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Resilient nations.*

23 September 2016

Amendment #1 to the RFP 044/16

The design/operational planning/approvals of construction works applicable to development of a national hazardous waste storage and management facility based on upgrading of an existing storage facility near Hrazdan in Kotayk region of Armenia

- 1. Proposals need to be submitted on or before Friday, 07 October, 2016, 6:00pm local Yerevan time** - see amendment on page 1 of RFP 044/16
- 2. Your Proposal must be expressed in English** - see amendment on page 1 of RFP 044/16
- 3. Language of the proposal English** - see amendment on page 13 of the TOR (ENG), Annex 1 and on page 18 of the TOR (ARM), Annex 1



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REQUEST FOR PROPOSAL (RFP) RFP 044/16

NAME & ADDRESS OF FIRM	DATE: August 30, 2016
	REFERENCE: The design/operational planning/approvals of construction works applicable to development of a national hazardous waste storage and management facility based on upgrading of an existing storage facility near Hrazdan in Kotayk region of Armenia

Dear Sir / Madam:

We kindly request you to submit your Proposal for **the design/operational planning/approvals of construction works applicable to development of a national hazardous waste storage and management facility based on upgrading of an existing storage facility near Hrazdan in Kotayk region of Armenia (the detailed TOR is attached separately as Annex 1)**, in the scope of “Elimination of obsolete pesticide stockpiles and addressing POPs contaminated sites within a Sound Chemicals Management Framework in Armenia” UNDP-GEF full sized Project implementation.

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

Proposals need to be submitted on or before **Friday, 07 October, 2016, 6:00pm** local Yerevan time (GMT +4) via email, courier mail to the address below:

United Nations Development Programme / UNDP
14 Petros Adamyan St., Yerevan 0010, Republic of Armenia

Or submit via e-mail to the following e-mail address: tenders-armenia@undp.org

Please note that proposals received through any other e-mail address will not be considered.

Your Proposal must be expressed in the English, and valid for a minimum period of 120 calendar days.

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

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

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

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

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

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a Proposal implies that the Service Provider accepts without question the General Terms and Conditions of UNDP, herein attached as Annex 3.

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

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

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

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

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

Thank you and we look forward to receiving your Proposal.

Sincerely yours,

Procurement Unit / UNDP Armenia
8/30/2016

Description of Requirements

Context of the Requirement	The subject of this assignment is a sub-component of a UNDP/GEF full sized Project entitled “Elimination of Obsolete Pesticide Stockpiles and Addressing POPs (Persistent Organic Pollutants) and Contaminated Sites within a Sound Chemicals Management Framework in Armenia” being undertaken by the United Nations Development Programme (UNDP) in cooperation with the Ministry of Emergency Situations (MES) and Ministry of Nature Protection (MNP)
Implementing Partner of UNDP	Ministry of Nature Protection (MNP)
Brief Description of the Required Services	<p>The design, operational planning, approvals of design and bill of quantities for construction works applicable to development of a national chemical hazardous waste storage and management facility based on upgrading of an existing storage facility near Hrazdan town in Kotayk region of Armenia (a detailed Terms of Reference is attached – Annex 1).</p> <p>For performance of required services availability of national licenses for the respective type of services is required.</p>
List and Description of Expected Outputs to be Delivered	<ol style="list-style-type: none"> 1. Inception report on Assignment familiarization and mobilization 2. Site Investigation Report - Detailed Investigation of Site Conditions 3. Building and Infrastructure Assessment Report 4. Detailed Design Package 5. Storehouse Operational Planning and Procedure Manual 6. Tender technical specifications for storehouse development works and for selected operational work plan 7. EIA report for Environmental Expertise submitted and approvals in accordance with national regulations and requirements issued; EA, SA and EMP for UNDP safeguards submitted 8. The design package submitted for and the Technical expertise (TECWD) approvals in accordance with national regulations and requirements issued 9. Training Manual, Presentation materials; Delivery of training modules /course, delivery of TOT 10. Author’s supervision support conducted during reconstruction/designed works implementation
Person to Supervise the Work/Performance of the Service Provider	Project Coordinator of UNDP/GEF full sized Project entitled “Elimination of Obsolete Pesticide Stockpiles and Addressing POPs (Persistent Organic Pollutants) and Contaminated Sites within a Sound Chemicals Management Framework in Armenia”
Frequency of Reporting	Weekly, for more details, please refer to Terms of Reference, Para G.

Progress Reporting Requirements	The contracting arrangements for this assignment will be made through the UNDP Armenia Country Office with administrative supervision provided by the PMU (the PMU Project Coordinator, Project Technical Task Leader). It is anticipated that day to day operational level coordination will be undertaken by the PMU civil engineer and designated MES focal point. Technical peer review of outputs in addition will be provided by MES, the UNDP's regional and HQ staff including the International Adviser. For purposes of scheduling deliverable review, the Consultant should assume at least one week response time for review and comments from counterparts as administered and coordinated through the PMU. Where the work involves significant decision points requiring such action in the form of major scoping decisions from MES, UNDP and the PMU on project options and direction, a period of two weeks shall be assumed.
Location of work	<input checked="" type="checkbox"/> Exact Address/es: Site located at M4 southeast-northwest highway, east of Hrazdan city Kotayk region of Armenia. <input checked="" type="checkbox"/> At Contractor's Location
Expected duration of work	150 days (design and permits) + 240 days (author's supervision for construction works) = 390 days
Target start date	November 7, 2016
Latest completion date	November 30, 2017
Allowable Manner of Submitting Proposals	<input checked="" type="checkbox"/> By courier mail to: United Nations Development Programme, 14 Petros Adamyan St., Yerevan 0010, Republic of Armenia <input checked="" type="checkbox"/> Electronic submission of Bid - for Technical and Financial Proposals submission to tenders-armenia@undp.org
Conditions and Procedures for electronic submission and opening, if allowed	<input checked="" type="checkbox"/> Official Address for e-submission: tenders-armenia@undp.org <input checked="" type="checkbox"/> Format : PDF files preferred in ZIP archives only, password protected. (other types of archive can cause failure during opening of proposals) <input checked="" type="checkbox"/> Password must not be provided to UNDP until the date and time of Proposal Opening as indicated and before the UNDP request. <i>Procurement Unit will contact the proposers in writing to request provision of the password to Financial proposal.</i> <input checked="" type="checkbox"/> Max. File Size per transmission: [5 MB] <input checked="" type="checkbox"/> Max. No. of transmission : [3] <input checked="" type="checkbox"/> No. of copies to be transmitted : [1] <input checked="" type="checkbox"/> Mandatory subject of email : RFP 044/16 <input checked="" type="checkbox"/> Virus Scanning Software to be used prior to transmission: <i>[Files should not contain any viruses or malware software.]</i> <input checked="" type="checkbox"/> Digital Certification/Signature: Please protect your financial proposal (archive) with password! <input checked="" type="checkbox"/> Time Zone to be Recognized: <i>[Yerevan, GMT +4]</i> <input checked="" type="checkbox"/> Other conditions: <i>Proposers are solely responsible for ensuring that any and all files sent to UNDP are readable, that is, uncorrupted, in the indicated electronic format, and free from viruses and malware. Failure to provide readable files will result in the proposal being rejected.</i>

Travels Expected	Destination/s	Estimated Duration	Brief Description of Purpose of the Travel	Target Date/s
	Yerevan and Hrazdan/Kotayk	TBD (up to 4-measurments + 15 author's supervision visits)	Investigation of site and constructions	October 2016 – November 2017
Special Security Requirements	<input type="checkbox"/> Security Clearance from UN prior to travelling <input type="checkbox"/> Completion of UN's Basic and Advanced Security Training <input type="checkbox"/> Comprehensive Travel Insurance <input checked="" type="checkbox"/> Not Required			
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	<input type="checkbox"/> Office space and facilities <input type="checkbox"/> Land Transportation <input checked="" type="checkbox"/> Not Required			
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required			
Names and curriculum vitae of individuals who will be involved in completing the services	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required			
Currency of Proposal	<input checked="" type="checkbox"/> United States Dollars <input type="checkbox"/> Euro <input checked="" type="checkbox"/> Local Currency			
Value Added Tax on Price Proposal ¹	<input type="checkbox"/> must be inclusive of VAT and other applicable indirect taxes <input checked="" type="checkbox"/> must be exclusive of VAT and other applicable indirect taxes			
Validity Period of Proposals (<i>Counting for the last day of submission of quotes</i>)	<input type="checkbox"/> 60 days <input type="checkbox"/> 90 days <input checked="" 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 <input type="checkbox"/> Permitted			
Payment Terms ²	Outputs	Per-centage of total price	Indicative Duration	Condition for Payment Release

¹ VAT exemption status varies from one country to another. Pls. check whatever is applicable to the UNDP CO/BU requiring the service.

² 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.

	<p>1. Inception Report on Assignment Familiarization and Mobilization</p> <p>2. Site Investigation Report - Detailed Investigation of Site Conditions</p> <p>3. Report of Storehouse site Building and Infrastructure Assessment</p> <p>4. Detailed Design Package Preparation</p> <p>5. Operational Plan and Procedure Manual</p> <p>6. Tender specification for storehouse development works and for selected operational work plan</p> <p>7. Environmental Impact Assessment Report for Environmental Expertise Submission; Environmental Assessment, Social Assessment and Environmental Management Plan for UNDP Safeguards Review</p> <p>8. Technical Design Package for Submission Developed and in Accordance With National Regulations and Requirements Submitted, the Expertise Approval Promoted</p> <p>9. Works Implementation Author's Supervision</p> <p>10. Training Manual, Presentation Materials; Training Modules /Course, TOT Delivered</p>	<p>4</p> <p>5</p> <p>5</p> <p>40</p> <p>10</p> <p>5</p> <p>15</p> <p>2</p> <p>10</p> <p>4</p>	<p>2 weeks</p> <p>3 weeks</p> <p>3 weeks</p> <p>7 weeks</p> <p>4 weeks</p> <p>4 weeks</p> <p>15 weeks</p> <p>8</p> <p>TBD (about 25 weeks)</p> <p>5 weeks</p>	<p>Within thirty (30) days from the date of meeting the following conditions:</p> <p>a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and</p> <p>b) Receipt of invoice from the Service Provider.</p> <p>contingent upon initiating construction works</p> <p>TBD –contingent upon start of operations</p>
Person(s) to review/inspect/approve outputs/completed services and authorize the disbursement of payment	Project Coordinator			
Type of Contract to be Signed	<input type="checkbox"/> Purchase Order <input type="checkbox"/> Institutional Contract <input checked="" type="checkbox"/> Contract for Professional Services <input type="checkbox"/> Long-Term Agreement ³ <input type="checkbox"/> Other Type of Contract			
Criteria for Contract Award	<input type="checkbox"/> Lowest Price Quote among technically responsive offers <input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution), <input checked="" type="checkbox"/> Availability of the required licenses for design of civil engineering works (mandatory criteria). Rating the Technical Proposal (TP – Minimum 70 point earned proposals will be evaluated for financial proposals):			

³ Minimum of one (1) year period and may be extended up to a maximum of three (3) years subject to satisfactory performance evaluation. This RFP may be used for LTAs if the annual purchases will not exceed \$100,000.00.

TP Rating = (Total Score Obtained by the Offer / Max. Obtainable Score for TP) x 100

Rating the Financial Proposal (FP):

FP Rating = (Lowest Priced Offer / Price of the Offer Being Reviewed) x 100

Total Combined Score:

TP Rating x (Weight of TP, e.g. 70%) + (FP Rating) x (Weight of FP, e.g. 30%)

Total Combined and Final Rating of the Proposal

Criteria for the Assessment of Proposal

Technical Proposal (70%)

Summary of Technical Proposal Evaluation		Points Obtainable
1.	Expertise of Firm / Organization submitting Proposal	40
2.	Proposed Methodology, Approach and Implementation plan	30
3.	Qualification of Personnel	30
Total		100

Expertise of the Firm - Maximum obtainable points: – 40

References or other proof of quality service by previous contractors to be presented: max obtainable score - 10

- Statement of Satisfactory Performance from the top 3 clients in the past 5 years - 5
- More than three – 10

Certificates (not licenses): max obtainable score – 5

- Relevant civil engineering design – 2
- Chemical waste facility design - 5

Experience in relevant field: max obtainable score - 15

- 10 years of general experience in industrial facility design and operational planning -5
- More than 10 years of general experience in chemicals and/or waste containing facility design -10
- More than 10 years of general experience in chemical waste storage facility design - 15

Work experience for UNDP/ major multilateral/ or bilateral program/projects: max obtainable score - 10

- no programs/projects – 0
- up to two programs/projects – 5
- more than two programs/projects – 10

Methodology, its Appropriateness to the Condition and Timeliness of the Implementation Plan - Maximum obtainable points: - 30

To what degree does the offeror understand the task? max obtainable score - 10

- Full understanding of the tasks – 10
- Fair understanding of the task – 5

Have the important aspects of the task been addressed in sufficient detail? max obtainable score - 5

- High description of the tasks – 5
- Fairly appropriate – 2.5

<p>Has the offeror demonstrated an established, systematic methodology for the project implementation? - max obtainable score - 5</p> <ul style="list-style-type: none"> - Comprehensive and systematic methodology - 5 - Fairly appropriate – 2.5 <p>Is the conceptual framework adopted appropriate for the task? max obtainable score - 5</p> <ul style="list-style-type: none"> - Completely appropriate – 5 - Fairly appropriate – 2.5 <p>Is the presentation of the Execution Plan clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project? max obtainable score - 5</p> <ul style="list-style-type: none"> - Clear presentation with sound logical and realistic planning – 5; - Fairly clear presentation with some elements of logical and realistic planning – 2.5 <p>☒ <u>Qualification of Key Personnel</u> - Maximum obtainable points: - 30</p> <p>1. Team Leader/Task Coordinator</p> <p>Professional and management experience in the field of chemicals / industrial storage facility design: max obtainable score - 6</p> <ul style="list-style-type: none"> - At least 10 years – 2 - Between 10 -15 years - 3 - More than 15 years – 6 <p>2. Expert in chemical/hazardous waste management facility operation (with international scope):</p> <p>Professional Experience in the field of chemicals/industrial waste storage facility design/operation: max obtainable score - 6</p> <ul style="list-style-type: none"> - At least 6 years – 2 - Between 6 -10 years - 3 - More than 10 years – 6 <p>3. Expert in construction engineering</p> <p>Professional Experience in the field of civil (industrial) engineering assessment, design and construction: max obtainable score - 5</p> <ul style="list-style-type: none"> - At least 10 years –2 - Between 10 -15 years - 3 - More than 15 years – 5 <p>4. Expert in EIA</p> <p>Professional Experience in the field of EIA: max obtainable score - 5</p> <ul style="list-style-type: none"> - At least 10 years – 5 - Between 10 -15 years - 3 - More than 15 years – 5 <p>5. Expert in Hydro-geology</p> <p>Professional Experience in the field of Hydro-geological assessment and design: max obtainable score - 4</p> <ul style="list-style-type: none"> - At least 10 years – 2 - Between 10 -15 years - 3 - More than 15 years – 4 <p>6. Expert in hazardous chemical waste management facility/storehouse operation and maintenance with training experience</p>

	<p>Professional Experience in the field of chemicals storage / hazardous waste management facility operation and maintenance: max obtainable score - 4</p> <ul style="list-style-type: none"> - At least 10 years – 2 - Between 10 -15 years - 3 - More than 15 years – 4 <p>Financial Proposal (30%)</p> <p>To be computed as a ratio of the Proposal’s offer to the lowest price among the proposals received by UNDP.</p>
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider <input type="checkbox"/> One or more Service Providers, depending on the following factors:
Annexes to this RFP	<input checked="" type="checkbox"/> Detailed TOR (Annex 1) – On page 13 of TOR read “Language of the proposal English”. <input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> General Terms and Conditions (Annex 3) ⁴ <input type="checkbox"/> Others <i>[pls. specify]</i>
Contact Person for Inquiries (Written inquiries only) ⁵	<p><i>Procurement Unit UNDP Armenia</i> procurement.armenia@undp.org</p> <p>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.</p>
Other Information <i>[pls. specify]</i>	<p>The pre-bid conference and Q/A session will be held on 19 September, 2016 at 10:00am at UNDP Armenia. Please provide your acknowledgement letter expressing your interest in participation in the pre-bid meeting as well as the name(s) of participant(s) not later than 12 September, 2016.</p>

⁴ 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

⁵ This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was received.

Terms of Reference

The TOR is provided in separate files (English and Armenian versions) titled:

TOR RFP 044/16 ENG

TOR RFP 044/16 ARM

FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL⁶ RFP 044/16

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

[insert: Location].

[insert: Date]

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

Dear Sir/Madam:

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

A. Qualifications of the Service Provider

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

- a) *Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations*
- b) *Business Licenses – Registration Papers, Tax Payment Certification, etc.*
- c) *Latest Audited Financial Statement – income statement and balance sheet to indicate its financial stability, liquidity, credit standing, and market reputation, etc.*
- d) *Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contact references;*
- e) *Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.*
- f) *Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List*

B. Proposed Methodology for the Completion of Services

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

C. Qualifications of Key Personnel

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

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

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

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

D. Cost Breakdown per Deliverable*

Task	Deliverables per 1-10 Tasks <i>[list them as referred to in the RFP]</i>	Percentage of Total Price <i>(Weight for payment)</i>	Price <i>(Lump Sum, All Inclusive)</i>
1	Deliverable 1		
2	Deliverable 2		
3		
4			
5			
6			
7		
8			
9	Deliverable 9		
10	Deliverable 10		
	Total	100%	

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

E. Cost Breakdown by Cost Component (separately for Tasks 1-10 reflected in the TOR)

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

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

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.