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**SECTION 1 - INVITATION LETTER**

**Date: 07 December, 2010**

Dear Sir/Madam,

**Subject: RFP No –UNDP/AFG/2010/0171- Provision of Audit services to UNOCHA  
projects in all over Afghanistan.**

- 1 UNDP is pleased to invite proposals for the provision for Audit of UNOCHA Projects in Afghanistan.
- 2 To enable you to submit a proposal, attached to this Invitation Letter (Section 2) are:

- i. [Invitation Letter](#) (Section 1)
- ii. [Instructions to Offerors](#) (Section 2)
- iii. [Terms of Reference \(TOR\)](#) (Section 3)
- iv. [Price Schedule](#) (Section 4)
- v. [Suggested Technical Proposal Format](#) (Section 5)
- vi. [Proposal Submission Form](#) (Section 6)
- vii. [Contract Term Agreement \(form of\)](#) (Section 7)
- viii. [UNDP General Conditions of Contracts for Professional Services](#) (Section 8)
- ix. [Form of Advance Payment Security](#) (Section 9)
- x. [Acknowledgement Letter](#) (Section 10)

- 3 **To enable you to submit a proposal, your offer comprising the Technical Proposal and the Financial Proposal, in separate sealed envelopes, should reach the following address no later than 15 January, 2011, at 15:00 hours Kabul time.**

**UNDP Afghanistan Country Office  
Shah Mahmood Ghazi Watt  
Kabul, Afghanistan  
Tel: +98 20 2101 68291 Fax: +873 763 468 863  
[Procurement.af@undp.org](mailto:Procurement.af@undp.org)**

- 4 A Bid Conference will be held on 05 January, 2011 10:00 local hours (Kabul time) at Procurement unit at UNDP Afghanistan, interested firms are encouraged to attend.
- 5 If you request additional information, we will endeavor to provide information expeditiously, but any delay in providing such information will not be considered a reason for extending the submission date of your proposal.
- 6 You should familiarize yourself with local conditions and take them into account in preparing your proposals, and if required obtain first hand information on the assignment and on the local conditions by a visit to the site before submitting a proposal.
- 7 You are requested to acknowledge receipt of this letter and to indicate whether or not you intend to submit a proposal. **Failure to submit the acknowledgement letter may result in the bid being rejected.** The acknowledgement letter must be signed

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stamped and should be sent via email to [ [procurement.af@undp.org](mailto:procurement.af@undp.org) ] within five days after receipt of this ITB.

8 UNDP reserves the right to enter into long term agreement with more than one company .

9. After receipt of bids, UNDP reserves the right to request any additional information or seek clarifications from the bidder to ascertain responsiveness of offers received."

Yours sincerely,

UNDP Procurement

Acknowledged receipt:

Signature: .....

Print name and title: .....

Company: .....

Intend to submit Proposal:

	<b>Yes</b>
	<b>No.</b>

No. of pages received:

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**SECTION 2 - INSTRUCTIONS TO OFFERORS**

<b>A Introduction</b>
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**1. General**

**Background:**

The United Nations established the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) to mobilize and coordinate effective and principled humanitarian action in partnership with national and international actors in order to alleviate human suffering in natural disasters and emergencies, promote preparedness and prevention efforts to reduce future vulnerability, facilitate sustainable solutions by addressing root causes and advocate for the rights of people.

OCHA receives funds from donors, for which it is accountable, and allocates these funds to International Non-Governmental Organizations (NGO's) and UN agencies who will be able to implement directly or through local NGO partners to support humanitarian activities. The Emergency Response Fund for Afghanistan (ERF) is administered by OCHA to support rapid response projects that are developed during the first phase of an emergency to prevent further erosion of livelihood assets through supporting positive coping mechanism of communities. The fund is used strategically to fill gaps within the overall response plan.

Agencies that receive emergency response funds are responsible for their management, and they are accountable to OCHA for the entirety of OCHA resources under their management. Each project must be audited at least once in its lifetime. The timing of an audit for a specific project is determined by the end of the project's implementation period.

The purpose of the TOR which are an integral part of the RFP, outline the services, functions and tasks that the prospective contractor is expected and maybe requested to provide on "as required basis" or "on demand basis" for the duration of the contract and its extensions if any.

**2. Cost of proposal**

The Offeror shall bear all costs associated with the preparation and submission of the Proposal, the UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

<b>B Solicitation Documents</b>
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**3. Contents of solicitation documents**

Proposals must offer services for the total requirement. Proposals offering only part of the requirement will be rejected. The Offeror is expected to examine all corresponding

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instructions, forms, terms and specifications contained in the Solicitation Documents. Failure to comply with these documents will be at the Offeror's risk and may affect the evaluation of the Proposal.

**4. Clarification of solicitation documents**

A prospective Offeror requiring any clarification of the Solicitation Documents may notify UNDP in writing by fax or e-mail as indicated and permitted in the RFP. UNDP will respond in writing to any request for clarification of the Solicitation Documents that it receives earlier than two weeks prior to the deadline for the submission of Proposals. Written copies of UNDP's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Offerors that has received the Solicitation Documents.

**5. Amendments of solicitation documents**

At any time prior to the deadline for submission of Proposals, UNDP may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Offeror, modify the Solicitation Documents by amendment.

All prospective Offerors that have received the Solicitation Documents will be notified in writing of all amendments to the Solicitation Documents.

In order to afford prospective Offerors a reasonable time in which to take the amendments into account in preparing their offers, UNDP may, at its discretion, extend the deadline for the submission of Proposals.

<b>C      Preparation of Proposals</b>
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**6. Language of the proposal**

The Proposals prepared by the Offeror and all correspondence and documents relating to the Proposal exchanged by the Offeror and UNDP shall be written in the English language. Any printed literature furnished by the Offeror may be written in another language so long as accompanied by an English translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English translation shall govern.

**13. Evaluation and comparison of proposals**

**14. Evaluation criteria**

The evaluation of the successful proposal shall be based upon most responsiveness to UNDP requirements and shall not be solely restricted to the lowest fees proposed.

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The evaluation of the proposals received by UNDP will be based on the following criteria of evaluation .

A two-stage procedure is utilised in evaluating the proposals, with the technical evaluation being completed prior to any financial proposal being opened and compared. Only proposals that achieve above the minimum of 70% scores threshold points on the substantive presentation shall be reviewed for price.

### **15. Evaluation of substantive presentation (1000 points)**

The potential capacity to have quality services provided to UNDP will be considered on the basis of a mix of:

- the qualifications experience and competence of the personnel, and the number of working days proposed for the audit (400 points);
- the adequacy of the audit approach and methodology to meet the audit services required (300 points);
- professional profile of your firm with background (200 points); and
- the schedule of the audit engagement, assessed in terms of its responsiveness to the schedule requirements of UNDP as specified above (100 points).

### **7. Financial Proposal**

In the Second Stage, the price proposal of all contractors, who have attained minimum 70% score in the technical evaluation, will be compared. The contract will be awarded to the Contractor offering the lowest price responsive proposal.

### **8. Proposal currencies**

All prices shall be quoted in US dollars only.

### **9. Period of validity of proposals**

Proposals shall remain valid for ninety days (90) days after the date of Proposal submission prescribed by UNDP, pursuant to the deadline clause. A Proposal valid for a shorter period may be rejected by UNDP on the grounds that it is non-responsive.

In exceptional circumstances, UNDP may solicit the Offeror's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. An Offeror granting the request will not be required nor permitted to modify its Proposal.

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**10. Format and signing of proposals**

The Offeror shall prepare two copies of the Proposal, clearly marking each “Original Proposal” and “Copy of Proposal” as appropriate. In the event of any discrepancy between them, the original shall govern.

The two copies of the Proposal shall be typed or written in indelible ink and shall be signed by the Offeror or a person or persons duly authorised to bind the Offeror to the contract. The latter authorisation shall be indicated by written power-of-attorney accompanying the Proposal.

A Proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Offeror, in which case such corrections shall be initialed by the person or persons signing the Proposal.

**11. Payment**

UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the contractor, upon achievement of the corresponding milestones in accordance with the payment terms in the contract.

Payments shall be made by bank transfer directly to the bank account of the Contractor. UNDP shall only make payment transfers into accounts in the Contractor’s (company) name and not of individuals (even owners of the Company).

<b>D Submission of Proposals</b>
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**12. Sealing and marking of proposals**

The Offeror shall seal the Proposal in one outer and two inner envelopes, as detailed below.

(a) The outer envelope shall be:

**Addressed to –**

Procurement Manager  
UNDP Afghanistan Country Office  
Shah Mahmood Ghazi Watt  
Kabul, Afghanistan

**Marked with –**

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- (b) Both inner envelopes shall indicate the name and address of the Offeror. The first inner envelope shall contain the information specified in Clause 8 (*Proposal form*) above, with the copies duly marked “Original” and “Copy”. The second inner envelope shall include the price schedule duly identified as such.

Note, if the inner envelopes are not sealed and marked as per the instructions in this clause, UNDP will not assume responsibility for the Proposal’s misplacement or premature opening.

**13. Deadline for submission of proposals**

Proposals must be received by UNDP at the address or e-mail no later than the deadline specified in the Letter of Invitation.

UNDP may, at its own discretion extend this deadline for the submission of Proposals by amending the solicitation documents in accordance with clause *Amendments of Solicitation Documents*, in which case all rights and obligations of UNDP and Offerors previously subject to the deadline will thereafter be subject to the deadline as extended.

**14. Late Proposals**

Any Proposal received by the procuring UNDP entity after the deadline for submission of proposals, pursuant to clause *Deadline for the submission of proposals*, will be rejected.

**15. Modification and withdrawal of Proposals**

The Offeror may withdraw its Proposal after the Proposal’s submission, provided that written notice of the withdrawal is received by UNDP prior to the deadline prescribed for submission of Proposals.

The Offeror’s withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of clause *Deadline for Submission of Proposals*. The withdrawal notice may also be sent by telex or fax but followed by a signed confirmation copy.

No Proposal may be modified subsequent to the deadline for submission of proposals.

No Proposal may be withdrawn in the Interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified by the Offeror on the Proposal Submission Form.

<b>E      Opening and Evaluation of Proposals</b>
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## **16. Opening of proposals**

UNDP will open the Proposals in the presence of a Committee formed by the duly authorized official of UNDP.

## **17. Clarification of proposals**

To assist in the examination, evaluation and comparison of Proposals, UNDP may at its discretion, ask the Offeror for clarification of its Proposal. The request for clarification and the response shall be in writing and no change in price or substance of the Proposal shall be sought, offered or permitted.

## **18. Preliminary examination**

UNDP will examine the Proposals to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the Proposals are generally in order.

Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If the Offeror does not accept the correction of errors, its Proposal will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.

Prior to the detailed evaluation, UNDP will determine the substantial responsiveness of each Proposal to the Request for Proposals (RFP). For purposes of these Clauses, a substantially responsive Proposal is one, which conforms to all the terms and conditions of the RFP without material deviations. UNDP's determination of a Proposal's responsiveness is based on the contents of the Proposal itself without recourse to extrinsic evidence.

A Proposal determined as not substantially responsive will be rejected by UNDP and may not subsequently be made responsive by the Offeror by correction of the non-conformity.

## **19. Evaluation and comparison of proposals**

A two-stage procedure is utilized in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being opened and compared. The price proposal of the Proposals will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 100 points in the evaluation of the technical proposals.

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The technical proposal is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

In the Second Stage, the price proposal of all offerors, who have attained minimum 70% score in the technical evaluation will be opened and compared. Price Proposals of offerors who have not passed the technical evaluation will be returned to the respective offerors unopened at the end of the evaluation process, if the form of receipt specified is by sealed envelopes or discarded if by e-mail.

For evaluation purposes only, the evaluated price for each lot of each proposal shall be determined as follows:

The lowest evaluated priced proposal will be awarded 100 points and other prices proposals will be awarded points in accordance with the following formula:

The technical and price scores of offerors will be combined using a weighting of 70% technical and 30% price. The contract will be awarded to the offeror achieving the highest combined technical/price score.

**Technical Evaluation Criteria**

The obtainable number of points specified for each evaluation criterion indicates the relative significance or weight of the item in the overall evaluation process. The Technical Proposal Evaluation Forms are:

Summary of Technical Proposal Evaluation Forms*		Score Weight	Points Obtainable
1.	Qualification and Experience of the Company Background	50%	500
2.	the adequacy of the audit approach and methodology to meet the audit services required.	30%	300
3.	Resources and Staffing Plan	20%	200
<b>Total</b>			<b>1000</b>

**\*Firms that achieve the minimum technical score will be required to make a presentation of their technical proposals at a time and venue which will be communicated to the successful Offerors..**

Details of the evaluation criteria are given in the table below. Obtainable number of points specified for each evaluation criterion indicates the relative significance or weight of the item in the overall evaluation process.

<b>1. Company Background</b>	<b>Points Obtainable</b>
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1.	<b>General experience:</b> - the qualifications experience and competence of the personnel, and the number of working days proposed for the audit. - the adequacy of the audit approach and methodology to meet the audit services required. - Experience with UN or International agencies/companies - Collaboration, partnership with local, regional and international services providers	100 100 50 50
2.	<b>Organizational Capability:</b> - Annual Turnover for the last three years and credit availability - Size of the company (premises, no. of staff, and other assets) - Technology (MIS)	100 50 50
<b>Total</b>		<b>500</b>

<b>2. Approach and Methodology</b>		<b>Points Obtainable</b>
1.	<b>Response to Terms of Reference</b> - Meeting requirements - Enhanced capabilities/alternative	75 75
2.	<b>Methodology</b> - Management - Reporting	75 75
<b>Total</b>		<b>300</b>

<b>3. Resource and Staffing</b>		<b>Points Obtainable</b>
1.	<b>Approach and methodology</b>	200
<b>Total</b>		<b>200</b>
<b>Offeror are required to submit two CVs for each of the key staff positions; one for the principal candidate and the other for an alternate.</b>		

<b>F Award of Contract</b>
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**20. Award criteria, award of contract**

UNDP reserves the right to accept or reject any Proposal, and to annul the solicitation process and reject all Proposals at any time prior to award of contract, without thereby incurring any liability to the affected Offeror or any obligation to inform the affected Offeror or Offerors of the grounds for the Purchaser's action.

Prior to expiration of the period of proposal validity, UNDP will award a contract to the qualified Offeror whose Proposal after being evaluated is considered to be the most responsive to the needs of the organization and activity concerned.

**21. UNDP's right to vary requirements at time of award**

UNDP reserves the right at the time of award of contract to vary the quantity of services and goods specified in the RFP without any change in price or other terms and conditions.

**22. Signing of the contract**

Within 7 days of receipt of the contract the successful Offeror shall sign and date the contract and return it to UNDP.

Failure of the successful Offeror to comply with the requirement of Clause 24 shall constitute sufficient grounds for the annulment of the award, in which event UNDP may make the award to the next lowest evaluated Offeror or call for new Proposals.

**SECTION 3 – TERMS OF REFERENCE**

**Background:**

The United Nations established the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) to mobilize and coordinate effective and principled humanitarian action in partnership with national and international actors in order to alleviate human suffering in natural disasters and emergencies, promote preparedness and prevention efforts to reduce future vulnerability, facilitate sustainable solutions by addressing root causes and advocate for the rights of people.

OCHA receives funds from donors, for which it is accountable, and allocates these funds to International Non-Governmental Organizations (NGO's) and UN agencies who will be able to implement directly or through local NGO partners to support humanitarian activities. The Emergency Response Fund for Afghanistan (ERF) is administered by OCHA to support rapid response projects that are developed during the first phase of an emergency to prevent further erosion of livelihood assets through supporting positive coping mechanism of communities. The fund is used strategically to fill gaps within the overall response plan.

Agencies that receive emergency response funds are responsible for their management, and they are accountable to OCHA for the entirety of OCHA resources under their management. Each project must be audited at least once in its lifetime. The timing of an audit for a specific project is determined by the end of the project's implementation period.

**2. Purpose**

- (a) Under the overall supervision of the, implementing agency and in close collaboration with other partnering local NGOs, the auditors will conduct audits of the projects. The overall objective for the audit report is to provide OCHA as administrator with reasonable assurance, and ensure that OCHA resources are being managed in accordance with the emergency response fund guidelines laid down.

**3. Audit scope**

The audit of projects must cover, but *is* not necessarily limited to, the following:

- (a) The final accounts of project spending for the entire project period
- (b) The audit report must present budget, and in case of variation between planned and actual expenditure, should be specified
- (c) Identify deficit clearly if any
- (d) Financial accounting, monitoring and reporting
- (e) Management systems for recording, documenting and reporting on resources utilization
- (f) Equipment use and management

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- (e) Management, Structure, including the adequacy of appropriate internal control system and record-keeping mechanisms

**4. Audit certification**

The audit of the project, should, review the following aspects. If appropriate, the audit will confirm and certify that:

- (a) The disbursements are made in accordance with the activities and budgets of the project document;
- (b) The disbursements are supported by adequate documentation;
- (c) The financial reports are fairly and accurately presented;
- (c) An appropriate management structure, internal controls and record-keeping systems are maintained;
- (d) The implementing agency and OCHA have undertaken and have prepared reports for monitoring and evaluation of the substantive activities and of the management systems of the project;
- (e) The procurement, use, control and disposal of non-expendable equipment are in accordance with the OCHA requirements.

**5. Methodology and timetable**

The audit is conducted in accordance with professional judgment of the auditor, and with appropriate reference to:

- (a) The International Standards on Auditing (ISA), namely the standards on auditing promulgated by the international Federation of Accountants;
- (b) Generally accepted common auditing standards in the country;
- (c) The standards and terms of reference established for the United Nations Board of Auditors.

The auditors must undertake the following activities, among others:

- (a) Consult with relevant *units* as necessary (OCHA, implementing agents and other concerned parties);
- (b) Obtain and analyze existing documentation;
- (c) Review the procedures and systems currently in use (a standard audit programme);
- (d) Perform test-checks on accounts and documents;
- (e) Write the audit report with recommendation for action;
- (f) Present the findings of the report to the parties concerned and submit two copies to the NGO or the UN agency that is implementing the project.

***Timetable***

Audit briefing on ERF guidelines – dd/mm/yy

Audit exercise starts from: -dd/mm/yy

Presentation of draft audit reports to all concerned parties – dd/mm/yy ( this will be an ongoing

Process since the projects duration defer, some will be audited earlier within the stated period)

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Final audit reports should be ready by: dd/mm/yy  
Audit duration – x months

**6. Sources of information**

The NGO or the UN agency that is implementing the project and OCHA, and other concerned entities as appropriate, will provide the auditors with *all* relevant information required by them for conducting the audit.

**7. Outputs**

i) *The audit report*

The auditors must produce an audit report and shall do so to the extent possible, in the suggested format, presented below (sample audit report).

The audit report must contain comments, observations and an opinion on each of the audit scopes above, as well as a general opinion of the project.

Before finalizing the audit report the auditors must discuss their findings with the implementing agency and OCHA representative. The auditors will present or incorporate the responses in the audit report

The auditors must submit the final audit report to OCHA in two copies. The auditors must also stamp the latest annual financial report (Combined Delivery Report- CDR) of the project dated XX Month 20XX, certified by the implementing agency and attach it to the audit report.

**Sample Audit Report**

**2 Auditor's report to:**

***The OCHA Head of Office***

We have audited the accompanying Combined Delivery Report of the ABC Project for the year ended 31 December, 20XX. These statements are the responsibility of the ABC project management. Our responsibility is to express an opinion on the accompanying statement based on our audit.

*We conducted our audit in accordance with (either International Standards on Auditing promulgated by the International Federation of Accountants or Auditing Standards promulgated by the International Organization of Supreme Audit Institutions). These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management as well as evaluating the overall statement presentation. We believe our audit provides a reasonable basis for our opinion.*

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The Combined Delivery Report is prepared on the cash disbursements basis in conformity with OCHA requirements. On this basis cash expenditures are recognized when paid rather than when incurred.

In our opinion, the accompanying CDR referred to above gives a true and fair view of (or presents fairly, in all material respects) the cash expenditures of the project during the year ended 31 December 20XX in accordance with UNOCHA accounting requirements.

This report is intended solely for the information and use of UNOCHA.

Date  
ADDRESS

AUDITOR'S SIGNATURE

**ii) *Management Letter***

The management should provide at a minimum, the following topics/issues:

- a) A general review of project progress and timeliness in relation to progress milestones and the planned completion date, both of which should be stated in the project document. This is not intended to address whether there has been compliance with specific covenants relating to specific performance criteria or outputs. However general compliance with broad covenants such as implementing the project with economy and efficiency might be commented upon but not with the legal force of an audit opinion.
- b) An assessment of the project's internal control system with equal emphasis on (i) the effectiveness of the system in providing the project management with useful and timely information for the proper management of the project and (ii) the general effectiveness of the internal control system in protecting the assets and resources of the project.
- c) A description of any specific internal control weaknesses noted in the financial management of the project and the audit procedures followed to address or compensate for the weaknesses. Recommendations to resolve/eliminate the internal control weaknesses noted should be included.
- d) Comments as to whether recommendations made in the management letter for the previous audit were implemented or, if not, the implementation status.

More detailed guidance for each of the above general categories is provided below.

**Review of project progress**

As part of the general review of project progress, specific steps could include the following:

- a) Review annual and quarterly work plans, quarterly financial reports, and requests for direct payments and assess in terms of their timeliness and their compliance with the project document.
- b) Review the Annual Project Reports prepared by the implementing agency and assess in terms of compliance with OCHA ERF guidelines and whether the implementing agency met its responsibilities for monitoring described in the

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- project document and work plans.
- c) Review whether the decisions and/or recommendations of the above activities have been followed through by the implementing agency.
  - d) Review the pace of project progress and comment on the causes for delays.
  - e) Comment on whether implementation services of the UN Agency(s) were provided in line with project document and the work plan.

**Assessment of internal control**

In addition to the above specific steps could include the following:

- a) Review expenditures made by the implementing agency and assess whether they are in accordance with project document, work plans and budgets.
- b) Review the process for procurement/contracting activities and assess whether it was transparent and competitive.
- c) Review the use, control and disposal of non-expendable equipment and assess whether it is in compliance with OCHA ERF guidelines; and also whether the equipment procured met the identified needs and whether its use was in line with intended purposes.
- d) Review the process for recruiting project personnel and consultants and assess whether it was Transparent and competitive.
- e) Review the implementing agency accounting records and assess their adequacy for maintaining accurate and complete records of receipts and disbursements of cash; and for supporting the preparation of the quarterly financial report.
- f) Review the records of requests for direct payments and ensure that they were signed by authorized officials.

**Recommendations for improvement**

Recommendations should be directed to a specific entity so there is no confusion regarding who is responsible for implementation. The response of the entity should be included in the management letter, immediately following the recommendation.

Also, the auditor may wish to comment on “good practices” (if any) that were developed by the executing agency that should be shared with other project personnel.

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**Approved Projects Tracking Spreadsheet/Allocation by Projects**

No.	Name of Implementing Partner (IP)	Project Title	Area and Province	Type of Emergency	Relevant Sector/Cluster	Beneficiaries			Approved Timeframe		Project Status- Ongoing/ Completed/ Terminated/ Suspended	Date of Endorsement
						Families from Shelter/NFI	Families from WASH/Other	Persons	From	To		
1	NPO/RRAA - Heart	Assistance for 500 flood affected families in Badghis province	Western - Badghis	Flood	Emergency Shelter and Food Security	500		3000	22-Apr-10	22-Jul-10	Completed	11-Apr-10
2	ADEO	Life-saving Protection of Flood-affected Families in Tashqurghan city, Balkh province	Northern - Balkh	Flood	Protection		100	600	22-Apr-10	22-Jun-10	Completed	11-Apr-10
3	NPO/RRAA - Mazar	Emergency Response (Provision of Emergency Shelter and Food Security for Flood Affected People)	Northeastern - Baghlan	Flood	Emergency Shelter and Food Security	194		1200	22-Apr-10	22-Sep-10	Completed	15-Apr-10
4	Interos	Emergency Shelter and Water Assistance to flood Affected Households in Pashun Khot District, Faryab Province	Northern - Faryab	Flood	Emergency Shelter and WASH	100	3800	20000	15-Jun-10	15-Jan-11	Ongoing	31-May-10
5	Action contre la Faim (ACF)	Early Recovery Support for shelter construction and rehabilitation in the earthquake affected areas in Dare Suf Payin district – Samangan Province Afghanistan	Northern - Samangan	Earthquake	Emergency Shelter	230		1380	15-Jun-10	30-Nov-10	Completed	31-May-10
6	Shahrukhi Rehabilitation Project (SRP)	Life saving one-room shelter for earthquake affected families in Samangan province	Northern - Samangan	Earthquake	Emergency Shelter	241		1446	15-Jun-10	31-Oct-10	Completed	31-May-10
7	Zafar Cooperation Organization (ZCO)	Life saving one-room shelter for earthquake affected families in Samangan province	Northern - Samangan	Earthquake	Emergency Shelter	200		1200	15-Jun-10	31-Oct-10	Completed	31-May-10
8	ADEO	Life saving one-room shelter for earthquake affected families in Samangan province	Northern - Samangan	Earthquake	Emergency Shelter	102		612	15-Jun-10	30-Nov-10	Completed	31-May-10
9	CARE Int	Shelter for flood affected families in Jawzjan	Northern - Jauzjan	Flood	Emergency Shelter	200		1200	15-Jun-10	15-Dec-10	Ongoing	10-Jun-10
10	AWARD	Life Saving Emergency Shelter Material Provision	Central - Maidan Wardak	Conflict	Emergency Shelter	150		1050	15-Jul-10	15-Nov-10	Completed	8-Jul-10

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11	NRDOAW	Provision of Life Saving Emergency Shelter Material Partial Package	Northern - Faryab	Flood	Emergency Shelter	100		750	15-Jul-10	15-Nov-10	Completed	8-Jul-10
12	ZOA	Emergency response to flood victims in Balkhab district of Saripul Province	Northern - Saripul	Flood	Emergency Shelter	232		1392	15-Sep-10	15-Jan-11	Ongoing	3-Sep-10
13	NPO/RRAA Jalalabad	Emergency shelter for flood affected families	Eastern-Nangarhar	Flood	Emergency Shelter	230		1380	15-Sep-10	25-Feb-11	Ongoing	6-Sep-10
14	CARE Int	Shelter and Survival items for Flood-Affected Families in Logar	Central - Logar	Flood	Emergency Shelter and NFI	100	200	1800	1-Oct-10	31-Mar-11	Ongoing	22-Sep-10
15	ACT - Afghanistan	Life Saving Emergency Response Survival Items Package Provision	Central - Parwan	Flood	NFI	98		686	5-Nov-10	5-Dec-10	Ongoing	27-Oct-10

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**SECTION 4 – PRICE SCHEDULE**

1. The Contractor is asked to prepare the Price Schedule and to send it in a separate inner envelope as instructed in the RFP.
2. All prices/rates quoted must be exclusive of all taxes, since the UNDP is exempt from taxes.
3. The Price Schedule must provide a detailed cost breakdown. Provide separate figures for each functional grouping or category.
5. The formats shown below should be used in preparing the price schedule and the personnel that the contractor can provide. The format includes specific expenditures, which may or may not be required or applicable but are indicated to serve as examples. All prices have to be in United States Dollars.

**The format shown on the following pages is a SAMPLE that could be used in preparing the price schedule. The format includes specific expenditures, which may or may not be required or applicable but are indicated to serve as examples.**

Price Quotation table

<b>Price Schedule:</b>					
<b>Request for Proposals for Audit Services</b>					
<b>No.</b>	<b>Activity</b>	<b>Unites</b>	<b>Unit cost</b>	<b>Total cost</b>	<b>Remark</b>
1	Number of audit days per project				
2	Number of Human resource deployment				
3	Travels days per project				
4	Report writing days				
5	Daily allowances for field travelers				
6	Logistics, communication, and other accessories				
7	Total cost per a project				

**SECTION 5 – SUGGESTED TECHNICAL PROPOSAL FORMAT**

This section provides a suggested format required for the Technical Proposal.

**1. Company Background:**

**1.1 Experience of Firm:**

Offerors should provide a company profile with details of:

- a) Corporate information - Certification of the legal status (company registration).
- b) Qualification and Experience of the Company Background Experience in Audit projects  
Details of auditing projects and service provided.
- c) Experience with UN or International agencies/companies – Offerors should provide their client list.
- d) Details of collaboration, partnership with local, regional and international services providers (e.g. other audit companies & firms etc).
- e) The adequacy of the audit approach and methodology to meet the audit services required.
- f) Experience with UN or International agencies/companies
- g) Collaboration, partnership with local, regional and international services providers

**1.2 General Organization Capability:**

Offerors should provide details of:

- a. Annual Turnover for the last three years and credit availability.
- b. Size of the company (premises, no. of staff, and other main assets).

**2. Approach and Methodology**

- a. Response to Terms of Reference (TOR) - Offerors should study the TOR and state whether:
  - g) They can adequately meet the requirements in the TOR
  - They can provide any enhanced service, possess other capabilities and suggest improvements to the TOR including alternative ways of performing any services.
- b. Offerors should submit their specific methodology for:
  - Management of the auditing Services including any performance standards and quality control.
  - Reporting plan.

**3. Resource and Staffing Plan:**

Describe the personnel who will be proposed for undertaking the services.

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In particular CVs of two key staff (a Senior Manager and a Project Manager), should be included with the following minimum information:

- i. Position nominated for.
- ii. Key qualifications and education.
- iii. References to similar assignments with brief description of the performance
- iv. Years with Firm.
- v. Membership in Professional Societies.
- vi. Key Qualifications.
- vii. Language.
- viii. Computer skills
- ix. Experience in chronological order.

The technical part of the Proposal should not contain any pricing information whatsoever on the services offered. Pricing information shall be separated and only contained in the appropriate Price Schedule (Section 4).



**SECTION 7 – Model Contract for Professional Services**

**Model Contract for Professional Consulting Services  
between UNDP and a Company or other entity**

**United Nations Development Programme**

Sustainable human development

Date \_\_\_\_\_

Dear Sir/Madam,

Ref.: \_\_\_\_\_/ \_\_\_\_\_/ \_\_\_\_\_ **[INSERT PROJECT NUMBER AND TITLE OR  
OTHER REFERENCE]**

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your **[company/organization/institution]**, duly incorporated under the Laws of \_\_\_\_\_ **[INSERT NAME OF THE COUNTRY]** (hereinafter referred to as the "Contractor") in order to perform services in respect of \_\_\_\_\_ **[INSERT SUMMARY DESCRIPTION OF THE SERVICES]** (hereinafter referred to as the "Services"), in accordance with the following Contract:

**1. Contract Documents**

- 1.1 This Contract is subject to the UNDP General Conditions for Professional Services attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
  - a) this letter;
  - b) the Terms of Reference [ref. ....dated.....], attached hereto as Annex II;

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c) the Contractor's technical proposal [ref....., dated .....], as clarified by the agreed minutes of the negotiation meeting [dated.....], both documents not attached hereto but known to and in the possession of both parties.

1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2. Obligations of the Contractor

2.1 The Contractor shall perform and complete the Services described in Annex II with due diligence and efficiency and in accordance with the Contract.

2.2 The Contractor shall provide the services of the following key personnel:

<u>Name</u>	<u>Specialization</u>	<u>Nationality</u>	<u>Period of service</u>
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....	.....	.....	.....
....	.....	.....	.....

2.3 Any changes in the above key personnel shall require prior written approval of \_\_\_\_\_ **[NAME and TITLE]**, UNDP.

2.4 The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.

2.5 The Contractor shall submit to UNDP the deliverables specified hereunder according to the following schedule:

<b>[LIST DELIVERABLES]</b>	<b>[INDICATE DELIVERY DATES]</b>
----------------------------	----------------------------------

e.g.

Progress report	..../..
.....	..../..
Final report	..../..

2.6 All reports shall be written in the English language, and shall describe in detail the services rendered under the Contract during the period of time covered in such report. All reports shall be transmitted by the Contractor by \_\_\_\_\_ **[MAIL, COURIER AND/OR FAX]** to the address specified in 9.1 below.

2.7 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

3. Price and payment

3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a price not to exceed \_\_\_\_\_ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.

3.2 The amount contained in 3.1 above is the maximum total amount of reimbursable costs under this Contract. The Breakdown of Costs in Annex \_\_\_\_\_ **[INSERT ANNEX NUMBER]** contains the maximum amounts per cost category that are reimbursable under this Contract. The Contractor shall reflect in his invoices the amount of the actual reimbursable costs incurred in the performance of the Services.

3.3 The Contractor shall not do any work, provide any equipment, materials and supplies, or perform any other services which may result in any costs in excess of the amount under 3.1 or of any of the amounts specified in the Breakdown of Costs for each cost category without the prior written agreement of \_\_\_\_\_ **[NAME and TITLE]**, UNDP.

3.4 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.

3.5 The Contractor shall submit invoices for the work done every \_\_\_\_\_ **[INSERT PERIOD OF TIME OR MILESTONES]**.

3.6 Progress and final payments shall be effected by UNDP to the Contractor after acceptance of the invoices submitted by the Contractor to the address specified in 9.1 below, together with whatever supporting documentation of the actual costs incurred is required in the Breakdown of Costs or may be required by UNDP. Such payments shall be subject to any specific conditions for reimbursement contained in the Breakdown of Costs.

4. Special conditions

4.1 The responsibility for the safety and security of the Contractor and its personnel and property, and of UNDP's property in the Contractor's custody, rests with the Contractor.

4.1.1. The Contractor shall:

- (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the services are being provided;
- (b) assume all risks and liabilities related to the Contractor's security, and the full implementation of the security plan.

4.1.2 UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 4.1 above.

4.2 Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or the authorized agents of the UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. The UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by the UNDP other than in accordance with the terms and conditions of the Contract. Should the audit determine that any funds paid by UNDP have not been used as per contract clauses, the company shall reimburse such funds forthwith. Where the company fails to reimburse such funds, UNDP reserves the right to seek recovery and/or to take any other action as it deems necessary.

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

4.3 The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under this Contract are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Contract.

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4.4 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP of a bank guarantee for the full amount of the advance payment issued by a Bank and in a form acceptable to UNDP.

4.5 The amounts of the payments referred to shall be fifteen percent of the contract value (15%) subject to a deduction of fifteen (15%) of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment.

5. Submission of invoices

5.1 An original invoice shall be submitted by mail by the Contractor for each payment under the Contract to the following address:

.....  
.....

5.2 Invoices submitted by fax shall not be accepted by UNDP.

6. Time and manner of payment

6.1 Invoices shall be paid within thirty (30) days of the date of their acceptance by UNDP. UNDP shall make every effort to accept an invoice or so advise the Contractor of its non-acceptance within a reasonable time from receipt.

6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

\_\_\_\_\_ [NAME OF THE BANK]

\_\_\_\_\_ [ACCOUNT NUMBER]

\_\_\_\_\_ [ADDRESS OF THE BANK]

7. Entry into force. Time limits.

7.1 The Contract shall enter into force upon its signature by both parties.

7.2 The Contractor shall commence the performance of the Services not later than \_\_\_\_\_ [INSERT DATE] and shall complete the Services within \_\_\_\_\_ [INSERT NUMBER OF DAYS OR MONTHS] of such commencement.

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7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8. Modifications

8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Contractor and \_\_\_\_\_  
[NAME AND TITLE] UNDP.

9. Notifications

9.1 For the purpose of notifications under the Contract, the addresses of UNDP and the Contractor are as follows:

**For the UNDP:**

\_\_\_\_\_ [INSERT CONTRACT REFERENCE & NUMBER]

<b>Telex:</b>	<b>Fax:</b>	<b>Cable:</b>
---------------	-------------	---------------

**For the Contractor:**

[INSERT NAME, ADDRESS AND TELEX, FAX AND CABLE NUMBERS]

<b>Name:</b>
<b>Address:</b>

<b>Telex:</b>	
<b>Fax:</b>	
<b>Cable:</b>	

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

[INSERT NAME AND TITLE]

For [INSERT NAME OF THE COMPANY/ORGANIZATION]

Agreed and Accepted:

Signature \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SECTION 8 – UNDP GENERAL CONDITIONS OF CONTRACTS 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 LABOR**

**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

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change in this Agreement, 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 Agreement signed by the Contractor and jointly by the UNDP Authorized Official.

**SECTION 9 – FORM OF ADVANCE PAYMENT SECURITY**

(Becomes Annex V of Contract when signed)

Date: .....

To: UNDP – Afghanistan, Shah Mahmood Ghazi Watt, Kabul, Afghanistan  
Tel: +98 20 2101 68291 Fax: +873 763 468 863

**WHEREAS** .....[*name and address of Contractor*]..... (hereinafter called the “Contractor”) has undertaken, in pursuance of the Long Term Agreement No. .... dated ..... to execute ..... *Contract title and brief description of works*]..... (hereinafter called the “Agreement”);

**AND WHEREAS** it has been stipulated by you in the said Agreement, in relation to advance payments, the Contractor shall deposit with the UNDP a security of .....[*amount of Guarantee in words (and figures)*]....., to guarantee its proper and faithful performance of the obligations imposed by the Contract.

**NOW THEREFORE**, we, the undersigned .....[*Name of issuing institution*]....., of .....[*full address*]....., legally domiciled in .....[*Country*]..... (hereinafter “the Guarantor”), as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the UNDP on its first demand without whatsoever right of objection on our part and without its first claim to the Contractor, in the amount not exceeding .....[*amount of Guarantee in words (and figures)*].....

This security shall remain valid and in full effect for a period of twelve (12) months.

***This document shall be produced on the letterhead/official paper of the issuing financial institution, signed, witnessed and dated by authorised personnel thereof.***

