



UNITED NATIONS OFFICE AT NAIROBI

مكتب الأمم المتحدة في نيروبي • 联合国内罗毕办事处 • OFFICE DES NATIONS UNIES A NAIROBI
ОТДЕЛЕНИЕ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ В НАЙРОБИ • OFICINA DE LAS NACIONES UNIDAS EN NAIROBI

Procurement Travel & Shipping Section (PTSS)
P.O. Box 67578, Nairobi, Kenya.

To: All Invitees (*Via Email*)
Date: 5 October 2010
Subject: Request for Proposals (RFP/10/0025/MM) –
Supply of Issued Certified Emissions Reductions (CERs)

Dear Sir/Madam,

The United Nations Office at Nairobi (UNON) (hereinafter referred to as “UNON”) hereby solicits your proposal for the Supply of Issued Certified Emissions Reductions (CERs) as per the attached scope of requirements/ services (*Annex C*).

- Attached please find the Request for Proposals (RFP) which consists of:
 - This Letter of Invitation/ Instructions to Bidders
 - Annex A - Acknowledgment Letter
 - Annex B - Requirements for Qualification
 - Annex C - The Statement of Works / Specifications
 - Annex D – Draft Contract (not attached)
 - Annex E - UN General Conditions of Contract
- Please notify UNON immediately if any part of this RFP is missing and/or illegible.
- This document and its attachments constitute the RFP and it will be the means by which UNON will determine the qualifying Contractor(s). All responses will be used only for the purpose of identifying the best qualified Contractor(s) and will be maintained with confidentiality. All proposals received shall be considered the property of UNON and will not be returned.
- Please note that this document is a Request for Proposal (RFP) and not an Invitation to Bid (ITB). Please note also that the terms set forth in this RFP, including the contents of proposals and the UN General Conditions of Contract (*Annex D*) will form part of any contract should UNON accept your proposal. Any such contract will require compliance with all factual statements and representations made in the proposal as to the provision of the services, subject to any modifications to the proposal agreed to by UNON in the context of negotiations, if negotiations are entered into.
- You are kindly requested to return the attached Acknowledgement Letter **Annex A** immediately via fax to the sole attention of the Bid Opening Official, duly signed by an authorized representative advising whether or not your firm/company intends to submit a proposal.

Yours sincerely,


Fatima Tafida
Associate Procurement Officer
Procurement Travel & Shipping Unit

Instructions to Bidders

6. The word “firm” in the context of this RFP refers to any organization’s legal status, whether it is a sole proprietorship, a company, a partnership, a joint venture, or any other form of legal association. The word “Contractor(s)” means the party or parties with which UNON may eventually enter into a contract(s) for the provision of the above-mentioned goods or services.

7. This RFP does not commit UNON to award a contract or to pay any costs incurred in the preparation or submission of proposals, or in making necessary studies for the preparation thereof, or to procure or contract for services or supplies.

8. UNON reserves the right to reject any or all proposals received in response to this RFP and to negotiate with any of the proposers or other firms in any manner deemed to be in the best interest of UNON. **If the proposal is submitted on an “all or none” basis, bidders should clearly state so in Annex C.**

9. This RFP contains no contractual offer of any kind. Any proposal submitted will be regarded as an offer by the proposer and not as an acceptance by the proposer of any offer by UNON.

10. The Financial Regulations and Rules of the United Nations preclude advance payments or payments by Letters of Credit. Where prevailing commercial practice does not provide for advance payment, provisions for advance payments or payments by Letters of Credit in a proposal will be prejudicial to its evaluation by UNON. The normal terms of payment of the UN are 30 days (or similar discounted payment terms if offered by proposer), upon satisfactory delivery of products or completion of services and acceptance thereof by the United Nations. Proposers must, clearly specify in their proposal the payment terms being offered.

11. Proposals must be submitted in the English language in **THREE (3) COPIES**. Each copy shall be placed in a **sealed outer envelope (indicating the RFP no)**, containing two **sealed inner envelopes** - one envelope marked **Technical Proposal** and the other envelope **Financial Proposal** with contents as follows:

1. **Technical Proposal.** This shall comprise the following:

- a. **A one page cover letter**, signed by an individual authorized to bind the firm affirming *inter alia* i) that all information regarding policies, staff, qualifications, equipment, and capacity are current, complete and accurate ii) that if selected, will comply with all applicable provisions of **Annex E**, and indicating iii) whether or not it is a party to any pending or current litigation, which might adversely affect its performance on this project.
- b. **The Qualification Document** as described in **Annex B**, “Requirements for Qualification” which provides information establishing compliance with the minimum threshold requirements for this project. This information must be submitted as part of the RFP response, but in a separate envelope marked “*Qualification Document*”. The Qualification Document must be divided and labeled with the same headings as set forth in **Annex B**.
- c. **The Technical Proposal Proper:** This must contain relevant information about the goods/ services that will be provided by the Contractor i.e. how it proposes to perform the works or meet the needs specified in **Annex C** without **providing any financial information**. Bidders are advised to format their proposal with chapters corresponding to the evaluation criteria.

2. **The Financial Proposal.**

This must contain financial information about the services that will be provided by the Contractor. The firm must state its contract price, discounts, if any, and payment terms.

12. It shall be the responsibility of respondent to ensure that proposals are fully in compliance with all applicable laws, enactments, rules and regulations of any relevant governmental or regulatory body.

13. Proposals must be delivered **either by hand or by courier in two individually sealed envelopes with one marked Technical Proposal and the other Financial Proposal** and should be addressed as follows:

Sealed proposal No: RFP 10/0025/MM –
Supply of Issued Certified Emissions Reductions (CERs)
Attn: Chief, PTSS, Block V – Level 2
United Nations Office at Nairobi (UNON)
Gigiri, P.O. Box 67578-00200
Nairobi – KENYA
(Attention: Bid Opening Official **Deadline: 10 November 2010**)

14. All offers must be typed and submitted in triplicate. Handwritten bids will be rejected. Inclusion of financial bids with technical bids in the same envelope may also result in disqualification of a proposal.

15. It is the exclusive responsibility of respondents to ensure that their proposals reach the above address before the deadline. Delivery to any other UNON office location will not constitute timely delivery. ***Any proposal received after the closing time and date specified above will not be considered.***

16. The public opening of proposals is scheduled as follows:

Closing	-	10 November 2010 at 10:00 Hours, Nairobi time
Opening	-	10 November 2010 at 11:00 Hours
Venue	-	Block V – Level 2, UNON Headquarters, UN Avenue, Gigiri, Nairobi, Kenya

17. Firms may send one representative with proper authorization to observe the opening. The purpose of public opening is to record the proposals received. No price will be announced at the public opening.

18. Submission of Proposals: Proposals may be submitted by email to: cps.registration@unon.org.

19. Evaluation Criteria: Proposals will be evaluated in accordance with the UN Financial Regulations and Rules, established procedures of the UN and the evaluation the criteria shown below:

Technical

- a) Background, Nature and History of the Contractor
- b) Previous Experience of the contractor within the past three (3) years, name/location of said firm, approximate value, dates of contract, role of firm, brief description, points of similarity to the UN Scope of Work.
- c) Capacity/Adequacy of equipment, Assets and other facilities
- d) Quality of Personnel
- e) Quality and Suitability of the Proposal/Understanding of the Requirements of the RFP
- f) Awareness of personnel and environmental safety

Financial

- g) Contract Price (itemized), including any discounts offered

20. Proposals shall remain valid and open for acceptance for a period of at least [***ninety (90)***] days from the RFP closing date. Proposers should indicate that their proposals will remain valid for this period. Following the selection of a Contractor(s) and the signing of the contract(s), Respondents will be notified of the results. ***Decisions of UNON are final and not subject to appeal.***

21. If a respondent has a question, it should be addressed in writing and sent to:

The Chief, PTSS (RFP No. 10/0025/MM)
Block V – Level 2, UNON
PO Box 67578-00200, Nairobi, KENYA
Fax: 254 20 762 3211/ 4198
Emails: margaret.mathenge@unon.org, fatima.tafida@unon.org

22. Other than this official means of communication, UNON staff are prohibited from communicating about this procurement with any Respondent or external party during the course of this procurement. Respondents are not to call or attempt to communicate in any other way with UNON or its staff regarding this procurement. ***Any violation of this instruction may adversely affect a firm's prospects of selection.***

23. Collusive Bidding and other Anti-competitive Conduct: Proposers and their employees, officers, advisers, agents or sub-contractors must not engage in any collusive bidding or other anti-competitive conduct, or any other similar conduct in respect of this RFP or procurement process. 'Collusive bidding', 'other anti-competitive conduct', or 'any other similar conduct' may include, *inter alia*, any attempt to alter the results of a solicitation exercise in such a way that would lead to an outcome other than that which would have been obtained through a competitive process.

24. Improper Assistance: Proposals that, in the sole opinion of the UN, have been compiled i) with the assistance of current or former employees or Contractors of UN, in violation of confidentiality obligations, or by using information not otherwise available to the general public or which would provide a non-competitive benefit shall also be excluded from further consideration.

ANNEX A

ACKNOWLEDGEMENT LETTER - RFP NO. 10/0025/MM

Please confirm your intention to participate by completing and returning the acknowledgement below immediately by fax to the Bid Opening by fax to UNON on + 254 20 762 3211/ 4198

IMPORTANT: In order to participate in this tender exercise, please return a completed copy of this acknowledgement letter even if you do not intend to submit a bid this time. Failure to submit a completed copy of this acknowledgement letter for three consecutive times will be understood to mean that you no longer wish to receive such invitations and you will be suspended from the vendor roster automatically.

a) Submission of Proposal:

We the undersigned acknowledge receipt of your Request for Proposals (RFP) No. **10/0025/MM** for the **Supply of Issued Certified Emissions Reductions (CERs)** and hereby confirm that:

We intend

We do not intend*

to submit an offer to the United Nations Office at Nairobi by **10 November 2010 at 10:00 Hours**

*** If you do not intend to submit a proposal please provide brief feedback why in the space provided below:**

b) Participation at Public Opening:

We intend

We do not intend

to attend the Public Opening on **10 November 2010 at 11:00 Hours**

We also note the terms and conditions of the request and will abide by them when preparing our proposal.

NOTE: Your authorized representative must present a completed copy of this letter in order to observe the public opening procedure.

c) Company's Particulars:

Company Name & Address:

Name of Authorized Representative:

Signature:

Title:

Date:

Telephone Number:

Facsimile Number:

Email Address:

ANNEX B

REQUIREMENTS FOR QUALIFICATION

The proposal must meet the following minimum threshold requirements before it will be evaluated by the Selection Committee. If these threshold requirements are not met the proposal will not be considered.

- B.1. Company Profile:** The firm must submit a brief company history, the legal name under which it conducts business, the name of its Chief Executive Officer, its mailing address, telephone numbers, fax numbers and its email address. In addition, the firm must describe the locations/addresses of all its offices. It shall also indicate whether the firm is a Sole Proprietorship, a Company, Partnership, Joint Venture, or any other form of legal association.
- B.1.1. If the firm is a partnership, joint partnership, or any other form of legal association, provide information about the country and date of partnership and a list of all partners.
- B.1.2. If the firm is a subsidiary of another organization, information about the parent organization eg. legal name under which it operates, name of its Chief Executive, contact details, as well as information about the legal relationship between the firm and the parent organization.
- B.2. Registration Documents:** The firm must provide copies of the legal documents verifying its legal entity and status, including the country and date of incorporation.
- B.3. Age of the Firm:** The firm must provide evidence that it has been operating in for a minimum of *three* years immediately prior to *1 September 2010*. In the case of a joint venture or partnership or any other form of legal association, any one of the entities may qualify the firm by its having operated for a minimum of *three years immediately prior to 1 September 2010*.
- B.4. Financial Statements:** In order to ensure capacity to perform over the period of the contract, the firm must provide evidence of financial stability by submitting a copy of the firm's complete and audited Statement of Accounts for its most recent financial fiscal year.
- B.5. Past Performance:** The firm must describe past performance on similar public and/or private agency contracts, including past performance on similar works for the UN.
- B.6. References:** In order to verify satisfactory past performance, the proposal should also include three references from major public or private agency clients for whom the firm has provided services within the past three years with the name, title, address of the owner or manager with whom the firm worked. These references may not include corporate clients who are relatives of the respondent.

ANNEX C

DESCRIPTION OF SERVICES

C.1 TERMS OF REFERENCE FOR THE SUPPLY OF ISSUED CERTIFIED EMISSIONS REDUCTIONS (CERs)

Background

The United Nations Environment Programme (UNEP) is climate neutral since 1 January 2008. This is to be achieved through reducing its greenhouse gas emissions to the extent possible, and the procurement of certified carbon credits to compensate for the remaining emissions.

The UNEP climate neutral commitment is guided by the UN Climate Neutral Strategy adopted by the UN Chief Executives Board on 17 September 2007 (EMG/AM.07/06/Rev.1), the revised UNEP Climate Neutral Strategy, approved by the UNEP Executive Director on 14 June 2010, and the current discourse of the UN Environment Management Group (EMG) Issue Management Group (IMG) on Sustainability Management.

In the year 2009, the UNEP greenhouse gas (GHG) emission caused by UNEP operations was estimated to **13,002 tonnes CO₂-equivalents**.

The UN Climate Neutral Strategy recommends the criteria for the choice of offsets. The criteria outlined in the UN Climate Neutral Strategy are:

- a. *Additionality*
Offsets must generate real emissions reductions that would not have otherwise occurred.
- b. *Verification and certification*
An independent and credible validation or verification process should exist to verify the performance of the offset projects and certify emissions reductions as they occur. The reductions must be real, demonstrable and measurable. Emissions reductions should be certified against validated additionality tests and against the baselines, assumptions and acceptable methodology used for calculating the reductions.
- c. *Transparency*
There should be full disclosure of all relevant information in an easily accessible form for potential consumers or purchasers of offsets. This includes information on methodologies, pricing, progress in reductions, etc.
- d. *Time-frame and permanency*
The time period within which the reductions take place should be clearly indicated. Emissions reductions must be permanent. After purchase, the offset certificates should be “retired” or removed from circulation and further re-sale.
- e. *Sustainable development benefits*
The offset activities should also generate real sustainable development benefits.
- f. *Intergovernmentally accepted standards*
The UN’s choice of offsets should be consistent with inter-governmentally accepted standards.
- g. *Avoidance of own projects*
Consistent with the goal of benchmarking the highest standards, UNEP is voluntarily excluding the purchase of offsets in self-generated or self supported activities to avoid potential conflicts of interest. The decision to maintain a firewall between UNEP’s own operations and its choice of offsets should be viewed as promoting the institution’s credibility and reputation rather than undermining any schemes or projects it may be supporting.

Certified Emission Reductions (CERs) from Clean Development Mechanism (CDM) projects meet these criteria, and **UNEP aims to procure 13,002 CER carbon credits** (exact amount to be confirmed before signing of contract).

UNEP procurement of offsets – Technical requirements

In this purchasing of offsets to compensate for the emissions caused by UNEP activities during year 2009, the following specifications apply:

2. Offsets will be procured to compensate for a total of 13,002 tonnes of CO₂ equivalents, the exact amount to be confirmed before awarding of contract.
3. Offsets shall be purchased as issued Certified Emission Reductions (CERs)¹ from registered Clean Development Mechanism (CDM) projects.
4. The supplier shall ensure that the CERs purchased by UNEP will be retired from circulation within 3 months from the date of signing the contract.
5. Project types that will be eligible include:
 - a. Renewable energy (e.g. wind, hydro, biomass)
 - b. Energy efficiency (e.g. fuel switching, single-to-combine cycle etc)
 - c. Waste management (e.g. landfills, wastewater)
 - d. Forestry and agriculture (land-based carbon sequestration)
6. Credits should be generated not earlier than 2007.
7. Preference shall be given to CER generated by projects meeting the following criteria:
 - a. Projects in Least Developed Countries and/or in Africa
 - b. Projects that also contribute to poverty alleviation and environmental improvement in addition to greenhouse gas emissions reduction, demonstrated through the attribution of recognised additional standards such as Gold Standard or similar
 - c. In the case of land-based projects: projects with demonstrated biodiversity benefits

¹ A CER is a carbon credit generated by a CDM projects and corresponds to one tonne of CO₂ equivalent (CO₂e).

ANNEX E

UNITED NATIONS GENERAL CONDITIONS OF CONTRACT CONTRACTS FOR THE PROVISION OF SERVICES

1. **LEGAL STATUS OF THE PARTIES:** The United Nations and the Contractor shall also each be referred to as a "Party" hereunder, and:
 - 1.1 Pursuant, *inter alia*, to the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations, the United Nations, including its subsidiary organs, has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfillment of its purposes.
 - 1.2 The Contractor shall have the legal status of an independent contractor *vis-à-vis* the United Nations, and nothing contained in or relating to the Contract shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. The officials, representatives, employees, or subcontractors of each of the Parties shall not be considered in any respect as being the employees or agents of the other Party, and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

2. **SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to the United Nations in connection with the performance of its obligations under the Contract. Should any authority external to the United Nations seek to impose any instructions concerning or restrictions on the Contractor's performance under the Contract, the Contractor shall promptly notify the United Nations and provide all reasonable assistance required by the United Nations. The Contractor shall not take any action in respect of the performance of its obligations under the Contract that may adversely affect the interests of the United Nations, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of the United Nations.

3. **RESPONSIBILITY FOR EMPLOYEES:** To the extent that the Contract involves the provision of any services to the United Nations by the Contractor's officials, employees, agents, servants, subcontractors and other representatives (collectively, the Contractor's "personnel"), the following provisions shall apply:
 - 3.1 The Contractor shall be responsible for the professional and technical competence of the personnel it assigns to perform work under the Contract and will select reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.
 - 3.2 Such Contractor personnel shall be professionally qualified and, if required to work with officials or staff of the United Nations, shall be able to do so effectively. The qualifications of any personnel whom the Contractor may assign or may propose to assign to perform any obligations under the Contract shall be substantially the same, or better, as the qualifications of any personnel originally proposed by the Contractor.
 - 3.3 At the option of and in the sole discretion of the United Nations:
 - 3.3.1 the qualifications of personnel proposed by the Contractor (*e.g.*, a curriculum vitae) may be reviewed by the United Nations prior to such personnel's performing any obligations under the Contract;
 - 3.3.2 any personnel proposed by the Contractor to perform obligations under the Contract may be interviewed by qualified staff or officials of the United Nations prior to such personnel's performing any obligations under the Contract; and,
 - 3.3.3 in cases in which, pursuant to Article 3.2.1 or 3.2.2, above, the United Nations has reviewed the qualifications of such Contractor's personnel, the United Nations may reasonably refuse to accept any such personnel.
 - 3.4 Requirements specified in the Contract regarding the number or qualifications of the Contractor's personnel may change during the course of performance of the Contract. Any such change shall be made only following written notice of such proposed change and upon written agreement between the Parties regarding such change, subject to the following:
 - 3.4.1 The United Nations may, at any time, request, in writing, the withdrawal or replacement of any of the Contractor's personnel, and such request shall not be unreasonably refused by the Contractor.

- 3.4.2 Any of the Contractor's personnel assigned to perform obligations under the Contract shall not be withdrawn or replaced without the prior written consent of the United Nations, which shall not be unreasonably withheld.
- 3.4.3 The withdrawal or replacement of the Contractor's personnel shall be carried out as quickly as possible and in a manner that will not adversely affect the performance of obligations under the Contract.
- 3.4.4 All expenses related to the withdrawal or replacement of the Contractor's personnel shall, in all cases, be borne exclusively by the Contractor.
- 3.4.5 Any request by the United Nations for the withdrawal or replacement of the Contractor's personnel shall not be considered to be a termination, in whole or in part, of the Contract, and the United Nations shall not bear any liability in respect of such withdrawn or replaced personnel.
- 3.4.6 If a request for the withdrawal or replacement of the Contractor's personnel is not based upon a default by or failure on the part of the Contractor to perform its obligations in accordance with the Contract, the misconduct of the personnel, or the inability of such personnel to reasonably work together with United Nations officials and staff, then the Contractor shall not be liable by reason of any such request for the withdrawal or replacement of the Contractor's personnel for any delay in the performance by the Contractor of its obligations under the Contract that is substantially the result of such personnel's being withdrawn or replaced.
- 3.5 Nothing in Articles 3.2, 3.3 and 3.4, above, shall be construed to create any obligations on the part of the United Nations with respect to the Contractor's personnel assigned to perform work under the Contract, and such personnel shall remain the sole responsibility of the Contractor.
- 3.6 The Contractor shall be responsible for requiring that all personnel assigned by it to perform any obligations under the Contract and who may have access to any premises or other property of the United Nations shall:
- 3.6.1 undergo or comply with security screening requirements made known to the Contractor by the United Nations, including but not limited to, a review of any criminal history;
- 3.6.2 when within United Nations premises or on United Nations property, display such identification as may be approved and furnished by the United Nations security officials, and that upon the withdrawal or replacement of any such personnel or upon termination or completion of the Contract, such personnel shall immediately return any such identification to the United Nations for cancellation.
- 3.7 Not less than one working day after learning that any of Contractor's personnel who have access to any United Nations premises have been charged by law enforcement authorities with an offense other than a minor traffic offense, the Contractor shall provide written notice to inform the United Nations about the particulars of the charges then known and shall continue to inform the United Nations concerning all substantial developments regarding the disposition of such charges.
- 3.8 All operations of the Contractor, including without limitation, storage of equipment, materials, supplies and parts, within United Nations premises or on United Nations property shall be confined to areas authorized or approved by the United Nations. The Contractor's personnel shall not enter or pass through and shall not store or dispose of any of its equipment or materials in any areas within United Nations premises or on United Nations property without appropriate authorization from the United Nations.

4. ASSIGNMENT:

- 4.1 Except as provided in Article 4.2, below, the Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of the UN. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, shall not be binding on the United Nations. Except as permitted with respect to any approved subcontractors, the Contractor shall not delegate any of its obligations under this Contract, except with the prior written consent of the UN. Any such unauthorized delegation, or attempt to do so, shall not be binding on the United Nations.
- 4.2 The Contractor may assign or otherwise transfer the Contract to the surviving entity resulting from a reorganization of the Contractor's operations, provided that:
- 4.2.1 such reorganization is not the result of any bankruptcy, receivership or other similar proceedings; and,
- 4.2.2 such reorganization arises from a sale, merger, or acquisition of all or substantially all of the Contractor's assets or ownership interests; and,
- 4.2.3 the Contractor promptly notifies the United Nations about such assignment or transfer at the earliest opportunity; and,

4.2.4 the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the Contract, and such writing is promptly provided to the United Nations following the assignment or transfer.

5. **SUBCONTRACTING:** In the event that the Contractor requires the services of subcontractors to perform any obligations under the Contract, the Contractor shall obtain the prior written approval of the United Nations. The United Nations shall be entitled, in its sole discretion, to review the qualifications of any subcontractors and to reject any proposed subcontractor that the United Nations reasonably considers is not qualified to perform obligations under the Contract. The United Nations shall have the right to require any subcontractor's removal from United Nations premises without having to give any justification therefor. Any such rejection or request for removal shall not, in and of itself, entitle the Contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract, and the Contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

6. **OFFICIALS NOT TO BENEFIT:** The Contractor warrants that it has not and shall not offer any direct or indirect benefit arising from or related to the performance of the Contract or the award thereof to any representative, official, employee, or other agent of the United Nations. The Contractor acknowledges and agrees that any breach of this provision is a breach of an essential term of the Contract.

7. INDEMNIFICATION:

7.1 The Contractor shall indemnify, defend, and hold and save harmless, the United Nations, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature brought by any third party against the United Nations, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to:

7.1.1 allegations or claims that the possession of or use by the United Nations of any patented device, any copyrighted material, or any other goods, property or services provided or licensed to the United Nations under the terms of the Contract, in whole or in part, separately or in a combination contemplated by the Contractor's published specifications therefor, or otherwise specifically approved by the Contractor, constitutes an infringement of any patent, copyright, trademark, or other intellectual property right of any third party; or,

7.1.2 any acts or omissions of the 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.

7.2 The indemnity set forth in Article 7.1.1, above, shall not apply to:

7.2.1 A claim of infringement resulting from the Contractor's compliance with specific written instructions by the United Nations directing a change in the specifications for the goods, property, materials, equipment or supplies to be or used, or directing a manner of performance of the Contract or requiring the use of specifications not normally used by the Contractor; or

7.2.2 A claim of infringement resulting from additions to or changes in any goods, property, materials, equipment, supplies or any components thereof furnished under the Contract if the United Nations or another party acting under the direction of the United Nations made such changes.

7.3 In addition to the indemnity obligations set forth in this Article 7, the Contractor shall be obligated, at its sole expense, to defend the United Nations and its officials, agents and employees, pursuant to this Article 7, regardless of whether the suits, proceedings, claims and demands in question actually give rise to or otherwise result in any loss or liability.

7.4 The United Nations shall advise the Contractor about any such suits, proceedings, claims, demands, losses or liability within a reasonable period of time after having received actual notice thereof. The Contractor shall have sole control of the defense of any such suit, proceeding, claim or demand and of all negotiations in connection with the settlement or compromise thereof, except with respect to the assertion or defense of the privileges and immunities of the United Nations or any matter relating thereto, for which only the United Nations itself is authorized to assert and maintain. The United Nations shall have the right, at its own expense, to be represented in any such suit, proceeding, claim or demand by independent counsel of its own choosing.

7.5 In the event the use by the United Nations of any goods, property or services provided or licensed to the United Nations by the Contractor, in whole or in part, in any suit or proceeding, is for any reason enjoined, temporarily or permanently, or is found to infringe any patent, copyright, trademark or other intellectual property right, or in the event of a settlement, is enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, shall, promptly, either:

7.5.1 procure for the United Nations the unrestricted right to continue using such goods or services provided to the United Nations;

7.5.2 replace or modify the goods or services provided to the United Nations, or part thereof, with the equivalent or better goods or services, or part thereof, that is non-infringing; or,

7.5.3 refund to the United Nations the full price paid by the United Nations for the right to have or use such goods, property or services, or part thereof.

8. INSURANCE AND LIABILITY:

8.1 The Contractor shall pay the United Nations promptly for all loss, destruction, or damage to the property of the United Nations caused by the Contractor's personnel or by any of its subcontractors or anyone else directly or indirectly employed by the Contractor or any of its subcontractors in the performance of the Contract.

8.2 Unless otherwise provided in the Contract, prior to commencement of performance of any other obligations under the Contract, and subject to any limits set forth in the Contract, the Contractor shall take out and shall maintain for the entire term of the Contract, for any extension thereof, and for a period following any termination of the Contract reasonably adequate to deal with losses:

8.2.1 insurance against all risks in respect of its property and any equipment used for the performance of the Contract;

8.2.2 workers' compensation insurance, or its equivalent, or employer's liability insurance, or its equivalent, with respect to the Contractor's personnel sufficient to cover all claims for injury, death and disability, or any other benefits required to be paid by law, in connection with the performance of the Contract;

8.2.3 liability insurance in an adequate amount to cover all claims, including, but not limited to, claims for death and bodily injury, products and completed operations liability, loss of or damage to property, and personal and advertising injury, arising from or in connection with the Contractor's performance under the Contract, including, but not limited to, liability arising out of or in connection with the acts or omissions of the Contractor, its personnel, agents, or invitees, or the use, during the performance of the Contract, of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor; and,

8.2.4 such other insurance as may be agreed upon in writing between the United Nations and the Contractor.

8.3 The Contractor's liability policies shall also cover subcontractors and all defense costs and shall contain a standard "cross liability" clause.

8.4 The Contractor acknowledges and agrees that the United Nations accepts no responsibility for providing life, health, accident, travel or any other insurance coverage which may be necessary or desirable in respect of any personnel performing services for the Contractor in connection with the Contract.

8.5 Except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by the United Nations, in its sole discretion, for purposes of fulfilling the Contractor's requirements for providing insurance under the Contract, the insurance policies required under the Contract shall:

8.5.1 name the United Nations as an additional insured under the liability policies, including, if required, as a separate endorsement under the policy;

8.5.2 include a waiver of subrogation of the Contractor's insurance carrier's rights against the United Nations;

8.5.3 provide that the United Nations shall receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage; and,

8.5.4 include a provision for response on a primary and non-contributing basis with respect to any other insurance that may be available to the United Nations.

8.6 The Contractor shall be responsible to fund all amounts within any policy deductible or retention.

8.7 Except for any self-insurance program maintained by the Contractor and approved by the United Nations for purposes of fulfilling the Contractor's requirements for maintaining insurance under the Contract, the Contractor shall maintain the insurance taken out under the Contract with reputable insurers that are in good

financial standing and that are acceptable to the United Nations. Prior to the commencement of any obligations under the Contract, the Contractor shall provide the United Nations with evidence, in the form of certificate of insurance or such other form as the United Nations may reasonably require, that demonstrates that the Contractor has taken out insurance in accordance with the requirements of the Contract. The United Nations reserves the right, upon written notice to the Contractor, to obtain copies of any insurance policies or insurance program descriptions required to be maintained by the Contractor under the Contract. Notwithstanding the provisions of Article 8.5.3, above, the Contractor shall promptly notify the United Nations concerning any cancellation or material change of insurance coverage required under the Contract.

8.8 The Contractor acknowledges and agrees that neither the requirement for taking out and maintaining insurance as set forth in the Contract nor the amount of any such insurance, including, but not limited to, any deductible or retention relating thereto, shall in any way be construed as limiting the Contractor's liability arising under or relating to the Contract.

9. ENCUMBRANCES AND LIENS: The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the United Nations against any monies due to the Contractor or that may 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 Contractor or the United Nations.

10. EQUIPMENT FURNISHED BY THE UNITED NATIONS TO THE CONTRACTOR: Title to any equipment and supplies that may be furnished by the United Nations to the Contractor for the performance of any obligations under the Contract shall rest with the United Nations, and any such equipment shall be returned to the United Nations at the conclusion of the Contract or when no longer needed by the Contractor. Such equipment, when returned to the United Nations, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear, and the Contractor shall be liable to compensate the United Nations for the actual costs of any loss of, damage to, or degradation of the equipment that is beyond normal wear and tear.

11. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

11.1 Except as is otherwise expressly provided in writing in the Contract, the United Nations shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the United Nations 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. The Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the United Nations.

11.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the United Nations does not and shall not claim any ownership interest thereto, and the Contractor grants to the United Nations a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

11.3 At the request of the United Nations, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the United Nations in compliance with the requirements of the applicable law and of the Contract.

11.4 Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of the United Nations, shall be made available for use or inspection by the United Nations at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to United Nations authorized officials on completion of work under the Contract.

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

13. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION: Information and data that is considered proprietary by either Party or that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract, and that is designated as confidential ("Information"), shall be held in confidence by that Party and shall be handled as follows:

13.1 The recipient ("Recipient") of such Information shall:

13.1.1 use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar Information that it does not wish to disclose, publish or disseminate; and,

13.1.2 use the Discloser's Information solely for the purpose for which it was disclosed.

13.2 Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:

13.2.1 any other party with the Discloser's prior written consent; and,

13.2.2 the Recipient's employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under the Contract, and employees officials, representatives and agents of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know such Information for purposes of performing obligations under the Contract, provided that, for these purposes a controlled legal entity means:

13.2.2.1 a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,

13.2.2.2 any entity over which the Party exercises effective managerial control; or,

13.2.2.3 for the United Nations, a principal or subsidiary organ of the United Nations established in accordance with the Charter of the United Nations.

13.3 The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the United Nations sufficient prior notice of a request for the disclosure of Information in order to allow the United Nations to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

13.4 The United Nations may disclose Information to the extent as required pursuant to the Charter of the United Nations, or pursuant to resolutions or regulations of the General Assembly or rules promulgated thereunder.

13.5 The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.

13.6 These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

14. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS:

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

14.2 If the Contractor is rendered unable, wholly or in part, by reason of force majeure to perform its obligations and meet its responsibilities under the Contract, the United Nations shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in Article 15, "Termination," except that the period of notice shall be seven (7) days instead of thirty (30) days. In any case, the United

Nations shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in case the Contractor is unable to perform its obligations, wholly or in part, by reason of force majeure for any period in excess of ninety (90) days.

- 14.3 Force majeure as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, 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 Contractor. The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in areas in which the United Nations is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas, or to any incidents of civil unrest occurring in such areas, shall not, in and of itself, constitute force majeure under the Contract.

15. TERMINATION:

- 15.1 Either Party may terminate the Contract for cause, in whole or in part, upon thirty (30) day's notice, in writing, to the other Party. The initiation of conciliation or arbitral proceedings in accordance with Article 18 "Settlement of Disputes," below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract.
- 15.2 The United Nations may terminate the Contract at any time by providing written notice to the Contractor in any case in which the mandate of the United Nations applicable to the performance of the Contract or the funding of the United Nations applicable to the Contract is curtailed or terminated, whether in whole or in part. In addition, unless otherwise provided by the Contract, upon sixty (60) day's advance written notice to the Contractor, the United Nations may terminate the Contract without having to provide any justification therefor.
- 15.3 In the event of any termination of the Contract, upon receipt of notice of termination that has been issued by the United Nations, the Contractor shall, except as may be directed by the United Nations in the notice of termination or otherwise in writing:
- 15.3.1 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;
 - 15.3.2 refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice;
 - 15.3.3 place no further subcontracts or orders for materials, services, or facilities, except as the United Nations and the Contractor agree in writing are necessary to complete any portion of the Contract that is not terminated;
 - 15.3.4 terminate all subcontracts or orders to the extent they relate to the portion of the Contract terminated;
 - 15.3.5 transfer title and deliver to the United Nations the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the portion of the Contract terminated;
 - 15.3.6 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 the United Nations thereunder;
 - 15.3.7 complete performance of the work not terminated; and,
 - 15.3.8 take any other action that may be necessary, or that the United Nations may direct in writing, for the minimization of losses and for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Contractor and in which the United Nations has or may be reasonably expected to acquire an interest.
- 15.4 In the event of any termination of the Contract, the United Nations shall be entitled to obtain reasonable written accountings from the Contractor concerning all obligations performed or pending in accordance with the Contract. In addition, the United Nations shall not be liable to pay the Contractor except for those goods delivered and services provided to the United Nations in accordance with the requirements of the Contract, but only if such goods or services were ordered, requested or otherwise provided prior to the Contractor's receipt of notice of termination from the United Nations or prior to the Contractor's tendering of notice of termination to the United Nations.
- 15.5 The United Nations may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that:

- 15.5.1 the Contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, or applies for a moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent;
- 15.5.2 the Contractor is granted a moratorium or a stay, or is declared insolvent;
- 15.5.3 the Contractor makes an assignment for the benefit of one or more of its creditors;
- 15.5.4 a Receiver is appointed on account of the insolvency of the Contractor;
- 15.5.5 the Contractor offers a settlement in lieu of bankruptcy or receivership; or,
- 15.5.6 the United Nations reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract.

15.6 Except as prohibited by law, the Contractor shall be bound to compensate the United Nations for all damages and costs, including, but not limited to, all costs incurred by the United Nations in any legal or non-legal proceedings, as a result of any of the events specified in Article 15.5, above, and resulting from or relating to a termination of the Contract, even if the Contractor is adjudged bankrupt, or is granted a moratorium or stay or is declared insolvent. The Contractor shall immediately inform the United Nations of the occurrence of any of the events specified in Article 15.5, above, and shall provide the United Nations with any information pertinent thereto.

15.7 The provisions of this Article 15 are without prejudice to any other rights or remedies of the United Nations under the Contract or otherwise.

16. **NON-WAIVER OF RIGHTS:** The failure by either Party to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver by the other Party of any such right or any remedy associated therewith, and shall not relieve the Parties of any of their obligations under the Contract.

17. **NON-EXCLUSIVITY:** Unless otherwise specified in the Contract, the United Nations shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and the United Nations shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity described in the Contract, from any other source at any time.

18. SETTLEMENT OF DISPUTES:

18.1 **AMICABLE SETTLEMENT:** The Parties 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.

18.2 **ARBITRATION:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 18.1, above, within sixty (60) days after receipt by one Party of the other Party’s written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. 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.

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.

20. TAX EXEMPTION:

20.1 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 Contractor shall immediately consult with the United Nations to determine a mutually acceptable procedure.

20.2 The Contractor authorizes the United Nations to deduct from the Contractor's invoices any amount representing such taxes, duties or charges, unless the Contractor has consulted with the United Nations before the payment thereof and the United Nations has, in each instance, specifically authorized the Contractor to pay such taxes, duties, or charges under written protest. In that event, the Contractor shall provide the United Nations with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized, and the United Nations shall reimburse the Contractor for any such taxes, duties, or charges so authorized by the United Nations and paid by the Contractor under written protest.

21. **OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Contract. In addition, the Contractor shall maintain compliance with all obligations relating to its registration as a qualified vendor of goods or services to the United Nations, as such obligations are set forth in the United Nations vendor registration procedures.

22. MODIFICATIONS:

22.1 Pursuant to the Financial Regulations and Rules of the United Nations, only the Chief of the United Nations Procurement Division, or such other Contracting authority as the United Nations has made known to the Contractor in writing, possesses the authority to agree on behalf of the United Nations to any modification of or change in the Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in the Contract shall be valid and enforceable against the United Nations unless provided by a valid written amendment to the Contract signed by the Contractor and the Chief of the United Nations Procurement Division or such other contracting authority.

22.2 If the Contract shall be extended for additional periods in accordance with the terms and conditions of the Contract, the terms and conditions applicable to any such extended term of the Contract shall be the same terms and conditions as set forth in the Contract, unless the Parties shall have agreed otherwise pursuant to a valid amendment concluded in accordance with Article 22.1, above.

22.3 The terms or conditions of any supplemental undertakings, licenses, or other forms of agreement concerning any goods or services provided under the Contract shall not be valid and enforceable against the United Nations nor in any way shall constitute an agreement by the United Nations thereto unless any such undertakings, licenses or other forms are the subject of a valid amendment concluded in accordance with Article 22.1, above.

23. AUDITS AND INVESTIGATIONS:

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

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

conditions and to grant to the United Nations access to the Contractor's premises at reasonable times and on reasonable conditions in connection with such access to the Contractor's personnel and relevant documentation. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by the United Nations hereunder.

24. LIMITATION ON ACTIONS:

24.1 Except with respect to any indemnification obligations in Article 7, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 18.2, above, arising out of the Contract must be commenced within three years after the cause of action has accrued.

24.2 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.

25. CHILD LABOR: The Contractor represents and warrants that neither it, its parent entities (if any), nor any of the Contractor's subsidiary or affiliated entities (if any) is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle the United Nations to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

26. MINES: The Contractor warrants and represents that neither it, its parent entities (if any), nor any of the Contractor's subsidiaries or affiliated entities (if any) is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle the United Nations to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

27. SEXUAL EXPLOITATION:

27.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by its employees or any other persons engaged and controlled by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all reasonable and appropriate measures to prohibit its employees or other persons engaged and controlled by it from exchanging any money, goods, services, or other things of value, for sexual favors or activities, or from engaging any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of these provisions shall entitle the United Nations to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

27.2 The United Nations shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the contract.

