

INDIVIDUAL CONTRACT NO: UNDP/SNC.PAS 006.2011

COUNTRY: Belize

**Strengthening National Capacities for the Operationalization, Consolidation, and Sustainability of
Belize's Protected Areas System Project**

Contract Entered Into

Between

The Ministry of Natural Resources and Environment

And

Glenn E. Haas

For

The Provision of Professional Services as Described on this Contract

This Individual Contract is entered into on the 20 day of June, 2011 between the Ministry of Natural Resources and Environment (hereinafter referred to as "the MNRE") within the framework of the Project Strengthening National Capacities for the Operationalization, Consolidation, and Sustainability of Belize's Protected Areas System Project" - PIMS4207" according to the Project Document 00074617 and the Standard Basic Agreement (SBAA) between Belize and the United Nations Development Programme (UNDP) and Glenn E. Haas (hereinafter referred to as "the Individual contractor" and signing on behalf of 'Aukerman, Haas and Associates' and the 'Protected Areas Conservation Trust') whose address is 3403 Green Wing Court, Colorado USA 80524.

WHEREAS "the MNRE" 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 Individual Contract with "the MNRE" on the said terms and conditions,

WHEREAS the overall consultancy shall be completed in two phases with separate contracts for each phase; Phase 1 will be undertaken in 2011 and Phase 2 in 2012, this contract is for Phase 1 only.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Nature of services

The Individual contractor shall perform the following services as described in the Terms of References which form an integral part of this Individual Contract and are attached hereto as *Annex I*.

Duty Station(s): Belize.

2. Duration

This Individual Contract (Phase 1) shall commence on the 20 day of June, 2011 and shall expire upon satisfactory completion of the services described above, but not later than the 31 day of December, 2011 (Phase 2 of the contract will be from 1 January, 2012 to 14 June, 2012 and will be contingent upon successful completion of Phase 1), unless sooner terminated in accordance with the terms of this Individual Contract. This Individual 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 incorporated herein by reference in *Annex II*.

3. Consideration

As full consideration for the services performed by the Individual contractor under the terms of this Individual Contract, including the travel to and from the Duty Station, any other travel encompassed by the Terms of Reference in Annex I and living expenses, 'the MNRE' shall pay the Individual contractor, upon certification by 'the MNRE' that the services have been satisfactorily performed and the deliverables indicated below have been achieved, the sum of Eighty Thousand Belize Dollars (BZD \$80,000) as per the installments below.

DELIVERABLES ¹	Percentage of Total	Amount BZE\$
Submission and acceptance of Inception Report, inclusive of a detailed Work Plan, by the project manager. This report is due not later than the 31 st day of July, 2011.	15%	12,000.00
Submission and acceptance by the project board ² of a Progress Report outlining: <ul style="list-style-type: none"> • recommendations for a new and/or revised fee framework that meets the realities and needs of the NPAS in Belize • Recommendations for the system of agent fee collectors (to include appropriate incentives). • Recommendations for mechanism/s that will ensure that revenue from fees can be adequately tracked (financial management system). This report is due no later than the 30 th day of September, 2011.	35%	28,000.00
Submission and acceptance by the project board of the draft Comprehensive Protected Areas Policy and Framework. This is due no later than the 30 th day of November, 2011.	35%	28,000.00
Submission and acceptance by the project manager of a Progress Report of Phase 1 and recommendations on how the piloting of the Framework will be done. This report is due no longer than the 31 day of December, 2011.	15%	12,000.00

(Note: certification of satisfactory performance for the corresponding deliverables is required).

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 Individual 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 Individual 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 Individual Contract, and under no circumstances shall the MNRE or UNDP be held liable for such claims by third parties.

¹ Additionally the consulting team will be required to submit brief monthly Highlight Reports in a format to be designated by the PMU.

² UNDP sits on the project board and by virtue of this position arrangements will include having the products vetted by their regional office/s for assurance purposes.

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However, since the Individual contractor is signing on behalf of AHA and PACT the Individual contractor is required to submit a separate agreement binding the two entities to the respective responsibilities under the consultancy.

5. Beneficiary

The Individual contractor selects Dr. Marcella Wells as beneficiary of any amounts owed under this Individual 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 the MNRE.


Mailing address, email address and phone number of beneficiary: 3403 Green Wing Court, Fort Collins, Colorado USA 80524, Tel: (970) 498-9350. Email: marcellawells@comcast.net

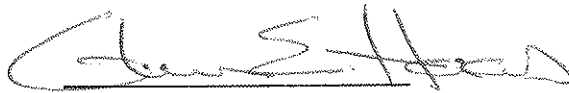
IN WITNESS WHEREOF, the Parties hereto have executed this Individual Contract.

By signing below, I, the Individual Contractor, acknowledge and agree that I have read and accept the terms of this Individual Contract, including the General Conditions of Contracts for Individual contractors available on UNDP's website at www.undp.org/procurement and attached hereto in Annex II which form an integral part of this Individual 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".

AUTHORIZING OFFICER:

INDIVIDUAL CONTRACTOR:


Beverly D. Castillo
Chief Executive Officer, MNRE


Glenn E. Haas
Contractor
(On behalf of Aukerman, Hass and Associates and the Protected Areas Conservation Trust)

Date: 22nd June, 2011

Date: 6/22/2011



Annex I: Terms of Reference

TERMS OF REFERENCE

Increasing the Efficiency in the Collection, Administration and Investment of Protected Areas Fees in Belize

1.) Introduction

The Government of Belize has received funding from the Global Environment Facility via the United Nations Development Programme to finance the project entitled "*Strengthening National Capacities for the Operationalization, Consolidation, and Sustainability of Belize's Protected Areas System*". The project is being implemented by the National Protected Areas Secretariat and is aimed at ensuring that Belize effectively develops legal, financial, and institutional capacities to ensure the sustainability of the existing National Protected Areas System (NPAS).

A major expected outcome of the project is for NPAS to be supported by modernized and diversified financing thereby increasing the sustainability of the system. This will be accomplished in part by developing and implementing an updated framework so as to increase the efficiency and effectiveness with which Protected Areas fees are collected, administered and invested.

2.) Justification

Despite its small size, Belize is known for its abundant natural resources, especially with respect to water and biodiversity. Belize is comprised of a diversity of landscapes and records high levels of terrestrial and aquatic biodiversity. Belize hosts more than 150 species of mammals, 540 species of birds, 151 species of amphibians and reptiles, nearly 600 species of freshwater and marine fish, and 3,408 species of vascular plants. The country is unique not only in the total number of species present, but also in the vast array of ecotypes and their species richness. A total of 85 terrestrial ecosystems have been identified for Belize. In addition, two marine ecosystems (sea grass beds and coral reefs) have been identified. Belize's diversity in ecotypes and the prevailing connectivity of its systems support a high degree of globally significant biodiversity.

The Government of Belize has shown its desire to sustainably manage these resources by endorsing of the National Protected Areas Policy and System Plans and putting in place mechanisms such as the National Protected Areas Secretariat. However, at present there are various barriers that inhibit the system being sustainable; these include: a) fractured institutional, legal, and operational framework of protected areas management, b) ineffective/inefficient financial system that fails to address Protected Areas management needs, and c). weak institutional and individual management capacity. In addition, there are various threats that the system faces.

The long-term solution to the barriers inhibiting the NPAS for being sustainable lays in part with the operationalization of an effective financial system that meet the management needs of the NPAS.

3.) Purpose of the Consultancy

Overall Objective:

The overall objective of this consultancy is to improve the sustainability of the NPAS by operationalizing mechanisms aimed at increasing the efficiency in the collection, administration and reinvestment of Protected Areas Fees in Belize.

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Specific Objectives:

The specific objectives of this exercise are to:

1. Examine and design a Protected Areas fee framework that meets the national needs of Belize.
2. Develop a revenue accountability system for the NPAS which will improve the efficiency in the collection and administration of fees.

4.) Scope of Work

Within the framework of this Terms of Reference, the consulting team is expected to perform, at a minimum, the following activities³:

Preparatory Phase

Initial Meeting

- Attend an initial meeting with the PMU and representatives from the Ministry of Natural Resources and Environment, the Ministry of Agriculture and Fisheries, and the Protected Areas Conservation Trust and based on the discussion prepare a final Work Plan for the delivery of the contracted work.

Literature Review

- Review any existing studies, reports and other documents, including but not limited to the National Protected Areas System Plan (along with relevant appendices), State of Belize's Protected Areas 2009, and A National Strategy for Fee Collection in Marine Protected Areas (Concept Paper). This review should also include literature on fee structure used in other countries regionally and internationally.

Initial Consultation

- Liaise with the Project Management Unit and other project consulting teams in convening a national stakeholder session to present the scope of work to be done and intended results.

Component 1: Development of a National Protected Areas Fee Framework

Assessment and Analysis

- Through a participatory process investigate fee structures/regimes currently employed nationally⁴, and within the region and identify strengths, weaknesses and best practices.
- Make recommendations for a new and/or revised fee framework that meets the realities and needs of the NPAS in Belize.

Development of Framework and Policy

³ After analysis of the scope of work to be done it is expected that the prospective consulting teams will include additional tasks not listed herein; it is therefore understood that the tasks listed here are not comprehensive but rather indicative of what is required.

⁴ At a minimum this will include the system/s being used by the Fisheries Department, the Institute of Archaeology and the Belize Tourism Board.



- Based on the recommendations derived via the *Assessment and Analysis*, develop a framework for the assignment of fees and charges and their allocation across the National Protected Areas System⁵.
- Articulate a draft national protected areas fee policy.

Consultation

- Consult with relevant stakeholders to present and validate/verify the findings, conclusions, recommendations and the draft *Framework and Policy* (a separate consultative session will be convened to obtain feedback from relevant Government of Belize personnel).
- Incorporate feedback from stakeholders in the *Framework and Policy*.

Preparation of Progress Report

- Prepare and submit to the project manager a report on this component.

Component 2: Revenue Accountability⁶

Assessment

- Design relevant instruments/criteria to undertake an assessment of:
 - a. The efficiencies/inefficiencies in the collection, administration, and reinvestment of protected areas fees.
 - b. Potential incentives to pay gate and service fees in advance, i.e. other than at the PAs gate.
 - c. Potential management structure to streamline the administrative ticket sales and fee collection chain.
- Undertake the assessment.

Planning

- Based on the assessment done:
 - a. Develop a system of agent fee collectors⁷ (to include appropriate incentives).
 - b. Develop a mechanism that will ensure that revenue from fees can be adequately tracked (financial management system).

Consultation

- Consult with relevant stakeholders (government lines ministries, protected areas managers, tour operators, and visitors, among others) to present and validate/verify the findings and conclusions as well as the new mechanism.

Piloting

- Prepare and implement a plan to:

⁵ While the NPAS includes Private Protected Areas, the framework is to focus on the public terrestrial, marine and archaeological protected areas.

⁶ Note: While activities are listed separately under this component, it may be possible to carry them out concurrently with activities under Component 1.

⁷ It is expected that where possible this will draw on the system in use by the Marine Protected Areas Network in Belize.

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- a. Pilot the framework/mechanism in eight PAs, including, but not limited to: Hol Chan Marine Reserve, the Blue Hole/ Half Moon Caye Natural Monuments, the Laughing Bird Caye National Park, and Actun Tunichil Muknal National Park (as part of the plan relevant computer equipment and software for online financial information management will be made available to the selected PAs). Modify the framework/mechanism as necessary based on the findings in the pilot phase
- Put in place mechanisms for the PAs to be monitored throughout the project and provide recommendations for a future system-wide expansion of the financial management system.

Socializing

- Develop and implement a communication/information strategy aimed at increasing awareness and "buy-in" among decision-makers, managers, and users.

Training

- Develop a basic training programme that can adequately integrate small co-managers with low administrative capacity to system-level mechanism for fee collection and administration.
- Provide training to small co-managers, as identified by PMU, based on the developed programme.

Final Report Preparation

- Prepare and submit to the project manager a final report on this consultancy. This report will include a section outlining any lessons learned and recommendations for improving future similar consultancies.

In undertaking this assignment, the Consulting team is expected to work closely with the Project Management Unit, personnel from government lines ministries/departments (in particular the Fisheries Department and the Forest Department), the Protected Areas Conservation Trust, protected areas management organization, as well as other stakeholders.

5.) Deliverables

Major Deliverables of this exercise shall include:

- i. A comprehensive Framework and Policy that defines at a minimum:
 - How fees and charges will be assigned/ adjusted and their allocation across the National Protected Areas System.
 - How fees for additional services including but not limited to parking, watercraft docking, scientific research, filming, camping, among others.
 - Visitors' willingness-to-pay for services.
 - Improvements in the PA fee collection system.
- ii. A system of agent fee collectors which will include:
 - Incentives to pay gate and service fees in advance (defined and in operation).
 - Mechanisms by which fees will be collected by the government (defined and in operation).

Note: the system should be relatively inexpensive and easy to operate.

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- iii. A mechanism to ensure that revenue can be adequately tracked:
 - Revenue accountability system for the NPAS (defined and in operation).
- iv. A communication/information strategy

Other deliverables shall include:

- v. An Inception Report, inclusive of a Work Plan at the start of the contract period.
- vi. Progress Reports at the end of each component.
- vii. Final Report.

6.) Reporting Standards

- All interim or draft reports and deliverables shall be prepared and submitted in Word format in the form of two electronic copies (one on Compact Disk and one by electronic mail). The final report of the consultancy shall be in three (3) hard copies and two electronic copies (one on Compact Disk and one by electronic mail). These are to be submitted to the project manager.

7.) Duration: 150 consultancy days between 20 June, 2011 and 19 June, 2012.

8.) Type: Team

9.) Administration of Contract

The Project Management Unit, under the auspices of the Ministry of Natural Resources and Environment, will issue the contract for the execution of this Terms of Reference to the selected consulting team. Travel will be a necessary part of this contract and the cost of such travel as well as for aspects such accommodation and other administrative costs are to be incurred by the Contractor as part of this Contract.

The Contractor will manage time and responsibilities to ensure timely delivery of outputs required under this Terms of Reference.

10.) Qualifications and Experience of Consulting Team

Execution of this Terms of Reference requires a team having the following competencies, skills and experience:

- Significant expertise and experience in areas such as, but not limited to, financing of conservation work, especially as it pertains to protected areas management (terrestrial and marine), ecotourism and accounting. It is expected that all team members will have at a minimum a first degree in the area of specialization; however, preference will be given to individuals with advanced degrees.
- Capability to manage complex technical assistance projects and to deliver required outputs on schedule.
- Fluency in English with excellent writing, presentation and communication skills.

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- Sound understanding of the institutional framework of protected areas in Belize as well as with the National Protected Areas System.
- Good working relations with government, private sector and non-government organizations.

In addition to the above, a non-negotiable requirement is that the team must include at least one national consultant.

11.) Bidding

As per the full Request for Proposal which can be obtained from snc.projectmanager@mnrei.gov.bz

Deadline for application: **15 April, 2011.**

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Annex 2: General Conditions for the Services of Individual Contractors⁸

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 or of the Ministry of Natural Resources and Environment. Accordingly, nothing within or relating to the Individual Contract shall establish the relationship of employer and employee, or of principal and agent, between UNDP and the Individual contractor. The officials, representatives, employees or subcontractors of UNDP and of the Individual contractor, if any, shall not be considered in any respect as being the employees or agents of the other, and UNDP and the Individual contractor shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

2. STANDARDS OF CONDUCT

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

The individual contractor must comply with all Security Directives issued by UNDP. Failure to comply with such security directives is grounds for termination of the Individual contractor for cause. Prohibition of Sexual Exploitation and Abuse: In the performance of the Individual 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

⁸ As this contract is being issued under an agreement between the Ministry of Natural Resources and Environment and the United Nations Development Programme, the conditions have been agreed to by both the MNRE and the UNDP.

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

3. TITLE RIGHTS, COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS

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

UNDP shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Individual contractor has developed for UNDP under the Individual 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 Individual Contract, and the Individual contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for UNDP. However, to the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Individual contractor: (a) that pre-existed the performance by the Individual contractor of its obligations under the Individual Contract, or (b) that the Individual contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Individual 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 Individual 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 Individual Contract shall be the property of UNDP, shall be made available for use or inspection by UNDP at reasonable times and in reasonable places, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under the Individual 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 Individual Contract, and that are designated as confidential ("Information"), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate, and the Recipient may otherwise use the Discloser's Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser's prior written consent, as well as to the Recipient's employees, officials, representatives and agents who have a need to know such confidential Information solely for purposes of performing obligations under the Individual 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 before any such disclosure is made. UNDP may disclose Information to the extent as required pursuant to the Charter of the United Nations, resolutions or regulations of the General Assembly or its other governing bodies, or rules promulgated by the Secretary-General. The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder. These obligations and restrictions of confidentiality shall be effective during the term of the Individual Contract, including any extension thereof, and, unless otherwise provided in the Individual Contract, shall remain effective following any termination of the Individual Contract.

5. TRAVEL, MEDICAL CLEARANCE AND SERVICE-INCURRED DEATH, INJURY OR ILLNESS

If the Individual contractor is required by UNDP to travel beyond commuting distance from the Individual contractor's usual place of residence, and upon prior written agreement, such travel shall be at the expense of UNDP. Such travel shall be at economy care when by air.

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

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

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6. PROHIBITION ON ASSIGNMENT; MODIFICATIONS

The Individual contractor may not assign, delegate, transfer, pledge or make any other disposition of the Individual Contract, of any part thereof, or of any of the rights, claims or obligations under the Individual 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 Individual Contract concerning any goods or services to be provided under the Individual Contract shall not be valid and enforceable against UNDP nor in any way shall constitute an Individual Contract by UNDP thereto, unless any such undertakings, licenses or other forms of Individual Contract are the subject of a valid written undertaking by UNDP. No modification or change in the Individual Contract shall be valid and enforceable against UNDP unless provided by means of a valid written amendment to the Individual 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 Individual Contract, the Individual contractor shall obtain the prior written approval of UNDP for any such subcontractors. UNDP may, in its sole discretion, reject any proposed subcontractor or require such subcontractor's removal without having to give any justification therefore, and such rejection shall not entitle the Individual contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Individual Contract. The Individual contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Individual Contract.

8. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS

The Individual contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNDP, nor shall the Individual contractor, in any manner whatsoever, use the name, emblem or official seal of UNDP, or any abbreviation of the name of UNDP, in connection with its business or otherwise without the written permission of UNDP.

9. INDEMNIFICATION

The Individual contractor shall indemnify, defend, and hold and save harmless UNDP, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to: (a) allegations or claims that the use by UNDP of any patented device, any copyrighted material or any other goods or services provided to UNDP for its use under the terms of the Individual 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 Individual Contract, which give rise to legal

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liability to anyone not a party to the Individual 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 Individual Contract. The Individual contractor shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of its obligations under the Individual 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 Individual Contract. The Individual contractor acknowledges and agrees that none of the insurance arrangements the Individual contractor may make shall, in any way, be construed to limit the Individual contractor's liability arising under or relating to the Individual 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 Individual Contract, or by reason of any other claim or demand against the Individual contractor.

12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Individual Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event, which interferes or threatens to interfere with its performance of the Individual 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 Individual Contract.

If the Individual contractor is rendered permanently unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Individual Contract, UNDP shall have the right to suspend or terminate the Individual Contract on the same terms and conditions as are provided for below, under "Termination", except that the period of notice shall be five (5) days instead of any other period of notice. In any case, UNDP shall be entitled to consider the Individual contractor permanently unable to perform its obligations under the Individual Contract in the case of the Individual contractor's suffering any

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period of suspension in excess of thirty (30) days.

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 Individual 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 Individual Contract.

13. TERMINATION

Either party may terminate the Individual 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 Individual 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 Individual Contract. UNDP may, without prejudice to any other right or remedy available to it, terminate the Individual Contract forthwith in the event that: (a) the Individual contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, applies for moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent; (b) the Individual contractor is granted a moratorium or a stay or is declared insolvent; the Individual contractor makes an assignment for the benefit of one or more of its creditors; (c) a Receiver is appointed on account of the insolvency of the Individual contractor; (d) the Individual contractor offers a settlement in lieu of bankruptcy or receivership; or (e) UNDP reasonably determines that the Individual contractor has become subject to a materially adverse change in its financial condition that threatens to endanger or otherwise substantially affect the ability of the Individual contractor to perform any of its obligations under the Individual Contract.

In the event of any termination of the Individual 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 Individual 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 Individual 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 Individual Contract had been completed, would be required to be furnished to UNDP thereunder; (d) complete performance of the work not terminated; and (e) take any other action that may be necessary, or that UNDP may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Individual 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 Individual 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 Individual Contract. Additional costs incurred by UNDP resulting from the termination of the Individual Contract by the Individual contractor may be withheld from any amount otherwise due to the Individual contractor from UNDP.

14. NON-EXCLUSIVITY

UNDP shall have no obligation respecting, and no limitations on, its right to obtain goods of the same kind, quality and quantity, or to obtain any services of the kind described in the Individual 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 (applicable to the UN, its subsidiary organs and employees only). 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 Individual 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. AUDIT AND INVESTIGATION

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

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

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not limited to, the Individual contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

17. SETTLEMENT OF DISPUTES

Amicable Settlement: UNDP and the Individual contractor shall use their best efforts to amicably settle any dispute, controversy or claim arising out of the Individual 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 Individual 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 Individual Contract, order the termination of the Individual 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 Individual 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 Individual 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 7, above, or as are otherwise set forth in the Individual Contract, any arbitral proceedings in accordance with Article 17 above, arising out of the Individual Contract must be commenced within three 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 Individual Contract, the cause of action accrues when such time of future performance actually begins.

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19. PRIVILEGES AND IMMUNITIES

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

