



## REQUEST FOR PROPOSAL (RFP)

All potential service providers	DATE: 14 February 2020
	REFERENCE: RFP/2020/002 - SCH

Dear Sir / Madam:

We kindly request you to submit your Proposal to conduct remuneration survey for Service Contract Holders of UNDP Mongolia.

Please be guided by the form attached hereto as Annex 2 (2a –for individuals; 2b – firms), in preparing your Proposal.

Proposals (in separate envelopes/submissions for technical and financial) may be submitted on or before **5 p.m. Friday, 28 February 2020** to the e-mail account:

[bids.mn@undp.org](mailto:bids.mn@undp.org)

ensuring that they are signed and in the pdf format, and free from any virus or corrupted files.

Your Proposal must be expressed in English, and valid for a minimum period of 90 days.

You are cordially invited to pre-bid conference that will be organized to provide information related to RFP and respond to clarifications/questions at **3 p.m., on Friday, 21 February 2020** at the Conference Room of the UN House. The objective of the meeting is to enable Service Providers to understand requirements and to prepare qualified and responsive proposals.

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

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

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

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

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

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a Proposal implies that the Service Provider accepts without question the General Terms and Conditions of UNDP, herein attached as Annex 3.

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

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

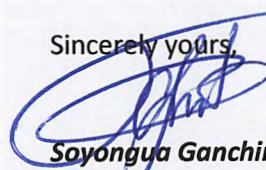
<http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/>

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

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

Thank you and we look forward to receiving your Proposal.

Sincerely yours,



**Soyongua Ganchimeg**

Assistant Resident Representative,  
Operations

## Description of Requirements

Context of the Requirement	To update the existing remuneration scale of Service Contract holders in accordance with the set standards and procedures in the <b><u>UNDP Handbook on Setting Remuneration for Service Contract Personnel.</u></b>
Implementing Partner of UNDP	n/a
Brief Description of the Required Services <sup>1</sup>	Survey See the ToR attached.
List and Description of Expected Outputs to be Delivered	Survey report that meets the requirements of the ToR
Person to Supervise the Work/Performance of the Service Provider	Human Resources Associate
Frequency of Reporting	<i>See Deliverables in ToR</i>
Reporting Requirements	1 <sup>st</sup> report - upon completion of the first week of the consultancy 2 <sup>nd</sup> report - upon completion of the second week of the consultancy Final report - upon completion of the third week of the consultancy
Location of work	<input checked="" type="checkbox"/> At Contractor's Location
Expected duration of work	3 weeks
Target start date	<b>March 2020</b>
Latest completion date	
Travels Expected	No field mission is expected
Special Security Requirements	n/a
Pre-bid conference	<b>3 p.m., on Friday, 21 February 2020</b>
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	None.
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required
Names and curriculum vitae of individuals who will be involved in completing the services	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required
Currency of Proposal	<input checked="" type="checkbox"/> Local Currency (MNT for local vendors) or USD
Value Added Tax on Price Proposal	<input checked="" type="checkbox"/> Must be inclusive of VAT and other applicable indirect taxes to be stated separately.

<sup>1</sup> A detailed TOR may be attached if the information listed in this Annex is not sufficient to fully describe the nature of the work and other details of the requirements.

Validity Period of Proposals ( <i>Counting for the last day of submission of quotes</i> )	<input checked="" type="checkbox"/> 90 days In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.																							
Partial Quotes	<input checked="" type="checkbox"/> Not permitted																							
Payment Terms	100% upon satisfactory completion of all services and full acceptance of the survey reports with all required supporting documents by UNDP.																							
Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	Assistant Resident Representative (Operations)																							
Type of Contract to be Signed	<input checked="" type="checkbox"/> Individual contract – for individual free-lance consultants <input checked="" type="checkbox"/> Institutional Contract – for legal entity (e.g. firm)																							
Criteria for Contract Award	<input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution) <input checked="" type="checkbox"/> Full acceptance of the UNDP General Terms and Conditions of contract for the services of individual contractors <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC)  This is a mandatory criteria and cannot be deleted regardless of the nature of services required. Non acceptance of the GTC may be grounds for the rejection of the Proposal.																							
Criteria for the Assessment of Proposal	<div>Technical Evaluation – 700 points - passing threshold (70%)</div> <table><thead><tr><th>Criteria</th><th>Weight</th><th>Max. Point</th></tr></thead><tbody><tr><td colspan="3"><u>Technical summary</u></td></tr><tr><td>Advanced degree in Human Resources, Management, Business Administration or related field.</td><td>70</td><td>70</td></tr><tr><td>Specialized training in Human Resources Management would be an advantage.</td><td></td><td>20</td></tr><tr><td>Fluency in English is required. Mongolian language is an asset.</td><td></td><td>20</td></tr><tr><td>Excellent writing and presentation skills (all reports shall be written in English).</td><td></td><td>35</td></tr><tr><td>Proven track record at least 3 years in the area of compensation and benefit analysis, survey, preferably for international organizations.</td><td></td><td>140</td></tr></tbody></table>			Criteria	Weight	Max. Point	<u>Technical summary</u>			Advanced degree in Human Resources, Management, Business Administration or related field.	70	70	Specialized training in Human Resources Management would be an advantage.		20	Fluency in English is required. Mongolian language is an asset.		20	Excellent writing and presentation skills (all reports shall be written in English).		35	Proven track record at least 3 years in the area of compensation and benefit analysis, survey, preferably for international organizations.		140
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	Experience in conducting salary/remuneration surveys, job matching, and construction of salary scale exercises preferably for nonprofit organizations is an asset.		140
	Familiarity with the local labor market issues.		70
	Familiarity with the UNDP rules and regulations and experience within UN system would be an advantage.		70
	Ability to render consulting services in the most professional, effective and efficient manner.		35
	<b>Total Score</b>		<b>700</b>
Financial Evaluation – 30% Formula : (Lowest Price Offer / Price Being Reviewed) x 30%			
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider		
Post-Qualification Actions	✓ Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed.		
Annexes to this RFP <sup>2</sup>	✓ Form for Submission of Proposal (Annex 2a – for individuals-freelance consultants) (Annex 2b - for legal entity-firms)  ✓ General Terms and Conditions / Special Conditions (Annex 3 a - for individuals-freelance consultants ) <sup>3</sup> (Annex 3 b - for legal entity-firms)  ✓ Detailed TOR (Annex 4)		
Contact Person for Inquiries (Written inquiries only) <sup>4</sup>	Procurement Officer <a href="mailto:bids.mn@undp.org">bids.mn@undp.org</a> 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.		
Other Information [pls. specify]	Financial Proposal must contain the final and all-inclusive total price offer for the full range of services required including travel cost, broken down into all major cost components associated with the services.		

<sup>2</sup> Where the information is available in the web, a URL for the information may simply be provided.

<sup>3</sup> Individual consultants/Service Providers are alerted that non-acceptance of the terms of the General Terms and Conditions (GTC) may be grounds for disqualification from this procurement process.

<sup>4</sup> 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.

## FORM FOR SUBMITTING INDIVIDUAL CONSULTANT'S

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

Dear Sir/Madam:

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

**A. Qualifications and Experience of the Individual Consultant:**

*The Individual Consultant must describe and explain how and why they are the best candidate that can deliver the requirements of UNDP by indicating the following through the **LETTER OF THE EXPRESSION OF INTEREST** highlighting the qualifications that meet the minimum requirements stated in Section 8 of TOR:*

- a) Education/Academic background;
- b) Relevant work experience (at least 3 years of relevant work experience)
- c) Competencies;
- d) Other skills;
- e) Minimum of 3 reference letters on the similar assignments carried out, and
- f) A copy of National ID.

**B. Proposed Methodology for the Completion of Services**

*The Individual Consultant must describe how it will address/deliver the demands of the RFP; provide brief methodology and timeline on how the consultant will approach and conduct the work (1-2 pages only since the methodology is already described in the Annex A of the TOR) and indicate quality assurance mechanisms that will be put in place to ensure the high quality and timeliness in providing the services.*

**C. Cost Breakdown:**

*The Offeror is required to prepare the Financial Proposal in an envelope separate from the rest of the submission and are requested to provide the cost summary based on the following format/forms to ease the comparability. The proposers may provide additional detailed calculations under a separate page and in a different format. The financial evaluation shall weigh 30% of total scoring and the offerors are expected to provide realistic, logical offer based on a survey of the market, project environment, etc. Financial Proposal must contain the final and all-inclusive total price offer for the full range of services required, broken down into all major cost components associated with the services.*

Description of Activity	Remuneration for the required period of engagement	Total Period of Engagement
I. Personnel Services		3 weeks
II. Out of Pocket Expenses if any		
Total Sum		

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

FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL<sup>5</sup>

*(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery<sup>6</sup>)*

[insert: Location].

[insert: Date]

To: Procurement Officer, UNDP

Dear Sir/Madam:

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

**A. Qualifications of the Service Provider**

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

- a) The letter of the expression of interest highlighting the qualifications that meet the minimum requirements stated in Section 8 of TOR;*
- b) Copy of the legal entity registration certificate or a copy of national ID;*
- c) Company/Institution profile;*
- d) Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contact references;*
- e) Provide at least past 3 client references for similar projects (scale and amount) contracted as main contractor.*
- f) If Joint Venture/Consortium – copy of the Memorandum of Understanding or Letter of Intent to form a JV/Consortium;*
- g) Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List.*

**B. Proposed Methodology for the Completion of Services**

**Proposed methodology**

*The Service Provider must describe how it will address/deliver the demands of the RFP; provide brief methodology and timeline on the approach (1-2 pages only since the methodology is already described in the Annex A of the TOR) and indicate quality assurance mechanisms that will be put in place to ensure the high quality and timeliness in providing the services.*

**C. Qualifications of Key Personnel**

<sup>5</sup> This serves as a guide to the Service Provider in preparing the Proposal.

<sup>6</sup> Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

- a) Names and qualifications of the key personnel required as per TOR that will perform the services indicating who is Team Leader (if more than 1 personnel is proposed), who are supporting, etc.;
- b) CVs demonstrating qualifications must be submitted;
- c) A copy of the national ID, and residency card
- d) Written confirmation from each personnel that they are available for the entire duration of the contract.

**D. Cost Breakdown by Cost Component:**

The Proposer is required to prepare the Financial Proposal in an envelope separate from the rest of the RFP and are requested to provide the cost summary based on the following format/forms to ease the comparability. The proposers may provide additional detailed calculations under a separate page and in a different format. The financial evaluation shall weigh 30% of total scoring and the offerors are expected to provide realistic, logical offer based on a survey of the market, project environment, etc. Financial Proposal must contain the final and all-inclusive total price offer for the full range of services required, broken down into all major cost components associated with the services.

Description of Activity	Remuneration per consultant for the required period of engagement	Total Period of Engagement	No. of Personnel	Total Rate
I. Personnel Services		3 weeks		
II. Out of Pocket Expenses				
III. Other Related Costs (VAT if payer)				
Grand total				

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

*[Designation]*

*[Date]*



## GENERAL CONDITIONS OF CONTRACT FOR THE SERVICES OF INDIVIDUAL CONTRACTORS

1 Version 1st January 2011

**1. LEGAL STATUS:** The Individual contractor shall have the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP), and shall not be regarded, for any purposes, as being either a "staff member" of UNDP, under the UN Staff Regulations and Rules, or an "official" of UNDP, for purposes of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946. Accordingly, nothing within or relating to the Contract shall establish the relationship of employer and employee, or of principal and agent, between UNDP and the Individual contractor. The officials, representatives, employees or subcontractors of UNDP and of the Individual contractor, if any, shall not be considered in any respect as being the employees or agents of the other, and UNDP and the Individual contractor shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

**2. STANDARDS OF CONDUCT:** In General: The Individual contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its obligations under the Contract. Should any authority external to UNDP seek to impose any instructions on the Contract regarding the Individual contractor's performance under the Contract, the Individual contractor shall promptly notify UNDP and shall provide all reasonable assistance required by UNDP. The Individual contractor shall not take any action in respect of its performance of the Contract or otherwise related to its obligations under the Contract that may adversely affect the interests of UNDP, and the Individual contractor shall perform its obligations under the Contract with the fullest regard to the interests of UNDP. The Individual contractor warrants that it has not and shall not offer any direct or indirect benefit arising from or related to the performance of the Contract or the award thereof to any representative, official, employee or other agent of UNDP. The Individual contractor shall comply with all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract. In the performance of the Contract the Individual contractor shall comply with the standards of conduct set in the Secretary General's Bulletin ST/SGB/2002/9 of 18 June 2002, entitled "Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Expert on Mission". The individual contractor must comply with all Security Directives issued by UNDP. Failure to comply with such security directives is grounds for termination of the Individual contractor for cause.

**Prohibition of Sexual Exploitation and Abuse:** In the performance of the Contract, the Individual contractor shall comply with the standards of conduct set forth in the Secretary-General's bulletin ST/SGB/2003/13 of 9 October 2003, concerning "Special measures for protection from sexual exploitation and sexual abuse". In particular, the Individual contractor shall not engage in any conduct that would constitute sexual exploitation or sexual abuse, as defined in that bulletin.

The Individual contractor acknowledges and agrees that any breach of any of the provisions hereof shall constitute a breach of an essential term of the Contract, and, in addition to any other legal rights or remedies available to any person, shall give rise to grounds for termination of the Contract. In addition, nothing herein shall limit the right of UNDP to refer any alleged breach of the foregoing standards of conduct to the relevant national authorities for appropriate legal action.

**3. TITLE RIGHTS, COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS:** Title to any equipment and supplies that may be furnished by UNDP to the Individual contractor for the performance of any obligations under the Contract shall rest with UNDP, and any such equipment shall be returned to UNDP at the conclusion of the Contract or when no longer needed by the Individual contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Individual contractor, subject to normal wear and tear, and the Individual contractor shall be liable to compensate UNDP for any damage or degradation of the equipment that is beyond normal wear and tear.

UNDP shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Individual contractor has developed for UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Individual contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP. However, to the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Individual contractor: (a) that pre-existed the performance by the Individual contractor of its obligations under the Contract, or (b) that the Individual contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, UNDP does not and shall not claim any ownership interest thereto, and the Individual contractor grants to UNDP a perpetual licence to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract. At the request of UNDP, the Individual contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to UNDP in compliance with the requirements of the applicable law and of the Contract. Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents and all other data compiled by or received by the Individual contractor under the Contract shall be the property of UNDP, shall be made available for use or inspection by UNDP at reasonable times and in reasonable places, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

**4. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:** Information and data that are considered proprietary by either UNDP or the Individual contractor or that are delivered or disclosed by one of them ("Discloser") to the other ("Recipient") during the course of performance of the Contract, and that are designated as confidential ("Information"), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate, and the Recipient may otherwise use the Discloser's Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser's prior written consent, as well as to the Recipient's employees, officials, representatives and agents who have a need to know such confidential Information solely for purposes of performing obligations under the Contract. Subject to and without any waiver of the privileges and immunities of UNDP, the Individual contractor may disclose Information to the extent required by law, *provided that* the Individual contractor will give UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made. UNDP may disclose Information to the extent as required pursuant to the Charter of the United Nations, resolutions or regulations of the General Assembly or its other governing bodies, or rules promulgated by the Secretary-General. The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder. These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

**5. TRAVEL, MEDICAL CLEARANCE AND SERVICE INCURRED DEATH, INJURY OR ILLNESS:** If the Individual contractor is required by UNDP to travel beyond commuting distance from the Individual contractor's usual place of residence, and upon prior written agreement, such travel shall be at the expense of UNDP. Such travel shall be at economy care when by air.



UNDP may require the Individual contractor to submit a Statement of Good Health from a recognized physician prior to commencement of work in any offices or premises of UNDP or before engaging in any travel required by UNDP or connected with the performance of the Contract. The Individual contractor shall provide such a Statement of Good Health as soon as practicable following such request, and prior to engaging in any such travel, and the Individual contractor warrants the accuracy of any such Statement, including, but not limited to, confirmation that the Individual contractor has been fully informed regarding the requirements for inoculations for the country or countries to which travel may be authorized.

In the event of the death, injury or illness of the Individual contractor which is attributable to the performance of services on behalf of UNDP under the terms of the Contract while the Individual contractor is traveling at UNDP expense or is performing any services under the Contract in any offices or premises of UNDP, the Individual contractor or the Individual contractor's dependants, as appropriate, shall be entitled to compensation equivalent to that provided under the UNDP insurance policy, available upon request.

**6. PROHIBITION ON ASSIGNMENT; MODIFICATIONS:** The Individual contractor may not assign, delegate, transfer, pledge or make any other disposition of the Contract, of any part thereof, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of UNDP, and any attempt to do so shall be null and void. The terms or conditions of any supplemental undertakings, licences or other forms of Contract concerning any goods or services to be provided under the Contract shall not be valid and enforceable against UNDP nor in any way shall constitute an Contract by UNDP thereto, unless any such undertakings, licences or other forms of Contract are the subject of a valid written undertaking by UNDP. No modification or change in the Contract shall be valid and enforceable against UNDP unless provided by means of a valid written amendment to the Contract signed by the Individual contractor and an authorized official or appropriate contracting authority of UNDP.

**7. SUBCONTRACTORS:** In the event that the Individual contractor requires the services of subcontractors to perform any obligations under the Contract, the Individual contractor shall obtain the prior written approval of UNDP for any such subcontractors. UNDP may, in its sole discretion, reject any proposed subcontractor or require such subcontractor's removal without having to give any justification therefore, and such rejection shall not entitle the Individual contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract. The Individual contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

**8. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS:** The Individual contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNDP, nor shall the Individual contractor, in any manner whatsoever, use the name, emblem or official seal of UNDP, or any abbreviation of the name of UNDP, in connection with its business or otherwise without the written permission of UNDP.

**9. INDEMNIFICATION:** The Individual contractor shall indemnify, defend, and hold and save harmless UNDP, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to: (a) allegations or claims that the use by UNDP of any patented device, any copyrighted material or any other goods or services provided to UNDP for its use under the terms of the Contract, in whole or in part, separately or in combination, constitutes an infringement of any patent, copyright, trademark or other intellectual property right of any third party; or (b) any acts or omissions of the Individual contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers' compensation.

**10. INSURANCE:** The Individual contractor shall pay UNDP promptly for all loss, destruction or damage to the property of UNDP caused by the Individual contractor, or of any subcontractor, or anyone directly or indirectly employed by them in the performance of the Contract. The Individual contractor shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of its obligations under the Contract, as well as for arranging, at the Individual contractor's sole expense, such life, health and other forms of insurance as the Individual contractor may consider to be appropriate to cover the period during which the Individual contractor provides services under the Contract. The Individual contractor acknowledges and agrees that none of the insurance arrangements the Individual contractor may make shall, in any way, be construed to limit the Individual contractor's liability arising under or relating to the Contract.

**11. ENCUMBRANCES AND LIENS:** The Individual contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNDP against any monies due to the Individual contractor or to become due for any work done or against any goods supplied or materials furnished under the Contract, or by reason of any other claim or demand against the Individual contractor.

**12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:** In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event, which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in conditions or occurrence, the Individual contractor shall also submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract.

In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event, which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in conditions or occurrence, the Individual contractor shall also submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract.

*Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, or any other acts of a similar nature or force, *provided that* such acts arise from causes beyond the control and without the fault or negligence of the Individual contractor. The Individual contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Individual contractor must perform in or for any areas in which UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delay or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute *force majeure* under the Contract.

**13. TERMINATION:** Either party may terminate the Contract, in whole or in part, upon giving written notice to the other party. The period of notice shall be five (5) days in the case of Contracts for a total period of less than two (2) months and fourteen (14) days in the case of contracts for a longer period. The initiation of conciliation or arbitral proceedings, as provided below, shall not be deemed to be a "cause" for or otherwise to be

in itself a termination of the Contract. UNDP may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that: (a) the Individual contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, applies for moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent; (b) the Individual contractor is granted a moratorium or a stay or is declared insolvent; the Individual contractor makes an assignment for the benefit of one or more of its creditors; (c) a Receiver is appointed on account of the insolvency of the Individual contractor; (d) the Individual contractor offers a settlement in lieu of bankruptcy or receivership; or (e) UNDP reasonably determines that the Individual contractor has become subject to a materially adverse change in its financial condition that threatens to endanger or otherwise substantially affect the ability of the Individual contractor to perform any of its obligations under the Contract.

In the event of any termination of the Contract, upon receipt of notice of termination by UNDP, the Individual contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing: (a) take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum; (b) refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice; (c) deliver all completed or partially completed plans, drawings, information and other property that, if the Contract had been completed, would be required to be furnished to UNDP thereunder; (d) complete performance of the work not terminated; and (e) take any other action that may be necessary, or that UNDP may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Individual contractor and in which UNDP has or may be reasonably expected to acquire an interest.

In the event of any termination of the Contract, UNDP shall only be liable to pay the Individual contractor compensation on a pro rata basis for no more than the actual amount of work performed to the satisfaction of UNDP in accordance with the requirements of the Contract. Additional costs incurred by UNDP resulting from the termination of the Contract by the Individual contractor may be withheld from any amount otherwise due to the Individual contractor from UNDP..

**14. NON-EXCLUSIVITY:** UNDP shall have no obligation respecting, and no limitations on, its right to obtain goods of the same kind, quality and quantity, or to obtain any services of the kind described in the Contract, from any other source at any time.

**15. TAXATION:** Article II, section 7, of the Convention on the Privileges and Immunities of the United Nations provides, *inter alia*, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs restrictions, duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the exemptions of the United Nations from such taxes, restrictions, duties or charges, the Individual contractor shall immediately consult with UNDP to determine a mutually acceptable procedure. UNDP shall have no liability for taxes, duties or other similar charges payable by the Individual contractor in respect of any amounts paid to the Individual contractor under this Contract, and the Individual contractor acknowledges that UNDP will not issue any statements of earnings to the Individual contractor in respect of any such payments.

**16. AUDITS AND INVESTIGATIONS:**

Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP at any time during the term of the Contract and for a period of two (2) years following the expiration or prior termination of the Contract. UNDP shall be entitled to a refund from the Individual contractor for any amounts shown by such audits to have been paid by UNDP other than in accordance with the terms and conditions of the Contract.

The Individual contractor acknowledges and agrees that, from time to time, UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the Individual contractor generally relating to performance of the Contract. The right of UNDP to conduct an investigation and the Individual contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Individual 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 Individual contractor's obligation to make available its personnel and any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to UNDP access to the Individual contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Individual contractor's personnel and relevant documentation. The Individual contractor shall require its agents, including, but not limited to, the Individual contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

**17. SETTLEMENT OF DISPUTES:**

**AMICABLE SETTLEMENT:** UNDP and the Individual contractor shall use their best efforts to amicably settle any dispute, controversy or claim arising out of the Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules then obtaining of the United Nations Commission on International Trade Law ("UNCITRAL"), or according to such other procedure as may be agreed between the parties in writing.

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

**18. PRIVILEGES AND IMMUNITIES:** Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.



## ***General Terms and Conditions for Services***

### **1.0 LEGAL STATUS:**

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

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

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

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

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

### **4.0 ASSIGNMENT:**

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

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

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

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

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

### **7.0 INDEMNIFICATION:**

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

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

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



- 8.2** The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- 8.3** The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.
- 8.4** Except for the workmen's compensation insurance, the insurance policies under this Article shall:
- 8.4.1** Name UNDP as additional insured;
  - 8.4.2** Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;
  - 8.4.3** Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.
- 8.5** The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

**9.0 ENCUMBRANCES/LIENS:**

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

**10.0 TITLE TO EQUIPMENT:**

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

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

- 11.1** Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.
- 11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.
- 11.3** At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.

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

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

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

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

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

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

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

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

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

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

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

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

- 13.3** The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the UNDP sufficient prior notice of a request for the disclosure of Information in order to allow the UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.
- 13.4** The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.
- 13.5** The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.

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

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

- 14.1** In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.
- 14.2** If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.
- 14.3** Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.
- 14.4** The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

#### **15.0 TERMINATION**

- 15.1** Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.
- 15.2** UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.
- 15.3** In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.
- 15.4** Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

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

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



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

**17.0 PRIVILEGES AND IMMUNITIES:**

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

**18.0 TAX EXEMPTION**

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

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

**19.0 CHILD LABOUR**

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

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

**20.0 MINES:**

**20.1** The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term



"Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

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

**21.0 OBSERVANCE OF THE LAW:**

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

**22.0 SEXUAL EXPLOITATION:**

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

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

**23.0 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 Contract, 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 Contract signed by the Contractor and jointly by the UNDP Authorized Official.

## Terms of Reference

### Short-Term Consultancy to conduct Remuneration Survey for Service Contract Holders of UNDP Mongolia

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#### 1. Background

The United Nations Development Programme (UNDP) uses a broadband remuneration system for its Service Contract Holders. Individuals contracted under SC modality are considered as local personnel and not UN staff members. Therefore, they are not governed by UN Staff Regulations and Rules.

The Service Contract remuneration system and scales are distinctly different than UN staff salaries in purpose, design, comparator labour market and percentile within targeted labour market. The SC remuneration system is designed to provide wide remuneration ranges which support flexibility in engagement and movement through service quality evaluation measures.

Engagement of personnel using the SC modality is not intended to support extended employment, nor create a career track. Individuals hired under Service Contracts are typically engaged only by UNDP for the duration of a project, and are therefore expected to return to the national labour market at the conclusion of the project or when the function is no longer required by the project.

The basis for the establishment of conditions of service for SC holders is the corresponding local labour market and must be consistent with prevailing levels of pay for similar services, similar contract conditions and comparable work in the local labour market. It is therefore necessary to gather information on *local conditions* of employment in a structured manner to support construction of SC remuneration scales. In keeping with the objective of simplicity, SC remuneration scales must be designed to be comprehensive, inclusive of the value of typical allowances and benefits that are found in the local labour market. The objective here is not to manage separate allowances and benefits for SC holders. Rather, the value of these should be included in the remuneration scales such that these scales are broadly competitive with the total remuneration values for the desired market position.

Given this, the remuneration package under the SC is set at the gross level and may include an additional lump sum for participation in the taxes that are mandatory.

The process for establishing Service Contract remuneration scale must be simple and transparent. The contents succeeding section of this TOR aimed at providing structural guidance that will make the process straight forward and consistent across duty stations in a more structured approach.

UNDP Mongolia would like to update the existing remuneration scale of Service Contract holders in accordance with the set standards and procedures in the **UNDP Handbook on Setting Remuneration for Service Contract Personnel** herein referred to as **Annex A**.

In this context, UNDP would like to engage the services of a reputable and technically qualified individual and/or organization (the contractor hereafter) with extensive expertise in labour market analyses, management and organizational development to undertake the remuneration survey process. UNDP, therefore, hereby solicits proposals from interested individuals to conduct a remuneration survey and support UNDP in establishing a revised and reasonable salary scale for SC holders based on the latest prevailing market rates and in accordance with the procedures provided in Annex A.

#### 2. Objectives

In accordance with the established UNDP policies governing Service Contracts (see **Annex B**) and based on the established UNDP methodology described in the Handbook on Setting Remuneration for Service Contract Personnel (**Annex A**), and the existing SC salary scale (**Annex C**), the selected contractor will conduct an independent survey for the purpose of updating the current salary scale for its Service Contract holders in line with the prevailing local market rates for similar work of comparable quality,

complexity and difficulty.

Upon completion of the survey, the results will be shared with other UN agencies applying similar contractual modalities to reach a consensus on the optimum rates that should be applied to SC holders.

### **3. Scope of Assignment**

- a) The selected contractor guided by the requirements of the Handbook shall, compile and suggest to UNDP a list of employers which may be considered as comparators, for the purpose of establishing SC remuneration scale. The list shall be subjected to a final approval by UNDP Resident Representative or UNDP Deputy Resident Representative. The recommended comparator employers must meet the criteria specified in the Handbook.
- b) Where the comparators are partners of UNDP, or known to UNDP, including other UN agencies, UNDP shall assist the selected individual in determining the right contact persons in order to carry out the survey. However, knowledge of the local market and the ability to identify and reach out to appropriate comparator employers is a critical deliverable of the selected vendor.
- c) The contractor shall collect the following information from each of the comparators:
  - i. Terms of References/Job descriptions of the positions similar to those identified in the Handbook for the purpose of Job matching on the nature, complexities and responsibilities of each position of existing SC levels;
  - ii. Collect and analyze the salary structures and associated benefits (including typical allowances and benefits package both monetary and non-monetary) of the selected comparators organizations for existing SC Terms of References.
  - iii. Summary information on the comparator employer (size, number of employees, length of time present in the location, etc. as specified in the Handbook).
- d) The contractor shall present a draft analysis report to UNDP Mongolia and make recommendations on the proposed salary scale, taking into consideration of other UN agencies' scales for similar contractual (non-staff member) modalities
- e) The contractor shall prepare a Final Report, incorporating comments from UNDP, containing all of the items listed in Section 4 on Deliverables.
- f) The contractor shall maintain the complete confidentiality of all data and documents provided by selected comparator employers and by that of UNDP. Data from comparator employers will be shared with UNDP only and either in aggregate or without organization name designation.

### **4. Deliverables**

Based on the established UNDP Handbook on Setting Remuneration for Service Contract Personnel and within the time frame specified, the contractor is expected to complete and submit the following deliverables and within the time schedule specified by UNDP.

The contractor shall note that clearance from UNDP is required before commencing each phase specified in TOR. Each deliverable must include all the required supporting documentation. All the deliverables shall be delivered in one original hard copy and one electronic soft copy, preferably in Microsoft Word and Excel format, where applicable.



Week	Milestone	Deliverables
Upon completion of the first week of the consultancy	Submission of the first report to UNDP consisting of:	A list of recommended employers with their contact information (minimum of six comparators) where at least two thirds are from public sectors.
		Summary of data collected from the selected organizations showing TOR matches and the valuation of their remuneration package.
Upon completion of the second week of the consultancy	Submission of the second report to UNDP consisting of:	A table showing the average of all organizations by each benchmarked TORs, and the calculation of minimum, maximum, midpoint, 25th, 40th, 60th and 75th percentile remuneration per each benchmarked TOR.
		A summary table of organization practices on total remuneration, number of employees, turnover rate and review date of the scale.
Upon completion of the third week of the consultancy	Submission of final report to UNDP consisting of:	Service Contract remuneration scale with 3 versions targeting market position at 40th, 50th, and 60th percentiles.
		All the documents used during the salary survey, including all completed questionnaires together with relevant salary scales and all relevant documentations and correspondences received from the respective comparators.
		<ol style="list-style-type: none"> <li>1. Detail data collected from the comparators showing TOR matches and the evaluation of their remuneration package;</li> <li>2. The minimum and maximum remuneration values of all job matches obtained from the comparators;</li> <li>3. A summary table of comparators practices on remunerations compared to UNDP SC salary scale;</li> <li>4. A summary table of all survey participants' practices on remunerations for distribution to the comparators;</li> <li>5. All completed questionnaires together with relevant salary scales and all relevant documentations and correspondences received from the respective comparators.</li> </ol>
		Submission and presentation of the final report to UNDP.

Provisional approval of submitted reports shall take place at each of the defined milestones shown in the delivery schedule above (to be agreed with the individual at the start of the project). It is expected that such approval shall not exceed 3 days from the notification of the completion of a specific milestone.

On submittal of the final report, UNDP shall respond within 10 working days and its decision may either be:

1. Approval, or
2. Approval with reservations upon which the Individual shall reply within five working days under penalty of rejection, or
3. Rejection with clear justifications.

## 5. Institutional Arrangement

The contractor will report to Assistant Resident Representative (Operations) and/or UNDP Human



Resources Associate of UNDP Mongolia who will serve as the main evaluators of the deliverables in consultation with staff from other UN Agencies.

The UNDP ARR (O) and/or the UNDP HR Associate may bring in other parties within UNDP or the UN system to assist in the review of the outputs, as and when deemed necessary.

## 6. Expected duration of Assignment

The task is expected to be completed within three (3) weeks from the date of signing of the contract. The individual, therefore, is required to prepare and submit the work plan along with detailed approach to achieve of the deliverables within 3-weeks period.

## 7. Duty Station

The selected contractor shall not be required to be present at UNDP office, and may work from own office with coordinated visits to UNDP. As and when required by UNDP, the contractor is also expected to visit comparators in the course of undertaking the assignment.

## 8. Qualification/Experience/Competencies

The successful contractor shall meet the following minimum criteria:

Qualification for an individual	Qualification for an organization
A proof of legal residency of a country	Legal registration at the respective authority and/or business license
Advanced degree in Human Resources, Management, Business Administration or related field	
Specialized training in Human Resources Management would be an advantage.	
Fluency in English is must and fluency in local language is an asset	
Excellent writing and presentation skills (all reports shall be written in English).	

Experience requirement for an individual	Experience requirement for an organization
<ul style="list-style-type: none"> <li>Proven track record at least 3 years in the area of compensation and benefit analysis, survey, preferably for international organizations.</li> </ul>	
<ul style="list-style-type: none"> <li>Experience in conducting salary/remuneration surveys, job matching, and construction of salary scale exercises preferably for nonprofit organizations is an asset.</li> </ul>	
<ul style="list-style-type: none"> <li>Familiarity with the local labor market issues.</li> </ul>	
<ul style="list-style-type: none"> <li>Familiarity with the UNDP rules and regulations and experience within UN system would be an advantage.</li> </ul>	

<ul style="list-style-type: none"> <li>▪ Ability to render consulting services in the most professional, effective and efficient manner.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Familiar with UN jobs in development sector</li> </ul>

### Competencies

- Demonstrated excellent written and oral communication skills.
- Strong negotiating and managerial skills to be able to work both independently and as a member of a team.
- Excellent networking with a demonstrated ability to build and maintain professional relationships.
- Cross-cultural management experience and sensitivity.
- High level planning, organizational and time management skills, including flexibility, attention to detail and the ability to work under pressure to meet changing deadlines.
- Well-developed interpersonal skills, including the ability to liaise effectively at senior levels.
- Analytical and problem solving skills of a high order, including the ability to formulate recommendations and policy advice desirable.
- Demonstrated capacity to work both independently and in a team environment.

## 9. Recommended Presentation of Proposals

The Proposal shall be presented in the following manner:

Individual consultant	Institution/Organization
The letter of the expression of interest highlighting the qualifications that meet the minimum requirements stated in Section 8 above	
Personal Curriculum Vitae	Personal Curriculum Vitae of the proposed personnel and their roles
Brief methodology and timeline on how consultant/organization will approach and conduct the work (1-2 pages only since the methodology is already described in the Annex A);	
A copy of the national ID	A copy of the legal registration certificate
Minimum three (3) references of similar consultancies in written form;	
Financial Proposal containing the final and all-inclusive (professional fees, all envisaged travel and other costs, etc.) total price offer for the full range of services required, broken down into all major cost components associated with the services.	

## 10. Criteria for Selection of the Best Offer

Combined Scoring method – where the qualifications and methodology will be weighted a maximum of 70%, and combined with the price offer which will be weighted a maximum of 30%.

## **11. Payment terms**

Payment under the contract will be in fixed term lump sum upon completion of the assignment based on full acceptance of the survey reports with all required supporting documents.

## **12. Confidentiality**

It is highly expected from the selected contractor to maintain the highest level of confidentiality to the information provided before, during and after the completion of the assignment. The contractor shall practice highest standard of professional and ethical values and norms in providing this consultancy services.

## **13. Annexes to this TOR**

Annex A. UNDP Handbook on Setting Remuneration for Service Contract Personnel

Annex B. UNDP policies governing Service Contracts

Annex C. Existing UNDP Service Contracts remuneration scale.