



**REQUEST FOR QUOTATION (RFQ)
(from companies in Viet Nam)**

Maintenance of the Chillers in the Green One UN House (GOUNH) 304 Kim Ma, Ha Noi	DATE: June 17, 2016
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Dear Sir / Madam:

We kindly request you to submit your quotation for **Maintenance of the Chillers in the Green One UN House (GOUNH)**, 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 **June 26, 2016** to the address below:

**United Nations Development Programme
304 Kim Ma Street, Hanoi
Ms. Huynh Huong Thanh, Procurement Assistant
Tel: 04-38500185; Email: huynh.huong.thanh@undp.org**

Quotations submitted by email must be limited to a **maximum of 07 MB per email**, virus-free and no more than 05 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.

Please take note of the following requirements and conditions pertaining to the supply of the abovementioned goods:

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 type="checkbox"/> Other N/A
Exact Address of Delivery Location (identify all, if multiple)	304 Kim Ma, Ba Dinh, Ha Noi

UNDP Preferred Freight Forwarder, if any	N/A
Distribution of shipping documents <i>(if using freight forwarder)</i>	N/A
Delivery Schedule	<input checked="" type="checkbox"/> Required as indicated in the TOR
Preferred Currency of Quotation	<input checked="" type="checkbox"/> Local Currency (Vietnam Dong) For the purposes of comparison of all Proposals: UNDP will convert the currency quoted in the Proposal into the UNDP preferred currency, in accordance with the prevailing UN operational rate of exchange on the proposal submission deadline.
Value Added Tax on Price Quotation	<input checked="" type="checkbox"/> Must be inclusive of VAT and other applicable indirect taxes <input type="checkbox"/> Must be exclusive of VAT and other applicable indirect taxes
After-sales services required	<input checked="" type="checkbox"/> Technical Support as required in the TOR <input checked="" type="checkbox"/> Provision of Service Unit when pulled out for maintenance/ repair as required in the TOR
Deadline for the Submission of Quotation	Sunday, June 26, 2016 Hanoi time
All documentations, including catalogs, instructions and operating manuals, shall be in this language	<input checked="" type="checkbox"/> English
Documents to be submitted	<p><u>Documents to be submitted:</u></p> <ol style="list-style-type: none"> 1. Certification of authorized dealership or partnership from TRANE for providing the requested services. This requirement is not applicable for service company of TRANE. 2. List of Chillers maintained by the Bidders (Form 1) 3. List of the Proposed Team for the assignment including the following information (Form 2): <ol style="list-style-type: none"> a. Title/Designation of each team member on the project b. Educational qualifications and professional experiences including training from TRANE c. Past experience in working on similar project and assignment – List all similar projects they worked on and their roles on those project in the past 5 years. <p>And copy of the training certifications from TRANE of proposed Team members</p> 4. Detailed Maintenance plan (including data backup) and 24h emergency call services 5. List of Chillers spare parts /Chiller accessories keeping in vendor's stock and committed deliver time for spare parts and accessories.

Period of Validity of Quotes starting the Submission Date	<input checked="" type="checkbox"/> 90 days 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.
Partial Quotes	<input checked="" type="checkbox"/> Not permitted <input type="checkbox"/> Permitted <i>[pls. provide conditions for partial quotes, and ensure that requirements are properly listed to allow partial quotes (e.g., in lots, etc.)]</i>
Evaluation Criteria for awarding contract	<ul style="list-style-type: none"> • Achieving 70% of technical scores • Having highest combined technical and financial scores • Full acceptance of the PO/Contract General Terms and Conditions <i>[this is a mandatory criteria and cannot be deleted regardless of the nature of services required]</i>
UNDP will award to:	<input checked="" type="checkbox"/> One and only one supplier
Type of Contract to be Signed	<input checked="" type="checkbox"/> Long Term Agreement
Conditions for Release of Payment	See payment terms in the TOR
Annexes to this RFQ	<input checked="" type="checkbox"/> Terms of Reference (in English and Vietnamese) (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 type="checkbox"/> Others <i>[pls. specify, if any]</i> 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) ¹	Ms. Huynh Huong Thanh Procurement Assistant Tel: 38 500 185 Email: huynh.huong.thanh@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.
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Goods 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 other evaluation criteria indicated above, 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 selected offer, UNDP reserves the right to award the contract based only on the prices of the goods 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

¹ This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was received.

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,

Tran Thi Hong
Head, Procurement Unit
June 17, 2016

Terms of Reference (TOR)
Maintenance of the Chillers
in the Green One UN House (UN)

1. Background Information

UN has 2 Trane chillers model RTAC 200 that provide chilled water for the AC system in the main building of UN with total office area of 7400 sqm. This AC system is to ensure that staff members are working in an environment, which has the comfort that spurs high performance and concentration at work at all times.

In order for the Chillers to be in a good working condition at all times, there is need to have them maintained and repaired regularly and according to manufacturer's specifications. This, therefore, requires the engagement of a competent chiller maintenance service provider who will, in a timely fashion, provide maintenance services for the 2 chillers and attend to faults from time to time.

2. Scope of works

Provide comprehensive preventive and predictive maintenance services, remedial repair services and equipment inspections ensuring Chillers, components and systems operate as intended and in compliance with manufacturer's recommendations and industry's best practices.

The Maintenance Requirements are listed in Annex A-1

3. Responsibilities for provision of resource and materials

a. To be provided by the UN

- Changing rooms, facilities suitable for storage of equipment and supplies required to operate the contract.

b. To be provided by the Contractor

- Full time staff, service specific staff, ad-hoc staff, specialized skills and expertise;
- All tools and instruments required to provide the services in accordance with the proposal;
- All equipment, chemicals, supplies and consumables required for cleaning.
- Staff uniforms and personal safety equipment.

4. Qualification requirements

Companies intending to submit a bid should have the organizational and technical capacity, experience and professionalism to provide the Services Requirements. Bidders should be able to

1. Be Service Company of TRANE /Be authorized Partner of TRANE for Service of TRANE Chiller
2. Show proof of past and/or present experience in similar projects,
3. Have technicians trained by TRANE about Chiller Service
4. Demonstrate an understanding of the UN's requirements and come up with an appropriate work plan and overall approach on how to meet these requirements.
5. Have spare parts/accessories for TRANE Chiller in stock

5. Methodology

Bidders shall propose a viable approach to the assignment. The following suggested methodologies could be adopted:

- Conduct a thorough and detailed review of on-site provision
- Get all necessary data about the Chillers in UN and the working conditions
- Prepare preventive maintenance and Breakdown/Call Back plan
- Submit preventive maintenance and Breakdown/Call Back service plan and financial proposal which should cover labour and all other cost for maintenance service and labour for Breakdown/Call Back service.

6. Content of technical proposal

Bidders shall submit following to UNDP for technical evaluation:

1. Certification of authorized dealership or partnership from TRANE for providing the requested services. This requirement is not applicable for service company of Trane.
2. List of Chillers maintained by the Bidders (Form 1)
3. List of the Proposed Team for the assignment including the following information (Form 2):
 - a. Title/Designation of each team member on the project
 - b. Educational qualifications and professional experiences including training from TRANE
 - c. Past experience in working on similar project and assignment – List all similar projects they worked on and their roles on those project in the past 5 years.

And copy of the training certifications from Trane of proposed Team members

4. Detailed Maintenance plan and 24h emergency call services
5. List of Chillers spare parts /Chiller accessories keeping in vendor's stock and committed deliver time for spare parts and accessories.

Form 1: List of customer and number of Chillers maintained by the Bidders

No.	Customer Name	No. of Trane Chillers being maintained by the Bidder	Time period
1	Building A	3	from to
2	Hotel B	2	from to
3	Factory C	5	from to

	Total	...	

Form 2: List of the Proposed Team for the assignment

No.	Name of Maintenance team member	Title/role for this project	Educational Qualifications	Similar projects worked on and the roles on those project
1				
2				
3				

7. Duration of the work and contract implementation time and Duty Station

Duration & timing: 5 years starting from the date of the 1st contract (expected to be 01-Jul-2016)

Duty station: 304 Kim Ma Street, Hanoi

8. Payment Terms

The lump-sum will be paid quarterly upon certification that the required deliverables, services have been met in full compliance with the UN requirement and acceptance of quarterly service reports by UN

9. Annexes to the TOR

Annex A-1: List of Equipment and Maintenance Requirements

Annex A-2: Evaluation Criteria

Annex A-1: List of Equipment and Maintenance Requirements

1. Inventory List of Equipment:

2 Trane chillers model RTAC 200

2. Maintenance Requirements:

2.1. Maintenance works

Quarterly maintenance works

- Check the general operation of the unit
- Complete operating log of temperatures, pressures, voltages, currents, and all other operating parameters.
- Check operation of lubrication system. Record operating oil temperature and pressure.
- Check the operation of motor and starter.
- Check the operation of control circuit. Adjust operating and safety controls. Record settings.
- Review customer log with operator, discuss operation of unit generally.
- Listen for abnormal noise or vibration.
- Report to operator any uncorrected deficiencies noted in the written report.
- Perform diagnostic analysis of microprocessor
- Log unit for a minimum period of one hour
- Inspect for leaks and report leak check result.
- Repair minor leaks as required (e.g. valve packing, flare nuts).
- Calculate the refrigerant loss rate and report the results to the customer.
- Verify the performance of the fan control inverter VFD, if applicable.
- Grease bearings as required
- Check operation of interlocks and flow switches.
- Check water pressure drop through evaporator.
- Verify the operation of the oil heaters.
- Inspect the control panel for cleanliness
- Inspect wiring and connections for tightness and signs of overheating and discoloration
- Verify the working condition of all indicator/alarm lights and LED/LCD displays
- Test the operation of the chilled water pump starter auxiliary contacts
- Clean the starter cabinet and starter components.
- Inspect wiring and connections for tightness and signs of overheating and discoloration.
- Check the condition of the contacts for wear and pitting.
- Check contactors for free and smooth operation.
- Check all mechanical linkages for wear, security and clearances
- Verify the operation of the electrical interlocks
- Measure voltage and record. Voltage should be nominal voltage $\pm 10\%$.
- Four times per year clean the condenser coil, once using chemicals and third using high pressure water spray as appropriate.

Annually maintenance works

- Check the general operation of the unit

- Complete operating log of temperatures, pressures, voltages, currents, and all other operating parameters.
- Check operation of lubrication system. Record operating oil temperature and pressure.
- Check the operation of motor and starter.
- Check the operation of control circuit. Adjust operating and safety controls. Record settings.
- Review customer log with operator, discuss operation of unit generally.
- Listen for abnormal noise or vibration.
- Report to operator any uncorrected deficiencies noted in the written report.
- Perform diagnostic analysis of microprocessor
- Log unit for a minimum period of one hour
- Check the condenser fans for clearances and free operation.
- Check tightness of condenser fan motor mounting brackets
- Check the set screws on the fan shafts.
- Visually inspect the condenser coil for cleanliness.
- Check oil level in the oil sump.
- Pull oil sample for spectroscopic analysis. Check oil for acid content and discoloration, make recommendations to the customer based on the results of the test.
- Check the operation of the low water temperature safety device. Record setting
- Check the operation of the low evaporator pressure safety device(s). Record setting.
- Test the operation of flow switch for chilled water interlock.
- Verify tightness of the motor terminal connections
- Meg the motor and record readings

2.2. Breakdown / Call Back Services

The Contractor shall provide 24 hour per day Breakdown Inspection Service, Call – Back Services at any required time other than the Scheduled Regular Servicing of the Chiller for

- Trouble – shooting, inspection, discussions / meetings with the Owner on issues relating to the Chiller.
- Rectified any breakdown of operation of the Chiller.

The response time to be proposed by bidder and shall be not longer than within 4 hours.

The Cost of spare parts and materials for additional works other than routine maintenance and repairs specifically requested by UN shall be charged outside this contract and the contractor shall submit a quotation and be issued with a Job Order/Purchase order before commencing such work.

2.3. Testing

The Contractor shall examine and test periodically all machinery and equipment as required by the Authorities and the Owner and carry out the normal – load and load test on the Chiller and to ensure that the results of such test are given to the Owner upon Completion.

2.4. Reporting

The Contractor shall:

- a. Immediately inform and advise the Owner of the Condition of the Equipment and where applicable, what action is required to be taken, whether preventive, precautionary or remedial, in respect thereof.
- b. Submit to the Owner the Servicing sheet immediately after each Servicing not later than 2 days, including any breakdown or call – back servicing carried out outside the Scheduled Routine Servicing, which is to be verified thereupon signed by out duly appointed representative.
- c. Provide Comprehensive Quotation for the Owner’s Prior Approval immediately if any repairing or replacement works or parts are required. Repairs not included in this contract will not be undertaken without the written authority of the owner/ nominated representative, but in the event of urgency, you will do so upon authorization by the owner’s nominated representative only.
- d. The Contractor will guarantee the quality of the parts replaced or repaired 1 year from the date of the replacement or repairs.

2.5. Safety Measures

Contractor shall at all times observe and comply with all prevailing laws and regulations on safety, all rules and regulations relating to the Health and Safety, Fire Safety of the Building now and thereafter in force and shall bear all costs connected with the compliance of the same.

Annex A-2: Evaluation Criteria**Title: Chiller maintenance Services****Project: Green One UN House (UN)****Duty Station: Hanoi**

Evaluation form for technical proposals is the table below. The obtainable number of points specified for each evaluation criterion indicates the relative significance or weight of the item in the overall evaluation process.

Technical Proposal Evaluation	Points obtainable	Company / Other Entity				
		A	B	C	D	E
Mandatory Requirement: <ul style="list-style-type: none">- Be Service Company of TRANE /Be authorized partner of TRANE for providing service for TRANE Chillers- Vender's Technicians have training certification from TRANE	Yes/No					
Have the integrity and proven reliability to ensure good faith performance <ul style="list-style-type: none">- Number of TRANE Chillers maintained by the vender in the past and present- List of technicians trained by TRANE and copy of training certifications	250					
<ul style="list-style-type: none">- Maintenance plan and- 24h emergency call services meet the requirements.	650					
Maintain spare parts stock and committed deliver time for spare parts and accessories.	100					
	1000					

UNDP GENERAL CONDITIONS OF CONTRACT FOR SERVICES

1.0 LEGAL STATUS:

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

2.0 SOURCE OF INSTRUCTIONS:

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

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

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

4.0 ASSIGNMENT:

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

5.0 SUB-CONTRACTING:

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

6.0 OFFICIALS NOT TO BENEFIT:

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7.0 INDEMNIFICATION:

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

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

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

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

Contract.

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

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

8.4.1 Name UNDP as additional insured;

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

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

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

9.0 ENCUMBRANCES/LIENS:

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

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

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

11.1 Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

11.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

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

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

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

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

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:

Information and data that is considered proprietary by either Party, and that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract, and that is designated as confidential ("Information"), shall be held in confidence by that Party and shall be handled as follows:

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

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

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

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

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

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

13.2.2.1 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 even that interferes

or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

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

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

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

15.0 TERMINATION

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

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

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

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

16.0 SETTLEMENT OF DISPUTES

16.1 Amicable Settlement: The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

16.2 Arbitration: Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple

interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

17.0 PRIVILEGES AND IMMUNITIES:

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

18.0 TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

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

19.0 CHILD LABOUR

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

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

20.0 MINES:

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

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

21.0 OBSERVANCE OF THE LAW:

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

22.0 SEXUAL EXPLOITATION:

22.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and

agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

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

23.0 SECURITY:

23.1 The Contractor shall:

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

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

24.0 AUDITS AND INVESTIGATIONS:

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

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

25.0 ANTI-TERRORISM:

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

26.0 AUTHORITY TO MODIFY:

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