRANSPORTATION:</b>	
<b>Sea freight</b> – per CBM/MT	
Min. cost	
<b>Airfreight</b> - per kg	
- Min. cost	
<b>Container</b> - 20ft	
- 40ft	
<b>Motor Vehicle</b>	
Supervision, labour & Verification	
Customs documentation	
Warehousing & storage	
Authorization/permit fees	
Target days – AIRFREIGHT	
- SEAFREIGHT	
Disbursement fee (%)	
Other Services (Please specify)	

## Section 8: PERFORMANCE SECURITY<sup>6</sup>

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To: UNDP

WHEREAS [*name and address of Contractor*] (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. .... dated ....., to execute Services ..... (hereinafter called “the Contract”):

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

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

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

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

### SIGNATURE AND SEAL OF THE GUARANTOR

Date.....

Name of Bank.....

Address.....

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<sup>6</sup>If the RFP requires the submission of a Performance Security, which shall be made a condition to the signing and effectivity of the contract, the Performance Security that the Proposer's Bank will issue shall use the contents of this template

## Section 9: Contract for Professional Services

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Date \_\_\_\_\_

Dear Sir/Madam,

Ref.: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ **[INSERT PROJECT NUMBER AND TITLE OR OTHER REFERENCE]**

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your **[company/organization/institution]**, duly incorporated under the Laws of \_\_\_\_\_ **[INSERT NAME OF THE COUNTRY]** (hereinafter referred to as the "Contractor") in order to perform services in respect of \_\_\_\_\_ **[INSERT SUMMARY DESCRIPTION OF THE SERVICES]** (hereinafter referred to as the "Services"), in accordance with the following Contract:

1. Contract Documents

- 1.1 This Contract is subject to the UNDP General Conditions for Professional Services attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
  - a) this Letter;
  - b) the Terms of Reference [ref. ....dated.....], attached hereto as Annex II;
  - c) the Contractor's Proposal [ref....., dated .....]
  - d) The UNDP Request for Proposal [ref....., dated.....]
- 1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2. Obligations of the Contractor

2.1 The Contractor shall perform and complete the Services described in Annex II with due diligence and efficiency and in accordance with the Contract.

2.2 The Contractor shall provide the services of the following key personnel:

NameSpecializationNationalityPeriod of service

....  
....

2.3 Any changes in the above key personnel shall require prior written approval of \_\_\_\_\_ **[NAME and TITLE]**, UNDP.

2.4 The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.

2.5 The Contractor shall submit to UNDP the deliverables specified hereunder according to the following schedule:

**[LIST DELIVERABLES]**

**[INDICATE DELIVERY DATES]**

e.g.

Progress report	../..../....
.....	../..../....
Final report	../..../....

2.6 All reports shall be written in the English language, and shall describe in detail the services rendered under the Contract during the period of time covered in such report. All reports shall be transmitted by the Contractor by \_\_\_\_\_ **[MAIL, COURIER AND/OR FAX]** to the address specified in 9.1 below.

2.7 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

### **OPTION 1 (FIXED PRICE)**

#### **3. Price and Payment<sup>7</sup>**

3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a fixed contract price of \_\_\_\_\_ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.

<sup>7</sup> This version of section 3 is to be used for fixed price contracts. Fixed price contracts should normally be used when it is possible to estimate with reasonable accuracy the costs of the activities which are the subject of the Contract.

- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.
- 3.3 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.
- 3.4 UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the Contractor to the address specified in 9.1 below, upon achievement of the corresponding milestones and for the following amounts:

<u>MILESTONE<sup>8</sup></u>	<u>AMOUNT</u>	<u>TARGET DATE</u>
Upon.....	.....	./../....
.....	.....	../../....

Invoices shall indicate the milestones achieved and corresponding amount payable.

#### **OPTION 2 (COST REIMBURSEMENT)**

3. Price and payment<sup>9</sup>
- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a price not to exceed \_\_\_\_\_ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The amount contained in 3.1 above is the maximum total amount of reimbursable costs under this Contract. The Breakdown of Costs in Annex \_\_\_\_\_ **[INSERT ANNEX NUMBER]** contains the maximum amounts per cost category that are reimbursable under this Contract. The Contractor shall reflect in his invoices the amount of the actual reimbursable costs incurred in the performance of the Services.
- 3.3 The Contractor shall not do any work, provide any equipment, materials and supplies, or perform any other services which may result in any costs in excess of the amount under 3.1 or of any of the amounts specified in the Breakdown of Costs for each cost category without the prior written agreement of \_\_\_\_\_ **[NAME and TITLE]**, UNDP.

<sup>8</sup> If an advance payment is granted, define the first milestone as "upon signature of the contract by both parties". Please note that advance payments should be granted only in exceptional cases, and that they must comply with UNDP policies and procedures.

<sup>9</sup> This version of section 3 is to be used for cost reimbursement contracts. Normally, cost reimbursement contracts should be used when it is not possible to estimate with reasonable accuracy the total costs of the activities which are the subject of the Contract.



3.4 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.

3.5 The Contractor shall submit invoices for the work done every \_\_\_\_\_ **[INSERT PERIOD OF TIME OR MILESTONES]**.

OR

3.5. The Contractor shall submit an invoice for \_\_\_\_\_ **[INSERT AMOUNT AND CURRENCY OF THE ADVANCE PAYMENT IN FIGURES & WORDS]** upon signature of this Contract by both parties and invoices for the work done every \_\_\_\_\_ **[INSERT PERIOD OF TIME OR MILESTONES]**.<sup>10</sup>

3.6 Progress and final payments shall be effected by UNDP to the Contractor after acceptance of the invoices submitted by the Contractor to the address specified in 9.1 below, together with whatever supporting documentation of the actual costs incurred is required in the Breakdown of Costs or may be required by UNDP. Such payments shall be subject to any specific conditions for reimbursement contained in the Breakdown of Costs.

4. Special conditions<sup>11</sup>

4.1 The responsibility for the safety and security of the Contractor and its personnel and property, and of UNDP's property in the Contractor's custody, rests with the Contractor.

4.2 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP of a bank guarantee for the full amount of the advance payment issued by a Bank and in a form acceptable to UNDP.<sup>12</sup>

4.3 The amounts of the payments referred to under section 3.6 above shall be subject to a deduction of \_\_\_\_\_ **[INSERT PERCENTAGE THAT THE ADVANCE REPRESENTS OVER THE TOTAL PRICE OF THE CONTRACT]** % (... percent) of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment.<sup>13</sup>

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<sup>10</sup> This clause should be used if an advance payment is granted. Please note that advance payments should be granted only in exceptional cases, and that they must comply with UNDP policies and procedures. Any advance which represents 30% or more of the proposed total contract value must be cleared by the Office of Finance and Administration prior to contract signature, with the exception of contracts below \$50,000.

<sup>11</sup> Under this Section, you may propose special clauses in order to adapt the model contract to the specific situation. In this sample clause 4, several clauses of common use are given. If they are not required, they should be deleted. If there are no special conditions, please choose the alternative version of 4 in order to conform to clause 1.1.

<sup>12</sup> This clause must be used when an advance payment of \$50,000 or more is granted to the Consultant and may be used for payments under \$50,000 when appropriate. Please note that advance payments should be exceptional, whatever their amount and must comply with UNDP Financial Regulations and Rules.

<sup>13</sup> This clause must be used when an advance payment is granted (whatever the amount) in a cost reimbursement contract. A payment upon signature is considered an advance payment.

4.4 Owing to [.....], Article(s) [.....] of the General Conditions in Annex I shall be amended to read/be deleted.<sup>14</sup>

5. Submission of invoices

5.1 An original invoice shall be submitted by mail by the Contractor for each payment under the Contract to the following address:

.....

5.2 Invoices submitted by fax shall not be accepted by UNDP.

6. Time and manner of payment

6.1 Invoices shall be paid within thirty (30) days of the date of their acceptance by UNDP. UNDP shall make every effort to accept an invoice or so advise the Contractor of its non-acceptance within a reasonable time from receipt.

6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

\_\_\_\_\_ **[NAME OF THE BANK]**

\_\_\_\_\_ **[ACCOUNT NUMBER]**

\_\_\_\_\_ **[ADDRESS OF THE BANK]**

7. Entry into force. Time limits.

7.1 The Contract shall enter into force upon its signature by both parties.

7.2 The Contractor shall commence the performance of the Services not later than \_\_\_\_\_ **[INSERT DATE]** and shall complete the Services within \_\_\_\_\_ **[INSERT NUMBER OF DAYS OR MONTHS]** of such commencement.

7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8. Modifications

8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Contractor and \_\_\_\_\_ **[NAME AND TITLE]** UNDP.

9. Notifications

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<sup>14</sup> This is a sample clause for the rare cases where there is a conflict with a provision of the General Conditions which does not involve privileges and immunities, arbitration or some other fundamental aspects of the UNDP legal status. All such changes to the General Conditions shall require consultation with OLPS/BOM.

For the purpose of notifications under the Contract, the addresses of UNDP and the Contractor are as follows:

**For the UNDP:**

Name  
Designation  
Address  
Tel. No.  
Fax. No.  
Email address:

**For the Contractor:**

Name  
Designation  
Address  
Tel. No.  
Fax. No.  
Email address:

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

**[INSERT NAME AND DESIGNATION]**

For **[INSERT NAME OF THE COMPANY/ORGANIZATION]**

Agreed and Accepted:

Signature \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



## **UNDP GENERAL CONDITIONS OF CONTRACT FOR SERVICES**

### **1.0 LEGAL STATUS:**

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP). The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

### **2.0 SOURCE OF INSTRUCTIONS:**

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action that may adversely affect UNDP or the United Nations and shall fulfill its commitments with the fullest regard to the interests of UNDP.

### **3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:**

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

### **4.0 ASSIGNMENT:**

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

### **5.0 SUB-CONTRACTING:**

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

### **6.0 OFFICIALS NOT TO BENEFIT:**

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered

by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

#### **7.0 INDEMNIFICATION:**

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

#### **8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:**

**8.1** The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

**8.2** The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

**8.3** The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

**8.4** Except for the workmen's compensation insurance, the insurance policies under this Article shall:

**8.4.1** Name UNDP as additional insured;

**8.4.2** Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;

**8.4.3** Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

**8.5** The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

#### **9.0 ENCUMBRANCES/LIENS:**

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any

other claim or demand against the Contractor.

**10.0 TITLE TO EQUIPMENT:** Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

**11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:**

**11.1** Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the 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 Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

**11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the 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.

**11.3** At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.

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

**12.0 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS:**

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or THE United Nations, or any abbreviation of the name of UNDP or United Nations in connection with its business or otherwise.

**13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:**

Information and data that is considered proprietary by either Party and that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the

Contract, and that is designated as confidential ("Information"), shall be held in confidence by that Party and shall be handled as follows:

**13.1** The recipient ("Recipient") of such information shall:

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

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

**13.2** Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:

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

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

**13.2.2.1a** corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,

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

**13.2.2.3** for the UNDP, an affiliated Fund such as UNCDF, UNIFEM and UNV.

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

**13.4** The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.

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

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

#### **14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS**

**14.1** In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

**14.2** If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

**14.3** Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.

**14.4** The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

#### **15.0 TERMINATION**

**15.1** Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.

**15.2** UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

**15.3** In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.

**15.4** Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

#### **16.0 SETTLEMENT OF DISPUTES**



**16.1 Amicable Settlement:** The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this 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 UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

**16.2 Arbitration:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. 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.

#### **17.0 PRIVILEGES AND IMMUNITIES:**

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

#### **18.0 TAX EXEMPTION**

**18.1** 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 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 United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

**18.2** Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

## **19.0 CHILD LABOUR**

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

**19.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

## **20.0 MINES:**

**20.1** The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

**20.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

## **21.0 OBSERVANCE OF THE LAW:**

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

## **22.0 SEXUAL EXPLOITATION:**

**22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

**22.2** The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the

country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

### **23.0 SECURITY:**

#### **23.1** The Contractor shall:

- (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the services are being provided;
- (b) assume all risks and liabilities related to the Contractor's security, and the full implementation of the security plan.

**23.2** UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 4.1 above.

### **24.0 AUDITS AND INVESTIGATIONS:**

**24.1** Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or the authorized agents of the UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. The UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by the UNDP other than in accordance with the terms and conditions of the Contract. Should the audit determine that any funds paid by UNDP have not been used as per contract clauses, the company shall reimburse such funds forthwith. Where the company fails to reimburse such funds, UNDP reserves the right to seek recovery and/or to take any other action as it deems necessary.

**24.2** The Contractor acknowledges and agrees that, at anytime, UNDP may conduct investigations relating to any aspect of the Contract, the obligations performed under the Contract, and the operations of the Contractor generally. The right of UNDP to conduct an investigation and the Contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its personnel and any documentation for such purposes and to grant to UNDP access to the Contractor's premises. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

### **25.0 ANTI-TERRORISM:**

**25.1** The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under this Contract are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Contract.

**26.0 AUTHORITY TO MODIFY:**

Pursuant to the Financial Regulations and Rules of UNDP, only the UNDP Authorized Official possesses the authority to agree on behalf of UNDP to any modification of or change in this Agreement, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in this Contract shall be valid and enforceable against UNDP unless provided by an amendment to this Agreement signed by the Contractor and jointly by the UNDP Authorized Official.

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