



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

To all potential bidders/companies	DATE: September 10, 2021
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Dear Sir / Madam:

We kindly request you to submit your Proposal for the ***Stimulus funding for artisanal and small-scale mining of development minerals*** under ACP-EU Development Minerals Programme.

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

Proposals may be submitted on or before Wednesday, September 25, 2021 and via email, courier mail or fax to the address below:

United Nations Development Programme
Level 8, Kadavu House, Suva, Fiji.
Deepak Naicker
etenderbox.pacific@undp.org

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

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

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

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

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

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

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a Proposal implies that the Service Provider accepts without question the General Terms and Conditions of UNDP, which can be accessed via following link:

<https://www.undp.org/procurement/business/how-we-buy>

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

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

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

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

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

Thank you and we look forward to receiving your Proposal.

Sincerely yours,

Ronald Kumar

Ronald Kumar
Procurement Analyst
9/9/2021

Annex 1

Description of Requirements

Context of the Requirement	<p><i>Phase II: ACP-EU Development Minerals Programme - Fiji</i></p> <p><i>Background</i></p> <p>The ACP-EU Development Minerals Programme is a capacity building program that aims to build the profile, and improve the management, of Development Minerals. The program is an initiative of the Organisation of African, Caribbean and Pacific States (OACPS), financed by the European Union and the United Nations Development Programme (UNDP), and implemented by UNDP. . The Programme will strengthen the capacity of Artisanal small-scale mining enterprises (ASMEs) operating in ACP countries. The Programme aims to support the ASMEs to enhance productivity, create jobs, increase income, and put in place environmental and social safeguards in and around mining areas. Six focus countries benefit from the Programme (Cameroon, Guinea, Uganda, Zambia, Jamaica and Fiji).</p> <p>Development Minerals (traditionally known as low-value minerals and materials) are minerals that are mined, processed, manufactured and used domestically in industries such as construction, manufacturing, infrastructure and agriculture. They include industrial minerals, like gypsum and salt; construction materials, like clay, sand and gravel; dimension stones, like marble and granite; and semi-precious stones, like garnet and tourmaline. Development minerals play a significant role in Fiji's domestic development, in the areas of infrastructure, housing construction, road building, agriculture and disaster reconstruction, as well as supporting a large number of Fijian small and medium-sized domestic enterprises¹. The mining and quarrying of Development Minerals in Fiji is dominated by crushed aggregate, gravel and sand, used for construction materials, and to a lesser extent limestone, used for agricultural purposes. The Development Minerals Fiji project, implemented by UNDP Pacific office in Fiji in collaboration with the Ministry of Lands and Mineral Resources as Focal Point, is inviting Proposals from qualified Artisanal and Small-Scale Mining and Quarrying operators, Mining Associations and cooperatives, as well as small and medium enterprises in the Development Minerals sector.</p> <p>The outbreak and spread of COVID-19 has impacted on the growth and sustainability of the entire Artisanal and Small-scale Mining (ASM) businesses. Preliminary indications are that production and trade has been affected mainly resulting from governments' swift decision to lockdown in order to control the spread of the pandemic. The Development Minerals sector has become financially stressed due to reduced production, high cost of inputs, low sales and poor access to markets. This is leading to slowing down and closing of businesses, mines</p>
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¹ UNDP (2018). Baseline Assessment of Development Minerals in Fiji. Suva Fiji: UNDP

	on care and maintenance and outright cutting labour. This has a ripple effect on the poverty levels in the country, and on livelihoods generally.
Implementing Partner of UNDP	This activity is being implemented by the UNDP Pacific office in Fiji as part of the ACP-EU Development Minerals programme (Phase II)
Brief Description of the Required Services ²	<p>Strategic Priorities and alignment with Fiji COVID-19 response</p> <p>The Development Minerals sector as one of the key input providers for a large range of economic activities including construction, housing, infrastructure, farming and manufacturing is already hit hard as its artisanal and small-scale nature calls for labor intensive work whereas the required workforce is confined home since the beginning of the pandemic, with a gradual easing of ‘stay-at-home’ restrictions being implemented. The easing measures unfolding gradually are nowhere close to filling the void created by the “retreat” of the sector’s workers and subsequent socio-economic impact. In this context and in order to contribute to Fiji’s response to COVID-19, UNDP through the ACP-EU Development Minerals Programme is proposing a two-layered response to mitigate the fallouts of the pandemic. This is expected to help ASMEs stay afloat while ensuring swift economic recovery and build back better.</p> <p><i>In line with the above, the ACP-EU Development Minerals Programme is seeking to fund COVID-19-response-oriented proposals from Artisanal and Small-scale Miners operating in the Development Minerals sector that focus on i) Enhanced Occupational Health and Safety at workplace, home and community levels; and ii) Business continuity support to the SMEs in the sector.</i></p> <p>First, the “work environment health and safety support” will be needed to ensure home, office, extraction-side and community-based activities are made safer enough for ASMEs to re-start operation gradually where possible. The support will cater for the design and/or effective implementation of viable health and safety measures and protocols that already exist to break the spread of the pandemic and keep workplace safe. This will be built on the mining-specific health and safety measures already mastered and capitalized by miners during Programme Phase I. Intervention will focus on sensitization of PPE, hand washing tools for improved sanitation and provide non-medical requirements, strengthen women leadership and their meaningful participation in the COVID-19 response.</p> <p>Secondly, “business continuity support” effort will covert urgent production continuity need and related matters to minimize immediate, short and medium terms impact on ASMEs in the Development Minerals Sector. The support will encompass work and production logistics as well</p>

² A detailed TOR may be attached if the information listed in this Annex is not sufficient to fully describe the nature of the work and other details of the requirements.

	<p>as inputs eligible under the current funding made available by the European Union. Business continuity support will encompass inclusive value chains development activities, maintaining production and productivity while mitigating and navigating through COVID-19 and positioning ASMs to tap into financial and market opportunities and production capital.</p> <p>In summary, the stimulus funds can be used for the following purposes only:</p> <table border="1" data-bbox="570 552 1409 909"> <thead> <tr> <th data-bbox="570 552 1003 621">HEALTH & SAFETY RESPONSE</th><th data-bbox="1003 552 1409 621">RECOVERY RESPONSE</th></tr> </thead> <tbody> <tr> <td data-bbox="570 621 1003 695">To put in place health and safety measures</td><td data-bbox="1003 621 1409 695">To prepare business plans</td></tr> <tr> <td data-bbox="570 695 1003 768">To acquire personnel protective equipment</td><td data-bbox="1003 695 1409 768">To acquire machinery and equipment</td></tr> <tr> <td data-bbox="570 768 1003 909">To raise awareness on health-related issues and government guidelines</td><td data-bbox="1003 768 1409 909">To introduce new product lines, add value to existing ones and access finance and markets</td></tr> </tbody> </table> <p>There is a restriction that funds cannot be utilized for payment of rent or salaries/redundancy packages, or operational overheads.</p> <p>The project proposal should include: Signed cover letter with company seal, completed project proposal and financial proposal, copy of company registration certificate and valid permit, and other relevant additional attachments.</p>	HEALTH & SAFETY RESPONSE	RECOVERY RESPONSE	To put in place health and safety measures	To prepare business plans	To acquire personnel protective equipment	To acquire machinery and equipment	To raise awareness on health-related issues and government guidelines	To introduce new product lines, add value to existing ones and access finance and markets
HEALTH & SAFETY RESPONSE	RECOVERY RESPONSE								
To put in place health and safety measures	To prepare business plans								
To acquire personnel protective equipment	To acquire machinery and equipment								
To raise awareness on health-related issues and government guidelines	To introduce new product lines, add value to existing ones and access finance and markets								
List and Description of Expected Outputs to be Delivered	<p>Operators in the Development Minerals sector under the SME banner will have the following specific responsibilities:</p> <ul style="list-style-type: none"> - Complete the Proposal template on how the funds will be utilized to boost work environment health and safety, as well as on utilizing funds to initiate new business products, diversification so as to support continuity during COVID19 pandemic business environment. Proposal to be stamped with company seal. - Submission of Certificate of registration and valid permit for operation. - Ensure funds are properly utilized and accounted as per agreed budget; - Submit two Monitoring reports (Midterm and final report) outlining progress of activities and impact on employment, business continuity, revenue streams. - Financial report and acquittal of funds within 3 months period. <p>Please ensure that your project proposal is clear and concise, with subject line clearly stating: <i>STIMULUS FUNDING PROPOSALS FOR ASMS</i></p>								

	<i>OF DEVELOPMENT MINERALS</i> , and preferably no more than 8-10 pages of text, excluding the attachments (not more than 10 pages).
Person to Supervise the Work/Performance of the Service Provider	<i>Country Coordinator, ACP-EU Development Minerals programme in Fiji.</i>
Frequency of Reporting	<i>As needed</i>
Progress Reporting Requirements	Midterm progress report Final activity report and financial acquittal
Location of work	<input checked="" type="checkbox"/> At Contractor's Location
Expected duration of work	Upon disbursement of stimulus funds, activity is to be completed within 3 months
Target start date	4 th October 2021
Latest completion date	15 December 2021
Travels Expected	N/A
Pre-proposal Conference	<i>Will be Conducted on 16 September 2021 at 11 am (Fiji Time). Interested Bidders can liaise with Deepak Naicker on email procurement.fj@undp.org for the link to the Pre-proposal conference (Zoom).</i>
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	N/A
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required
Names and curriculum vitae of individuals who will be involved in completing the services	<input checked="" type="checkbox"/> Required
Currency of Proposal	<input checked="" type="checkbox"/> FJD
Value Added Tax on Price Proposal ³	<input checked="" type="checkbox"/> must be inclusive of VAT and other applicable indirect taxes
Validity Period of Proposals (Counting for the last day of submission of quotes)	<input checked="" type="checkbox"/> 60 days <input type="checkbox"/> 90 days <input type="checkbox"/> 120 days In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.
Partial Quotes	<input checked="" type="checkbox"/> Not permitted

³ VAT exemption status varies from one country to another. Pls. check whatever is applicable to the UNDP CO/BU requiring the service.

Payment Terms ⁴	Outputs	Percentage	Timing	Condition for Payment Release
	Submission of Finalised quotations and confirmation of vendors	50%	Within 2 week of signing of Contract	Within thirty (30) days from the date of meeting the following conditions:
	Submission of Mid term monitoring report	35%	Within 8 weeks of contract	a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and
	Submission of final monitoring report on impact of funding and financial acquittal	15%	Within 12 weeks of signing of contract	b) Receipt of invoice from the Service Provider.
Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	Country Coordinator, ACP-EU Development Minerals Programme - Fiji			
Type of Contract to be Signed	<input checked="" type="checkbox"/> Purchase Order <input checked="" type="checkbox"/> Institutional Contract			
Criteria for Contract Award	<input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution) <input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is a mandatory criterion and cannot be deleted regardless of the nature of services required. Non acceptance of the GTC may be grounds for the rejection of the Proposal.			
Criteria for the Assessment of Proposal	<u>Technical Proposal (70%)</u> <input checked="" type="checkbox"/> Expertise of the Firm 10% (Company registration and Valid permit; Atleast 5 years of operational experience in the mining and quarry sector; Good track record of timely submission of extraction data to MRD) <input checked="" type="checkbox"/> Methodology, Its Appropriateness to the Condition and Timeliness of the Implementation Plan 50% <input checked="" type="checkbox"/> Management Structure and Qualification of Key Personnel 10% <u>Financial Proposal (30%)</u> To be computed as a ratio of the Proposal's offer to the lowest price among the proposals received by UNDP.			

⁴ UNDP preference is not to pay any amount in advance upon signing of contract. If the Service Provider strictly requires payment in advance, it will be limited only up to 20% of the total price quoted. For any higher percentage, or any amount advanced exceeding \$30,000, UNDP shall require the Service Provider to submit a bank guarantee or bank cheque payable to UNDP, in the same amount as the payment advanced by UNDP to the Service Provider.

UNDP will award the contract to:	Up to ten Service Providers, depending on the following factors: - Suitability of technical proposal against objective of the stimulus funds - Top ten ranked service providers in order of cumulative scores (Technical and Financial Scores)
Annexes to this RFP ⁵	<input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 3) ⁶
Contact Person for Inquiries (Written inquiries only) ⁷	Mr. Deepak Naicker Procurement Associate Ph: +679 3312500 Email: procurement.fj@undp.org Any delay in UNDP's response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.
Other Information [pls. specify]	

⁵ Where the information is available in the web, a URL for the information may simply be provided.

⁶ Service Providers are alerted that non-acceptance of the terms of the General Terms and Conditions (GTC) may be grounds for disqualification from this procurement process.

⁷ This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was received.

FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL⁸***(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery⁹)***Kadavu House, Suva
[insert: *Date*]To: Ronald Kumar, Procurement Analyst
UNDP Pacific Office in Fiji

Dear Sir/Madam:

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

Project title
Section1: Applicant/organization details
1.1. Organization/company name & address:
1.2. Type of organization:
1.3. Years of creation:
1.4. Location:
1.5. Total number of employees/members (be specific chose that apply):
a. Total male/female:
b. Total youth:
1.6. Legal representative name and contact information:
2. Brief summary of proposal detailing out clearly the 2 layered response to COVID-19 and how it will impact targets if successfully implemented.
3. Relevance of project to the ACP-EU Development Minerals Programme response to COVID-19
3.1. Proposed community and occupational health and safety support: Should be Community-oriented, problem solving. Demonstrated impact.
3.2. Business continuity support: describe activities and potential impacts
4. Sustainability; replicability and degree of up-scalability; inclusiveness etc.
5. Applicants'/organization capacities

⁸ This serves as a guide to the Service Provider in preparing the Proposal.

⁹ Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

a. Project management experience (history of previous projects undertaken); available human resources to run the project (number and type of human resources available); professional qualifications and experience of the available human resources etc.
b. Robust Monitoring & Evaluation framework; Participation of local community and key stakeholders at local level in project implementation; inclusion of women and youth in key decision-making organs of the project; collaboration with other local projects and programs etc.
6. Financial proposal – please refer to financial proposal template)
a. Appropriateness and feasibility of budget & corresponding work plan; consistency with budgeting guidelines (e.g. no budget lines for “indirect costs” such as rent, wages, bills etc)
b. Co-funding or funds mobilized from other sources
7. Total number of direct and indirect beneficiaries:
a. Total Male
b. Total Female
c. Total Youth

PLANNING

<div style="display: inline-block; transform: rotate(-45deg); transform-origin: left top; white-space: nowrap;">TIMELINE</div> <div style="display: inline-block; vertical-align: middle;">ACTIVITIES</div>	MONTHS					
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
Strategic Priority 1: Enhanced Occupational Health and Safety at workplace, home and community levels						
Activity 1:						
Activity 2:						
Activity 3:						
Strategic Priority 2: Business continuity support						
Activity 1:						
Activity 2:						
Activity 3:						

Cost Breakdown per Deliverable*

	Deliverables <i>[list them as referred to in the RFP]</i>	Percentage of Total Price <i>(Weight for payment)</i>	Price <i>(Lump Sum, All Inclusive)</i>
1	Submission of Finalised quotations and confirmation of vendors	50%	
2	Submission of Mid term monitoring report	35%	

3	Submission of final monitoring report on impact of funding and financial acquittal	15%	
	Total	100%	

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

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

[Designation]

[Date]

Annex 3***General Terms and Conditions for Services*****1.0 LEGAL STATUS:**

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

2.0 SOURCE OF INSTRUCTIONS:

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

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

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

4.0 ASSIGNMENT:

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

5.0 SUB-CONTRACTING:

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

6.0 OFFICIALS NOT TO BENEFIT:

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

7.0 INDEMNIFICATION:

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

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

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

9.0 ENCUMBRANCES/LIENS:

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

10.0 TITLE TO EQUIPMENT:

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

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

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

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

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

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

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

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

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:

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

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

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

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

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

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

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

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

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

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

13.3 The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the UNDP sufficient prior notice of a request for the disclosure of Information in order to allow the UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

13.4 The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.

13.5 The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or

at any time is developed by the Recipient completely independently of any disclosures hereunder.

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

14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

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

15.0 TERMINATION

- 15.1** Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.
- 15.2** UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

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

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

16.0 SETTLEMENT OF DISPUTES

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

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

17.0 PRIVILEGES AND IMMUNITIES:

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

18.0 TAX EXEMPTION

- 18.1** Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.
- 18.2** Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 CHILD LABOUR

- 19.1** The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.
- 19.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20.0 MINES:

- 20.1** The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.
- 20.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21.0 OBSERVANCE OF THE LAW:

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

22.0 SEXUAL EXPLOITATION:

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

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

23.0 AUTHORITY TO MODIFY:

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