



16th November 2017

UNDP BRAZIL - NATIONAL IC CONSULTANT

IC 31568/2017

“Terminal Evaluation”

Project BRA/09/G31 – “Market Transformation for Energy Efficiency in Buildings”

Please find enclosed Terms of Reference and Evaluation Criteria for a Selection Process of an IC - Individual Contractor for hiring a Consultant to GEF - Project BRA/09/G31.

The Procurement Unit of UNDP Office in Brazil would appreciate receiving technical and financial proposals for the above-mentioned selection.

The submission of **technical proposal (CV)** and **financial proposal (Annex I Price)**, in separate files, should reach the e-mail

ic.procurement.br@undp.org no later than **19th November 2017**.

Only complete applications that meet the aforementioned requirements will be considered. Applications received after the deadline will not be accepted.

The Financial proposal duly signed should be sent in a separate PDF file. All presented documents must carry the identification on the name of the file and subject fields as:

“IC 31568/2017 – Terminal Evaluation Project BRA/09/G31”

If you request any additional information it will be provided by e-mail ic.procurement.br@undp.org

PLEASE REFER TO “IC 31568/2017 – Terminal Evaluation Project BRA/09/G31”

*** Proposals sent to any different e-mail than the one indicated (ic.procurement.br@undp.org) or copied to different e-mails will not be accepted for the selection.**

IC Selection Team
Procurement Unit
UNDP Brazil
ic.procurement.br@undp.org



Annex I – Offeror's Price Proposal

Ref: "IC 31568/2017 – Terminal Evaluation Project BRA/09/G31"

I hereby declare that:

- a) I have read, understood and hereby accept the Terms of Reference describing the duties and responsibilities of this selection process under UNDP Office.
- b) I have also read, understood and hereby accept UNDP's General Conditions of Contract for the Services of the Individual Contractors;
- c) I hereby propose my services and I confirm my interest in performing the assignment through the submission of my CV which I have duly signed and attached hereto;
- d) In compliance with the requirements of the Terms of Reference, I hereby confirm that I am available for the entire duration of the assignment, and I shall perform the services in the manner described in my proposed approach/methodology which I have attached hereto;
- e) I hereby propose to complete the services based on the following payment rate:

A total lump sum of US\$ _____ (_____), payable in the manner described in the Terms of Reference.

f) I recognize that the payment of the abovementioned amounts due to me shall be based on my delivery of outputs within the timeframe specified in the TOR, which shall be subject to UNDP's review, acceptance and payment certification procedures;

g) This offer shall remain valid for a total period of **90 days** after the submission deadline;

h) I confirm that I have **no** first degree relative (mother, father, son, daughter, spouse/partner, brother or sister) currently employed with any UN agency or office *[disclose the name of the relative, the UN office employing the relative, and the relationship if, any such relationship exists];*

i) If I am selected for this assignment, I shall:

() Sign an Individual Contract with UNDP;

j) I hereby confirm that:

() At the time of this submission, I have no active Individual Contract or any form of engagement with any Business Unit of UNDP;

() I am currently engaged with UNDP and/or other entities for the following work:

Assignment	Contract Type	UNDP Business Unit / Institution/Company	Contract Duration	Contract Amount

() I am also anticipating conclusion of the following work from UNDP and/or other entities for which I have submitted a proposal:

Assignment	Contract Type	Institution/Company	Contract Duration	Contract Amount

k) I fully understand and recognize that UNDP is not bound to accept this proposal, and I also understand and accept that I shall bear all costs associated with its preparation and submission and that UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

l) **If you are a former staff member of the United Nations recently separated, pls. add this section to your letter:** I hereby confirm that I have complied with the minimum break in service required before I can be eligible for an Individual Contract.

m) I also fully understand that, if I am engaged as an Individual Contractor, I have no expectations nor entitlements whatsoever to be re-instated or re-employed as a staff member.

Full Name and Signature:

Date Signed:



Annex II - Terms of Reference (ToR)

RC 31568

In accordance with UNDP and GEF M&E policies and procedures, all full and medium-sized UNDP support GEF financed projects are required to undergo a terminal evaluation upon completion of implementation. These terms of reference (TOR) sets out the expectations for a Terminal Evaluation (TE) of the **BRA/09/G31 – Market Transformation for Energy Efficiency in Buildings** (PIMS #3665).

The essentials of the project to be evaluated are as follows:

PROJECT SUMMARY TABLE				
Project Title:	Market Transformation for Energy Efficiency in Buildings			
GEF Project ID:	2941		At endorsement (Million US\$)	At completion (Million US\$)
UNDP Project ID:	PIMS 3665 Atlas No. 58719	GEF financing:	13,500,000	13,500,000
Country:	Brazil	IA/EA own:		
Region:	Latin America	Government:	414,000 (in-kind)	414,000 (to be confirmed by TE)
Focal Area:	Climate Change	Other:	15,000,000 (IDB) 105,217,000 (in-cash Banks, ESCOs, end users, beneficiaries) 1,142,750 (in-kind Banks, ESCOs, end users, beneficiaries) 1,000,000 (MLF)	15,000,000 (IDB) 16,400,000 (in-cash Banks, ESCOs, end users, beneficiaries) 1,142,750 (in-kind Banks, ESCOs, end users, beneficiaries) 1,000,000 (MLF) (to be confirmed by TE)
Operational Program:	Energy and Environment (GEF-4)	Total co-financing:	122,774,000	32.542.750 (to be confirmed by TE)
Executing Agency:	Ministry of Environment	Total Project Cost:	136,274,00	46.042.750 (to be confirmed by TE)
Other Partners involved:	UNDP	Prodoc Signature (date project began):		October 9 th , 2009
	Interamerican Development Bank	(Operational) Closing Date:	Proposed: August 2016	Actual: December 31 st , 2017

OBJECTIVE AND SCOPE

The project was designed to influence, transform and develop the market for energy-efficient building operations in Brazil and move towards a less carbon-intensive and more sustainable energy consumption path in the country. The project will contribute to improve energy efficiency in the commercial and public buildings sectors by 4.00 million MWh of electricity over 20 years, and intends to directly reduce greenhouse gas emissions by 2.01 million ton CO₂ equivalent over the same period with estimated post-project and indirect emission reduction of 16.06 tCO₂. It will reinforce the local economy by



decreasing the dependency of the country on imported fossil fuel and reducing building operation costs for project owners/operators. The project promotes cross-convention synergy by reducing GHG and CFC emissions through improving energy efficiency in buildings.

The TE will be conducted according to the guidance, rules and procedures established by UNDP and GEF as reflected in the UNDP Evaluation Guidance for GEF Financed Projects.

The objectives of the evaluation are to assess the achievement of project results, and to draw lessons that can both improve the sustainability of benefits from this project, and aid in the overall enhancement of UNDP programming.

EVALUATION APPROACH AND METHOD

An overall approach and method¹ for conducting project terminal evaluations of UNDP supported GEF financed projects has developed over time. The evaluator is expected to frame the evaluation effort using the criteria of **relevance, effectiveness, efficiency, sustainability, and impact**, as defined and explained in the UNDP Guidance for Conducting Terminal Evaluations of UNDP-supported, GEF-financed Projects. A set of questions covering each of these criteria have been drafted and are included with this TOR (Annex C). The evaluator is expected to amend, complete and submit this matrix as part of an evaluation inception report, and shall include it as an annex to the final report.

The evaluation must provide evidence-based information that is credible, reliable and useful. The evaluator is expected to follow a participatory and consultative approach ensuring close engagement with government counterparts, in particular the GEF operational focal point, UNDP Country Office, project team, UNDP GEF Technical Adviser based in the region and key stakeholders. The evaluator is expected to conduct a field mission to Brasília, including the following project sites: UNDP, the headquarters of the Ministry of Environment and the headquarters of the Brazilian Electrical Energy Regulatory Agency (ANEEL). Interviews will be held with the following organizations and individuals at a minimum: the Brazilian Cooperation Agency (ABC), Ministry of Environment (MMA), Ministry of Mines and Energy (MME), Ministry of Planning, Development and Management (MPDG), Ministry of Science, Technology, Innovation and Communications (MCTIC), Ministry of Finance (MF), the Brazilian Electrical Energy Regulatory Agency (Aneel), Energy Research Company (EPE), Eletrobras, Interamerican Development Bank (IDB), Brazilian Social and Economic Development Bank (BNDES), Association of Brazilian Energy Conservation Services Companies (Abesco), APS Engenharia and UNDP.

The evaluator will review all relevant sources of information, such as the project document, project reports – including Annual APR/PIR and other Reports, project budget revisions, midterm review, progress reports, GEF focal area tracking tools, project files, national strategic and legal documents, and any other materials that the evaluator considers useful for this evidence-based assessment. A list of documents that the project team will provide to the evaluator for review is included in Annex B of this Terms of Reference.

EVALUATION CRITERIA AND RATINGS

An assessment of project performance will be carried out, based against expectations set out in the Project Logical Framework/Results Framework (see Annex A), which provides performance and impact indicators for project

¹ For additional information on methods, see the [Handbook on Planning, Monitoring and Evaluating for Development Results](#), Chapter 7, pg. 163



implementation along with their corresponding means of verification. The evaluation will at a minimum cover the criteria of: **relevance, effectiveness, efficiency, sustainability and impact**. Ratings must be provided on the following performance criteria. The completed table must be included in the evaluation executive summary. The obligatory rating scales are included in TOR [Annex D](#).

A useful table to include in the evaluation report is set out below.

RATING PROJECT PERFORMANCE		
Criteria	Comments	
Monitoring and Evaluation: Highly Satisfactory (HS), Satisfactory (S), Moderately Satisfactory (MS), Moderately Unsatisfactory (MU), Unsatisfactory (U), Highly Unsatisfactory (HU)		
Overall quality of M&E	(rate 6 pt. scale)	
M&E design at project start up	(rate 6 pt. scale)	
M&E Plan Implementation	(rate 6 pt. scale)	
IA & EA Execution: Highly Satisfactory (HS), Satisfactory (S), Moderately Satisfactory (MS), Moderately Unsatisfactory (MU), Unsatisfactory (U), Highly Unsatisfactory (HU)		
Overall Quality of Project Implementation/Execution	(rate 6 pt. scale)	
Implementing Agency Execution	(rate 6 pt. scale)	
Executing Agency Execution	(rate 6 pt. scale)	
Outcomes: Highly Satisfactory (HS), Satisfactory (S), Moderately Satisfactory (MS), Moderately Unsatisfactory (MU), Unsatisfactory (U), Highly Unsatisfactory (HU)		
Overall Quality of Project Outcomes	(rate 6 pt. scale)	
Relevance: relevant (R) or not relevant (NR)	(rate 2 pt. scale)	
Effectiveness	(rate 6 pt. scale)	
Efficiency	(rate 6 pt. scale)	
Sustainability: Likely (L), Moderately Likely (ML), Moderately Unlikely (MU), Unlikely (U)		
Overall likelihood of risks to Sustainability	(rate 4 pt. scale)	
Financial resources	(rate 4 pt. scale)	
Socio-economic	(rate 4 pt. scale)	
Institutional framework and governance	(rate 4 pt. scale)	
Environmental	(rate 4 pt. scale)	
Impact: Significant (S), Minimal (M), Negligible (N)		
Environmental Status Improvement	(rate 3 pt. scale)	
Environmental Stress Reduction	(rate 3 pt. scale)	
Progress towards stress/status change	(rate 3 pt. scale)	
Overall Project Results	(rate 6 pt. scale)	

PROJECT FINANCE / COFINANCE

The Evaluation will assess the key financial aspects of the project, including the extent of co-financing planned and realized. Project cost and funding data will be required, including annual expenditures. Variances between planned and actual expenditures will need to be assessed and explained. Results from recent financial audits, as available, should be taken into consideration. The evaluator will receive assistance from the Country Office (CO) and Project Team to obtain financial data in order to complete the co-financing table below, which will be included in the terminal evaluation report.



Co-financing (type/source)	UNDP own financing (Million US\$)		Government (Million US\$)		Partner Agency (Million US\$)		Total (Million US\$)	
	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual
Grants								
Loans/Concessions								
▪ In-kind support								
▪ Other								
Total								

MAINSTREAMING

UNDP supported GEF financed projects are key components in UNDP country programming, as well as regional and global programmes. The evaluation will assess the extent to which the project was successfully mainstreamed with other UNDP priorities, including poverty alleviation, improved governance, the prevention and recovery from natural disasters, and gender. In addition, the evaluation will be included in the country office evaluation plan.

IMPACT

The evaluator will assess the extent to which the project is achieving impacts or progressing towards the achievement of impacts. Key findings that should be brought out in the evaluations include whether the project has demonstrated: a) verifiable improvements in ecological status, b) verifiable reductions in stress on ecological systems, or c) demonstrated progress towards these impact achievements.

CONCLUSIONS, RECOMMENDATIONS AND LESSONS

The evaluation report must include a chapter providing a set of **conclusions, recommendations** and **lessons**.

IMPLEMENTATION ARRANGEMENTS

The principal responsibility for managing this evaluation resides with the UNDP CO in Brazil. The UNDP CO will contract the evaluator and make travel arrangements. The Project Team will be responsible for liaising with the evaluation consultant to set up stakeholder interviews, arrange field visits, coordinate with the Government etc.

EVALUATION TIMEFRAME

The total duration of the evaluation will be 30 (thirty) days according to the following plan:

Activity	Timing	Completion Date
Preparation	03 days	November 24 th , 2017
Evaluation Mission	05 days	December 1 st , 2017
Draft Evaluation Report	10 days	December 11 th , 2017
Final Report	12 days	December 23 rd , 2017



EVALUATION DELIVERABLES

The evaluation consultant is expected to deliver the following:

Deliverable	Content	Timing	Responsibilities
Inception Report	Evaluator provides clarifications on timing and method	No later than 2 weeks before the evaluation mission.	Evaluator submits to UNDP CO
Presentation	Initial Findings	End of evaluation mission	To project management, UNDP CO
Draft Final Report	Full report, (per annexed template) with annexes	Within 3 weeks of the evaluation mission	Sent to CO, reviewed by RTA, PCU, GEF OFPs
Final Report*	Revised report	Within 1 week of receiving UNDP comments on draft	Sent to CO for uploading to UNDP ERC.

*When submitting the final evaluation report, the evaluator is required also to provide an 'audit trail', detailing how all received comments have (and have not) been addressed in the final evaluation report.

TEAM COMPOSITION

The evaluation team will be composed of 1 (one) evaluator. The consultant shall have prior experience in evaluating similar projects. Experience with GEF financed projects and working knowledge of Portuguese is an advantage. The evaluator selected should not have participated in the project preparation and/or implementation and should not have conflict of interest with project related activities.

The evaluator must present the following qualifications:

Experience (mandatory):

- Education: University degree in Engineering, Architecture, Environmental or Social Sciences, Administration, Economics or related fields.
- Minimum 5 (five) years of relevant professional experience
- Fluency in English

Qualifying CV criteria:

- Post-graduate studies
- Years of experience in energy and/or energy efficiency policies, climate change mitigation, and/or financing at national and/or international level;
- Years of experience in monitoring /evaluation of policies and/or technical cooperation projects;
- Years of experience in development, and/or implementation and/or monitoring of projects focused on energy, energy efficiency policies and/or energy, energy efficiency financing and/or climate change mitigation national and/or international level;
- Experience with GEF 's project development and monitoring and evaluation methodologies;
- Authored or co-authored book(s), book chapter(s) and/or scientific articles on energy, energy efficiency policies and/or energy, energy efficiency financing and/or climate change mitigation at national and/or international level;
- Knowledge of Portuguese



EVALUATOR(S) ETHICS

Evaluation consultant will be held to the highest ethical standards and are required to sign a Code of Conduct ([Annex E](#)) upon acceptance of the assignment. UNDP evaluations are conducted in accordance with the principles outlined in the [UNEP 'Ethical Guidelines for Evaluations'](#).

PAYMENT MODALITIES AND SPECIFICATIONS

%	Milestone
40%	Following submission and approval of the 1 st draft terminal evaluation report
60%	Following submission and approval (UNDP-CO and UNDP-RTA) of the final terminal evaluation report

APPLICATION PROCESS

Individual consultants are invited to submit applications together with their CV for this position. The application should contain a current and complete CV in English with indication of the e-mail and phone contact, as well as a price offer (in US Dollars) indicating the total cost of the assignment. Travel costs (national and/or international) will be provided by UNDP.

The CV and the proposed price **must be submitted in separate files**. Noncompliance with this provision will cause the application to be disregarded.

UNDP applies a fair and transparent selection process that will take into account the competencies/skills of the applicants as well as their financial proposals. Qualified women and members of social minorities are encouraged to apply.

EVALUATION PROCEDURE

The final criteria for this selection process will be **technical capacity** and **price**.

Individual consultants will be evaluated based on a cumulative analysis taking into consideration the combination of the applicants' qualifications and financial proposal. The award of the contract shall be made to the individual consultant whose offer has been evaluated and determined as:



1. **CLASSIFICATION OF TECHNICAL QUALIFICATION (CV)** – The maximum score in TECHNICAL QUALIFICATION is 100 points.

Qualification criteria are divided into 03 (three) steps:

a) Step 1 (qualification / mandatory - no scoring)

Analysis of the CV regarding compliance with the mandatory requirements specified in these Terms of Reference. Candidates who do not meet the minimum mandatory criteria described herein will be disqualified at this stage.

b) Step 2 (classification / scoring): CV Analysis (Maximum score in this phase is 65 points)

The criteria for CV analysis are listed in the table below. Only the CVs of candidates accepted under Step 1 of Qualification (review of the CVs on mandatory requirements) will be analysed.

CRITERIA	SCORE	WEIGHT	SUBTOTAL
Post-Graduate in related areas of the TOR			
Doctorate: 05 points; Master: 03 points; Specialization: 02 points	0 to 5	1	5
Experience			
Years of experience in energy and/or energy efficiency policies, climate change mitigation, and/or financing at national and/or international level 05 years or more: 05 points; Less than 05 years: 03 points; Between 01 and 02 years: 01 point	0 to 5	3	15
Years of experience in monitoring /evaluation of policies and/or technical cooperation projects 05 years or more: 05 points; Less than 05 years: 03 points; Between 01 and 02 years: 01 point	0 to 5	3	15
Experience in development, and/or implementation and/or monitoring of projects focused on energy, energy efficiency policies and/or energy, energy efficiency financing and/or climate change mitigation national and/or international level; 05 years or more: 05 points; Less than 05 years: 03 points; Between 01 and 02 years: 01 point	0 to 5	3	15
Experience with GEF 's project development and monitoring and evaluation methodologies 01 point per project, evaluation report and/or PRODOC	0 to 5	2	10
Publications			
Authored or co-authored book(s), book chapter(s) and/or scientific articles on energy, energy efficiency policies and/or energy, energy efficiency financing and/or climate change mitigation at national and/or international level 01 point per publication	0 to 5	1	5
Total			65



c) Step 3 (classification / scoring): Interview (Maximum score in this phase is 35 points).

Interviews will be conducted by telephone or Skype.

Interview			
<ul style="list-style-type: none"> Knowledge of energy, energy efficiency policies and/or energy efficiency financing and/or climate change mitigation at national and/or international level Knowledge of GEF project development and monitoring and evaluation methodologies Knowledge of Portuguese 	1 to 5	7	35
Total			35

5 points → excellent
 4 points → very good
 3 points → good

2 points → satisfactory
 1 point → poor

2. CLASSIFICATION OF FINANCIAL PROPOSALS (PRICE) – FINAL

Only the financial proposals (price) of candidates who attain a **final Score of 70 points or higher in the TECHNICAL CLASSIFICATION** will be taken into consideration.

The **Final Score—FS—**of the process will be reached by the sum of the **final Technical Score—TS** multiplied by a factor of **0.70**, and the **Price Proposal score—PS—**multiplied by a factor **0.30**, i.e.:

$$FS = TS \times 0.70 + PS \times 0.30$$

The **PS** score will be calculated according to the following formula:

$$PS = 100 \times LPP / Ppe$$

Where:

PS = score of the price proposal

LPP = lowest price proposal

Ppe = price proposal under evaluation

The lowest price proposal will score one hundred (100).

The proposal achieving the highest final score will be selected.



Annex III – Contract Model

UNITED NATIONS DEVELOPMENT PROGRAMME



Contract for the services of
an Individual Contractor

No _____

This Contract is entered into on [insert date] between the United Nations Development Programme (hereinafter referred to as “UNDP”) and _____ (hereinafter referred to as “the Individual Contractor”) whose address is _____.

WHEREAS UNDP desires to engage the services of the Individual Contractor on the terms and conditions hereinafter set forth, and:

WHEREAS the Individual Contractor is ready and willing to accept this Contract with UNDP on the said terms and conditions,

NOW, THEREFORE, the Parties hereby agree as follows:

1. Nature of services

The Individual Contractor shall perform the services as described in the Terms of References which form an integral part of this Contract and are attached hereto as *Annex I* in the following Duty Station(s): _____.

2. Duration

This Individual Contract shall commence on [insert date], and shall expire upon satisfactory completion of the services described in the Terms of Reference mentioned above, but not later than [insert date], unless sooner terminated in accordance with the terms of this Contract. This Contract is subject to the General Conditions of Contract for Individual contractors which are available on UNDP website at www.undp.org/procurement and are attached hereto as *Annex II*.

3. Consideration

As full consideration for the services performed by the Individual Contractor under the terms of this Contract, including, unless otherwise specified, his/her travel to and from the Duty Station(s), any other travel required in the fulfillment of the Terms of Reference in Annex I, and living expenses in the Duty Station(s), UNDP shall pay the Individual Contractor a total of [currency] ----- in accordance with the table set forth below². Payments shall be made following certification by UNDP that the services related to each Deliverable, as described below, have been satisfactorily performed and the Deliverables have been achieved by or before the due dates specified below, if any.

DELIVERABLE	DUE DATE	AMOUNT IN [CURRENCY]

² For payments which are not output-based lump sum, indicate the maximum number of working days/hours/units, any out of pocket expense (travel, per diem...) and the corresponding fee/cost in the Deliverable (s) table.



If unforeseen travel outside the Duty Station not required by the Terms of Reference is requested by UNDP, and upon prior written agreement, such travel shall be at UNDP's expense and the Individual Contractor shall receive a *per diem* not to exceed United Nations daily subsistence allowance rate in such other location(s).

Where two currencies are involved, the rate of exchange shall be the official rate applied by the United Nations on the day the UNDP instructs its bank to effect the payment(s).

4. Rights and Obligations of the Individual contractor

The rights and obligations of the Individual Contractor are strictly limited to the terms and conditions of this Contract, including its Annexes. Accordingly, the Individual Contractor shall not be entitled to any benefit, payment, subsidy, compensation or entitlement, except as expressly provided in this Contract. The Individual Contractor shall be solely liable for claims by third parties arising from the Individual Contractor's own acts or omissions in the course of performing this Contract, and under no circumstances shall UNDP be held liable for such claims by third parties.

5. Beneficiary

The Individual Contractor selects _____ as beneficiary of any amounts owed under this Contract in the event of death of the Individual Contractor while performing services hereunder. This includes the payment of any service-incurred liability insurance attributable to the performance of the services for UNDP.

Mailing address, email address and phone number of beneficiary:

Mailing address, email address and phone number of emergency contact (if different from beneficiary):

IN WITNESS WHEREOF, the Parties hereto have executed this Contract.

By signing below, I, the Individual Contractor, acknowledge and agree that I have read and accept the terms of this Contract, including the General Conditions of Contracts for Individual contractors available on UNDP website at www.undp.org/procurement and attached hereto in Annex II which form an integral part of this Contract, and that I have read and understood, and agree to abide by the standards of conduct set forth in the Secretary-General's bulletins ST/SGB/2003/13 of 9 October 2003, entitled "Special Measures for Protection from Sexual Exploitation and Sexual Abuse" and ST/SGB/2002/9 of 18 June 2002, entitled "Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission".

☐ The Individual Contractor has submitted a Statement of Good Health and confirmation of immunization.

AUTHORIZING OFFICER:
United Nations Development Programme

INDIVIDUAL CONTRACTOR:

Name; _____

Name; _____

Signature; _____

Signature; _____

Date; _____

Date; _____



GENERAL CONDITIONS OF CONTRACT FOR THE SERVICES OF INDIVIDUAL CONTRACTORS

1 February 2012

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

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

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

The Individual contractor acknowledges and agrees that any breach of any of the provisions hereof shall constitute a breach of an essential term of the Contract, and, in addition to any other legal rights or remedies available to any person, shall give rise to grounds for suspension or termination of the Contract. In addition, nothing herein shall limit the right of UNDP to refer any alleged breach of the foregoing standards of conduct or any other terms of the Contract to the relevant national authorities for appropriate legal action.

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

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



4. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION: Information and data that are considered proprietary by either UNDP or the Individual contractor or that are delivered or disclosed by one of them (“Discloser”) to the other (“Recipient”) during the course of performance of the Contract, and that are designated as confidential (“Information”), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser’s Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate, and the Recipient may otherwise use the Discloser’s Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser’s prior written consent, as well as to the Recipient’s officials, representatives, employees, subcontractors and agents who have a need to know such confidential Information solely for purposes of performing obligations under the Contract. Subject to and without any waiver of the privileges and immunities of UNDP, the Individual contractor may disclose Information to the extent required by law, *provided that* the Individual contractor will give UNDP sufficient prior notice of a request for the disclosure of Information in order to allow UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made. UNDP may disclose Information to the extent required pursuant to the Charter of the United Nations, resolutions or regulations of the General Assembly or its other governing bodies, or rules promulgated by the Secretary-General. The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder. These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract. Notwithstanding the foregoing, the Individual contractor acknowledges that UNDP may, in its sole discretion, disclose the purpose, type, scope, duration and value of the Contract, the name of the Individual contractor, and any relevant information related to the award of the Contract.

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

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

In the event of death, injury or illness of the Individual contractor which is attributable to the performance of services on behalf of UNDP under the terms of the Contract while the Individual contractor is traveling at UNDP expense or is 2 February 2012 performing any services under the Contract in any offices or premises of UNDP, the Individual contractor or the Individual contractor’s dependents, as appropriate, shall be entitled to compensation equivalent to that provided under the UNDP insurance policy, available upon request.

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

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

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



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

10. INSURANCE: The Individual contractor shall pay UNDP promptly for all loss, destruction or damage to the property of UNDP caused by the Individual contractor, or of any subcontractor, or anyone directly or indirectly employed by them in the performance of the Contract. The Individual contractor shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of his or her obligations under the Contract, as well as for arranging, at the Individual contractor's sole expense, such life, health and other forms of insurance as the Individual contractor may consider to be appropriate to cover the period during which the Individual contractor provides services under the Contract. The Individual contractor acknowledges and agrees that none of the insurance arrangements the Individual contractor shall, in any way, be construed to limit the Individual contractor's liability arising under or relating to the Contract.

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

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

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

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

In the event of any termination of the Contract, upon receipt of notice of termination by UNDP, the Individual contractor shall, except as may be directed by UNDP in the notice of termination or otherwise in writing: (a) take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum; (b) refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice; (c) deliver all completed or partially completed plans, drawings, information and other property that, if the Contract had been completed, would be required to be furnished to UNDP thereunder; (d) complete performance of the services not



terminated; and (e) take any other action that may be necessary, or that UNDP may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Individual contractor and in which UNDP has or may be reasonably expected to acquire an interest.

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

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

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

16. AUDITS AND INVESTIGATIONS: Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP. The Individual contractor acknowledges and agrees that UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, and the obligations performed thereunder.

The Individual contractor shall provide full and timely cooperation with any post-payment audits or investigations hereunder. Such cooperation shall include, but shall not be limited to, the Individual contractor's obligation to make available any relevant documentation and information for the purposes of a post-payment audit or an investigation at reasonable times and on reasonable conditions. The Individual contractor shall require his or her employees, subcontractors and agents, if any, including, but not limited to, the Individual contractor's attorneys, accountants or other advisers, to reasonably cooperate with any post-payment audits or investigations carried out by UNDP hereunder.

If the findings or circumstances of a post-payment audit or investigation so warrant, UNDP may, in its sole discretion, take any measures that may be appropriate or necessary, including, but not limited to, suspension of the Contract, with no liability whatsoever to UNDP.

The Individual contractor shall refund to UNDP any amounts shown by a post-payment audit or investigation to have been paid by UNDP other than in accordance with the terms and conditions of the Contract. Such amount may be deducted by UNDP from any payment due to the Individual contractor under the Contract.

The right of UNDP to conduct a post-payment audit or an investigation and the Individual contractor's obligation to comply with such shall not lapse upon expiration or prior termination of the Contract.

17. SETTLEMENT OF DISPUTES:

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

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



punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate (“LIBOR”) then prevailing, and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy or claim.

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

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

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