



REQUEST FOR PROPOSAL (RFP) (For Low-Valued Services)

All Qualified and Interested Service Providers	DATE: July 15, 2020
	REFERENCE:

Dear Sir / Madam:

We kindly request you to submit your Proposal for a **Communications and Stakeholder Engagement Service Provider**.

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

Proposals may be submitted on or before **Friday, July 24, 2020** and via email, courier mail or fax to the address below:

United Nations Development Programme
38-44 Stein Street, Klein Windhoek, Private Bag 13329 Windhoek
UNDP Namibia Procurement
procurement.na@undp.org

Your Proposal must be expressed in the **English Language**, and valid for a minimum period of **120 Days**

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

Thank you and we look forward to receiving your Proposal.

Sincerely yours,

UNDP CO NAMIBIA
Procurement Unit
7/15/2020

Description of Requirements

Context of the Requirement	Communications and Stakeholder Engagement Service Provider.
Implementing Partner of UNDP	Ministry of Industrialization and Trade
Brief Description of the Required Services¹	<p>This consultancy will provide communications support to assist the SDG IIF programme. Under the guidance of the SDGIIF project manager and working with the Communications Officer (CO), the Service Provider will provide support, design communication material and implement the SDGIIF communications strategy, to promote the SDGIIF work in Namibia to potential donors and MSMEs.</p> <p>The overall objective is to promote the newly established SDG IIF platform, to give external communication support to our selected MSMEs including the EMPRETEC programme.</p>
List and Description of Expected Outputs to be Delivered	<p>Expected Key Deliverables:</p> <ol style="list-style-type: none"> 1. Support the development and delivery of the SDGIIF communications strategy for external communications and outreach. This strategy should have a digital interactive component, factoring in Covid-19 restrictions. It should include but is not limited to providing. <ul style="list-style-type: none"> • Develop and design SDGIIF logo and slogan • Development (design and print) of communication material for, SDGIIF corporate use, articles and other communications vehicles, including social media to support information campaign for the programme. • Online content has to be developed in accordance with UNDP requirements and under the guidance of the CO. • Strategic advice on the SDG IIF Communications for UNDP on how we can share information about the platform to MSMEs and raise additional capital for the SDGIIF virtually through stakeholder engagements.

¹ 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.

	<ul style="list-style-type: none"> • Arrange and manage country wide engagement sessions with the private sector and MSMEs (with the aim of information sharing and resource mobilisation) between August 2020– February 2021 with the following sectors, mining, agriculture, finance, insurance, government and organisations who are supporting Namibian MSMEs. In proposal showcase how you will engage with respective stakeholders over digital communication tools (given Covid 19-measures) and in person engagement sessions. A minimum of 15 engagement sessions should be reflected in proposal and accounted for in budget. Confirmed number of engagement sessions can be signed off once proposal is accepted. <p>2. The Communications and Stakeholder Engagement Service Provider will work with SDGIIF Project Manager and EMPRETEC team to provide strategic communications support including:</p> <ul style="list-style-type: none"> • Professionally feature the MSMEs supported by the SDGIIF, profile selected MSMEs from SDGIIF and EMPRETEC (profile minimum of 10 MSMEs selected by SDGIIF and EMPRETEC), • Develop and deliver a national awareness campaign to promote SDGIIF and mobilisation of resources from the private sector. • Using online platforms, radio, print and video clips to publicise information • Any other communications activities which may be required to promote the work of the SDGIIF platform. <p>Resources and working arrangements:</p> <ul style="list-style-type: none"> • All communication material product will be signed off first by the project manager and UNDP CO and MIT.
Person to Supervise the Work/Performance of the Service Provider	<i>The Project Manager and UNDP CO, Programme Specialist and Ministry of Industrialization and Trade.</i>
Frequency of Reporting	
Progress Reporting Requirements	
Location of work	X Exact Address/es: Windhoek, Namibia, UNDP Offices & MIT X At Contractor's Location and Project Location
Expected duration of work	7 months
Target start date	01 August 2020
Latest completion date	26 July 2020
Travels Expected	Yes, upon Agreement and to be covered by the Project/IP

	Not Applicable <table border="1"> <tr> <th>Destination/s</th><th>Estimated Duration</th><th>Brief Description of Purpose of the Travel</th><th>Target Date/s</th></tr> <tr> <td>TBA</td><td>TBA</td><td>TBA</td><td>TBA</td></tr> <tr> <td></td><td></td><td></td><td></td></tr> </table>	Destination/s	Estimated Duration	Brief Description of Purpose of the Travel	Target Date/s	TBA	TBA	TBA	TBA				
Destination/s	Estimated Duration	Brief Description of Purpose of the Travel	Target Date/s										
TBA	TBA	TBA	TBA										
Special Security Requirements	Not Applicable <input type="checkbox"/> Security Clearance from UN prior to travelling <input type="checkbox"/> Completion of UN's Basic and Advanced Security Training <input type="checkbox"/> Comprehensive Travel Insurance <input type="checkbox"/> Others <i>[pls. specify]</i>												
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	Not Applicable <input type="checkbox"/> Office space and facilities <input type="checkbox"/> Land Transportation <input type="checkbox"/> Others <i>[pls. specify]</i>												
Implementation Schedule indicating breakdown and timing of activities/sub-activities	X Required												
Names and curriculum vitae of individuals who will be involved in completing the services	X Required												
Currency of Proposal	X Local Currency NAD or USD												
Value Added Tax on Price Proposal²	X must be inclusive of VAT and other applicable indirect taxes												
Validity Period of Proposals (Counting for the last day of submission of quotes)	X 120 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	X Not permitted												
Payment Terms³	<u>Payment under the contract will be output based and will be made upon satisfactory completion of the assignment or based on appropriate percentages corresponding to milestone accomplishments as may be proposed by the contracted Service Provider</u>												

² VAT exemption status varies from one country to another. Pls. check whatever is applicable to the UNDP CO/BU requiring the service.

³ UNDP preference is not to pay any amount in advance upon signing of contract. If the Service Provider strictly requires payment in advance, it will be limited only up to 20% of the total price quoted. For any higher percentage, or any amount advanced exceeding \$30,000, UNDP shall require the Service Provider to submit a bank guarantee or bank cheque payable to UNDP, in the same amount as the payment advanced by UNDP to the Service Provider.

Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	<i>The Project Manager and UNDP CO, Programme Specialist and Implementing Partner, Ministry of Industrialization and Trade.</i>
Type of Contract to be Signed	X Contract for Professional Services
Criteria for Contract Award	X Highest Combined Score (based on the 70% technical offer and 30% price weight distribution)
Criteria for the Assessment of Proposal	Technical Proposal (70%) X Expertise of the Firm [20%] X Methodology, Its Appropriateness to the Condition and Timeliness of the Implementation Plan [40%] X Management Structure and Qualification of Key Personnel [10%] Financial Proposal (30%) To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP.
UNDP will award the contract to:	X One and only one Service Provider
Annexes to this RFP ⁴	X Form for Submission of Proposal (Annex 2) X Detailed TOR (Annex 3) X General Terms and Conditions / Special Conditions (Annex 4)
Contact Person for Inquiries (Written inquiries only) ⁵	Email : procurement.na@undp.org Att : UNDP Namibia Procurement Unit 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]	

⁴ Where the information is available in the web, a URL for the information may simply be provided.

⁵ 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 SERVICE PROVIDER'S PROPOSAL⁶

Communications and Stakeholder Engagement Service Provider.

(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery⁷)

[insert: Location].

[insert: Date]

To: **UNDP Resident Representative, United Nations Development Programme,
38 Stein Street, Klein Windhoek, Private Bag 13329, Windhoek.**

Dear Sir/Madam:

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

A. **Qualifications of the Service Provider**

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

- a) *Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations;*
- b) *Business Licenses – Registration Papers, Tax Payment Certification, etc.*
- c) *Latest Audited Financial Statement – income statement and balance sheet to indicate its financial stability, liquidity, credit standing, and market reputation, etc. ;*
- 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) *Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.*
- f) *Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List.*

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

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

⁶ This serves as a guide to the Service Provider in preparing the Proposal.

⁷ Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

C. **Qualifications of Key Personnel**

If required by the RFP, the Service Provider must provide:

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

D. **Cost Breakdown per Deliverable***

	Deliverables <i>[list them as referred to in the RFP]</i>	Percentage of Total Price <i>(Weight for payment)</i>	Price <i>(Lump Sum, All Inclusive)</i>
1	Deliverable 1		
2	Deliverable 2		
3		
	Total	100%	

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

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

Description of Activity	Remuneration per Unit of Time	Total Period of Engagement	No. of Personnel	Total Rate
I. Personnel Services				
1. Services from Home Office				
a. Expertise 1				
b. Expertise 2				
2. Services from Field Offices				
a. Expertise 1				
b. Expertise 2				
3. Services from Overseas				
a. Expertise 1				
b. Expertise 2				
II. Out of Pocket Expenses				
1. Travel Costs				
2. Daily Allowance				
3. Communications				
4. Reproduction				
5. Equipment Lease				
6. Others				
III. Other Related Costs				

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

Annex 3

Terms of Reference – Communications and Stakeholder Engagement Service Provider

Assignment	UNDP Namibia requires suitably qualified and experienced service providers to submit proposals to fulfil Communication and Marketing responsibilities in accordance with the given scope. To support the Sustainable Development Goals Impact Investment Facility (SDGIIF) programme.
Name of the responsible office	UNDP Procurement Office
Address for submitting proposals & other correspondence	UN House, 38 - 44 Stein Street Klein Windhoek Republic of Namibia Private Bag 13329. Windhoek Namibia Tel: +264 61 204 6111, procurement.na@undp.org
Closing Date & Time for submission of proposals:	24 July 2020
Bid Description:	Appointment of a suitably qualified and experienced service provider to fulfil Communication and Marketing responsibilities in accordance with the given scope.

Title: Communications and Stakeholder Engagement Service Provider

Unit: UNDP Namibia

Duty Station: Namibia UNDP Country Office as required Duration of Assignment is from **7 months**

Background:

UNDP works in about 170 countries and territories, helping to achieve the eradication of poverty and the reduction of inequalities and exclusion. We help countries to develop policies, leadership skills, partnering abilities, institutional capabilities and build resilience in order to sustain development results.

UNDP Namibia and the Ministry of Industrialization and Trade (MIT) have jointly established a Sustainable Development Goals Impact Investment Facility (SDGIIF).

The SDGIIF will be used to provide mentorship grants and debt financing to women and youths in business, social enterprises and micro, small and medium enterprises (MSMEs) to address the challenges of the financing gap to MSMEs. The International Finance Corporation (IFC) in 2017 estimated the annual financing gap to MSMEs in Namibia to be \$1.8 billion.

The impact investment facility platform is aimed at accelerating the implementation of SDGs with the support of the private sector. Through dynamic partnerships, the programme intends to encourage the private sector to transform their traditional corporate social responsibility (CSR) into modern corporate social investments (CSI) that have a greater and standardize measurable impact. This partnership will allow corporates to invest in social enterprises, that have great socio-economic impact in their communities that they are operating in. It is envisioned that these MSMEs will grow to become bankable social enterprise, while advancing their social work at the same time.

Objective

This consultancy will provide communications support to assist the SDG IIF programme. Under the guidance of the SDGIIF project manager and working with the Communications Officer (CO), the Service Provider will provide support, design communication material and implement the SDGIIF communications strategy, to promote the SDGIIF work in Namibia to potential donors and MSMEs.

The overall objective is to promote the newly established SDG IIF platform, to give external communication support to our selected MSMEs including the EMPRETEC programme.

Expected Key Deliverables:

- 3. Support the development and delivery of the SDGIIF communications strategy for external communications and outreach. This strategy should have a digital interactive component, factoring in Covid-19 restrictions. It should include but is not limited to providing**
 - Develop and design SDGIIF logo and slogan
 - Development (design and print) of communication material for, SDGIIF corporate use, articles and other communications vehicles, including social media to support information campaign for the programme.
 - Online content has to be developed in accordance with UNDP requirements and under the guidance of the CO.
 - Strategic advice on the SDG IIF Communications for UNDP on how we can share information about the platform to MSMEs and raise additional capital for the SDGIIF virtually through stakeholder engagements.
 - Arrange and manage country wide engagement sessions with the private sector and MSMEs (with the aim of information sharing and resource mobilisation) between August 2020– February 2021 with the following sectors, mining, agriculture, finance, insurance, government and organisations who are supporting Namibian MSMEs. In proposal showcase how you will engage with respective stakeholders over digital communication tools (given Covid 19-measures) and in person engagement sessions. A minimum of 15 engagement sessions should be reflected in proposal and accounted for in budget. Confirmed number of engagement sessions can be signed off once proposal is accepted.

- 4. The Communications and Stakeholder Engagement Service Provider will work with SDGIIF Project Manager and EMPRETEC team to provide strategic communications support including:**
 - Professionally feature the MSMEs supported by the SDGIIF, profile selected MSMEs from SDGIIF and EMPRETEC (profile minimum of 10 MSMEs selected by SDGIIF and EMPRETEC),
 - Develop and deliver a national awareness campaign to promote SDGIIF and mobilisation of resources from the private sector.
 - Using online platforms, radio, print and video clips to publicise information
 - Any other communications activities which may be required to promote the work of the SDGIIF platform.

Deliverables/ Outputs	Estimated Duration to Complete	Target Due Dates	Review and Approvals Required (<i>Indicate designation of person who will review output and confirm acceptance</i>)
Agree on scope of work, signing of contract and provision of Inception Report indicating agreed outputs, approach and deliverables	One Week	10 August 2020	Programme Manager and communication officer
SDG IIF logo and messaging of programme developed and in use	3 weeks	31 August 2020	Programme Manager and communication officer
Media coverage in all major media houses, newspaper and social media platforms, twice per month	7 th month	End of contract	Programme Manager and communication officer
2 media releases twice a month featuring MSMEs	7 th month	End of contract	Programme Manager and communication officer
Development of professional corporate material for SDGIIF and EMPRETEC for external stakeholder consumption and for potential MSMEs	2 nd month	30 September 2020	Programme Manager and communication officer
Engagement workshops with an attendance of more than 10 participants from major private sector as outlines in ToR to be held once a month	7 th month	February 2021	Programme Manager and communication officer

Resources and working arrangements:

- All communication material product will be signed off first by the project manager and UNDP CO and MIT.

Qualifications and Experience

- As part of your tender response, you must confirm compliance with any qualification requirements. A failure to comply with one or more such qualification requirements shall entitle UNDP to reject a tender response in full.
- An agency must have a proven track record of high-quality campaigns with multiple segment audiences by using traditional as well as digital media to reach campaign targets. The UNDP is interested in obtaining a reliable partner that is able to understand the values, brand standards and core of our organisation as well as the goals of the programme and efforts to achieve them.

Agency profile requirements:

- Minimum five years of professional experience in communications, public relations, journalism, marketing, or a related field
- Capability and proven experience in crafting and implementing public relations and communications strategies/plans
- Capability and proven experience crafting high impact content in various formats (press releases, content for websites, video, blog, social media posts, audio, etc., storytelling, ability to spot a newsworthy story, etc.) targeting different audience segments regarding the single project
- High proficiency in recognizing the news-worthy stories and ability to take initiative and proactive
- Attitude in finding the creative ways to communicate with the desired audiences (Government partners and private sector)
- Ability to understand the brand, programme goals and deliver high quality outputs within the agreed timeframes
- Familiarity with the technical advancements and its application in everyday life; tech savvy staff preferred

Qualified staff that meets the following basic requirements:

- **Senior roles:** Bachelor's degree in the field of public relations or equivalent, media relations and copywriting with at least five years of experience on similar projects; or Master's degree in above mentioned fields with at least three years demonstrated experience in managing similar projects. Awareness raising campaigns and media relations; excellent English language skills, good communication and organizational skills.
- **Junior roles:** Bachelor's degree in the related field or equivalent, with at least three years of experience in creation of campaigns, development of media relations plans and digital content and campaigns, exceptional copywriting skills, excellent knowledge of media landscape in the related country, highly proficient writing skills in local and English language A Bachelor degree in the related area to the assignment (communications, marketing, public relations, IT, etc.)

General Professional Experience:

- At least 5 years of professional experience in the area of marketing, public relations, graphic design etc.
- The above listed are minimum requirements that the service provider has to meet by providing the CVs of the teams' expertise.

Evaluation:

The proposals will be evaluated using the cumulative analysis method with a split 70% technical and 30% financial scoring. The proposal with the highest cumulative scoring will be awarded the contract.

Applications will be evaluated technically, and points are attributed based on how well the proposal meets the requirements of the Terms of Reference using the guidelines detailed in the table below:

When using this weighted scoring method, the award of the contract may be made to the individual consultant whose offer has been evaluated and determined as:

a) Responsive/compliant/acceptable, and

b) Having received the highest score out of a pre-determined set of weighted

technical and financial criteria specific to the solicitation.

*** Technical Criteria weighting; 70%**

*** Financial Criteria weighting; 30%**

Only candidates obtaining a minimum of 49 points in the Technical Evaluation would be considered for the Financial Evaluation. Interviews may be conducted as part of the technical assessment for shortlisted proposals.

Criteria	Points	Percentage
Qualifications	10	
Bachelor's degree in the field of public relations or equivalent, media relations and copywriting with at least five years of experience on similar projects		
Experience		
10 years of work experience in the field of media relations, journalism or/and communication; * 3 years – 10 * 3 - 5 year – 15 * >10 year – 30	40	

<p>Experience working at UNDP and/or in the field of development</p> <p>* 1 years – 2</p> <p>* 2 year – 5</p> <p>* >3 year – 10</p>	5	
<p>Proven experience as an editor</p> <p>* 1 years – 2</p> <p>* 2 year – 5</p> <p>* >3 year – 10</p>	5	
Competencies	10	
<ul style="list-style-type: none"> • Outstanding communication, networking and negotiation skills; • Excellent computer skills and experience in preparing and maintaining communication materials; • Demonstrated ability to work with minimum supervision, be dynamic, proactive and creative; • Understanding of key human development issues; Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability; • Builds strong relationships with internal and external actors; • Demonstrates openness to change and ability to manage 		
<p>Technical Criteria *If necessary, interviews shall also be conducted as part of the technical evaluation to ascertain best value for money.</p>		70%
Financial Criteria – Lowest Price		30%
Total		100%

Documents to be included when submitting Consultancy Proposals, the following documents may be requested;

- a) The Technical Proposal shall not include any price or financial information. A Technical Proposal containing material financial information may be declared non-responsive.
- b) Signed P11, or CV's of Personnel assigned, indicating all experience from similar projects, as well as the contact details (email and telephone number) of the Communication firm and at least three (3) professional references.
- c) Brief description of why the communication firm is the most suitable for the assignment, and a methodology, on how they will approach and complete the assignment. This proposal should include methods of how the communication firm will engage with stakeholders and MSMEs using virtual meeting tools and planned activities
- d) Financial Proposal that indicates the all-inclusive fixed total contract price, supported by a breakdown of costs. Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount. All envisaged travel costs must be included in the financial proposal. This includes all travel to profile at least 10 MSMEs.

Please be guided by the instructions provided in this document above while preparing your submission. Incomplete proposals and failure to comply with proposal submission instruction may not be considered or may result in disqualification of proposal. Completed proposals should be submitted using E-tendering, no later than 20 July 2020.

For any clarification regarding this assignment please write to procurement.na@undp.org . UNDP looks forward to receiving your Proposal and thank you in advance for your interest in UNDP procurement opportunities.

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.