

**INDIVIDUAL CONSULTANT (National)
PROCUREMENT NOTICE**



**Date: 20th Oct 2021
Ref: UNDP-IC-2021-333**

Country: *Pakistan*

Description of the assignment: "Embedding Tourism As Fourth Sector In Provincial Economy/GDP Of Khyber Pakhtunkhwa"

Project name: Mainstreaming, Acceleration and Policy Support (MAPS) for Sustainable Development Goals in Khyber Pakhtunkhwa -DPU-UNDP

Period of assignment/services (if applicable): The duration of the contract will be 15 weeks (75 working days).

Location: Peshawar

Important Note: Final selected IC will be required to provide a statement of health certificate along with proof of health insurance.

Please submit your Technical and Financial proposals **via email** to the following address:

bids.pk@undp.org no later than **03rd November 2021 at 12:30 PM (Pakistan Standard Time)**. Hand delivery is not acceptable.

Important note for email submissions: Please put "**UNDP-IC-2021-333- Embedding Tourism As Fourth Sector In Provincial Economy/GDP Of Khyber Pakhtunkhwa**" in the subject line. Further, our system will not accept emails those are more than 30 MB size. If required, segregate your emails to accommodate email data restrictions. For segregated emails please use sequence of emails like Email 1, Email 2 in the subject line. For attachment purposes please only use MS Word, Excel, Power Point or PDF formats.

If you request additional information, please write to pakistan.procurement.info@undp.org with reference number in the email subject line. The team will provide necessary information within due date. However, any delay in providing such information will not be considered a reason for extending the submission date of your proposal. All/any query regarding the submission of the proposal may be sent prior to the deadline at the e-mail/address mentioned above.

Terms of Reference

IC - Embedding Tourism As Fourth Sector In Provincial Economy/GDP Of Khyber Pakhtunkhwa

A. PROJECT:

Mainstreaming, Acceleration and Policy Support (MAPS) for Sustainable Development Goals in Khyber Pakhtunkhwa.

B. PROJECT DESCRIPTION:

The Sustainable Development Goals (SDGs), also called the global development agenda, is a universal call to leave no one behind and reaching the furthest behind first with a central focus on people, planet, prosperity, peace and partnership. Pakistan is one among few countries with an early start on taking measures to contribute towards achieving SDGs within the stipulated timeframe. The measures range from Parliamentary Task Force at national and provincial level to launching a joint initiative of the Federal and Provincial Governments with UNDP for mainstreaming, acceleration and policy support to respective governments for achieving SDGs.

The Government of Pakistan, in view of its commitment to achieving SDGs by 2030, has established SDGs Support Unit at the Ministry of Planning, Development and Reforms with the assistance of UNDP Pakistan. Provincial arms of the Project have also been established at Planning & Development Departments in all the provinces with the objective to operationalize and localize SDGs at sub-national and local government levels.

The Project has the following main outputs:

Output 1: Plans, Policies and Resource Allocation Aligned to 2030 Agenda.

Output 2: SDGs monitoring, and reporting strengthened

Output 3: Financing flows are increasingly aligned with 2030 Agenda

Output 4: Innovative approaches applied to accelerate progress on priority SDGs

The SDGs Framework for Khyber Pakhtunkhwa has been developed through extensive consultation process with stakeholders. It aims at helping out policy makers and planners to set a holistic roadmap for Government of Khyber Pakhtunkhwa under SDGs Agenda by 2030. The focus is to set and prioritize SDGs targets aligned with local conditions by addressing three interlinked dimensions "social", "economic" and "environment" that are necessary to achieve sustainable development and inclusive growth. Under the Framework all the SDGs goals have been found relevant to the Khyber Pakhtunkhwa, whereas, 111 targets and 171 indicators were prioritized by segregating each priority into

High, Medium and Low. Moreover, the segregation has been divided further into three categories like Short term, Medium term and Long term. The following table shows details of the prioritization. Besides, against each prioritized SDGs Targets along with their associated indicators target till 2030 have been set by the Provincial Government in consultation with line departments.

	High Priority			Medium priority			Low Priority			
	Short Term	Medium Term	Long Term	Short Term	Medium Term	Long Term	Short Term	Medium Term	Long Term	TOTAL NO. OF TARGETS
No. of Targets	22	21	22	3	20	16	0	2	5	111
TOTAL	65			39			7			

In the SDGs landscape, **Tourism sector** carries different interlinkages and by its nature it contributes meaningfully to at least three U.N. Sustainable Development Goals (SDGs), such as Goal 8: “Promote Sustained, Inclusive, And “Sustainable Economic Growth, Full And Productive Employment, And Decent Work For All”, Goal 12: “Ensure Sustainable Consumption And Protection Patterns” Goal 15: “Sustainably Manage Forests, Combat Desertification, Halt And Reverse Land Degradation, Halt Biodiversity Loss” . Most importantly, the SDG Target 8.9: “By 2030, Devise and Implement Policies to Promote Sustainable Tourism That Creates Jobs And Promotes Local Culture And Products” having 02 Indicators “8.9.1 Tourism Direct GDP As A Proportion Of Total GDP And In Growth Rate” And “8.9.2 Number Of Jobs In Tourism Industries As A Proportion Of Total Jobs And Growth Rate Of Jobs, By Sex” have been prioritized as High Priority Short Term.

Besides, the sector by virtue of its potential and natural endowment such as diverse geo-climatic conditions, ranging from vast semi desert plains in the extreme south to the sky-high mountain ranges in the north. Sharp altitudinal variations of the province from 550 ft in south to over 25,000 ft in the extreme north have resulted in different ecological zones and mesmerizing landscape. Keeping this in view alongside the sector’s contribution in the national and provincial economy, the national and provincial governments are passionate to explore and utilize the sector to its fullest and possible extent by estimating the sector’s contribution in more meaningful and technical manner.

The total worth of the Annual Development Program (FY 2021-22) of Khyber Pakhtunkhwa is PKR 227,400.000 million, whereas 9340.831 Million has been allocated to the Tourism Sector, specifically. The allocation is for the purpose to expand and explore potentialities of the sector to desired level. The mega projects of the sector, reflected in the ADP includes “Tourism Area Integrated Development Project (Establishment of Provincial Tourism Development Authority) ” with the total estimated cost of PKR 2667.428 Million, “Khyber Pakhtunkhwa Integrated Tourism Development Project (KITE)” with Allocation of PKR 30000 Million, “Development of Roads to Tourist Areas in Malakand Division” “Construction of Access

to *Tourist Areas in Hazara Division*” with estimated cost of PKR 4812.7 and 4655 Million respectively.

C. SCOPE OF THE ASSIGNMENT:

It is vital to reflect the tourism in Provincial GDP estimation as an industry. The Provincial GDP is being estimated since 2017, wherein, contribution of 03 sectors such as Agriculture, Industries and Services are being estimated. The Services sector leads the Provincial economy by having contribution of 55.85%, followed by Industry sector 24.47 % and Agriculture sector having 19.68% contribution. The tourism sector is being catered under the services sector in hotel & restaurants and sports, culture & recreation. Currently, contribution of the tourism sector during last Eid Holidays of the financial years has been estimated as PKR 44 billion, wherein, around 700,000 people have visited the tourist spots such as Galyat, Naran & Kagan, Chitral Swat, etc. This shows the magnitude of the sector’s contribution which fulfils the parameters regarding its inclusion in provincial GDP as an industry.

The overall objective is to develop tourism accounts and develop the economic model to embed Tourism as fourth sector/industry in the provincial economy/GDP and to generate regular data against SDG Indicator 8.9.1. “Tourism direct GDP as a proportion of Total GDP and in Growth Rate” which has been prioritized as High Priority and Short-Term” in the Provincial SDGs Framework, whereas the baseline (2014-15) against the indicator 8.9.1 has been established i.e., 9 % (Khyber Tourism Policy) with the Target set for 2030 is to increase the baseline to 50 % .

D. Specific ToR of the assignment

Keeping in view the broader objective, as stated above, the following scope shall be executed in to order to reach to the ultimate objective.

- Literature review of the tourism sector’s contribution in the national, provincial, and regional economy/ies alongside the methodologies/economic model applied nationally and internationally for the purpose.
- Conduct data mining of the Regional Accounts Wing/GDP Cell to identify sub-sectors from the existing data ecosystem of the GDP Cell vis-a-vis identification of new sub-sectors which are required to be clubbed under Tourism Sector/accounts for estimating the sector’s contribution in provincial GDP.
- Develop an **economic model** for tourism accounts to embed tourism as a fourth sector in Provincial economy/GDP so that the sector’s contribution and data against indicator 8.9.1 can be estimated/computed on regular basis.

- Develop the economic model by clearly elaborating and explaining the economic variables and milestones, thereby, enlisting all the pre-requisite, required for running of the economic model.
- Identify studies/surveys to generate primary information/data on the economic variables, if data is not available, of the economic model.
- Identify key challenges with remedial measures and resource requirement (Financial and technical) in implementation of the proposed economic model.
- Estimate the tourism sector's contribution in the provincial economy/GDP from the existing available data of the Regional Account and by using proxies, if data is not available, to pilot running of the proposed economic model.

E. Key Activities under the Assignment:

The assignment shall be supervised by the Project Manager, SDGs Support Unit KP in close coordination of the GDP Cell of the BoS, P&D Department. Govt. of Khyber Pakhtunkhwa

1. Literature review
2. Consultation with SDG Unit KP, GDP Cell, BOS, Tourism Dept and other relevant department.
3. Desk review of the available relevant data and information.
4. Data mining of the regional accounts of GDP Cell
5. Consultation Workshops.
6. Prepare a detailed and final report, followed by dissemination.

F. Expected Outputs/Deliverables And Timeframe:

S.No	Deliverables/outputs	Payment Schedule	Expected Timeframe (tentative)	Review and approvals by
1	<ul style="list-style-type: none"> • Literature review of the tourism sector's contribution in the national, provincial, and regional economy/ies alongside the methodologies/economic model applied nationally and internationally for the purpose. • Conduct data mining of the Regional Accounts Wing/GDP Cell to identify sub-sectors from the existing data ecosystem of the GDP Cell vis-a-vis identification of new sub-sectors which are required to be clubbed under Tourism Sector/accounts 	15 %	Three Weeks	Review by Project Manager, MAPS, SDG Unit KP and Approve by ARR Development Policy Unit, UNDP Pakistan

	for estimating the sector's contribution in provincial GDP. <ul style="list-style-type: none"> Detailed Outline/submission and approval of the proposed Methodology 			
2	<ul style="list-style-type: none"> Develop an economic model for tourism accounts to imbed tourism as a fourth sector in Provincial economy/GDP so that the sector's contribution and data against indicator 8.9.1 can be estimated/computed on regular basis. Develop the economic model by clearly elaborating and explaining the economic variables and millstones, thereby, enlisting all the pre-requisite, required for running of the economic model. Identify studies/surveys to generate primary information/data on the economic variables, if data is not available, of the economic model. 	45 %	Eight Week	
3	Identify key challenges with remedial measures and resource requirement (Financial and technical) in implementation of the proposed economic model.	40 %	One Week	
4	Estimate the tourism sector's contribution in the provincial economy/GDP from the existing available data of the Regional Account and by using proxies, if data is not available, to pilot running of the proposed economic model.		Two Week	
5	Submission and Approval of Final Draft Report in full compliance with the Terms of Reference and dissemination		Two Week	

G. Institutional Arrangement

The consultant will be reporting to Project Director, SDG Support Unit and Assistant Resident Representative UNDP. SDG Support Unit in Khyber Pakhtunkhwa will be providing logistics and coordination support. SDG unit will also support in review of data availability and organizing workshops. The consultant will work in close consultation with Project Manager, SDG Support Unit, KP and other staff members and reporting to ARR, Development Policy Unit, UNDP-Pakistan. All reports/documents/progress update will be

submitted to the Project Manager and UNDP as per agreed timeframe against the deliverables.

H. Duration Of Assignment

The proposed duration for this work is 15 weeks, and The above given table gives an indicative timeframe, actual timing will depend on availability of consultant and meetings with various stakeholders.

I. DUTY STATION

Peshawar Based. Costs for any travelling for field visits, if any should be included in the financial proposal.

G. Scope of Price Proposal and Schedule of Payments

Consultant must send a financial proposal based on Lump Sum amount and the breakdown of this lump sum against each deliverable (including travel, per diems if any, and number of anticipated working days). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. The output deliverable achieved report will be approved by the ARR, Development Policy Unit.

Documents to be included when submitting the Proposals:

The following documents are requested:

- a) Duly accomplished Letter of Confirmation of Interest and Availability using the template provided by UNDP;
- b) Proposal on how your qualifications and experience can lead towards the successful deliverable of this assignment within the required timeframe, and provide a brief methodology on how you will approach and conduct the assignment;
- c) Personal CV or P11, indicating all past experiences from similar projects, as well as the contact details (email and telephone number) and at least three (3) professional references;
- d) **Brief description** of why the individual considers him/herself as the most suitable for the assignment, and a **methodology**, on how they will **approach** and complete the assignment;
- e) Financial Proposal that indicates the all-inclusive fixed total contract price, supported by a breakdown of costs, as per template provided.

H. EXPERIENCE/SKILLS AND QUALIFICATION:

Professional skills:

- I. Profound knowledge and well versed with the dynamics and issues of National and Provincial economies.

- II. Advanced level understanding, including course work and practical experience of economic modeling and data mining.
- III. Good understanding of issues challenges associated with Tourism sector and sound knowledge of 2030 agenda/SDGs.
- IV. Prior experience in similar studies especially economic review.
- V. Research publications in area of national and provincial economy.
- VI. Knowledge of provincial institutional arrangements, dynamics and characteristics and proven ability to write report on economic issues in legible manner
- VII. Ability to review existing strategies/procedures, identify gaps, recommend matching activities against the gaps and adjust/rank priorities, develop work/budget plans with timeframe for implementation and foresees associated risks.

I. Evaluation

Individual consultants will be evaluated based on the following methodologies Cumulative analysis. The award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

- a) Responsive/compliant/ acceptable, and
- b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.
 - Qualification Criteria
 - Technical Criteria weight; [70%]
 - Financial Criteria weight; [30%]

Only candidates obtaining a minimum of 70% (49 out of 70) point would be considered for the financial evaluation.

Criteria		Weight	Max. Point
<u>Qualification Criteria</u>			
Consultant must have Minimum Maters Degree in Economics		Yes/No	
Minimum 5 years Policy level research experience in Economy of Pakistan		Yes/No	
<u>Technical Evaluation Criteria</u>		70	
PhD in Economics		15	
Previous Experience of working in Tourism Sector		05	
At least 02 Economic research studies, publications, especially in macroeconomics, economic modelling, or econometrics.		20	
Technical proposal/methodology		30	
<u>Financial</u>		30	
Total score	Technical score 70+30 Financial		
Weight per Technical Competence			

Weak: Below 70%	The individual consultant has demonstrated a WEAK capacity for the analyzed competence
Satisfactory: 70-75%	The individual consultant has demonstrated a SATISFACTORY capacity for the analyzed competence
Good: 76-85%	The individual consultant has demonstrated a GOOD capacity for the analyzed competence
Very Good: 86-95%	The individual consultant has demonstrated a VERY GOOD capacity for the analyzed competence
Outstanding: 96-100%	The individual consultant has demonstrated an OUTSTANDING capacity for the analyzed competence

ANNEX

ANNEX	1- TERMS OF REFERENCES (TOR)
ANNEX	2- INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS
ANNEX	3- PROPOSAL SUBMISSION FORM
ANNEX	4- OFFEROR'S LETTER TO UNDP
ANNEX	5- FINANCIAL PROPOSAL
ANNEX	6-P11 Form
ANNEX	7- Statement of Good Health

GENERAL CONDITIONS OF CONTRACT FOR THE SERVICES OF INDIVIDUAL CONTRACTORS

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

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

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

The Individual contractor acknowledges and agrees that any breach of any of the provisions hereof shall constitute a breach of an essential term of the Contract, and, in

addition to any other legal rights or remedies available to any person, shall give rise to grounds for termination of the Contract. In addition, nothing herein shall limit the right of UNDP to refer any alleged breach of the foregoing standards of conduct to the relevant national authorities for appropriate legal action.

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

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

4. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION: Information and data that are considered proprietary by either UNDP or the Individual contractor or that are delivered or disclosed by one of them ("Discloser") to the other ("Recipient") during the course of performance of the Contract, and that are designated as confidential ("Information"), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall use the same care and discretion to avoid disclosure, publication

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

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

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

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

6. PROHIBITION ON ASSIGNMENT; MODIFICATIONS: The Individual contractor may not assign, delegate, transfer, pledge or make any other disposition of the Contract, of

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

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

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

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

10. **INSURANCE:** The Individual contractor shall pay UNDP promptly for all loss, destruction or damage to the property of UNDP caused by the Individual contractor, or of any subcontractor, or anyone directly or indirectly employed by them in the performance of the Contract. The Individual contractor shall be solely responsible for

taking out and for maintaining adequate insurance required to meet any of its obligations under the Contract, as well as for arranging, at the Individual contractor's sole expense, such life, health and other forms of insurance as the Individual contractor may consider to be appropriate to cover the period during which the Individual contractor provides services under the Contract. The Individual contractor acknowledges and agrees that none of the insurance arrangements the Individual contractor may make shall, in any way, be construed to limit the Individual contractor's liability arising under or relating to the Contract.

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

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

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

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

13. **TERMINATION:** Either party may terminate the Contract, in whole or in part, upon giving written notice to the other party. The period of notice shall be five (5) days in the case of Contracts for a total period of less than two (2) months and fourteen (14) days in the case of contracts for a longer period. The initiation of conciliation or arbitral proceedings, as provided below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract. UNDP may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that: (a) the Individual contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, applies for moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent; (b) the Individual contractor is granted a moratorium or a stay or is declared insolvent; the Individual contractor makes an assignment for the benefit of one or more of its creditors; (c) a Receiver is appointed on account of the insolvency of the Individual contractor ; (d) the Individual contractor offers a settlement in lieu of bankruptcy or receivership; or (e) UNDP reasonably determines that the Individual contractor has become subject to a materially adverse change in its financial condition that threatens to endanger or otherwise substantially affect the ability of the Individual contractor to perform any of its obligations under the Contract.

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

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

termination of the Contract by the Individual contractor may be withheld from any amount otherwise due to the Individual contractor from UNDP..

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

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

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

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

17. **SETTLEMENT OF DISPUTES:**

AMICABLE SETTLEMENT: UNDP and the Individual contractor shall use their best efforts to amicably settle any dispute, controversy or claim arising out of the Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable

settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules then obtaining of the United Nations Commission on International Trade Law ("UNCITRAL"), or according to such other procedure as may be agreed between the parties in writing.

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

18. LIMITATION ON ACTIONS: Except with respect to any indemnification obligations in Article 9, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 17, above, arising out of the Contract must be commenced within three (3) years after the cause of action has accrued.

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,

19. 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.