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REQUEST FOR QUOTATION (RFQ)

To: Interested Bidders	DATE: 26 January 2016
	REFERENCE: RFQ/UNDP/OPS/004/2016 – Provision of Long Term Agreement for Rental Car Service (<u>Nationwide</u>)

Dear Sir / Madam:

We kindly request you to submit your quotation for the **Provision of Long Term Agreement for Rental Car Service (Nationwide)**, as detailed in Annex 1 of this RFQ. When preparing your quotation, please be guided by the form attached hereto as Annex 2.

Quotations may be submitted on or before **Wednesday, February 10, 2016 by 14.00 (Jakarta Local Time)** and via ☒e-mail or ☒courier mail to the address below:

United Nations Development Programme - UNDP
Menara Thamrin Building, 8th Floor
Kav. 3, Jl. M.H. Thamrin
Jakarta 10250, Indonesia
Ph: 021-2980 2300
Attn: Rani Rahmania
cc. Yusef Millah – Procurement Unit

Ref : RFQ/UNDP/OPS/004/2016 – Provision of Long Term Agreement for Rental Car Service (Nationwide)

E-mail : bids.id@undp.org

Quotations submitted by email must be limited to a maximum of 4MB, virus-free and no more than four (4) email transmissions. They must be free from any form of virus or corrupted contents, or the quotations shall be rejected.

It shall remain your responsibility to ensure that your quotation will reach the address above on or before the deadline. Quotations that are received by UNDP after the deadline indicated above, for whatever reason, shall not be considered for evaluation. If you are submitting your quotation by email, kindly ensure that they are signed and in the .pdf format, and free from any virus or corrupted files.

Delivery Terms [INCOTERMS 2010] <i>(Pls. link this to price schedule)</i>	<input type="checkbox"/> FCA <input type="checkbox"/> CPT <input type="checkbox"/> CIP <input type="checkbox"/> DAP <input checked="" type="checkbox"/> Other DDP	
Customs clearance ¹ , if needed, shall be done by:	<input type="checkbox"/> UNDP <input checked="" type="checkbox"/> Supplier/Offeror <input type="checkbox"/> Forwarder	
Exact Address/es of Delivery Location/s (identify all, if multiple)	10 (ten) Provinces	
UNDP Preferred Freight Forwarder, if any ²	N/A	
Distribution of shipping documents <i>(if using freight forwarder)</i>	N/A	
Latest Expected Delivery Date and Time <i>(if delivery time exceeds this, quote may be rejected by UNDP)</i>	<input checked="" type="checkbox"/> Please refer to Annex 1 <input checked="" type="checkbox"/> As per Delivery Schedule attached <i>[if delivery will be staggered]</i> Time: Daily Rental Basis: For Urgent Request – maximum within 4 hours upon receipt of written confirmation/PO and on normal basis maximum 1 (one) day upon receipt of PO. Monthly Rental Basis: 1 (one) week upon signing contract by both parties. Both with assumption that the location of vehicle within the same province Time Zone of Reference : Nationwide	
Delivery Schedule	<input type="checkbox"/> Required <input type="checkbox"/> Not Required	
Packing Requirements	N/A	
Mode of Transport	<input type="checkbox"/> AIR <input type="checkbox"/> SEA	<input checked="" type="checkbox"/> LAND <input type="checkbox"/> OTHER
Preferred Currency of Quotation ³	<input type="checkbox"/> United States Dollars <input type="checkbox"/> Euro <input checked="" type="checkbox"/> Local Currency : IDR	
Value Added Tax on Price Quotation ⁴	<input type="checkbox"/> Must be inclusive of VAT and other applicable indirect taxes <input checked="" type="checkbox"/> Must be exclusive of VAT and other applicable indirect taxes	

After-sales services required	<input type="checkbox"/> Warranty on Parts and Labor for minimum period of 1 years <input checked="" type="checkbox"/> Technical Support <input type="checkbox"/> Provision of Service Unit when pulled out for maintenance/ repair <input checked="" type="checkbox"/> Others full support as required in Annex I of this tender document
Deadline for the Submission of Quotation	COB Wednesday, February 10, 2016 14.00 - Jakarta Local Time
All documentations, including catalogs, instructions and operating manuals, shall be in this language	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Spanish <input type="checkbox"/> Others
Documents to be submitted ⁵	<input checked="" type="checkbox"/> Duly Accomplished Form as provided in Annex 2, and in accordance with the list of requirements in Annex 1; <input type="checkbox"/> A statement whether any import or export licenses are required in respect of the goods to be purchased including any restrictions on the country of origin, use/dual use nature of goods or services, including and disposition to end users; <input checked="" type="checkbox"/> Confirmation that licenses of this nature have been obtained in the past and an expectation of obtaining all the necessary licenses should the quotation be selected; <input checked="" type="checkbox"/> Quality Certificates (ISO, etc.); <input checked="" type="checkbox"/> Latest Business Registration Certificate ; <input type="checkbox"/> Latest Internal Revenue Certificate / Tax Clearance; <input type="checkbox"/> Manufacturer's Authorization of the Company as a Sales Agent (if Supplier is not the manufacturer); <input type="checkbox"/> Certificate of Exclusive Distributorship in the country (if applicable, and if Supplier is not the manufacturer); <input type="checkbox"/> Evidence/Certification of Environmental Sustainability ("Green" Standards) of the Company or the Product being supplied ; <input type="checkbox"/> Complete documentation, information and declaration of any goods classified or may be classified as "Dangerous Goods". <input type="checkbox"/> Patent Registration Certificates (if any of technologies submitted in the quotation is patented by the Supplier); <input type="checkbox"/> Written Self-Declaration of not being included in the UN Security Council 1267/1989 list, UN Procurement Division List or other UN Ineligibility List; <input type="checkbox"/> Others
Period of Validity of Quotes starting the Submission Date	<input type="checkbox"/> 60 days <input checked="" type="checkbox"/> 90 days <input type="checkbox"/> 120 days <p>In exceptional circumstances, UNDP may request the Vendor to extend the validity of the Quotation beyond what has been initially indicated in this RFQ. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Quotation.</p>

Partial Quotes	<input type="checkbox"/> Not permitted <input checked="" type="checkbox"/> Permitted: bidder(s) may choose to quote more than one province
Payment Terms	<input checked="" type="checkbox"/> 100% upon complete delivery of service and upon submission of original invoice (for daily and monthly basis) <input type="checkbox"/> Others
Liquidated Damages	N/A
Evaluation Criteria <i>[check as many as applicable]</i>	<input checked="" type="checkbox"/> Technical responsiveness/Full compliance to requirements and lowest price <input checked="" type="checkbox"/> Comprehensiveness of after-sales services <input checked="" type="checkbox"/> Full acceptance of the PO/Contract General Terms and Conditions <input type="checkbox"/> Earliest Delivery / Shortest Lead Time <input checked="" type="checkbox"/> Others Please See Annex 1
UNDP will award to:	<input type="checkbox"/> One and only one supplier <input checked="" type="checkbox"/> One or more Supplier, depending on the following factors: The selection will be based on criteria specify in Annex 1 and who provides information on the availability of branch(es) in each provinces
Type of Contract to be Signed	<input type="checkbox"/> Purchase Order <input checked="" type="checkbox"/> Long-Term Agreement (Purchase Order will be issued for daily basis rental service and a Profession Service / Institutional Contract will be issued for monthly rental service) <input type="checkbox"/> Other Type/s of Contract
Special conditions of Contract	<input checked="" type="checkbox"/> Cancellation of PO/Contract if the delivery/completion is delayed beyond the agreed date <input checked="" type="checkbox"/> Others: The issued PO will be cancelled if the selected contractor does not meet the minimum requirement of this RFQ and agreed design
Conditions for Release of Payment	<input type="checkbox"/> Passing Inspection <input type="checkbox"/> Complete Installation <input type="checkbox"/> Passing all Testing <input type="checkbox"/> Completion of Training on Operation and Maintenance <input checked="" type="checkbox"/> Written Acceptance of Service (signed Vehicle and Driver Log) <input checked="" type="checkbox"/> Others (upon receipt of Original Invoice) Payment Method: Monthly Rental Basis: Payment will be made upon receipt of Original Invoice, receipt of Services/Written acceptance of Service and Driver Log, at the end of every months Daily Rental Basis: Payment will be made upon receipt of Original Invoice, receipt of Services/Written acceptance of Service and Driver Log, at the end of Completion of Services (PO based).

Annexes to this RFQ	<input checked="" type="checkbox"/> Specifications and Criteria of the Required Service (Annex 1) <input checked="" type="checkbox"/> Form for Submission of Quotation (Annex 2) <input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 3) <input checked="" type="checkbox"/> Others: Sample of Long Term Agreement (Annex 4) Non-acceptance of the terms of the General Terms and Conditions (GTC) shall be grounds for disqualification from this procurement process.
Contact Person for Inquiries (Written inquiries only) ⁶	Rani Rahmania (rani.rahmania@undp.org) & Yusef Millah (yusef.millah@undp.org) 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.

Service offered shall be reviewed based on completeness and compliance of the quotation with the minimum specifications described above and any other annexes providing details of UNDP requirements.

The quotation that complies with all of the specifications, requirements and offers the lowest price, as well as all other evaluation criteria indicated, shall be selected. Any offer that does not meet the requirements shall be rejected.

Any discrepancy between the unit price and the total price (obtained by multiplying the unit price and quantity) shall be re-computed by UNDP. The unit price shall prevail and the total price shall be corrected. If the supplier does not accept the final price based on UNDP's re-computation and correction of errors, its quotation will be rejected.

After UNDP has identified the lowest price offer, UNDP reserves the right to award the contract based only on the prices of the service in the event that the transportation cost (freight and insurance) is found to be higher than UNDP's own estimated cost if sourced from its own freight forwarder and insurance provider.

At any time during the validity of the quotation, 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 quotation. 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 Purchase Order that will be issued as a result of this RFQ shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a quotation implies that the vendor accepts without question the General Terms and Conditions of UNDP herein attached as Annex 3.

UNDP is not bound to accept any quotation, nor award a contract/Purchase Order, nor be responsible for any costs associated with a Supplier's preparation and submission of a quotation, regardless of the outcome or the manner of conducting the selection process.

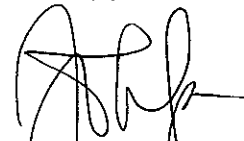
Please be advised that UNDP's vendor protest procedure is intended to afford an opportunity to appeal for persons or firms not awarded a purchase order or contract in a competitive procurement process. In the event that you believe you have not been fairly treated, you can find detailed information about vendor protest procedures in the following link: <http://www.undp.org/procurement/protest.shtml>.

UNDP encourages every prospective Vendor to avoid and prevent 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, specifications, cost estimates, and other information used in this RFQ.

UNDP implements a zero tolerance on fraud and other proscribed practices, and is committed to identifying and addressing all such acts and practices against UNDP, as well as third parties involved in UNDP activities. UNDP expects its suppliers 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 quotation.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Benjamin John', with a stylized flourish extending to the right.

Benjamin John
Procurement Specialist
January 26, 2016

Annex 1
Technical Specifications and Selection Criteria
RFQ/UNDP/OPS/004/2016
Provision of Long Term Agreement for Rental Car Service – Nationwide

1. The purpose of present bidding is to conclude Long Term Agreements (LTAs) for the period of three (3) years for the provision of Rental Car Service – Nationwide, covering the years 2016 – 2019 with qualified vendor(s). The successful bidders will be contracted initially for one year and the contract will be renewable thereafter, subject to satisfactory contract performance. The estimate value of service for three years would be around USD 145,000. However, UNDP does not guarantee that it will place orders for this amount and is not bound by the LTA(s). UNDP also reserve the right to utilize other sources at its discretion to assure value for money. Once the LTA(s) is established, each order will be placed through Purchase Order for daily basis and a Professional Service Contract/Institutional for monthly basis
2. Contracts awards will be made on a Lot by Lot basis. A bidder can submit its bid one or more Lots, Partial Lots will be rejected.
3. The Selection Criteria are as follow:

No	Criteria
1	Firm must have successfully and continuously been engaged in providing transportation services to commercial/ business facilities over the last three (3) years.
2	Provide licenses, permits, certifications and related paperwork to operate as a transportation service firm in accordance with all applicable laws, rules and regulations of the jurisdiction wherein it is providing services.
3	Firm to provide vehicle at the latest two years of manufacture upon receipt of Purchase Order (daily basis) and signing of a contract (monthly basis)
4	Mechanism for backup plan in case of sick leave or the rented car broke down during the period of service
5	Describe the pre-employment screening process your company will follow before assigning personnel to support the requirements and availability of training
6	Describe how your company trains its employees to ensure high quality driving services required under this solicitation and any other training related to road safety policy.
7	Describe the medical clearance process (e.g. annual physical checkup) your company follows to ensure that all drivers can perform their duties without any risk to the purchaser's employees.
8	Explain qualifications of your drivers in terms of working experience and their ability to understand English.
9	Call Center for complaint management and 24 hours requests
10	The selected company has to agree to pay Driver salary on time and in the manner required as below: For Monthly Rental Basis: first week of the following month For Daily Rental Basis: maximum 3 (three) days after service is rendered

4. Minimum Requirement will be as follow:

Item	Description
1.	<p>Type of Vehicles:</p> <p>A. Rental of a Two Wheel Drive Vehicle (Toyota Innova Type G or its equivalent) with driver (exclusive gasoline, fuel will be reimbursed based on actual usage & actual market price). <u>Specification for vehicle (minimum):</u> Vehicle Manufacture maximum two years at signing of contract or issuance of Purchase Order or above, Family Wagon (MPV), seven (7) sitters (excluding driver), Double Blower AC, Radio Tape, and equipped with necessary safety equipment (<u>fire extinguisher, seat-belt, spare tire, mechanical jack, basic hand tools, flash lights, safety triangle and car first aid kit</u>).</p> <p>B. Rental of a Two Wheel Drive Vehicle (Toyota Avanza Type G or its equivalent) with driver (exclusive gasoline, fuel will be reimbursed based on actual usage & actual market price). <u>Specification for vehicle (minimum):</u> Vehicle Manufacture maximum two years at signing of contract or issuance of Purchase Order or above, Family Wagon (MPV), five (5) sitters (excluding driver), Double Blower AC, Radio Tape, and equipped with necessary safety equipment (<u>fire extinguisher, seat-belt, spare tire, mechanical jack, basic hand tools, flash lights, safety triangle and car first aid kit</u>).</p> <p>2. <u>Requirement for Driver (minimum):</u> has a valid driving license with clean record, has minimum 3 years experiences as a driver, has ability to understand English, properly trained in the operation and maintenance of the vehicles, posses excellent knowledge of local roads in Jakarta city, possess good knowledge and capability in vehicle safety driving, and possess good manners and interpersonal skills including (<u>one month probation will be applied as the basis to determine the driver's contract continuation. In the case of unsatisfactory performance, selected vendor has to provide a new replacement</u>). The Salary for driver should include Jamsostek, Lebaran Allowance/THR, Health Insurance and monthly motor parking fee for drivers (if any).</p> <p>3. Working Days and Hours for driver on monthly basis: Monday – Friday and 8.00 AM – 5.00 PM. The 10 working hours shall be adjusted within the day, as per requirements of UNDP. Working outside the working hours as well as during Indonesian Government's official holidays shall be considered as overtime for the Driver. <u>During the weekends, holidays, and after office hours, the vehicle will be put in standby in vendor's rental pool.</u></p> <p>4. When Driver is required to stay overnight outside of Duty Station, both Drivers for daily and monthly basis will receive Travel Allowance based on the agreed rate proposed by the selected Vendor. UNDP will process the payment upon receive of invoice and appropriate substantiating documentation.</p> <p>5. All vehicles should be Covered by "All Risk" vehicle insurance inclusive passenger and third parties.</p> <p>6. Registered with a reputable towing services firm with 24-hour on-call and on-the-road assistance.</p> <p>7. Availability of replacement within maximum 4 hours if vehicle is out of order or driver is absence for monthly basis rental car and maximum 1 hour for daily basis.</p> <p>8. Officially registered for operation during the period of the Contract with registration documentation in the vehicle and registration/number plates affixed to the vehicle as required by law (e.g. STNK).</p> <p>9. Contract Duration: Initially 12 Months with possibility of extension for up to three years and the extension will be upon satisfactory performance and depend on the availability of budget</p>

Additional Information for monthly basis rental service:

Details of staff movement on a monthly basis – in the city:

1. Supporting project staffs in organizing and attending the event (meeting, workshop and training)
2. Purchasing of office supplies
3. Banking activities
4. Payment of regular bills
5. Delivery of documents
6. Other duties required for project and country purpose

Annex 2

FORM FOR SUBMITTING SUPPLIER'S QUOTATION

RFQ/UNDP/OPS/004/2016

Provision of Long Term Agreement for Rental Car Service - Nationwide

(This Form must be submitted only using the Supplier's Official Letterhead/Stationery)

We, the undersigned, hereby accept in full the UNDP General Terms and Conditions, and hereby offer to supply the items listed below in conformity with the specification and requirements of UNDP as per RFQ Reference No. **RFQ/UNDP/OPS/004/2016**

TABLE 1 : Offer to Supply Service Compliant with Technical Specifications and Requirements

1. The Price Schedule must provide a detailed cost breakdown for each item, and the Price should be **DUTY FREE** (exclusive any taxes).
2. Specifications for each proposed item must provide sufficient detail to allow the UNDP to determine compliance of Bid with specifications/ requirements as per Attachment II (Specifications/ Requirements) of this RFQ
3. Price Schedules not submitted in this format may be rejected.

No.	Description/Location	Availability (please choose YES or NO)*	If Yes, please provide the address	Kijang Innova Type G or Equivalent		Avanza Type G or equivalent		Overtime rate per hour beyond 10 hours/day (IDR)	Travel Allowance outside duty station/province (more than 12 hours drive in one day)(IDR)	REMARKS
				Unit Price for Monthly inclusive Driver (IDR)	Unit Price for Daily Inclusive Driver (IDR)	Unit Price for Monthly inclusive Driver (IDR)	Unit Price for Daily Inclusive Driver (IDR)			
1	Aceh									
2	Sumatera Utara									

[illegible]

***) Inclusive affiliates**

TABLE 2: Estimated Operating Costs (if applicable)

List of Consumable Item/s (Include fast moving parts, if any)	Estimated Average Consumption	Unit of Measure	Unit Price	Total Price per Item

TABLE 3: Offer to Comply with Other Conditions and Related Requirements

Other Information pertaining to our Quotation are as follows :	Your Responses		
	Yes, we will comply	No, we cannot comply	If you cannot comply, pls. indicate counter proposal
Delivery Time : Daily Rental Basis: For Urgent Request – maximum within 4 hours upon receipt of written confirmation/PO and on normal basis maximum 1 (one) day upon receipt of PO. Monthly Rental Basis: 1 (one) week upon signing contract by both parties. Both with assumption that the location of vehicle within the same province Time Zone of Reference : Nationwide			
Validity of Quotation for 90 days			
All Provisions of the UNDP General Terms and Conditions (Annex 3)			
Compliance to the Conditions of both Service and Maintenance as per Annex 1			
Agree to pay Driver salary on time and in the manner required as below: For Monthly Rental Basis: first week of the following month For Daily Rental Basis: maximum 3 (three) days after service is rendered			
Other requirements (<i>please specify</i>)	Please provide the contact person, address, phone and email address in each provinces		

All other information that we have not provided automatically implies our full compliance with the requirements, terms and conditions of the RFQ.

[Name and Signature of the Supplier's Authorized Person]
[Designation]
[Date]

Annex 3

General Terms and Conditions

GENERAL CONDITIONS OF CONTRACT FOR SERVICES

1. 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. 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. 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. 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. 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. 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. 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. 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 its 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 UNDP with satisfactory evidence of the insurance required under this Article.

9. 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 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. 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. 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 preexisted 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. 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 the United Nations in connection with its business or otherwise.

13. 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. 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. 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. 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. 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. 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 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 UNDP before the payment thereof and 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 UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19. 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. 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. 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. 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. 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.

Annex 4

Sample of Long Term Agreement

Ref:.....

The United Nations Development Programme is entering into this Long Term Agreement on behalf of all United Nations Agencies, Programmes and Funds in Indonesia as listed in Annex 3. Each individual United Nations Agency, Programme or Fund utilizing the entitlements under this Long Term Agreement shall be individually and solely responsible for any costs, benefits or liabilities that accrue through their utilization of said entitlements.

This Long Term Agreement is made between the United Nations Development Programme, a subsidiary organ of the United Nations, having its Country Office at UNDP, Menara Thamrin 8th Floor, Jl. M.H. Thamrin Kav 3, Jakarta 10250 Indonesia (hereinafter called "UNDP") on behalf of UN Agencies in Indonesia and (hereinafter called "the Contractor") with its office at

WHEREAS, UNDP acting on behalf of UN Agencies in Indonesia, desires to enter into a Long Term Agreement for the provision of hotel services by the Contractor to UNDP, pursuant to which the UNDP Indonesia Country Office and other UN Agencies can conclude specific contractual arrangements with the Contractor, as provided herein;

WHEREAS pursuant to the Solicitation for Quotation "....." the offer of the Contractor was accepted;

NOW, THEREFORE, UNDP and the Contractor (hereinafter jointly the "Parties) hereby agree as follows:

Article 1: SCOPE OF WORK

1. The Contractor shall provide the types of services and deliverables, which are listed in Annex 1 hereto ("*SERVICES*"), as and when requested by the UNDP Indonesia Country Office or other UN Agencies and reflected in a Purchase Order or relevant contractual instrument of a respective UN Agency.
2. Such Services shall be at the discount prices listed in Annex 1. UNDP shall, at 6 monthly intervals, or such other interval as UNDP shall decide, solicit the Contractor for an updated list of prices for services. While the prices may change, the percentage rate of discount for UNDP Indonesia Country Office or other UN Agencies shall remain the same for the length of this Agreement.
3. UNDP does not warrant that any quantity of Services will be purchased during the term of this Agreement, which shall be in force for three years from the Entry into Force of this Agreement.

Article 2: CHANGES IN CONDITION

4. In the event of any advantageous changes and/or downward pricing of the Services during the duration of this Agreement, the Contractor shall notify UNDP immediately. UNDP shall consider the impact of any such event and may request an amendment to the Agreement.

Article 3: CONTRACTOR'S REPORTING

5. The Contractor is expected to report semi-annually to UNDP on the Services provided to UNDP.

Article 4: GENERAL AND SPECIAL TERMS AND CONDITIONS

6. The standard UNDP General Conditions for Professional Services, attached as Annex 2, shall apply to this Agreement and any subsequent Purchase Orders/Contract concluded in accordance with paragraph 1 above

Article 5: ACCEPTANCE

7. This Agreement supersedes all prior oral or written agreements, if any, between the Parties and constitutes the entire agreement between the parties with respect to the provision of the Services hereunder.
8. This Agreement shall enter into force on the date of the last signature by the representatives of the Parties and shall remain in force for a period of three years.

IN WITNESS WHEREOF, the duly authorized representatives of the PARTIES have signed this agreement.

For and on behalf of:

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UNITED NATIONS
DEVELOPMENT PROGRAMME
ON BEHALF OF UN AGENCIES
IN INDONESIA

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Date:

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Date: