REQUEST FOR PROPOSALS

Security Services to Safeguard United Nations Common Premises and its Property in Namibia
United Nations Common Services Project
Republic of Namibia

United Nations Development Programme
February, 2021
Section 1. Letter of Invitation

Windhoek, Namibia
February 19, 2021

Services to safeguard United Nations Common Premises and its Property in Namibia

Dear Mr./Ms.: Prospective Service Provider

The United Nations Development Programme (UNDP) hereby invites you to submit a Proposal to this Request for Proposal (RFP) for the above-referenced subject.

This RFP includes the following documents:

Section 1 – This Letter of Invitation
Section 2– Instructions to Proposers (including Data Sheet)
Section 3– Terms of Reference
Section 4– Proposal Submission Form
Section 5– Documents Establishing the Eligibility and Qualifications of the Proposer
Section 6– Technical Proposal Form
Section 7– Financial Proposal Form
Section 8 – Contract for Professional Services, including General Terms and Conditions

Your offer, comprising of a Technical and Financial Proposal, in separate sealed envelopes, should be submitted in accordance with Section 2.

You are kindly requested to submit an acknowledgment letter to UNDP to the following address:

United Nations System’s Activity in Namibia
Private Bag 13329, Windhoek, UN House, 38 -44 Stein Street, Klein Windhoek, At: Ms. Lucia Stephanus
Fax : - 264-61-2046203, lucia.stephanus@undss.org

The letter should be received by UNDP no later than 10 March 2021, 16:30PM. The same letter should advise whether your company intends to submit a Proposal. If that is not the case, UNDP would appreciate your indicating the reason, for our records.

If you have received this RFP through a direct invitation by UNDP, transferring this invitation to another firm requires your written notification to UNDP of such transfer and the name of the company to whom the invitation was forwarded.

Should you require further clarifications, kindly communicate with the contact person identified in the attached Data Sheet as the focal point for queries on this RFP.

UNDP looks forward to receiving your Proposal and thanks you in advance for your interest in UNDP procurement opportunities.

Yours sincerely,

Sen Pang, UN Resident Coordinator
Section 2: Instruction to Proposers

Definitions

a) “Contract” refers to the agreement that will be signed by and between the UNDP and the successful proposer, all the attached documents thereto, including the General Terms and Conditions (GTC) and the Appendices.

b) “Country” refers to the country indicated in the Data Sheet.

c) “Data Sheet” refers to such part of the Instructions to Proposers used to reflect conditions of the tendering process that are specific for the requirements of the RFP.

d) “Day” refers to calendar day.

e) “Government” refers to the Government of the country that will be receiving the services provided/rendered specified under the Contract.

f) “Instructions to Proposers” (Section 2 of the RFP) refers to the complete set of documents that provides Proposers with all information needed and procedures to be followed in the course of preparing their Proposals.

(g) “LOI” (Section 1 of the RFP) refers to the Letter of Invitation sent by UNDP to Proposers.

h) “Material Deviation” refers to any contents or characteristics of the proposal that is significantly different from an essential aspect or requirement of the RFP, and: (i) substantially alters the scope and quality of the requirements; (ii) limits the rights of UNDP and/or the obligations of the offeror; and (iii) adversely impacts the fairness and principles of the procurement process, such as those that compromise the competitive position of other offerors.

i) “Proposal” refers to the Proposer’s response to the Request for Proposal, including the Proposal Submission Form, Technical and Financial Proposal and all other documentation attached thereto as required by the RFP.

j) “Proposer” refers to any legal entity that may submit, or has submitted, a Proposal for the provision of services requested by UNDP through this RFP.

k) “RFP” refers to the Request for Proposals consisting of instructions and references prepared by UNDP for purposes of selecting the best service provider to perform the services described in the Terms of Reference.

l) “Services” refers to the entire scope of tasks and deliverables requested by UNDP under the RFP.

Note: this Section 2 - Instructions to Proposers shall not be modified in any way. Any necessary changes to address specific country and project information, shall be introduced only through the Data Sheet.
m) “Supplemental Information to the RFP” refers to a written communication issued by UNDP to prospective Proposers containing clarifications, responses to queries received from prospective Proposers, or changes to be made in the RFP, at any time after the release of the RFP but before the deadline for the submission of Proposals.

n) “Terms of Reference” (TOR) refers to the document included in this RFP as Section 3 which describes the objectives, scope of services, activities, tasks to be performed, respective responsibilities of the proposer, expected results and deliverables and other data pertinent to the performance of the range of duties and services expected of the successful proposer.

A. GENERAL

1. UNDP hereby solicits Proposals in response to this Request for Proposal (RFP). Proposers must strictly adhere to all the requirements of this RFP. No changes, substitutions or other alterations to the rules and provisions stipulated in this RFP may be made or assumed unless it is instructed or approved in writing by UNDP in the form of Supplemental Information to the RFP.

2. Submission of a Proposal shall be deemed as an acknowledgement by the Proposer that all obligations stipulated by this RFP will be met and, unless specified otherwise, the Proposer has read, understood and agreed to all the instructions in this RFP.

3. Any Proposal submitted will be regarded as an offer by the Proposer and does not constitute or imply the acceptance of any Proposal by UNDP. UNDP is under no obligation to award a contract to any Proposer as a result of this RFP.

4. UNDP implements a policy of zero tolerance on proscribed practices, including fraud, corruption, collusion, unethical practices, and obstruction. UNDP is committed to preventing, identifying and addressing all acts of fraud and corrupt practices against UNDP as well as third parties involved in UNDP activities. (See http://www.undp.org/content/dam/undp/library/corporate/Transparency/UNDP_Anti_Fraud_Policy_English_FINAL_june_2011.pdf and http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/full description of the policies)

5. In responding to this RFP, UNDP requires all Proposers to conduct themselves in a professional, objective and impartial manner, and they must at all times hold UNDP’s interest’s paramount. Proposers must strictly avoid conflicts with other assignments or their own interests, and act without consideration for future work. All Proposers found to have a conflict of interest shall be disqualified. Without limitation on the generality of the above, Proposers, and any of their affiliates, shall be considered to have a conflict of interest with one or more parties in this solicitation process, if they:
5.1 Are or have been associated in the past, with a firm or any of its affiliates which have been engaged UNDP to provide services for the preparation of the design, specifications, Terms of Reference, cost analysis/estimation, and other documents to be used for the procurement of the goods and services in this selection process;

5.2 Were involved in the preparation and/or design of the programme/project related to the services requested under this RFP; or

5.3 Are found to be in conflict for any other reason, as may be established by, or at the discretion of, UNDP.

In the event of any uncertainty in the interpretation of what is potentially a conflict of interest, proposers must disclose the condition to UNDP and seek UNDP’s confirmation on whether or not such conflict exists.

6. Similarly, the Proposers must disclose in their proposal their knowledge of the following:

6.1 That they are owners, part-owners, officers, directors, controlling shareholders, or they have key personnel who are family of UNDP staff involved in the procurement functions and/or the Government of the country or any Implementing Partner receiving services under this RFP; and

6.2 All other circumstances that could potentially lead to actual or perceived conflict of interest, collusion or unfair competition practices.

Failure of such disclosure may result in the rejection of the proposal or proposals affected by the non-disclosure.

7. The eligibility of Proposers that are wholly or partly owned by the Government shall be subject to UNDP’s further evaluation and review of various factors such as being registered as an independent entity, the extent of Government ownership/share, receipt of subsidies, mandate, access to information in relation to this RFP, and others that may lead to undue advantage against other Proposers, and the eventual rejection of the Proposal.

8. All Proposers must adhere to the UNDP Supplier Code of Conduct, which may be found at this link: [http://www.un.org/depts/ptd/pdf/conduct_english.pdf](http://www.un.org/depts/ptd/pdf/conduct_english.pdf)

**B. CONTENTS OF PROPOSAL**

9. **Sections of Proposal**

Proposers are required to complete, sign and submit the following documents:

9.1 Proposal Submission Cover Letter Form (see RFP Section 4);

9.2 Documents Establishing the Eligibility and Qualifications of the Proposer (see RFP Section 5);

9.3 Technical Proposal (see prescribed form in RFP Section 6);

9.4 Financial Proposal (see prescribed form in RFP Section 7);

9.5 Proposal Security, if applicable (if required and as stated in the Data Sheet (DS nos. 9-11), see prescribed Form in RFP Section 8);

9.6 Any attachments and/or appendices to the Proposal.
10. Clarification of Proposal

10.1 Proposers may request clarifications of any of the RFP documents no later than the date indicated in the Data Sheet (DS no. 16) prior to the proposal submission date. Any request for clarification must be sent in writing via courier or through electronic means to the UNDP address indicated in the Data Sheet (DS no. 17). UNDP will respond in writing, transmitted by electronic means and will transmit copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Proposers who have provided confirmation of their intention to submit a Proposal.

10.2 UNDP shall endeavor to provide such responses to clarifications in an expeditious manner, but any delay in such response shall not cause an obligation on the part of UNDP to extend the submission date of the Proposals, unless UNDP deems that such an extension is justified and necessary.

11. Amendment of Proposals

11.1 At any time prior to the deadline of Proposal submission, UNDP may for any reason, such as in response to a clarification requested by a Proposer, modify the RFP in the form of a Supplemental Information to the RFP. All prospective Proposers will be notified in writing of all changes/amendments and additional instructions through Supplemental Information to the RFP and through the method specified in the Data Sheet (DS No. 18).

11.2 In order to afford prospective Proposers reasonable time to consider the amendments in preparing their Proposals, UNDP may, at its discretion, extend the deadline for submission of Proposals, if the nature of the amendment to the RFP justifies such an extension.

C. PREPARATION OF PROPOSALS

12. Cost

The Proposer shall bear any and all costs related to the preparation and/or submission of the Proposal, regardless of whether its Proposal was selected or not. UNDP shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the procurement process.

13. Language

The Proposal, as well as any and all related correspondence exchanged by the Proposer and UNDP, shall be written in the language (s) specified in the Data Sheet (DS No 4). Any printed literature furnished by the Proposer written in a language other than the language indicated in the Data Sheet, must be accompanied by a translation in the preferred language indicated in the Data Sheet. For purposes of interpretation of the Proposal, and in the event of discrepancy or inconsistency in meaning, the version translated into the preferred language shall govern. Upon conclusion of a contract, the language of the contract shall govern the relationship between the contractor and UNDP.
14. Proposal Submission Form

The Proposer shall submit the Proposal Submission Form using the form provided in Section 4 of this RFP.

15. Technical Proposal Format and Content

Unless otherwise stated in the Data Sheet (DS no. 28), the Proposer shall structure the Technical Proposal as follows:

15.1 Expertise of Firm/Organization – this section should provide details regarding management structure of the organization, organizational capability/resources, and experience of organization/firm, the list of projects/contracts (both completed and on-going, both domestic and international) which are related or similar in nature to the requirements of the RFP, and proof of financial stability and adequacy of resources to complete the services required by the RFP (see RFP clause 18 and DS No. 26 for further details). The same shall apply to any other entity participating in the RFP as a Joint Venture or Consortium.

15.2 Proposed Methodology, Approach and Implementation Plan – this section should demonstrate the Proposer’s response to the Terms of Reference by identifying the specific components proposed, how the requirements shall be addressed, as specified, point by point; providing a detailed description of the essential performance characteristics proposed; identifying the works/portions of the work that will be subcontracted; and demonstrating how the proposed methodology meets or exceeds the specifications, while ensuring appropriateness of the approach to the local conditions and the rest of the project operating environment. This methodology must be laid out in an implementation timetable that is within the duration of the contract as specified in the Data Sheet (DSnos.29 and 30).

Proposers must be fully aware that the products or services that UNDP requires may be transferred, immediately or eventually, by UNDP to the Government partners, or to an entity nominated by the latter, in accordance with UNDP’s policies and procedures. All proposers are therefore required to submit the following in their proposals:

a) A statement of whether any import or export licences are required in respect of the goods to be purchased or services to be rendered, including any restrictions in the country of origin, use or dual use nature of the goods or services, including any disposition to end users; and
b) Confirmation that the Proposer has obtained license of this nature in the past and have an expectation of obtaining all the necessary licenses, should their Proposal be rendered the most responsive.

15.3 Management Structure and Key Personnel – This section should include the comprehensive curriculum vitae (CVs) of key personnel that will be assigned to support the implementation of the proposed methodology, clearly defining the roles and responsibilities vis-à-vis the proposed methodology. CVs should establish competence and demonstrate qualifications in areas relevant to the TOR.
In complying with this section, the Proposer assures and confirms to UNDP that the personnel being nominated are available for the Contract on the dates proposed. If any of the key personnel later becomes unavailable, except for unavoidable reasons such as death or medical incapacity, among other possibilities, UNDP reserves the right to consider the proposal non-responsive. Any deliberate substitution arising from unavoidable reasons, including delay in the implementation of the project of programme through no fault of the Proposer shall be made only with UNDP’s acceptance of the justification for substitution, and UNDP’s approval of the qualification of the replacement who shall be either of equal or superior credentials as the one being replaced.

15.4 Where the Data Sheet requires the submission of the Proposal Security, the Proposal Security shall be included along with the Technical Proposal. The Proposal Security may be forfeited by UNDP, and reject the Proposal, In the event of any or any combination of the following conditions:

a) If the Proposer withdraws its offer during the period of the Proposal Validity specified in the Data Sheet (DS no. 11), or;
b) If the Proposal Security amount is found to be less than what is required by UNDP as indicated in the Data Sheet (DSno. 9), or;
c) In the case the successful Proposer fails:
   i. to sign the Contract after UNDP has awarded it;
   ii. to comply with UNDP’s variation of requirement, as per RFP clause 35; or
   iii. to furnish Performance Security, insurances, or other documents that UNDP may require as a condition to rendering the effectivity of the contract that may be awarded to the Proposer.

16. Financial Proposals

The Financial Proposal shall be prepared using the attached standard form (Section 7). It shall list all major cost components associated with the services, and the detailed breakdown of such costs. All outputs and activities described in the Technical Proposal must be priced separately on a one-to-one correspondence. Any output and activities described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, as well as in the final total price.

17. Currencies

All prices shall be quoted in the currency indicated in the Data Sheet (DS no. 15). However, where Proposals are quoted in different currencies, for the purposes of comparison of all Proposals:

a) UNDP will convert the currency quoted in the Proposal into the UNDP preferred currency, in accordance with the prevailing UN operational rate of exchange on the last day of submission of Proposals; and
b) In the event that the proposal found to be the most responsive to the RFP requirement is quoted in another currency different from the preferred currency as per Data Sheet (DSno. 15), then UNDP shall reserve the right to award the contract in the currency of UNDP’s preference, using the conversion method specified above.
Proposals submitted by two (2) or more Proposers shall all be rejected if they are found to have any of the following:

a) they have at least one controlling partner, director or shareholder in common; or
b) any one of them receive or have received any direct or indirect subsidy from the other/s; or
c) they have the same legal representative for purposes of this RFP; or
d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about, or influence on the Proposal of, another Proposer regarding this RFP process;
e) they are subcontractors to each other’s Proposal, or a subcontractor to one Proposal also submits another Proposal under its name as lead Proposer; or
f) an expert proposed to be in the team of one Proposer participates in more than one Proposal received for this RFP process. This condition does not apply to subcontractors being included in more than one Proposal.

18. Documents Establishing the Eligibility and Qualifications of the Proposer

The Proposer shall furnish documentary evidence of its status as an eligible and qualified vendor, using the forms provided under Section 5, Proposer Information Forms. In order to award a contract to a Proposer, its qualifications must be documented to UNDP’s satisfaction. These include, but are not limited to, the following:

a) That, in the case of a Proposer offering to supply goods under the Contract which the Proposer did not manufacture or otherwise produce, the Proposer has been duly authorized by the goods’ manufacturer or producer to supply the goods in the country of final destination;
b) That the Proposer has the financial, technical, and production capability necessary to perform the Contract; and
c) That, to the best of the Proposer’s knowledge, it is not included in the UN 1267/1989 List or the UN Ineligibility List, nor in any and all of UNDP’s list of suspended and removed vendors.

19. Joint Venture, Consortium or Association

If the Proposer is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Proposal, they shall confirm in their Proposal that : (i) they have designated one party to act as a lead entity, duly vested with authority to legally bind the members of the joint venture jointly and severally, and this shall be duly evidenced by a duly notarized Agreement among the legal entities, which shall be submitted along with the Proposal; and (ii) if they are awarded the contract, the contract shall be entered into, by and between UNDP and the designated lead entity, who shall be acting for and on behalf of all the member entities comprising the joint venture.

After the Proposal, has been submitted to UNDP, the lead entity identified to represent the joint venture shall not be altered without the prior written consent of UNDP. Furthermore, neither the lead entity nor the member entities of the joint venture can:

a) Submit another proposal, either in its own capacity; nor
b) As a lead entity or a member entity for another joint venture submitting another Proposal.
The description of the organization of the joint venture/consortium/association must clearly define the expected role of each of the entity in the joint venture in delivering the requirements of the RFP, both in the Proposal and the Joint Venture Agreement. All entities that comprise the joint venture shall be subject to the eligibility and qualification assessment by UNDP.

Where a joint venture is presenting its track record and experience in a similar undertaking as those required in the RFP, it should present such information in the following manner:

a) Those that were undertaken together by the joint venture; and  
b) Those that were undertaken by the individual entities of the joint venture expected to be involved in the performance of the services defined in the RFP.

Previous contracts completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture or those of its members, but should only be claimed by the individual experts themselves in their presentation of their individual credentials.

If a joint venture’s Proposal is determined by UNDP as the most responsive Proposal that offers the best value for money, UNDP shall award the contract to the joint venture, in the name of its designated lead entity. The lead entity shall sign the contract for and on behalf of all other member entities.

20. Alternative Proposals

Unless otherwise specified in the Data Sheet (DS nos. 5 and 6), alternative proposals shall not be considered. Where the conditions for its acceptance are met, or justifications are clearly established, UNDP reserves the right to award a contract based on an alternative proposal.

21. Validity Period

Proposals shall remain valid for the period specified in the Data Sheet (DS no. 8), commencing on the submission deadline date also indicated in the Data Sheet (DS no. 21). A Proposal valid for a shorter period shall be immediately rejected by UNDP and rendered non-responsive.

In exceptional circumstances, prior to the expiration of the proposal validity period, UNDP may request Proposers to extend the period of validity of their Proposals. The request and the responses shall be made in writing, and shall be considered integral to the Proposal.

22. Proposer’s Conference

When appropriate, a proposer’s conference will be conducted at the date, time and location specified in the Data Sheet (DSno. 7). All Proposers are encouraged to attend. Non-attendance, however, shall not result in disqualification of an interested Proposer. Minutes of the proposer’s conference will be either posted on the UNDP website, or disseminated to the individual firms who have registered or expressed interest with the contract, whether or not they attended the conference. No verbal statement made during the conference shall modify the terms and conditions of the RFP unless such statement is specifically written in the Minutes of the Conference, or issued/posted as an amendment in the form of a Supplemental Information to the RFP.
D. SUBMISSION AND OPENING OF PROPOSALS

23. Submission

23.1 The Financial Proposal and the Technical Proposal Envelopes MUST BE COMPLETELY SEPARATE and each of them must be submitted sealed individually and clearly marked on the outside as either “TECHNICAL PROPOSAL” or “FINANCIAL PROPOSAL”, as appropriate. Each envelope MUST clearly indicate the name of the Proposer. The outer envelopes shall bear the address of UNDP as specified in the Data Sheet (DSno.20) and shall include the Proposer’s name and address, as well as a warning that state “not to be opened before the time and date for proposal opening” as specified in the Data Sheet (DSno. 24). The Proposer shall assume the responsibility for the misplacement or premature opening of Proposals due to improper sealing and labeling by the Proposer.

23.2 Proposers must submit their Proposals in the manner specified in the Data Sheet (DSnos. 22 and 23). When the Proposals are expected to be in transit for more than 24 hours, the Proposer must ensure that sufficient lead time has been provided in order to comply with UNDP’s deadline for submission. UNDP shall indicate for its record that the official date and time of receiving the Proposal is the actual date and time when the said Proposal has physically arrived at the UNDP premises indicated in the Data Sheet (DSno. 20).

23.3 Proposers submitting Proposals by mail or by hand shall enclose the original and each copy of the Proposal, in separate sealed envelopes, duly marking each of the envelopes as “Original Proposal” and “Copy of Proposal” as appropriate. The 2 envelopes shall then be sealed in an outer envelope. The number of copies required shall be as specified in the Data Sheet (DS No. 19). In the event of any discrepancy between the contents of the “Original Proposal” and the “Copy of Proposal”, the contents of the original shall govern. The original version of the Proposal shall be signed or initialed by the Proposer or person(s) duly authorized to commit the Proposer on every page. The authorization shall be communicated through a document evidencing such authorization issued by the highest official of the firm, or a Power of Attorney, accompanying the Proposal.

23.4 Proposers must be aware that the mere act of submission of a Proposal, in and of itself, implies that the Proposer accepts the General Contract Terms and Conditions of UNDP as attached hereto as Section 11.

24. Deadline for Submission of Proposals and Late Proposals

Proposals must be received by UNDP at the address and no later than the date and time specified in the Data Sheet (DS nos. 20 and 21).

UNDP shall not consider any Proposal that arrives after the deadline for submission of Proposals. Any Proposal received by UNDP after the deadline for submission of Proposals shall be declared late, rejected, and returned unopened to the Proposer.
25. Withdrawal, Substitution, and Modification of Proposals

25.1 Proposers are expected to have sole responsibility for taking steps to carefully examine in detail the full consistency of its Proposals to the requirements of the RFP, keeping in mind that material deficiencies in providing information requested by UNDP, or lack clarity in the description of services to be provided, may result in the rejection of the Proposal. The Proposer shall assume the responsibility regarding erroneous interpretations or conclusions made by the Proposer in the course of understanding the RFP out of the set of information furnished by UNDP.

25.2 A Proposer may withdraw, substitute or modify its Proposal after it has been submitted by sending a written notice in accordance with Clause 23.1, duly signed by an authorized representative, and shall include a copy of the authorization (or a Power of Attorney). The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be received by UNDP prior to the deadline for submission and submitted in accordance with RFP Clause 23.1 (except that withdrawal notices do not require copies). The respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or MODIFICATION”.

25.3 Proposals requested to be withdrawn shall be returned unopened to the Proposers.

25.4 No Proposal may be withdrawn, substituted, or modified in the interval between the deadline for submission of Proposals and the expiration of the period of proposal validity specified by the Proposer on the Proposal Submission Form or any extension thereof.

26. Proposal Opening

UNDP will open the Proposals in the presence of an ad-hoc committee formed by UNDP of at least two (2) members. If electronic submission is permitted, any specific electronic proposal opening procedures shall be as specified in the Data Sheet (DS no. 23).

The Proposers’ names, modifications, withdrawals, the condition of the envelope labels/seals, the number of folders/files and all other such other details as UNDP may consider appropriate, will be announced at the opening. No Proposal shall be rejected at the opening stage, except for late submission, for which the Proposal shall be returned unopened to the Proposer.

27. Confidentiality

Information relating to the examination, evaluation, and comparison of Proposals, and the recommendation of contract award, shall not be disclosed to Proposers or any other persons not officially concerned with such process, even after publication of the contract award.

Any effort by a Proposer to influence UNDP in the examination, evaluation and comparison of the Proposals or contract award decisions may, at UNDP’s decision, result in the rejection of its Proposal.
In the event that a Proposer is unsuccessful, the Proposer may seek a meeting with UNDP for a debriefing. The purpose of the debriefing is discussing the strengths and weaknesses of the Proposer’s submission, in order to assist the Proposer in improving the proposals presented to UNDP. The content of other proposals and how they compare to the Proposer’s submission shall not be discussed.

**E. EVALUATION OF PROPOSALS**

28. Preliminary Examination of Proposals

UNDP shall examine the Proposals to determine whether they are complete with respect to minimum documentary requirements, whether the documents have been properly signed, whether or not the Proposer is in the UN Security Council 1267/1989 Committee’s list of terrorists and terrorist financiers, and in UNDP’s list of suspended and removed vendors, and whether the Proposals are generally in order, among other indicators that may be used at this stage. UNDP may reject any Proposal at this stage.

29. Evaluation of Proposals

29.1 UNDP shall examine the Proposal to confirm that all terms and conditions under the UNDP General Terms and Conditions and Special Conditions have been accepted by the Proposer without any deviation or reservation.

29.2 The evaluation team shall review and evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and other documentation provided, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet (DSno. 32). Each responsive Proposal will be given a technical score. A Proposal shall be rendered non-responsive at this stage if it does not substantially respond to the RFP particularly the demands of the Terms of Reference, which also means that it fails to achieve the minimum technical score indicated in the Data Sheet (DSno. 25). Absolutely no changes may be made by UNDP in the criteria, sub-criteria and point system indicated in the Data Sheet (DSno. 32) after all Proposals have been received.

29.3 In the second stage, only the Financial Proposals of those Proposers who achieve the minimum technical score will be opened for evaluation for comparison and review. The Financial Proposal Envelopes corresponding to Proposals that did not meet the minimum passing technical score shall be returned to the Proposer unopened. The overall evaluation score will be based either on a combination of the technical score and the financial offer, or the lowest evaluated financial proposal of the technically qualified Proposers. The evaluation method that applies for this RFP shall be as indicated in the Data Sheet (DS No. 25).
When the Data Sheet specifies a combined scoring method, the formula for the rating of the Proposals will be as follows:

**Rating the Technical Proposal (TP):**

\[
TP \text{ Rating} = \left( \frac{\text{Total Score Obtained by the Offer}}{\text{Max. Obtainable Score for TP}} \right) \times 100
\]

**Rating the Financial Proposal (FP):**

\[
FP \text{ Rating} = \left( \frac{\text{Lowest Priced Offer}}{\text{Price of the Offer Being Reviewed}} \right) \times 100
\]

**Total Combined Score:**

\[
\text{(TP Rating)} \times (\text{Weight of TP, e.g. 70%}) \\
+ \text{(FP Rating)} \times (\text{Weight of FP, e.g., 30%})
\]

**Total Combined and Final Rating of the Proposal**

29.4 UNDP reserves the right to undertake a post-qualification exercise aimed at determining, to its satisfaction the validity of the information provided by the Proposer. Such post-qualification shall be fully documented and, among those that may be listed in the Data Sheet (DS No.33), may include, but need not be limited to, all or any combination of the following:

a) Verification of accuracy, correctness and authenticity of information provided by the Proposer on the legal, technical and financial documents submitted;
b) Validation of extent of compliance to the RFP requirements and evaluation criteria based on what has so far been found by the evaluation team;
c) Inquiry and reference checking with Government entities with jurisdiction on the Proposer, or any other entity that may have done business with the Proposer;
d) Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed;
e) Physical inspection of the Proposer’s offices, branches or other places where business transpires, with or without notice to the Proposer;
f) Quality assessment of ongoing and completed outputs, works and activities similar to the requirements of UNDP, where available; and
g) Other means that UNDP may deem appropriate, at any stage within the selection process, prior to awarding the contract.
30. Clarification of Proposals

To assist in the examination, evaluation and comparison of Proposals, UNDP may, at its discretion, ask any Proposer for a clarification of its Proposal.

UNDP’s request for clarification and the response shall be in writing. Notwithstanding the written communication, no change in the prices or substance of the Proposal shall be sought, offered, or permitted, except to provide clarification, and confirm the correction of any arithmetic errors discovered by UNDP in the evaluation of the Proposals, in accordance with RFP Clause 32.

Any unsolicited clarification submitted by a Proposer in respect to its Proposal, which is not a response to a request by UNDP, shall not be considered during the review and evaluation of the Proposals.

31. Responsiveness of Proposal

UNDP’s determination of a Proposal’s responsiveness will be based on the contents of the Proposal itself.

A substantially responsive Proposal is one that conforms to all the terms, conditions, TOR and other requirements of the RFP without material deviation, reservation, or omission.

If a Proposal is not substantially responsive, it shall be rejected by UNDP and may not subsequently be made responsive by the Proposer by correction of the material deviation, reservation, or omission.

32. Nonconformities, Reparable Errors and Omissions

Provided that a Proposal is substantially responsive, UNDP may waive any non-conformities or omissions in the Proposal that, in the opinion of UNDP, do not constitute a material deviation.

Provided that a Proposal is substantially responsive, UNDP may request the Proposer to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Proposal related to documentation requirements. Such omission shall not be related to any aspect of the price of the Proposal. Failure of the Proposer to comply with the request may result in the rejection of its Proposal.

Provided that the Proposal is substantially responsive, UNDP shall correct arithmetical errors as follows:

a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of UNDP there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;

b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected;
c) and if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to the above.

If the Proposer does not accept the correction of errors made by UNDP, its Proposal shall be rejected.

F. AWARD OF CONTRACT

33. Right to Accept, Reject, or Render Non-Responsive Any or All Proposals

UNDP reserves the right to accept or reject any Proposal, to render any or all of the Proposals as non-responsive, and to reject all Proposals at any time prior to award of contract, without incurring any liability, or obligation to inform the affected Proposer(s) of the grounds for UNDP’s action. Furthermore, UNDP shall not be obliged to award the contract to the lowest price offer.

UNDP shall also verify, and immediately reject their respective Proposal, if the Proposers are found to appear in the UN’s Consolidated List of Individuals and Entities with Association to Terrorist Organizations, in the List of Vendors Suspended or Removed from the UN Secretariat Procurement Division Vendor Roster, the UN Ineligibility List, and other such lists that as may be established or recognized by UNDP policy on Vendor Sanctions. (See http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/ for details)

34. Award Criteria

Prior to expiration of the period of proposal validity, UNDP shall award the contract to the qualified Proposer with the highest total score based on the evaluation method indicated in the Data Sheet (DS nos. 25 and 32).

35. Right to Vary Requirements at the Time of Award

At the time of award of Contract, UNDP reserves the right to vary 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.

36. Contract Signature

Within fifteen (15) days from the date of receipt of the Contract, the successful Proposer shall sign and date the Contract and return it to UNDP.

Failure of the successful Proposer to comply with the requirement of RFP Clause 35 and this provision shall constitute sufficient grounds for the annulment of the award, and forfeiture of the Proposal Security if any, and on which event, UNDP may award the Contract to the Proposer with the second highest rated Proposal, or call for new Proposals.
37. **Performance Security**

A performance security, if required, shall be provided in the amount and form provided in Section 9 and by the deadline indicated in the Data Sheet (DSno. 14), as applicable. Where a Performance Security will be required, the submission of the said document, and the confirmation of its acceptance by UNDP, shall be a condition for the effectivity of the Contract that will be signed by and between the successful Proposer and UNDP.

38. **Bank Guarantee for Advanced Payment**

Except when the interests of UNDP so require, it is the UNDP’s preference to make no advanced payment(s) on contracts (i.e., payments without having received any outputs). In the event that the Proposer requires an advanced payment upon contract signature, and if such request is duly accepted by UNDP, and the said advanced payment exceeds 20% of the total proposal price, or exceed the amount of USD 30,000, UNDP shall require the Proposer to submit a Bank Guarantee in the same amount as the advanced payment. A bank guarantee for advanced payment shall be furnished in the form provided in Section 10.

39. **Vendor Protest**

UNDP’s vendor protest procedure provides an opportunity for appeal to those persons or firms not awarded a purchase order or contract through a competitive procurement process. In the event that a Proposer believes that it was not treated fairly, the following link provides further details regarding UNDP vendor protest procedures: [http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/](http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/)
# Instructions to Proposers

## DATA SHEET

The following data for the services to be procured shall complement, supplement, or amend the provisions in the Instruction to Proposers. In the case of a conflict between the Instructions to Proposers, the Data Sheet, and other annexes or references attached to the Data Sheet, the provisions in the Data Sheet shall govern.

<table>
<thead>
<tr>
<th>DS No.²</th>
<th>Cross Ref. to Instructions</th>
<th>Data</th>
<th>Specific Instructions / Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>Project Title:</td>
<td><strong>Security Services</strong></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>Title of Services/Work:</td>
<td><strong>Provision of Security Services for the United Nations Common Premises in Namibia, Sub Offices and Residences</strong></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>Country / Region of Work Location:</td>
<td>38 – 44 Stein Street, UN House, Klein Windhoek, Windhoek, Republic of Namibia, Residence of the UN Resident Coordinator, other UN Agency Representative and Senior Staff members of the respective Agencies.</td>
</tr>
<tr>
<td>4</td>
<td>C.13</td>
<td>Language of the Proposal:</td>
<td>☒ English ☐ French ☐ Spanish ☐ Others (pls. specify) __________________________</td>
</tr>
<tr>
<td>5</td>
<td>C.20</td>
<td>Conditions for Submitting Proposals for Parts or sub-parts of the TOR</td>
<td>☐ Allowed [if yes, describe how, and ensure that requirements properly define the sub-parts] ☒ Not allowed</td>
</tr>
<tr>
<td>6</td>
<td>C.20</td>
<td>Conditions for Submitting Alternative Proposals</td>
<td>☒ Shall not be considered</td>
</tr>
</tbody>
</table>

²All DS number entries in the Data Sheet are cited as reference in the Instructions to Proposers. All DS nos. corresponding to a Data must not be modified. Only information on the 3rd column may be modified by the user. If the information does not apply, the 3rd column must state “N/A” but must not be deleted.
<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td><strong>C.21</strong> Period of Proposal Validity commencing on the submission date</td>
<td>☐ 60 days</td>
<td>☒ 90 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ 120 days</td>
</tr>
<tr>
<td>8</td>
<td><strong>B.9.5 C.15.4 b)</strong> Proposal Security</td>
<td>☐ Required Amount: Click here to enter text. Form: Click here to enter text.</td>
<td>☒ Not Required</td>
</tr>
<tr>
<td>9</td>
<td><strong>B.9.5</strong> Acceptable forms of Proposal Security</td>
<td>☐ Bank Guarantee (See Section 8 for template)</td>
<td>☐ Any Bank-issued Check / Cashier’s Check / Certified Check</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ Other negotiable instrument</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ Cash (exceptionally, if none of the other forms are feasible)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ Others [pls. specify]</td>
</tr>
<tr>
<td>10</td>
<td><strong>B.9.5 C.15.4 a)</strong> Validity of Proposal Security</td>
<td>[indicate no. of days, but minimum of 90]</td>
<td>days from the last day of Proposal submission. Proposal Security of unsuccessful Proposers shall be returned.</td>
</tr>
<tr>
<td>11</td>
<td>Advanced Payment upon signing of contract</td>
<td>☐ Allowed up to a maximum of ____% of contract</td>
<td>☒ Not allowed</td>
</tr>
<tr>
<td>12</td>
<td>Liquidated Damages</td>
<td>☒ Will not be imposed</td>
<td>☐ Will be imposed under the following conditions: Percentage of contract price per day of delay:____ Max. no. of days of delay:____ After which UNDP may terminate the contract.</td>
</tr>
<tr>
<td>13</td>
<td><strong>F.37</strong> Performance Security</td>
<td>☐ Required Amount: ______________________________ Form: ______________________________</td>
<td>☒ Not Required</td>
</tr>
<tr>
<td>14</td>
<td><strong>C.17, C.17 b)</strong> Preferred Currency of Proposal and Method for Currency conversion</td>
<td>☐ United States Dollars (US$)</td>
<td>☒ Local Currency</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Reference date for determining UN Operational Exchange Rate: 14.6299</td>
</tr>
</tbody>
</table>

---

3 Surety bonds or other instruments issued by non-bank Financial Institutions are least preferred by UNDP. Unless stated otherwise, they shall be considered unacceptable to UNDP.

4 If the advanced payment that the Bidder will submit will exceed 20% of the Price Offer, or will exceed the amount of USD 30,000, the Bidder must submit an Advanced Payment Security in the same amount as the advanced payment, using the form and contents of the document in Section 10.
<table>
<thead>
<tr>
<th>No.</th>
<th>Section</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>B.10.1</td>
<td>Deadline for submitting requests for clarifications/questions</td>
<td>4 days before the Closing Date.</td>
</tr>
<tr>
<td>16</td>
<td>B.10.1</td>
<td>Contact Details for submitting clarifications/questions</td>
<td>E-mail Address at UNDP: <strong>UNDP PROCUREMENT UNIT</strong>&lt;br&gt;Address: <strong>38-44 Stein street</strong>&lt;br&gt;Klein Windhoek&lt;br&gt;Facsimile: Fax No.: <strong>264-61-2046203</strong>&lt;br&gt;E-mail address dedicated for this purpose: <a href="mailto:procurement.na@undp.org">procurement.na@undp.org</a></td>
</tr>
<tr>
<td>17</td>
<td>B.11.1</td>
<td>Manner of Disseminating Supplemental Information to the RFP and responses/clarifications to queries</td>
<td><strong>×</strong> Direct communication to prospective Proposers by email only.&lt;br&gt;☐ Direct communication to prospective Proposers by email or fax, and&lt;br&gt;Posting on the website [specify exact URL Address]</td>
</tr>
<tr>
<td>18</td>
<td>D.23.3</td>
<td>No. of copies of Proposal that must be submitted [if transmitted by courier]</td>
<td>Original: <strong>2 Separate Envelopes - 1 Technical &amp; 1 Financial Envelope</strong>&lt;br&gt;Copies: <strong>None</strong></td>
</tr>
<tr>
<td>19</td>
<td>D.23.1</td>
<td>Proposal Submission Address</td>
<td><strong>38 – 44 Stein Street, UN House, Klein Windhoek, Windhoek, Republic of Namibia</strong></td>
</tr>
<tr>
<td></td>
<td>D.23.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>D.24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>C.21</td>
<td>Deadline of Submission</td>
<td>Date and Time: <strong>March 10, 2021 4:30 PM</strong>&lt;br&gt;[Pls. use COB of chosen date]</td>
</tr>
<tr>
<td></td>
<td>D.24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>D.23.2</td>
<td>Allowable Manner of Submitting Proposals</td>
<td><strong>×</strong> Courier/Hand Delivery&lt;br&gt;☐ Electronic submission of Bid [specify exact URL Address]</td>
</tr>
<tr>
<td>23</td>
<td>D.23.1</td>
<td>Date, time and venue for opening of Proposals</td>
<td>Date and Time: <strong>March 17, 2021 11:00 AM</strong>&lt;br&gt;Venue: <strong>38-44 Stein street, UNDP Conference Room</strong></td>
</tr>
</tbody>
</table>

---

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 officially received.

6 Posting on the website shall be supplemented by directly transmitting the communication to the prospective offerors.

7 If this will be allowed, security features (e.g., encryption, authentication, digital signatures, etc.) are strictly required and must be enforced to ensure confidentiality and integrity of contents.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Evaluation method to be used in selecting the most responsive Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>E.29.2</td>
<td>Lowest financial offer of technically qualified Proposals (i.e., offers that are rated 70% and above)</td>
</tr>
<tr>
<td></td>
<td>E.29.3</td>
<td><strong>Combined Scoring Method, using the 70%-30% distribution for technical and financial proposals, respectively, where the minimum passing score of technical proposal is 70%</strong></td>
</tr>
<tr>
<td></td>
<td>F.34</td>
<td>□ Combined Scoring Method, using 60%-40% distribution for technical and financial proposals, respectively, where minimum passing score of technical proposal is 60%.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.15.1</td>
<td>Required Documents that must be Submitted to Establish Qualification of Proposers (In “Certified True Copy” form only)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Company Profile, which should not exceed fifteen (15) pages, including printed brochures and product catalogues relevant to the goods/services being procured</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Members of the Governing Board and their Designations duly certified by the Corporate Secretary, or its equivalent document if bidder is not a corporation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× List of Shareholders and Other Entities Financially Interested in the Firm owning 5% or more of the stocks and other interests, or its equivalent if bidder is not a corporation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Tax Registration/Payment Certificate issued by the Internal Revenue Authority evidencing that the bidder is updated with its tax payment obligations, or Certificate of Tax exemption, if any such privilege is enjoyed by the bidder</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Certificate of Registration of the business, including Articles of Incorporation, or equivalent document if bidder is not a corporation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Trade name registration papers, if applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Local Government permit to locate and operate in the current location of office or factory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Latest Audited Financial Statement (Income Statement and Balance Sheet) including Auditor’s Report for the past [3 Years]</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× Statement of Satisfactory Performance from the Top 5 Clients in terms of Contract Value the past [indicate number of years of reference]</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× List of Bank References (Name of Bank, Location, Contact Person and Contact Details)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>× All information regarding any past and current litigation during the last five (5) years, in which the bidder is involved, indicating the parties concerned, the subject of the litigation, the amounts involved, and the final resolution if already concluded.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other documents that may be Submitted to Establish Eligibility</td>
</tr>
<tr>
<td></td>
<td></td>
<td>None</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.15.2</td>
<td>Latest Expected date for commencement of Contract</td>
</tr>
<tr>
<td></td>
<td></td>
<td>June 1, 2021</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>29</td>
<td>C.15.2</td>
<td>Expected duration of contract (Target Commencement Date and Completion Date)</td>
</tr>
<tr>
<td>30</td>
<td></td>
<td>UNDP will award the contract to:</td>
</tr>
</tbody>
</table>
| 31 | E.29.2 F.34 | Criteria for the Award of Contract and Evaluation of Proposals | (See Tables below)  
Important Note: The points indicated below are only suggested distribution but may be modified based on the nature and demands of the TOR. However, ABSOLUTELY NO CHANGES on this table may be made by UNDP after Proposal Envelopes have been received, most specially after the envelopes have been opened. |
| 32 | E.29.4 | Post-Qualification Actions | × Verification of accuracy, correctness and authenticity of the information provided by the bidder on the legal, technical and financial documents submitted;  
× Validation of extent of compliance to the ITB requirements and evaluation criteria based on what has so far been found by the evaluation team;  
× Inquiry and reference checking with Government entities with jurisdiction on the bidder, or any other entity that may have done business with the bidder;  
× Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed;  
× Physical inspection of the bidder’s plant, factory, branches or other places where business transpires, with or without notice to the bidder; |
| 33 |   | Conditions for Determining Contract Effectivity | ☐ UNDP’s receipt of Performance Bond  
☐ UNDP’s receipt of Professional Indemnity Insurance  
☐ Others [click here to specify]. |
| 34 |   | Other Information Related to the RFP\(^8\) | [All other instructions and information not yet mentioned so far in this Data Sheet but are relevant to the RFP must be cited here, and any further entries that may be added below this table row] |

---

\(^8\)Where the information is available in the web, a URL for the information may simply be provided.
UN House & Residential Security Measures
Evaluation Criteria

Security Proposal Evaluation Criteria

The evaluation will be based on the following criteria.

The UN House and Residential security measures provided in its entirety by a company, this will include Static Guards, Emergency Reponses and Alarm Services as an all-inclusive package.

1. **UN House and Residential Security Measures (60%)**

   A. Static Guards (30%)
      
      a. Provision of 24-Hour Guard Services
      b. Services to include professionally attired personnel and appropriate security equipment.
      c. Replacement arrangement of sick/absent guards with standby guards promptly.
      d. Mobile telephone connection between Guards, Client and Company Control Room / Center for rapid response.

   B. Alarm Services (15%)
      
      a. Provision of radio alarm system to all clients, including audio and visual alarms and remote panic buttons.
      b. Radio Alarm system to incorporate rapid response.
      c. Provision of new installations and maintenance.
      d. Provision of SMS Information for potential security trouble spots.

   C. Emergency Response (15%)
      
      a. 24 Hour Alarm back-up Mobile response capable of responding within minimum time span of five (5) minutes.
      b. Response to include robust actions against the perpetrators of incidents.
      c. Response Services that incorporates City Police as well as the Namibian Police presence.
      d. Emergency Vehicle Escort Services within Windhoek.
2. **Communications (20%)**

   Establishing Communications links with the (UN House) UNDSS Office to include VHF, Landline, mobile phone connectivity between security company Operations Room and the UNDSS Security Office.

3. **Security Coverage (15%)**

   Current Operational Coverage within Windhoek.

   a. Type and quantity of Service provided in each specific area, (suburb). (10%)
   b. The Capacity of Company to expand the current area of operations. (5%)

4. **Other (5%)**

   a. Registration with relevant institutions: - Social Security Commission; Ministry of Trade; Ministry of Finance (Receiver of Revenue)
   c. Company Good Standing Certificates; Min. of Finance, Social Security.
   b. **Company Empowerment Policy Assessment**
      (i) Female Shareholding (Gender Equality)
      (ii) Local Ownership
Section 3: Terms of Reference (TOR)\textsuperscript{9}

The United Nations (UN) Systems in Namibia wish to have a security service provider enlisted in order to provide safety and security services to the UN House, sub-offices and at the residences of certain staff members. Therefore, a security service provider which is professional, duly registered with all the related government institutions, and with appropriate experience is sought herewith.

**BACKGROUND**

The contract with the selected security service provider would cover the provision of safety and security and related services that include, but are not limited to provision of protection/guarding duties, managing residential security, control access, registration of visitors, keep records of visitors, searching of parcels and persons, searching of vehicles entering UN premises and any other duties as stipulated by the Security Advisor of United Nations Department of Safety and Security (UNDSS) in consultation with the Resident Coordinator of the UN Systems in Namibia.

**OBJECTIVES**

Security service provider is expected to provide and be compliant with the following requirements;

a. The security service provider should issue uniforms to the security guards which exemplify the company logo as well as the uniforms.

b. Such uniforms should be issued to the individuals security guards free of charge.

c. The remuneration of security guards should be market related and acceptable to the UN as well as to the labour law provisions of Namibia and this will be monitored from time to time.

d. Such security service provider is expected to deploy security guards only for eight hours tour of duties and should be provided adequate time off in order to recuperate.

e. Security guards should be trained in basic security management; they should also continuously be given training at the cost of the security service provider.

f. UN official language in Namibia is English; therefore, the individual security guards who are deployed to UN installations should be conversant in English (Speaking, writing and reading).

g. High level of discipline and punctuality are essential performance indicators.

---

\textsuperscript{9}This document serves as a guide to Requestor on how to write the TOR for the RFP, by suggesting contents. This document is not to be shared with Proposers in this current state and form. The TOR actually written by the Requestor shall be the TOR that will be attached to this part of the RFP.
h. The following can be considered as breach of contract;
   ❖ Deserting of guarding posts,
   ❖ Sleeping on duties
   ❖ Visits by other people whilst on duty at a guarding post,
   ❖ Use of earphones whilst on duty,
   ❖ Use of loud stereos whilst on duty,
   ❖ Excessive use of cell phones whilst on duty,
   ❖ Smelling alcohol or being under the influence of alcohol.
   ❖ If the security service provider fails to uphold good labour relations with employees.

### SCOPE OF SERVICES

The selected security provider shall provide full, prompt, accurate, and expert security services to staff of the UN Agencies in accordance with the UN policies, procedures, and guidelines. The services required under this Terms of Reference shall include, but not limited to, the following:

a. The selected security service provider shall appoint dedicated senior personnel/Operations Officer with extensive safety and security background and experience to the UN so that operational issues are addressed and communicated henceforth. Such individual will be screened in order to check his/her competencies.

b. The selected security provider shall also be required to provide security guards services to the RR/RC residence and residences of staff members who opt to utilize such services.

c. Bulk of safety and security services will be at the UN House and others such UN installations as it will be identified from time to time.

d. At RR/RC's residence and residences of staff members, security guards are expected to be discreet of any information pertaining to the RR/RC and staff members and should not divulge the information without any permission from RR/RC or such staff member.

e. Security guards who are deployed at various UN installations are not UN staff members or employees and are therefore not to claim any insurance or employee benefits.

### COMPLAINTS AND DISPUTES

a. The security service provider shall be expected to have a harmonious and sound employment relationship with its employees (security guards) so that any disputes or complaints emanating from security service (company) do not put UN in disrepute.

b. The UNDSS will if deemed necessary and appropriate from time to time issue complaints in writing and will expect a written explanation from the selected security service provider.

c. If the security service provider companies have a complaint against UN it is advisable that such complain is directed to the UNDSS Security Advisor.
SECURITY SERVICE PROVIDER QUALITY CONTROL

The Security Advisor will monitor, evaluate and assess the service provided by the security service provider in order to establish and benchmark the quality of service being provided to the UN. As safety and security risks and challenges are changing so will the Security Advisor communicate such new paradigm shift to the service provider. Such standards are expected to be maintained.

QUALIFICATIONS OF THE SECURITY SERVICE PROVIDER

The following criterion should be met by the aspiring security service provider;

- a. Minimum of three years of security service provision,
- b. Sound financial status,
- c. Reference of reputable services provided to other companies especially in diplomatic fraternity;
- d. Appropriate equipment and appliances to its disposal (site assessment will be done),
- e. Capacity and capability to train security guards (assessment will be carried out),
- f. Provision of transport to the guards so that punctuality is enhanced,

PERSONNEL

- a. The security service provider shall assign personnel as provided in the breakdown below to provide prompt, courteous and efficient service to the UN and to fulfill its obligations under the contract.
- b. In general, the security service provider shall assign the relevant personnel according to their technical know-how and reliability.
- c. The UN has the right to interview all prospective dedicated staff and to request replacement of any security service provider employee for reasonable cause.
- d. The UN also reserves the right to do background checks on any/all security service provider staff who are assigned to the UN account.
- e. The UN taking up such background checks, or not, in no way diminishes the security service provider obligations and liabilities concerning its personnel.

UN House **Weekdays** Day & Night:  - Guard Parking Basement  x 1 Patrol the Parking bay area at Two hourly intervals
                                          Guard Open Parking Area  x 1 Patrol entire premises at Two Hourly Intervals

UN House **Weekends** Day & Night: - Guard at the Pedestrian Entrance x 1
                                     Guard at the Vehicle Gate Control Entrance x 1
                                     Guard Parking Areas Basement/Open Parking x 1

RR/RC’s Residence Day & Night:  - Guard x 1
TERMS OF PAYMENT

Statement of account or invoice for UN House, other installations and respective staff members shall be submitted separately to the concerned UN Agencies / Staff Members on a monthly basis.

CONTRACT

The security service provider would be contracted for an initial period of 3 years, subject to continuous performance evaluation. Therefore, quarterly performance meetings will be held between the designated representative of the security service provider and UNDSS.

The Resident Coordinator will give notice of termination of contract if the performance and the service is not satisfactory or if there is a breach in the contract by giving a notice of 30 days.
1. **LEGAL STATUS OF THE PARTIES:** The United Nations Development Programme (“UNDP”) and the Contractor shall also each be referred to as a “Party” hereunder, and:

   1.1 Pursuant, *inter alia*, to the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations, the United Nations, including its subsidiary organs, has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfillment of its purposes.

   1.2 The Contractor shall have the legal status of an independent contractor *vis-à-vis* UNDP, and nothing contained in or relating to the Contract shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. The officials, representatives, employees, or subcontractors of each of the Parties shall not be considered in any respect as being the employees or agents of the other Party, and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

2. **RESPONSIBILITY FOR EMPLOYEES:** To the extent that the Contract involves the provision of any services to UNDP by the Contractor’s officials, employees, agents, servants, subcontractors and other representatives (collectively, the Contractor’s “personnel”), the following provisions shall apply:

   2.1 The Contractor shall be responsible for the professional and technical competence of the personnel it assigns to perform work under the Contract and will select reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.

   2.2 Such Contractor personnel shall be professionally qualified and, if required to work with officials or staff of UNDP, shall be able to do so effectively. The qualifications of any personnel whom the Contractor may assign or may propose to assign to perform any obligations under the Contract shall be substantially the same, or better, as the qualifications of any personnel originally proposed by the Contractor.
2.3 At the option of and in the sole discretion of UNDP:

2.3.1 the qualifications of personnel proposed by the Contractor (e.g., a curriculum vitae) may be reviewed by UNDP prior to such personnel’s performing any obligations under the Contract;

2.3.2 any personnel proposed by the Contractor to perform obligations under the Contract may be interviewed by qualified staff or officials of UNDP prior to such personnel’s performing any obligations under the Contract; and,

2.3.3 in cases in which, pursuant to Article 2.3.1 or 2.3.2, above, UNDP has reviewed the qualifications of such Contractor’s personnel, UNDP may reasonably refuse to accept any such personnel.

2.4 Requirements specified in the Contract regarding the number or qualifications of the Contractor’s personnel may change during the course of performance of the Contract. Any such change shall be made only following written notice of such proposed change and upon written agreement between the Parties regarding such change, subject to the following:

2.4.1 UNDP may, at any time, request, in writing, the withdrawal or replacement of any of the Contractor’s personnel, and such request shall not be unreasonably refused by the Contractor.

2.4.2 Any of the Contractor’s personnel assigned to perform obligations under the Contract shall not be withdrawn or replaced without the prior written consent of UNDP, which shall not be unreasonably withheld.

2.4.3 The withdrawal or replacement of the Contractor’s personnel shall be carried out as quickly as possible and in a manner that will not adversely affect the performance of obligations under the Contract.

2.4.4 All expenses related to the withdrawal or replacement of the Contractor’s personnel shall, in all cases, be borne exclusively by the Contractor.

2.4.5 Any request by UNDP for the withdrawal or replacement of the Contractor’s personnel shall not be considered to be a termination, in whole or in part, of the Contract, and UNDP shall not bear any liability in respect of such withdrawn or replaced personnel.

2.4.6 If a request for the withdrawal or replacement of the Contractor’s personnel is not based upon a default by or failure on the part of the Contractor to perform its obligations in accordance with the Contract, the misconduct of the personnel, or the inability of such personnel to reasonably work together with UNDP officials and staff, then the Contractor shall not be liable by reason of any such request for the withdrawal or replacement of the Contractor’s personnel for any delay in the performance by the Contractor of its obligations under the Contract that is substantially the result of such personnel’s being withdrawn or replaced.

2.5 Nothing in Articles 2.2, 2.3 and 2.4, above, shall be construed to create any obligations on the part of UNDP with respect to the Contractor’s personnel assigned to perform work under the Contract, and such personnel shall remain the sole responsibility of the Contractor.

2.6 The Contractor shall be responsible for requiring that all personnel assigned by it to perform any obligations under the Contract and who may have access to any premises or other property of UNDP shall:

2.6.1 undergo or comply with security screening requirements made known to the Contractor by UNDP, including but not limited to, a review of any criminal history;

2.6.2 when within UNDP premises or on UNDP property, display such identification as may be approved and furnished by UNDP security officials, and that upon the withdrawal or replacement of any such personnel or upon termination or completion of the Contract, such personnel shall immediately return any such identification to UNDP for cancellation.
2.7 Within one working day after learning that any of Contractor’s personnel who have access to any UNDP premises have been charged by law enforcement authorities with an offense other than a minor traffic offense, the Contractor shall provide written notice to inform UNDP about the particulars of the charges then known and shall continue to inform UNDP concerning all substantial developments regarding the disposition of such charges.

2.8 All operations of the Contractor, including without limitation, storage of equipment, materials, supplies and parts, within UNDP premises or on UNDP property shall be confined to areas authorized or approved by UNDP. The Contractor’s personnel shall not enter or pass through and shall not store or dispose of any of its equipment or materials in any areas within UNDP premises or on UNDP property without appropriate authorization from UNDP.

3. ASSIGNMENT:

3.1 Except as provided in Article 3.2, below, the Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of UNDP. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, shall not be binding on UNDP. Except as permitted with respect to any approved subcontractors, the Contractor shall not delegate any of its obligations under this Contract, except with the prior written consent of UNDP. Any such unauthorized delegation, or attempt to do so, shall not be binding on UNDP.

3.2 The Contractor may assign or otherwise transfer the Contract to the surviving entity resulting from a reorganization of the Contractor’s operations, provided that:

3.2.1 such reorganization is not the result of any bankruptcy, receivership or other similar proceedings; and,

3.2.2 such reorganization arises from a sale, merger, or acquisition of all or substantially all of the Contractor’s assets or ownership interests; and,

3.2.3 the Contractor promptly notifies UNDP about such assignment or transfer at the earliest opportunity; and,

3.2.4 the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the Contract, and such writing is promptly provided to UNDP following the assignment or transfer.

4. SUBCONTRACTING: In the event that the Contractor requires the services of subcontractors to perform any obligations under the Contract, the Contractor shall obtain the prior written approval of UNDP. UNDP shall be entitled, in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that UNDP reasonably considers is not qualified to perform obligations under the Contract. UNDP shall have the right to require any subcontractor’s removal from UNDP premises without having to give any justification therefor. Any such rejection or request for removal shall not, in and of itself, entitle the Contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract, and the Contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

5. PURCHASE OF GOODS: To the extent that the Contract involves any purchase of goods, whether in whole or in part, and unless specifically stated otherwise in the Contract, the following conditions shall apply to any purchases of goods under the Contract:

5.1 DELIVERY OF GOODS: The Contractor shall hand over or make available the goods, and UNDP shall receive the goods, at the place for the delivery of the goods and within the time for delivery of the goods specified in the Contract. The Contractor shall provide to UNDP such shipment documentation (including, without limitation, bills of lading, airway bills, and commercial invoices) as are specified in the Contract or, otherwise, as are customarily utilized in the trade. All manuals,
instructions, displays and any other information relevant to the goods shall be in the English language unless otherwise specified in the Contract. Unless otherwise stated in the Contract (including, but not limited to, in any “INCOTERM” or similar trade term), the entire risk of loss, damage to, or destruction of the goods shall be borne exclusively by the Contractor until physical delivery of the goods to UNDP in accordance with the terms of the Contract. Delivery of the goods shall not be deemed in itself as constituting acceptance of the goods by UNDP.

5.2 **INSPECTION OF THE GOODS:** If the Contract provides that the goods may be inspected prior to delivery, the Contractor shall notify UNDP when the goods are ready for pre-delivery inspection. Notwithstanding any pre-delivery inspection, UNDP or its designated inspection agents may also inspect the goods upon delivery in order to confirm that the goods conform to applicable specifications or other requirements of the Contract. All reasonable facilities and assistance, including, but not limited to, access to drawings and production data, shall be furnished to UNDP or its designated inspection agents at no charge therefor. Neither the carrying out of any inspections of the goods nor any failure to undertake any such inspections shall relieve the Contractor of any of its warranties or the performance of any obligations under the Contract.

5.3 **PACKAGING OF THE GOODS:** The Contractor shall package the goods for delivery in accordance with the highest standards of export packaging for the type and quantities and modes of transport of the goods. The goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law or by the transporters and manufacturers of the goods. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by UNDP as well as such other information as is necessary for the correct handling and safe delivery of the goods. Unless otherwise specified in the Contract, the Contractor shall have no right to any return of the packing materials.

5.4 **TRANSPORTATION & FREIGHT:** Unless otherwise specified in the Contract (including, but not limited to, in any “INCOTERM” or similar trade term), the Contractor shall be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the goods in accordance with the requirements of the Contract. The Contractor shall ensure that UNDP receives all necessary transport documents in a timely manner so as to enable UNDP to take delivery of the goods in accordance with the requirements of the Contract.

5.5 **WARRANTIES:** Unless otherwise specified in the Contract, in addition to and without limiting any other warranties, remedies or rights of UNDP stated in or arising under the Contract, the Contractor warrants and represents that:

5.5.1 The goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such goods are ordinarily used and for any purposes expressly made known in writing in the Contract, and shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship;

5.5.2 If the Contractor is not the original manufacturer of the goods, the Contractor shall provide UNDP with the benefit of all manufacturers’ warranties in addition to any other warranties required to be provided under the Contract;

5.5.3 The goods are of the quality, quantity and description required by the Contract, including when subjected to conditions prevailing in the place of final destination;

5.5.4 The goods are free from any right of claim by any third-party, including claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets;

5.5.5 The goods are new and unused;

5.5.6 All warranties will remain fully valid following any delivery of the goods and for a period of not less than one (1) year following acceptance of the goods by UNDP in accordance with the Contract;
5.5.7 During any period in which the Contractor’s warranties are effective, upon notice by UNDP that the goods do not conform to the requirements of the Contract, the Contractor shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective goods with goods of the same or better quality or, at its own cost, remove the defective goods and fully reimburse UNDP for the purchase price paid for the defective goods; and,

5.5.8 The Contractor shall remain responsive to the needs of UNDP for any services that may be required in connection with any of the Contractor’s warranties under the Contract.

5.6 **ACCEPTANCE OF GOODS:** Under no circumstances shall UNDP be required to accept any goods that do not conform to the specifications or requirements of the Contract. UNDP may condition its acceptance of the goods upon the successful completion of acceptance tests as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall UNDP be obligated to accept any goods unless and until UNDP has had a reasonable opportunity to inspect the goods following delivery. If the Contract specifies that UNDP shall provide a written acceptance of the goods, the goods shall not be deemed accepted unless and until UNDP in fact provides such written acceptance. In no case shall payment by UNDP in and of itself constitute acceptance of the goods.

5.7 **REJECTION OF GOODS:** Notwithstanding any other rights of, or remedies available to UNDP under the Contract, in case any of the goods are defective or otherwise do not conform to the specifications or other requirements of the Contract, UNDP, at its sole option, may reject or refuse to accept the goods, and within thirty (30) days following receipt of notice from UNDP of such rejection or refusal to accept the goods, the Contractor shall, in sole option of UNDP:

5.7.1 provide a full refund upon return of the goods, or a partial refund upon a return of a portion of the goods, by UNDP; or,

5.7.2 repair the goods in a manner that would enable the goods to conform to the specifications or other requirements of the Contract; or,

5.7.3 replace the goods with goods of equal or better quality; and,

5.7.4 pay all costs relating to the repair or return of the defective goods as well as the costs relating to the storage of any such defective goods and for the delivery of any replacement goods to UNDP.

5.8 In the event that UNDP elects to return any of the goods for the reasons specified in Article 5.7, above, UNDP may procure the goods from another source. In addition to any other rights or remedies available to UNDP under the Contract, including, but not limited to, the right to terminate the Contract, the Contractor shall be liable for any additional cost beyond the balance of the Contract price resulting from any such procurement, including, *inter alia*, the costs of engaging in such procurement, and UNDP shall be entitled to compensation from the Contractor for any reasonable expenses incurred for preserving and storing the goods for the Contractor’s account.

5.9 **TITLE:** The Contractor warrants and represents that the goods delivered under the Contract are unencumbered by any third party’s title or other property rights, including, but not limited to, any liens or security interests. Unless otherwise expressly provided in the Contract, title in and to the goods shall pass from the Contractor to UNDP upon delivery of the goods and their acceptance by UNDP in accordance with the requirements of the Contract.

5.10 **EXPORT LICENSING:** The Contractor shall be responsible for obtaining any export license required with respect to the goods, products, or technologies, including software, sold, delivered, licensed or otherwise provided to UNDP under the Contract. The Contractor shall procure any such export license in an expeditious manner. Subject to and without any waiver of the privileges and immunities of UNDP, UNDP shall lend the Contractor all reasonable assistance required for obtaining any such export license. Should any Governmental entity refuse, delay or hinder the Contractor’s ability to obtain any such export license, the Contractor shall promptly consult with UNDP to enable UNDP to take appropriate measures to resolve the matter.
6. **INDEMNIFICATION:**

6.1 The Contractor shall indemnify, defend, and hold and save harmless, UNDP, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature brought by any third party against UNDP, including, but not limited to, all litigation costs and expenses, attorney’s fees, settlement payments and damages, based on, arising from, or relating to:

6.1.1 allegations or claims that the possession of or use by UNDP of any patented device, any copyrighted material, or any other goods, property or services provided or licensed to UNDP under the terms of the Contract, in whole or in part, separately or in a combination contemplated by the Contractor’s published specifications therefor, or otherwise specifically approved by the Contractor, constitutes an infringement of any patent, copyright, trademark, or other intellectual property right of any third party; or,

6.1.2 any acts or omissions of the Contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers’ compensation.

6.2 The indemnity set forth in Article 6.1.1, above, shall not apply to:

6.2.1 A claim of infringement resulting from the Contractor’s compliance with specific written instructions by UNDP directing a change in the specifications for the goods, property, materials, equipment or supplies to be or used, or directing a manner of performance of the Contract or requiring the use of specifications not normally used by the Contractor; or

6.2.2 A claim of infringement resulting from additions to or changes in any goods, property, materials equipment, supplies or any components thereof furnished under the Contract if UNDP or another party acting under the direction of UNDP made such changes.

6.3 In addition to the indemnity obligations set forth in this Article 6, the Contractor shall be obligated, at its sole expense, to defend UNDP and its officials, agents and employees, pursuant to this Article 6, regardless of whether the suits, proceedings, claims and demands in question actually give rise to or otherwise result in any loss or liability.

6.4 UNDP shall advise the Contractor about any such suits, proceedings, claims, demands, losses or liability within a reasonable period of time after having received actual notice thereof. The Contractor shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of UNDP or any matter relating thereto, for which only UNDP itself is authorized to assert and maintain. UNDP shall have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.

6.5 In the event the use by UNDP of any goods, property or services provided or licensed to UNDP by the Contractor, in whole or in part, in any suit or proceeding, is for any reason enjoined, temporarily or permanently, or is found to infringe any patent, copyright, trademark or other intellectual property right, or in the event of a settlement, is enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, shall, promptly, either:

6.5.1 procure for UNDP the unrestricted right to continue using such goods or services provided to UNDP;

6.5.2 replace or modify the goods or services provided to UNDP, or part thereof, with the equivalent or better goods or services, or part thereof, that is non-infringing; or,

6.5.3 refund to UNDP the full price paid by UNDP for the right to have or use such goods, property or services, or part thereof.

7. **INSURANCE AND LIABILITY:**
7.1 The Contractor shall pay UNDP promptly for all loss, destruction, or damage to the property of UNDP caused by the Contractor’s personnel or by any of its subcontractors or anyone else directly or indirectly employed by the Contractor or any of its subcontractors in the performance of the Contract.

7.2 Unless otherwise provided in the Contract, prior to commencement of performance of any other obligations under the Contract, and subject to any limits set forth in the Contract, the Contractor shall take out and shall maintain for the entire term of the Contract, for any extension thereof, and for a period following any termination of the Contract reasonably adequate to deal with losses:

7.2.1 insurance against all risks in respect of its property and any equipment used for the performance of the Contract;

7.2.2 workers’ compensation insurance, or its equivalent, or employer’s liability insurance, or its equivalent, with respect to the Contractor’s personnel sufficient to cover all claims for injury, death and disability, or any other benefits required to be paid by law, in connection with the performance of the Contract;

7.2.3 liability insurance in an adequate amount to cover all claims, including, but not limited to, claims for death and bodily injury, products and completed operations liability, loss of or damage to property, and personal and advertising injury, arising from or in connection with the Contractor’s performance under the Contract, including, but not limited to, liability arising out of or in connection with the acts or omissions of the Contractor, its personnel, agents, or invitees, or the use, during the performance of the Contract, of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor; and,

7.2.4 such other insurance as may be agreed upon in writing between UNDP and the Contractor.

7.3 The Contractor’s liability policies shall also cover subcontractors and all defense costs and shall contain a standard “cross liability” clause.

7.4 The Contractor acknowledges and agrees that UNDP accepts no responsibility for providing life, health, accident, travel or any other insurance coverage which may be necessary or desirable in respect of any personnel performing services for the Contractor in connection with the Contract.

7.5 Except for the workers’ compensation insurance or any self-insurance program maintained by the Contractor and approved by UNDP, in its sole discretion, for purposes of fulfilling the Contractor’s requirements for providing insurance under the Contract, the insurance policies required under the Contract shall:

7.5.1 name UNDP as an additional insured under the liability policies, including, if required, as a separate endorsement under the policy;

7.5.2 include a waiver of subrogation of the Contractor’s insurance carrier’s rights against UNDP;

7.5.3 provide that UNDP shall receive written notice from the Contractor’s insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage; and,

7.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to UNDP.

7.6 The Contractor shall be responsible to fund all amounts within any policy deductible or retention.

7.7 Except for any self-insurance program maintained by the Contractor and approved by UNDP for purposes of fulfilling the Contractor’s requirements for maintaining insurance under the Contract, the Contractor shall maintain the insurance taken out under the Contract with reputable insurers that are in good financial standing and that are acceptable to UNDP. Prior to the commencement of any obligations under the Contract, the Contractor shall provide UNDP with evidence, in the form of certificate of insurance or such other form as UNDP may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of the Contract. UNDP reserves the right, upon written notice to the Contractor, to obtain copies of any insurance policies or insurance program descriptions required to be maintained by the Contractor under the Contract.
Notwithstanding the provisions of Article 7.5.3, above, the Contractor shall promptly notify UNDP concerning any cancellation or material change of insurance coverage required under the Contract.

7.8 The Contractor acknowledges and agrees that neither the requirement for taking out and maintaining insurance as set forth in the Contract nor the amount of any such insurance, including, but not limited to, any deductible or retention relating thereto, shall in any way be construed as limiting the Contractor’s liability arising under or relating to the Contract.

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

9. EQUIPMENT FURNISHED BY UNDP TO THE CONTRACTOR: Title to any equipment and supplies that may be furnished by UNDP to the Contractor for the performance of any obligations under the Contract shall rest with UNDP, and any such equipment shall be returned to UNDP at the conclusion of the Contract or when no longer needed by the 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, and the Contractor shall be liable to compensate UNDP for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.

10. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

10.1 Except as is otherwise expressly provided in writing in the Contract, 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 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. The Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP.

10.2 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, UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to 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.

10.3 At the request of 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 UNDP in compliance with the requirements of the applicable law and of the Contract.

10.4 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 UNDP, shall be made available for use or inspection by UNDP at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

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

12. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION: Information and data that is considered proprietary by either Party or 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:

12.1 The Recipient shall:

12.1.1 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,

12.1.2 use the Discloser’s Information solely for the purpose for which it was disclosed.

12.2 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 12, the Recipient may disclose Information to:

12.2.1 any other party with the Discloser’s prior written consent; and,

12.2.2 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:

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

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

12.2.2.3 for the United Nations, a principal or subsidiary organ of the United Nations established in accordance with the Charter of the United Nations.

12.3 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 UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

12.4 UNDP may disclose Information to the extent as required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder.

12.5 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.

12.6 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.

13. **FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:**

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

13.2 If the Contractor is rendered unable, wholly or in part, by reason of force majeure to perform its obligations and meet its responsibilities under the Contract, UNDP shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 14, “Termination,” except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, UNDP shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in case the Contractor is unable to perform its obligations, wholly or in part, by reason of force majeure for any period in excess of ninety (90) days.

13.3 Force majeure as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, provided that such acts arise from causes beyond the control and without the fault or negligence of the Contractor. The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in areas in which 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.

14. TERMINATION:

14.1 Either Party may terminate the Contract for cause, in whole or in part, upon thirty (30) day’s notice, in writing, to the other Party. The initiation of conciliation or arbitral proceedings in accordance with Article 17 “Settlement of Disputes,” below, shall not be deemed to be a “cause” for or otherwise to be in itself a termination of the Contract.

14.2 UNDP may terminate the Contract at any time by providing written notice to the Contractor in any case in which the mandate of UNDP applicable to the performance of the Contract or the funding of UNDP applicable to the Contract is curtailed or terminated, whether in whole or in part. In addition, unless otherwise provided by the Contract, upon sixty (60) day’s advance written notice to the Contractor, UNDP may terminate the Contract without having to provide any justification therefor.

14.3 In the event of any termination of the Contract, upon receipt of notice of termination that has been issued by UNDP, the Contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing:

14.3.1 take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum;

14.3.2 refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice;

14.3.3 place no further subcontracts or orders for materials, services, or facilities, except as UNDP and the Contractor agree in writing are necessary to complete any portion of the Contract that is not terminated;

14.3.4 terminate all subcontracts or orders to the extent they relate to the portion of the Contract terminated;

14.3.5 transfer title and deliver to UNDP the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;

14.3.6 deliver all completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to UNDP thereunder;
14.3.7 complete performance of the work not terminated; and,
14.3.8 take any other action that may be necessary, or that UNDP may direct in writing, for the minimization of losses and for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Contractor and in which UNDP has or may be reasonably expected to acquire an interest.

14.4 In the event of any termination of the Contract, UNDP shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, UNDP shall not be liable to pay the Contractor except for those goods delivered and services provided to UNDP in accordance with the requirements of the Contract, but only if such goods or services were ordered, requested or otherwise provided prior to the Contractor’s receipt of notice of termination from UNDP or prior to the Contractor’s tendering of notice of termination to UNDP.

14.5 UNDP may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:

14.5.1 the Contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent;
14.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;
14.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;
14.5.4 a Receiver is appointed on account of the insolvency of the Contractor;
14.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; or,
14.5.6 UNDP reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.

14.6 Except as prohibited by law, the Contractor shall be bound to compensate UNDP for all damages and costs, including, but not limited to, all costs incurred by UNDP in any legal or non-legal proceedings, as a result of any of the events specified in Article 14.5, above, and resulting from or relating to a termination of the Contract, even if the Contractor is adjudged bankrupt, or is granted a moratorium or stay or is declared insolvent. The Contractor shall immediately inform UNDP of the occurrence of any of the events specified in Article 14.5, above, and shall provide UNDP with any information pertinent thereto.

14.7 The provisions of this Article 14 are without prejudice to any other rights or remedies of UNDP under the Contract or otherwise.

15. NON-WAIVER OF RIGHTS: The failure by either Party to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Contract.

16. NON-EXCLUSIVITY: Unless otherwise specified in the Contract, UNDP shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and UNDP shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity described in the Contract, from any other source at any time.

17. SETTLEMENT OF DISPUTES:

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

17.2 **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 17.1, 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. 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") and Article 34 ("Form and effect of the award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

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

19. **TAX EXEMPTION**:  

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

19.2 The Contractor authorizes UNDP to deduct from the Contractor’s invoices any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties, or charges under written protest. In that event, the Contractor shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized, and UNDP shall reimburse the Contractor for any such taxes, duties, or charges so authorized by UNDP and paid by the Contractor under written protest.

20. **MODIFICATIONS**:  

20.1 Pursuant to the Financial Regulations and Rules of UNDP, only the Chief Procurement Officer of UNDP, or such other contracting authority as UNDP has made known to the Contractor in writing, 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 the Chief Procurement Officer of UNDP, or such other contracting authority as UNDP has made known to the Contractor in writing.

20.2 If the Contract shall be extended for additional periods in accordance with the terms and conditions of the Contract, the terms and conditions applicable to any such extended term of the Contract shall be
the same terms and conditions as set forth in the Contract, unless the Parties shall have agreed otherwise pursuant to a valid amendment concluded in accordance with Article 20.1, above.

20.3 The terms or conditions of any supplemental undertakings, licenses, or other forms of agreement concerning any goods or services provided under the Contract shall not be valid and enforceable against UNDP nor in any way shall constitute an agreement by UNDP thereto unless any such undertakings, licenses or other forms are the subject of a valid amendment concluded in accordance with Article 20.1, above.

21. AUDITS AND INVESTIGATIONS:

21.1 Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by UNDP other than in accordance with the terms and conditions of the Contract.

21.2 UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, the obligations performed under the Contract, and the operations of the Contractor generally relating to performance of the Contract at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract.

21.3 The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor’s obligation to make available its personnel and any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to UNDP access to the Contractor’s premises at reasonable times and on reasonable conditions in connection with such access to the Contractor’s personnel and relevant documentation. The Contractor shall require its agents, including, but not limited to, the Contractor’s attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

22. LIMITATION ON ACTIONS:

22.1 Except with respect to any indemnification obligations in Article 6, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 17.2, above, arising out of the Contract must be commenced within three years after the cause of action has accrued.

22.2 The Parties further acknowledge and agree that, for these purposes, a cause of action shall accrue when the breach actually occurs, or, in the case of latent defects, when the injured Party knew or should have known all of the essential elements of the cause of action, or in the case of a breach of warranty, when tender of delivery is made, except that, if a warranty extends to future performance of the goods or any process or system and the discovery of the breach consequently must await the time when such goods or other process or system is ready to perform in accordance with the requirements of the Contract, the cause of action accrues when such time of future performance actually begins.

23. ESSENTIAL TERMS: The Contractor acknowledges and agrees that each of the provisions in Articles 24 to 29 hereof constitutes an essential term of the Contract and that any breach of any of these provisions shall entitle UNDP to terminate the Contract or any other contract with UNDP immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

24. SOURCE OF INSTRUCTIONS: The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its obligations under the Contract. Should any authority external to UNDP seek to impose any instructions concerning or restrictions on the Contractor’s performance under the Contract, the Contractor shall promptly notify UNDP and provide all reasonable assistance required by UNDP. The Contractor shall not take any action in respect of the performance of its obligations under the Contract that may adversely affect the interests of UNDP or the United Nations, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of UNDP.
25. **OFFICIALS NOT TO BENEFIT:** The Contractor warrants that it has not and shall not offer to any representative, official, employee, or other agent of UNDP or the United Nations any direct or indirect benefit arising from or related to the performance of the Contract or of any other contract with UNDP or the United Nations or the award thereof or for any other purpose intended to gain an advantage for the Contractor.

26. **OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract. In addition, the Contractor shall maintain compliance with all obligations relating to its registration as a qualified vendor of goods or services to UNDP, as such obligations are set forth in UNDP vendor registration procedures.

27. **CHILD LABOR:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor’s subsidiary or affiliated entities (if any) 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.

28. **MINES:** The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor’s subsidiaries or affiliated entities (if any) is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines.

29. **SEXUAL EXPLOITATION:**

29.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by its employees or any other persons engaged and controlled 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 reasonable and appropriate measures to prohibit its employees or other persons engaged and controlled by it from exchanging any money, goods, services, or other things of value, for sexual favors or activities, or from engaging any sexual activities that are exploitive or degrading to any person.

29.2 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.