



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

ALL ELIGIBLE PROPOSERS	DATE: 19 <sup>th</sup> October 2020
	RFP_LVS_12_2020  Establishment of Long-Term Agreement for Provision of Photography and Videography Services for the MRF Program in Sofala and Cabo Delgado Provinces.

Dear Sir / Madam:

We kindly request you to submit your Proposal for the services indicated under the REFERENCE field above.

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

Proposals to be submitted on or before the deadline indicated below under the "Annex 1 - Description of Requirements" field "Deadline for Submission of Proposal" via email only to the address below:

**United Nations Development Programme**

**Mozambique Country Office**

Email: [bidsubmission.mz@undp.org](mailto:bidsubmission.mz@undp.org)

(please indicate clearly the tender REFERENCE "**RFP\_LVS\_12\_2020**" on all correspondence)

(please note: email submission only and Password Protection for Financial Proposal)

Your Proposal must be expressed in the English language and valid for a minimum period of 90 calendar 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 MOZAMBIQUE after the indicated deadline, 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 MOZAMBIQUE 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 MOZAMBIQUE, 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 MOZAMBIQUE 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 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 MOZAMBIQUE is not bound to accept any Proposal, nor award a contract, 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 Contract in a competitive procurement process. In the event that you believe you have not been fairly treated, you can find detailed information about vendor protest procedures in the following link: <http://www.undp.org/procurement/protest.shtml>.

UNDP encourages every prospective 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.

Approved by



Name: Martin Boben  
Title: Head procurement Unit

**Annex 1****Description of Requirements**

Context of the Requirement	Establishment of Long-Term Agreement for Provision of Photography and Videography Services for the MRF Program in Sofala and Cabo Delgado Provinces.
List and Description of Expected Outputs to be Delivered	As described in TORs
Person to Supervise the Work/Performance of the Service Provider	UNDP MOZAMBIQUE –Communications Officer
Location of work	<input checked="" type="checkbox"/> At Contractor's Location and as defined in the TOR
Expected duration of work	LTA is initially for 1 year with possibility of extension for up to maximum 3 years.
Target start date	23 <sup>rd</sup> November 2020
Latest completion date	22 <sup>nd</sup> October 2023
Travels Expected	As specified in the TOR
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required
Names and curriculum vitae of individuals who will be involved in completing the services	<input checked="" type="checkbox"/> Required
Currency of Proposal	<input checked="" type="checkbox"/> United States Dollars <input checked="" type="checkbox"/> Local Currency
Value Added Tax on Price Proposal	<input checked="" type="checkbox"/> must be exclusive of VAT and other applicable indirect taxes
Validity Period of Proposals (Counting for the last day of submission of quotes)	<input checked="" type="checkbox"/> 90 days In exceptional circumstances, UNDP may, at its own discretion, 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.
No. of copies of Proposal	Original: 1
that must be submitted [online submission <b>only</b> ]	Email: <a href="mailto:bidsubmission.mz@undp.org">bidsubmission.mz@undp.org</a>
Deadline for Submission of Proposal	<b>28<sup>th</sup> October 2020 at 12:00pm, Maputo time</b> All correspondence to be clearly marked with the <b>REFERENCE</b> field from the first page above)
Partial Quotes	<input checked="" type="checkbox"/> Not permitted
Payment Terms	Within thirty (30) days from the date of meeting the following conditions: a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs of fully delivered product; and b) Receipt of the original invoice from the Service Provider.
Type of Contract to be Signed	<input checked="" type="checkbox"/> Contract for Professional Services
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 Contract General Terms and Conditions (GTC). This is a mandatory criterion 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	<b><u>Technical Proposal (100%)</u></b> <b>As detailed in the ToRs.</b>
UNDP will award the LTA to:	<input checked="" type="checkbox"/> One or More Service Providers
Annexes to this RFP	<input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 3) <sup>1</sup>

<sup>1</sup> 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.

Contact for Inquiries (Written inquiries only)	<a href="mailto:procurement.mozambique@undp.org">procurement.mozambique@undp.org</a> Deadline for Inquiries: 2 working days before the submission date. All correspondence to be clearly marked with the <b>tender number</b> (see <b>REFERENCE</b> field from the first page above)  Any delay in UNDP's response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.
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## TERMS OF REFERENCE

### 1. BACKGROUND

Cyclones Idai and Kenneth made landfall in Mozambique in March and April 2019. That was the first time, in recorded history, two strong tropical cyclones hit the country in the same season. About 1.8 million people were affected by the Cyclones and need assistance; Cyclone IDAI alone affected about 950,000 people, out of which 53% are women. Total recovery needs are estimated at USD 3.2 billion for the seven most affected provinces – Sofala, Manica, Zambesia, Tete, Inhambane, Cabo Delgado and Nampula. The severity of the damage and loss, added to underlying vulnerability and limited capacity in the affected areas, made early recovery efforts even more challenging.

The devastating impact of Cyclones had severe human, social and economic cost for the country. Community livelihoods, infrastructure and services were damaged or destroyed exacerbating existing vulnerabilities such as poverty, inequality and severe limitations for the delivery of basic services.

To fast-track the work on resilient recovery, UNDP established, in partnership with the Government of Mozambique (GoM), the five-year program named Mozambique Recovery Facility (MRF). As lead implementing organization of the Program, UNDP has the responsibility of delivering resilient recovery support to Mozambique at all levels – from national, sub-national and to communities, in close partnership with Government, development partners, local communities and affected vulnerable population. Given the nature of the subject covered, the Project will work with several institutions and entities, including Government institutions, non-governmental and civil society organizations, at central and decentralized levels.

### 2. OBJECTIVE OF THE ASSIGNMENT

The main objective of the assignment is to provide Photography and Videography Services for the Mozambique Recovery Facility (MRF) Program under UNDP coordination and through a Long-Term Agreement (LTA) of 12 months, with possibility of extension up to three (3) years.

With overall guidance from the UNDP Communications Specialist assigned to the MRF program, the media company/consultant will work to support the coverage of program deliverables and actions. Upon request, the productions will be mostly carried out in the field, cover the program activities and events, and feature successful stories and voices from key actors pertaining to the program. The finalized productions shall be edited from scenes captured by the media company and/or footage to be provided by UNDP Communications Team.

### 3. CONTRACT

LTA is initially for 1 year with possibility of extension for up to maximum 3 years.

The services to be delivered within the scope of the LTA will occur by prior request and must comply with the duties and responsibilities stipulated in the UNDP Goods and Services Contract and in the UNDP General Terms and Conditions for professional services.

Long Term Agreement is a mutual arrangement between UNDP and a company/consultant to provide the required services at prescribed prices or provisions over a period of time. UNDP reserves the right to rescind the agreement during that period should performance of the consultant not meet its requirements. Under a Long-Term Agreement, UNDP does not warrant that any quantity of services shall be purchased during the term of this agreement. Where a request for services arises, UNDP shall directly contract the consultant based on its need to carry out those activities. A specific Term of Reference (TOR) outlining the outputs for each assignment shall be provided by UNDP, and a workplan shall be proposed by the company in the sequence, detailing the time frame.

### 4. SCOPE OF WORK

#### 4.1 Working arrangements

UNDP will support the firm in the following:

- Provide an introduction letter for the firm before embarking in any given assignment;
- Provide guidance to the consultant on the overall UNDP Recovery Facility program;
- Enable security clearance to access the UNDP Offices, its permissible infrastructure and those of implementing partners as applicable;
- Support and assist to gain access to relevant stakeholders for consultations to the extent possible as may be required;
- Access to all reports and data relevant to the assignment.

In Photography, the best evaluated company is expected to:

- Conceptualize, capture photos/images of high-quality, innovative, creative and unparalleled, exceptional original compositions.
- Edit the photos, resize to an agreed measure that is easy to store, retrieve and use by the UNDP Communication Unit and Partners.
- Insert detailed metadata and description in each photo/image.
- Ensure adherence to the laws of Mozambique, professional ethical guidelines, especially on the treatment of minors, affected and displaced people living in vulnerable situation.
- Comply with UNDP guidelines on Photography to protect the agency's image and avoidance of litigation.
- Where necessary, seek consent of the individuals, institutions, organizations and leaders, before taking their photos in given scenes.
- Share two External Drives and online links per Portfolio with both edited and raw-version files in folders and sub-folders of projects and their location clearly named and dated.
- All copyrights of the items produced belong to UNDP Mozambique.

In Videography, the company/consultant will deliver on the following:

- a) Acquire key information and study relevant literature about the UNDP activity and provide an interpretation, script, workplan and methodology for the assignment for a high-quality, innovative, creative and unparalleled, exceptional original productions.

- b) Using the developed script and concept, go to the field and capture/shoot/record proceedings of the Activity. The video recording can be enhanced, if necessary, by interviews with key people that UNDP will identify, available clips/documentaries from the past and other legitimate sources.
- c) Perform appropriate professional video editing; using appropriate graphics, infographics, animations, voice enhancements and captions to produce a professionally edited video promotional video that can be shared with local and international audiences.
- d) Insert detailed metadata and captions in English for each video produced.
- e) Develop short videos with duration depending on requirements (2min, 3min, 4min, 5min, - up to 15 min.) depending on the requirement of a specific activity).
- f) Comply with UNDP guidelines on Videography to protect the agency's image and avoidance of litigation.
- g) Where necessary, seek consent of the individuals, institutions, organizations and leaders, before taking their footage in given scenes.
- h) Share External Drives and online links and cloud links per Portfolio with both edited and raw-version files in folders and sub-folders of projects and their location clearly named and dated.
- i) All copyrights of the items produced belong to UNDP Mozambique.

#### 4.2 Duty Station and Travel

- The photo/video productions will cover the country, mostly in Provinces affected by Cyclones Idai and Kenneth – Sofala, Manica, Zambesia, Tete, Inhambane, Cabo Delgado and Nampula. The services may also include some selected interviews with key people in Mozambique.
- The company would make their own arrangements for travel and lodging. Payment of travel costs including tickets, lodging, etc. should be agreed upon, between the Hiring Unit of UNDP and the company prior to travel.
- All travel-related expenses will be reimbursed on actuals, upon submission of original receipts.
- The company will be required to work from their own office unless requested by UNDP to travel to these or other locations in Mozambique.
- For completion of the assignment/deliverables under these LTAs and during pre and post-production phases, the company will be required to work from their own office.
- the consultant will be responsible for her/his own equipments, tools, or software (i.e. photo and video editors, laptop, internet, phone, scanner/printer, etc) all times and must have access to a reliable internet connection when working remotely.

#### 5. EXPECTED DELIVERABLES

Each activity will comply with the requirements in item "4. Scope of Work" and will require to provide:

- External Drives (DVD/CD) with the produced content in HD format, video 1080p with HD sound.
- Sharable online links to the edited and raw-version files in folders and sub-folders of projects and their location clearly named and dated.

Deadline: 3-5 days upon receipt of feedback from the Communications Specialist.

#### 6. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

- a) The company or individual bidder should demonstrate that it has professional human resources or the required expertise to undertake the assignment. There should be proof that that staff have qualifications and experience in the fields of Communications, Journalism, Videography, Public Relations and Graphic Design in reputable Media Houses for at least 5 years.

- b) The firm can be a media production company. The firm or the individual should possess 5 years of experience in producing development work-related documentaries for mostly international organizations. Evidence must be provided of a track record and portfolio, including samples of proofed photo and audiovisual productions.
- c) The firm or the individual should have experience in development work and proof of having undertaken similar projects and preferably for a UN agency.
- d) The service provider should demonstrate the capacity in terms of equipment and editing capacity to undertake the assignment and possession of the necessary software and expertise to deliver the photo and audio-visual pieces.
- e) The service provider should offer commitment to be able to deliver quality work described within the specified timeframe.
- f) The firm or individuals to execute the assignment should demonstrate a client-oriented approach, tact and ability to work with people of different national, cultural, ethnical and professional backgrounds.
- g) The successful firm should demonstrate a high degree of self-drive, professionalism and confidentiality in all aspects of assignment, management of information flow and follow-up on deadlines and commitments made.
- h) Knowledge in development studies, climate resilience, disaster risk reduction documentary-making is an added advantage.

#### Language Requirements:

- Fluency in English and Portuguese.
- Knowledge of local languages spoken in central and northern Mozambique will be an added advantage.

#### 7. PRICE PROPOSAL AND SCHEDULE OF PAYMENTS

The firm or individual consultant must send a financial proposal with all-inclusive rates in meticaís (MZN).

Payment orders will be issued for particularly requested activities. UNDP will always provide the Terms of reference for an activity, from which the firm or individual consultant will provide a financial proposal in line with the LTA. Once an activity is completed, payment will be made on Invoice upon satisfactory completion of work

#### EVALUATION METHOD AND CRITERIA

The award of the contract shall be made to the firm whose offer has been evaluated and determined as:

- An acceptable proposal
- Responsive/compliant/acceptable, and
- Highest Combined Score (based on the 70% technical offer and 30% price weight distribution) where the minimum passing score of technical proposal is 70%.

Evaluation Criteria: - Photography and Videography

Technical Proposal (Maximum 70 points):

- Qualifications of designers – Photography; (10 points)
- Qualifications of filmmakers – Videography; (10 points)
- Proofed language skills – Videography; (5 points)
- Proofed Language Skills -Photography (5 points)
- Specialty in design work – Photography; 15 points)
- Specialty in design work – Videography; (15points)
- Relevance of professional experience in conducting assignment of similar nature and scope - Photography; (25 points)
- Relevance of professional experience in conducting assignment of similar nature and scope - Videography; (25 points)



- Knowledge and experience in working with UNDP, developmental issues, international development agencies and understanding of the subject matter – Photography; (10 points)
- Knowledge and experience in working with UNDP, developmental issues, international development agencies and understanding of the subject matter – Videography; (10 points)

Financial Proposal (Maximum 30 points):

To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP

#### Technical Evaluation Criteria

1.	Bidder's qualification, capacity and experience	Points Obtainable
1.1	Qualifications of personnel	20
1.2	Qualifications - Relevance of education	50
1.3	Specialty in services	15
1.4	Language skills	15
		100
2.	Proposed Methodology, Approach and Implementation Plan	Points Obtainable
2.1	Relevance of professional experience in conducting assignment of similar nature.	350
2.2	Relevance of professional experience in conducting assignment of similar nature and scope in Photography and Videography	350
		700
3.0	Knowledge and experience	Points Obtainable
3.1	Knowledge and experience in working with UNDP and other UN Agencies.	200
		200

Annex 2  
FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL2

(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery3)

[insert: Location].

[insert: Date]

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

Dear Sir/Madam:

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

**A. Qualifications of the Service Provider**

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

- a) Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations;*
- b) 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.*

<sup>2</sup> This serves as a guide to the Service Provider in preparing the Proposal.

<sup>3</sup> 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**

	<b>Deliverables</b>	<b>Percentage of Total Price (Weight for payment)</b>	<b>Price (Lump Sum, All Inclusive)</b>
<b>1</b>	<b>As per TORs</b>		
	<b>Total</b>	<b>100%</b>	

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

*[Designation]*

*[Date]*

**Annex 3*****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