



REQUEST FOR PROPOSAL (RFP)

TO: INTERESTED COMPANIES	DATE: October 14, 2014
	REFERENCE: RFP/UNDP/BDP/025/2014

Dear Sir / Madam:

We kindly request you to submit your Proposal for the provision of NAMA for the Renewable Energy Sector of Lao People Democratic Republic.

Please be guided by the form attached hereto as Annex 2, in preparing your Proposal.

Proposals shall be submitted on or before **5p.m. Eastern Standard Time, November 3, 2014** via email address below:

CPU.Bids@undp.org

Email Reference : RFP/UNDP/BDP/025/2014 – RFP for NAMA for the Renewable Energy Sector of Lao People Democratic Republic.

Your Proposal must be expressed in the English language and valid for a minimum period of 90 days. **Proposers may send as many e-mails as needed; however, the size of each e-mail should not exceed five megabytes (5 MB).** As an e-mail can take some time to arrive after it is sent, we advise all Proposers to send e-mail submissions well before the deadline. Proposers are solely responsible for ensuring that any and all files sent to UNDP are readable, that is, uncorrupted, in the indicated electronic format, and free from viruses and malware. Failure to provide readable files will result in the proposal being rejected.

In the course of preparing your Proposal, it shall remain your responsibility to ensure that it reaches the address above on or before the deadline. Proposals that are received by UNDP after the deadline indicated above, for whatever reason, shall not be considered for evaluation. Kindly ensure that they are signed and in the .pdf format, and free from any virus or corrupted files.

Services proposed shall be reviewed and evaluated based on completeness and compliance of the Proposal and responsiveness with the requirements of the RFP and all other annexes providing details of UNDP requirements.

The Proposal that complies with all of the requirements, meets all the evaluation criteria and offers the best value for money shall be selected and awarded the contract. Any offer that does not meet the requirements shall be rejected.

Any discrepancy between the unit price and the total price shall be re-computed by UNDP, and the unit price shall prevail and the total price shall be corrected. If the Service Provider does not accept the final price based on UNDP's re-computation and correction of errors, its Proposal will be rejected.

No price variation due to escalation, inflation, fluctuation in exchange rates, or any other market factors shall be accepted by UNDP after it has received the Proposal. At the time of Award of Contract or Purchase Order, UNDP reserves the right to vary (increase or decrease) the quantity of services and/or goods, by up to a maximum twenty five per cent (25%) of the total offer, without any change in the unit price or other terms and conditions.

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto the General Terms and Conditions of UNDP, herein attached as Annex 3.

Please be advised that UNDP is not bound to accept any Proposal, nor award a contract or Purchase Order, nor be responsible for any costs associated with a Service Providers preparation and submission of a Proposal, regardless of the outcome or the manner of conducting the selection process.

UNDP's vendor protest procedure is intended to afford an opportunity to appeal for persons or firms not awarded a Purchase Order or Contract in a competitive procurement process. In the event that you believe you have not been fairly treated, you can find detailed information about vendor protest procedures in the following link:

<http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/>

UNDP encourages every prospective Service Provider to prevent and avoid conflicts of interest, by disclosing to UNDP if you, or any of your affiliates or personnel, were involved in the preparation of the requirements, design, cost estimates, and other information used in this RFP.

UNDP implements a zero tolerance on fraud and other proscribed practices, and is committed to preventing, identifying and addressing all such acts and practices against UNDP, as well as third parties involved in UNDP activities. UNDP expects its Service Providers to adhere to the UN Supplier Code of Conduct found in this link : http://www.un.org/depts/ptd/pdf/conduct_english.pdf

Thank you and we look forward to receiving your Proposal.

Sincerely yours,

Bakhtiyor Khamraev
Procurement Specialist

Description of Requirements

Context of the Requirement	NAMA for the Renewable Energy Sector of Lao People Democratic Republic.
Implementing Partner of UNDP	N/A
Brief Description of the Required Services	Please refer to Terms of Reference (Annex 1)
List and Description of Expected Outputs to be Delivered	Please refer to Terms of Reference (Annex 1)
Person to Supervise the Work/Performance of the Service Provider	<i>MDG Carbon Project Manager:</i>
Frequency of Reporting	<i>Weekly and virtually when required</i>
Progress Reporting Requirements	Please refer to Terms of Reference
Location of work	<input checked="" type="checkbox"/> At Contractor's Location (with 3 missions to the Host Country)
Expected duration of work	8 months
Latest target start date	1 December 2014
Latest completion date	31 July 2015
Travels Expected	3 missions to the Host Country as per ToR at an estimation of 2 to 3 days per mission.
Special Security Requirements	<input checked="" type="checkbox"/> Security Clearance from UN prior to travelling (if required the Country Office will provide a guidance)
Facilities to be Provided by UNDP	N/A
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required
Names and curriculum vitae of individuals who will be involved in completing the	<input checked="" type="checkbox"/> Required

services																								
Currency of Proposal	<input checked="" type="checkbox"/> United States Dollars																							
Value Added Tax on Price Proposal ¹	All prices/rates quoted must be exclusive of all taxes, since the United Nations, including its subsidiary organs, is exempt from taxes.																							
Validity Period of Proposals (Counting for the last day of submission of quotes)	<input checked="" type="checkbox"/> 90 days In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.																							
Partial Quotes	✔ Proposals on sub-parts of the ToR are not allowed and will be rejected.																							
Payment Terms	<table><tr><th>Deliverable</th><th>Percentage</th><th>Timing of completion</th><th>Condition for Payment Release</th></tr><tr><td>1) Completed first mission</td><td>20%</td><td>Within 1.5 months from commencement of assignment</td><td rowspan="5">Within thirty (30) days from the date of meeting the following conditions: a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and b) Receipt of invoice from the Service Provider.</td></tr><tr><td>2) Draft NAMA submitted to the UNDP</td><td>40%</td><td>Within 3 months from commencement of assignment</td></tr><tr><td>3) Completed second mission</td><td>20%</td><td>Within 5 months from commencement of assignment</td></tr><tr><td>4) Final NAMA submitted to UNDP and presented to the key stakeholders (during the 3rd and final mission)</td><td>20%</td><td>Within 8 months from commencement of assignment</td></tr><tr><td></td><td>100%</td><td>8 Months</td></tr></table>				Deliverable	Percentage	Timing of completion	Condition for Payment Release	1) Completed first mission	20%	Within 1.5 months from commencement of assignment	Within thirty (30) days from the date of meeting the following conditions: a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and b) Receipt of invoice from the Service Provider.	2) Draft NAMA submitted to the UNDP	40%	Within 3 months from commencement of assignment	3) Completed second mission	20%	Within 5 months from commencement of assignment	4) Final NAMA submitted to UNDP and presented to the key stakeholders (during the 3 rd and final mission)	20%	Within 8 months from commencement of assignment		100%	8 Months
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Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	MDG Carbon Project Manager: To be named upon Contract award																							

Type of Contract to be Signed	<input checked="" type="checkbox"/> Contract for Professional Services
Criteria for Contract Award	<ul style="list-style-type: none"> ✓ Minimum passing score for Technical Proposal – 70% (70 out of 100 points) ✓ Combined Scoring Method, using the 70%-30% distribution for technical and financial proposals, respectively <p><input checked="" type="checkbox"/> Acceptance of the UNDP Contract General Terms and Conditions (GTC). Non acceptance of the GTC may be grounds for the rejection of the Proposal.</p>
Criteria for the Assessment of Proposal	<p><u>Technical Proposal (100%)</u> Proposals will be evaluated separately and based on the below criteria.</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Expertise of the Firm (40%) <input checked="" type="checkbox"/> Methodology, Its Appropriateness to the Condition and Timeliness of the Implementation Plan (40%) <input checked="" type="checkbox"/> Management Structure and Qualification of Key Personnel (20%) <ul style="list-style-type: none"> • <i>Senior Expert/Manager – 10% (at least 10 years of relevant working experience in climate change mitigation and experience in the renewable energy sector; See Annex I for full expertise requirements.</i> • <i>Experts* – 10% (at least 5 years of relevant working experience in climate change mitigation and experience in the renewable energy sector; See Annex I for full expertise requirements.</i> <p><i>Note* - average score for multiple experts will be used for the purposes of the evaluation.</i> <i>(Please refer to ToR for experience and expertise requirements of experts)</i></p> <p><u>Financial Proposal (100%)</u> To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP. FP Rating = (Lowest Priced Offer / Price of the Offer Being Reviewed) x 100</p> <p><u>Total Combined Score:</u></p> <p>(TP Rating) x (Weight of TP, e.g. 70%) + (FP Rating) x (Weight of FP, e.g., 30%)</p> <hr/> <p>Total Combined and Final Rating of the Proposal</p>

UNDP will award the contract to:	<p>One company.</p> <p>Any proposer can submit an offer however a proposer cannot submit at the same time its own proposal and be a subcontractor with another proposer. This situation will raise a conflict of interest.</p> <p>However, two companies can form an association and submit ONE proposal. In this case the companies have to select a leading company amongst them which will sign the contract with UNDP.</p>
Annexes to this RFP ²	<p><input checked="" type="checkbox"/> Detailed TOR (See ToR below)</p> <p><input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2)</p> <p><input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 3)</p>
Contact Person for Inquiries (Written inquiries only)	<p>Focal Person in UNDP: Ugyen Wangmo Title: Procurement Associate E-mail address dedicated for this purpose ugyen.tobgay@undp.org and cc: karla.dalimunthe@undp.org</p> <p>Last day to submit questions to UNDP is 10 days before the submission date. UNDP will provide responses on a rolling basis for each.</p> <p>Any delay in UNDP's response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.</p>
Other Information Related to the RFP	http://procurement-notice.undp.org/

Terms of Reference

NAMA for the Renewable Energy Sector of Lao People Democratic Republic

Location: At Contractor's office with 3 missions to the Host Country

Language Required: English

Anticipated Date: December 2014 or upon signature of contract

Duration of Initial Contract: 8 months

Supervisor: MDG Carbon Project Manager

1. Background

Climate change is the defining issue of our generation. The way the world deals with climate change today will have a direct bearing on the human development prospects of a large section of humanity. The impacts of climate change are already being felt, and almost all recent modelling indicates that impacts are now expected to be stronger and sooner than previously projected. Developing countries offer a number of cost-effective opportunities for reducing and avoiding emissions, but they are also particularly vulnerable to climate change impacts. The people most at risk from climate change live in countries that have contributed the least to the problem. Further, those most affected are also the least able to cope, making it an issue of inequality and insecurity. If efforts for fighting climate change are to be successful, it is clear they will require a dramatic increase in investment in developing countries.

Developing countries have agreed to prepare and implement Nationally Appropriate Mitigation Actions (NAMAs) as a part of their contribution to global mitigation efforts. This contribution is underpinned by financial, technology and capacity building support from developed countries. The current development stage of the NAMAs concept provides an opportunity for countries to help shape its future development and form.

In recognition of the critical need to improve global access to sustainable, affordable and environmentally sound energy services and resources and to coordinate activities to increase awareness of the importance of addressing energy issues, the United Nations Secretary-General launched a global initiative on Sustainable Energy for All (SE4ALL) in 2011. The initiative is aimed at mobilizing action from governments, the private sector, and civil society around the following three objectives to be reached by 2030: providing universal access to modern energy services; doubling the global rate of improvement in energy efficiency; and doubling the share of renewable energy in the global energy mix. The NAMA that is proposed in the context of this consultancy shall help the Lao People Democratic Republic to deploy renewable energy schemes and enable them to achieve rural electrification in a sustainable manner.

UNDP's goal is to align human development and climate change management efforts by promoting mitigation and adaptation activities that promote socio-economic progress. With a US\$5 billion portfolio of energy and environment projects, UNDP is one of the world's largest providers of technical assistance in the area of climate change. On the ground in 166 countries, UNDP has built links and considerable trust with governments, civil society and the private sector. Over the past seven years,

UNDP has been involved in carbon finance capacity development activities in more than 20 countries across several regions.

2. Objective

The overall purpose of this assignment is to develop a full NAMA design to encourage rural electrification with renewable sources in Laos.

Specific tasks:

- Assess existing policies and conduct SWOT analysis of existing instruments and measures;
- Identify key stakeholders;
- Identify proposed interventions to encourage sector transformation;
- Conduct a stakeholder consultation with national key stakeholders;
- Define the NAMA governance structure and identify the national coordination and implementation body;
- Develop implementation and financing scheme for the NAMA interventions and capacity development needs;
- Develop an MRV concept for GHG emissions and sustainable development indicators;
- Detail domestic subsidy streams, and potential donor sources;
- Identify a pipeline of preferably 5-10 potential interventions and specify technical and financing structure for these first set of interventions;
- Conduct a second round of local consultation and incorporate comments received into the final NAMA design;
- Present the final NAMA to a broad group of stakeholders;

3. List of Deliverables

Deliverables	Timelines
Deliverable 1: 1 st mission completed	Within 1.5 months from commencement of assignment
Deliverable 2: Draft NAMA submitted to UNDP	Within 3 months after completion of first mission
Deliverable 3: 2 nd mission completed	Within 2 months after submission of draft NAMA
Deliverable 4: Final NAMA submitted to UNDP and presented to stakeholders (during the 3 rd and final mission)	Within 8 months after contract signature

4. Reporting Requirements

The selected consulting company will report weekly to the MDG Carbon Project Manager.

5. Key performance indicators

- Existing policies assessed and SWOT analysis of existing instruments and measures conducted;
- Key stakeholders identified;
- Interventions to encourage sector transformation identified;
- Stakeholder consultation with national key stakeholders conducted;
- NAMA governance structure defined and national coordination and implementation body identified;
- Implementation and financing scheme for the NAMA interventions and capacity development needs developed;
- MRV concept for GHG emissions and sustainable development indicators developed;
- Domestic subsidy streams, and potential donor sources detailed;
- Pipeline of preferably 5-10 potential interventions identified and technical and financing structure for these first set of interventions structured;
- Second round of local consultation and incorporate comments received into the final NAMA design conducted;
- Final NAMA presented to a broad group of stakeholders;

6. Relevant experience and expertise requirements

- Senior expert at least 10 years and experts at least 5 years of relevant working experience in climate change mitigation, and experience in the renewable energy sector;
- Technical knowledge of climate change mitigation including CDM, existing standards, rules and guidelines as well as emerging schemes;
- Proven experience with financial modelling and rural electrification business models;
- Proven familiarity with post-2012 climate change mitigation regimes;
- Proven familiarity with the NAMA concept, in particular MRV and Finance;
- Experience in drafting NAMA studies/analysis/reports;
- Excellent understanding of rural renewable energy financing;
- Experience in working with a variety of stakeholders in Laos, including government agencies, NGOs, Civil Society, communities;
- Work experience in Laos , in particular in the identification of NAMA options and new climate change mitigation mechanisms an asset;
- Proven knowledge of the local conditions;
- Excellent command of the English language;

FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL³

(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery⁴)

[insert: Location].

[insert: Date]

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

Dear Sir/Madam:

We, the undersigned, hereby offer to render the following services to UNDP in conformity with the requirements defined in the RFP dated [specify date], and all of its attachments, as well as the provisions of the UNDP General Contract Terms and Conditions:

A. Qualifications of the Service Provider

The Service Provider must describe and explain how and why they are the best entity that can deliver the requirements of UNDP by indicating the following:

- a) *Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations;*
- b) *Latest Audited Financial Statement – income statement and balance sheet to indicate its financial stability, liquidity, credit standing, and market reputation, etc. ;*
- c) *Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contract references;*
- d) *Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.*
- e) *Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List.*

B. Proposed Methodology for the Completion of Services

The Service Provider must describe how it will address/deliver the demands of the RFP; providing a detailed description of the essential performance characteristics, reporting conditions and quality assurance mechanisms that will be put in place, while demonstrating that the proposed methodology will be appropriate to the local conditions and context of the work.

C. Qualifications of Key Personnel

³ This serves as a guide to the Service Provider in preparing the Proposal.

⁴ Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

The Service Provider must provide:

- a) Names and qualifications of the key personnel that will perform the services indicating who is Team Leader, who are supporting, etc.;
- b) CVs demonstrating qualifications must be submitted as required by the RFP; and
- c) Written confirmation from each personnel that they are available for the entire duration of the contract.

D. Cost Breakdown per Deliverable

	Deliverables	Percentage of Total Price (Weight for payment)	Price (Lump Sum, All Inclusive)
1	Completed first mission to Host Country	20%	
2	Draft NAMA submitted to UNDP	40%	
3	Completed second mission to Host Country	20%	
4	Final NAMA submitted to UNDP and presented to stakeholders (during the 3 rd and final mission)	20%	
	Total	100%	

**This shall be the basis of the payment tranches*

E. Cost Breakdown by Cost Component [This is only an Example]:

Description of Activity	Quantity	Unit Price	Total Rate
I. Personnel Services	(Man days proposed) ⁵	USD/Consulting Day	
1. Services from Home Office			
a. Senior Expert (At least 10 years)			
b. Junior Expert (At least 5 years)			
c. Additional team members, if any			
Subtotal for Personnel services			
II. Operational Expenses			
1. Travel Costs			
2. Daily Allowance			
3. Communications			
4. Reproduction			
5. Others			
Subtotal for operational expenses			
III. Other Related Costs			
Subtotal for other costs			
TOTAL LUMP SUM			

Note: Proposer to submit pricing table (as above).

*[Name and Signature of the Service Provider's
Authorized Person]
[Designation]
[Date]*

⁵ It is roughly estimated that 120 man days is needed to complete the project. However, this may be increased or decreased. Proposer should offer pricing based on their best estimate of man days required to ensure sufficient resources to successfully complete each project.

General Terms and Conditions 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:

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

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 (a) 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.