

**Insert Name of Project Here  
Reference Version**

**Insert Title of Works Here**

**United Nations Office for Project Services (“UNOPS”)  
-and-  
Name of Contractor**

# **Minor Works Contract**

**Contract No.: 123456789000**

**April 2011**

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UNOPS Infrastructure Practice  
Copenhagen, Denmark

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**[ SCHEDULE PREPARATION GUIDANCE NOTES:****PLEASE DELETE THESE NOTES BEFORE ISSUING THE CONTRACT TO TENDERERS**

*Throughout the Schedules there are guidance notes which are shown in brackets, bold and italics and are highlighted in various colours.*

**1. Drafting notes and examples**

*Square brackets around bold, italic text highlighted grey (including this text) indicate "drafting notes" or "examples". This text must be deleted prior to finalising the Contract Conditions and before the Contract is issued to tenderers.*

**2. Fields to be populated before the Contract is issued to tenderers**

*Square brackets around bold, italic text which is highlighted yellow, for example "[insert]", indicate that you are required to either:*

- (a) insert new text; or*
- (b) choose between the alternatives offered within the square brackets, or*
- (c) delete the text,*

*Any yellow highlighted text fields must be completed and the square brackets, italic and yellow highlight removed prior to finalising the schedules ready to be issued to tenderers.*

**3. Fields to be populated during negotiations and prior to signing the execution version of the Contract.**

*Square brackets around bold, italic text which is highlighted blue, for example "[insert]", indicate information which will be finalised, agreed and completed by UNOPS in conjunction with the preferred tenderer during negotiations.*

*Any blue highlighted text fields must be completed and the square brackets, italic and blue highlight removed prior to finalising the execution version of the Contract ready to be issued to the UNOPS HQPC and before the final Contract is signed.*

**4. Other general notes**

- (a) As a standard rule the General Conditions are fixed and are only to be amended through the use of Particular Conditions approved by the UNOPS legal department.*
- (b) It is important that you complete the Schedules in sufficient detail to enable the tenderers to understand UNOPS' project specific requirements and their obligations. This will assist tender evaluations, enable tenderers to provide realistic prices and also reduce the scope for requests for further information and extensions to the tender closing date.*
- (c) If there is too much information to be physically included in the Schedules, appropriate documents, for example drawings, general/particular/technical*

*specifications and UNOPS' internal guidelines and procedures manuals, can be incorporated by reference within the Schedules and annexed to the Contract. Where this is done, the Schedule must clearly identify the documents by author, title, date and revision number. The Schedule must also clearly identify the annexure number. For example:*

*In preparing any design, the Subcontractor must comply with the technical standard entitled "XYZ" prepared by [insert] and dated June 2008, which is included in Annexure A [Technical Standards]*

- (d) Care must be taken when using information and/or old schedules which have been prepared for a previous project, as they may not be appropriate or contain sufficient detail for a different works package.*
- (e) Care must also be taken to ensure that the content of the Schedules are consistent with the General and Particular Conditions of the Contract. To ensure consistency, the project specific and technical information to be inserted in the Schedules, should be prepared and reviewed by the project team in conjunction with reading the General and Particular Conditions.*
- (f) Any personnel, including external consultants, preparing tender documents should be familiar with this Contract and the Schedules.*

**PLEASE DELETE THESE NOTES BEFORE ISSUING THE CONTRACT TO  
TENDERERS.]**

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## INSTRUMENT OF AGREEMENT

**THIS CONTRACT** is made on the \_\_\_\_\_ day of \_\_\_\_\_ 20[**insert**].

**BETWEEN**

- (1) **United Nations Office for Project Services ("UNOPS")**, an organ of the United Nations, having its postal address at [**insert P. O. Box**], [**insert name of city and country**] ("**Employer**"); and
- (2) [**insert name**], a [**insert type of company i.e. limited liability**] company incorporated under the laws of [**insert**] and having its registered address at [**insert address**], [**insert name of city and country**] ("**Contractor**").

**BACKGROUND**

- A The Employer intends to undertake the Works.
- B The Contractor has represented to the Employer that it has the appropriate experience, expertise, licences and resources to undertake the Works and has agreed to undertake the Works in accordance with the Contract.
- C In reliance on the Contractor's representations the Employer has entered into the Contract.
- D The Contract sets out the terms and conditions upon which the Contractor will undertake the Works.

**THIS CONTRACT:**

1. The Employer agrees to pay the Contractor the Contract Price, at the times and in the manner prescribed by the Contract, in consideration for the Contractor executing and completing the Works and remedying all defects in accordance with the Contract and otherwise performing all of its obligations in accordance with the Contract.
2. In the Contract words and expressions will have the same meanings as are respectively assigned to them in the General Conditions.
3. The following documents, listed in the order of priority, are deemed to form and be read and construed as part of the Contract:
  - 3.1 this Instrument of Agreement;
  - 3.2 the Schedule of Details;
  - 3.3 the Particular Conditions (if any);
  - 3.4 the General Conditions;
  - 3.5 the Specification;
  - 3.6 the Drawings; and
  - 3.7 the remaining Schedules.

**SIGNING PAGE**

**IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed by their respective duly authorised representatives as of the date first written above:

SIGNED BY \_\_\_\_\_

**[insert name of authorised signatory of UNOPS]**

Duly authorised to sign this Contract for and on behalf of the Employer, UNOPS:

In the presence of:

Signature \_\_\_\_\_ (witness)

Address \_\_\_\_\_

Occupation \_\_\_\_\_

SIGNED BY \_\_\_\_\_

**[insert name of authorised signatory of the Contractor]**

Duly authorised to sign this Contract for and on behalf of the Contractor, **[insert]**:

In the presence of:

Signature \_\_\_\_\_ (witness)

Address \_\_\_\_\_

Occupation \_\_\_\_\_

## GENERAL CONDITIONS

### 1. GENERAL PROVISIONS

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#### 1.1

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##### Definitions

In the Contract as defined below, the words and expressions defined have the following meanings assigned to them, except where the context requires otherwise:

**"Commencement Date"** means the date stated in the Schedule of Details.

**"Contract"** means the Instrument of Agreement, these General and Particular Conditions, the Schedules and the further documents (if any) which are listed in the Instrument of Agreement.

**"Contract Price"** means the price specified in the Schedule of Details subject to any increases or decreases as may be made in accordance with this Contract.

**"Contractor"** means the entity named as the "Contractor" in the Instrument of Agreement and the legal successors in title and assigns to this entity.

**"Contractor's Representative"** means the person named as such in the Schedule of Details or appointed from time to time by the Contractor under Sub-Clause 3.2, who acts on behalf of the Contractor.

**"Country"** means the country in which the Site is located.

**"Date of Substantial Completion"** means the date when the Works have reached Substantial Completion as stated in the Taking-Over Certificate.

**"day"** means a calendar day, unless provided otherwise.

**"Defects Notification Period"** means the period for notifying defects in the Works as stated in the Schedule of Details calculated from the Date of Substantial Completion.

**"Drawings"** means the drawings of the Works as listed in the Schedule of Works, and any additional or modified drawings issued by (or on behalf of) the Employer.

**"Employer"** means the entity named as the "Employer" in the Instrument of Agreement, and the legal successors in title and assigns and novatees to this entity.

**"Employer's Representative"** means the person named as such in the Schedule of Details or as otherwise notified by the Employer to the Contractor.

**"Force Majeure"** means an event or circumstance which is beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the Party affected was unable to prevent provided that event or circumstance is limited to the following:



- (a) war, (whether war be declared or not), invasion, act of foreign enemies within the Country;
- (b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war within the Country;
- (c) munitions of war, ionising radiation or contamination by radio-activity within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity; and
- (d) earthquake, hurricane, typhoon, tsunami or fire emanating from outside the Site within the Country that are outside the normal range for that place at that time of year, but excluding any other weather conditions regardless of the severity.

**"General Conditions"** means these general conditions of Contract.

**"Instrument of Agreement"** means the document signed by the Parties and forming part of the Contract.

**"Particular Conditions"** means the particular conditions (if any) set out immediately before the Schedules to the Contract.

**"Party"** means either the Employer or the Contractor.

**"Schedule of Contract Price & Payment"** is Schedule 4.

**"Schedule of Details"** is Schedule 1.

**"Schedule of Site"** is Schedule 3.

**"Schedule of Works"** is Schedule 2.

**"Schedules"** means Schedules 1 to 4 to this Contract, including any further documents which are annexed or attached to, or incorporated by reference into Schedules 1 to 4.

**"Site"** means the places provided by the Employer where the Works are to be executed and to which plant and materials are to be delivered as shown in the Schedule of Site.

**"Specification"** means the requirements or documents as listed in the Schedule of Works, including Employer's requirements in respect of design to be carried out by the Contractor, if any, and any Variation to such document.

**"Substantial Completion"** means that stage in the execution of the Works when the following has occurred:

- (a) the Works are performed and completed in accordance with this Contract except for minor defects which would not affect the performance or operation of the Works;

- (b) all tests required by this Contract have been undertaken and successfully passed;
- (c) all documents, technical and other information, including plans, designs, drawings, as-built drawings, engineering information, data, specifications, reports and any other information required under this Contract have been supplied to the Employer's Representative in accordance with this Contract or as directed by the Employer's Representative from time to time;
- (d) all third party warranties and certificates and local authority approvals have been issued and provided to the Employer's Representative; and
- (d) any other preconditions to Substantial Completion set out in the Schedule of Details have been met.

**"Taking-Over Certificate"** means a certificate issued under Clause 7 certifying the Works have reached Substantial Completion and stating the Date of Substantial Completion.

**"Time for Completion"** means the time for completing the Works as stated in the Schedule of Details (or as adjusted in accordance with the Contract), calculated from the Commencement Date.

**"Variation"** means a change, alterations, addition or omission to the Works which is instructed by the Employer's Representative under Clause 5.

**"Works"** means all the work to be performed by the Contractor in accordance with this Contract as specified in the Schedule of Works, including temporary work and any Variation.

## 1.2

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### Interpretation

Words importing persons or parties include firms and organisations. Words importing singular or one gender include plural or the other gender where the context requires.

## 1.3

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### Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. If an ambiguity or discrepancy is found in the documents, the Employer's Representative will issue any necessary instructions to the Contractor, and the priority of the documents is in accordance with the order as listed in the Instrument of Agreement.

## 1.4

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### Language

The language for communications is English.

## 1.5

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### **Communications**

Any notice, approval, consent or other communication in relation to this Contract must be in writing, signed, dated and marked to the relevant representative of the Parties and delivered to the address for service of notices and communications set out in the Schedule of Details.

## 1.6

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### **Statutory Obligations**

The Contractor must comply with the laws of the countries where activities are performed. The Contractor must give all notices and pay all fees and other charges in respect of the Works.

## 1.7

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### **Assignment of Contract**

The Contractor must not assign, transfer, pledge or make other disposition of this Contract or any part thereof or of any of the Contractor's rights, claims or obligations under this Contract.

## **2. EMPLOYER & EMPLOYER'S REPRESENTATIVES**

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### 2.1

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#### **Employer's Obligations**

The Employer agrees to pay the Contractor the Contract Price for the Works in accordance with Clause 4.

The Employer must provide the Contractor with possession of and access to the Site in accordance with the Schedule of Site. The Contractor acknowledges that it may not be given exclusive possession of, or exclusive access to, the Site.

### 2.2

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#### **Employer's Representative**

The Employer's Representative is authorised to carry out the duties assigned to it in the Contract. The Employer's Representative has no authority to amend the terms of the Contract unless an amendment is authorised and approved in writing by the Employer. The Employer's Representative may instruct Variations in accordance with Clause 5.

The Employer's Representative may from time to time assign duties and delegate authority to an individual to carry out certain duties. The appointee may be notified by the Employer's Representative to the Contractor from time to time. The Employer's Representative must notify the Contractor of the delegated duties and authority of this Employer's Representative's assistant.

### **3. THE CONTRACTOR & PERFORMANCE OF THE WORKS**

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#### **3.1**

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##### **Contractor's General Obligations**

The Contractor must commence the Works on the Commencement Date and must complete the Works by the Time for Completion. Despite any other provision in this Contract, the Employer's Representative may, in its absolute discretion and at any time, make an extension to the Time for Completion.

The Contractor must perform the Works in accordance with the Contract in an efficient, professional and cost effective manner in accordance with all applicable statutes, ordinances, laws, regulations and standards and all guidelines, procedures and directions made by the Employer and its personnel under this Contract.

The Contractor must provide, at its own cost, all equipment and materials necessary to undertake and complete the Works, unless otherwise specified in the Schedule of Works.

When requested in writing by the Employer's Representative, the Contractor must submit samples and/or catalogues of materials to the Employer's Representative for its consent within the time notified by the Employer's Representative.

The Contractor must ensure that it obtains all relevant authorisations, permits and licences to perform the Works, pay all fees and comply with any applicable occupational health and safety requirements including any set out in the Schedule of Works.

The Contractor must, in accordance with the requirements and timing set out in the Schedule of Works, or as instructed by the Employer's Representative, provide regular reports in relation to the Works and any occupational health and safety issues and any other documents requested.

Within three days after the Commencement Date, the Contractor must submit a programme for the Works to the Employer's Representative for approval which must comply with any requirements set out in the Schedule of Works. The programme will be used to monitor the progress of the Works under the Contract. The Employer's Representative may request the Contractor to submit an amended programme at any time for approval.

The Contractor must undertake all tests in accordance with the requirements set out in the Schedule of Works and must provide the Employer's Representative with 48 hours prior written notice of the time and place for the specified testing of parts of the Works.

### 3.2

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#### **Contractor's Representative & Contractor's Personnel**

The Contractor's Representative is named in the Schedule of Details. The Contractor must not replace the Contractor's Representative without the prior written consent of the Employer's Representative and must submit to the Employer's Representative for approval the name and particulars of the person the Contractor proposes to replace the Contractor's Representative. The Contractor is responsible for all acts and omissions of the Contractor's Representative.

The Contractor gives the Contractor's Representative all authority necessary to act on the Contractor's behalf under the Contract.

The Contractor's staff and labour must be appropriately qualified, skilled and experienced to perform their duties required in the performance of the Works. The Contractor assumes all liabilities or obligations imposed by any law or regulation with respect to such staff and labour.

The Employer's Representative may require the Contractor to remove any person employed to perform the Works who in the opinion of the Employer's Representative persists in any misconduct or lack of care, carries out duties incompetently or negligently, fails to conform with any provisions of this Contract or persists in any conduct which is prejudicial to safety, health, or the protection of the environment. The Contractor must immediately appoint a suitable replacement person for each person so removed.

### 3.3

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#### **Contractor's Status**

In all matters relating to this Contract, the Contractor is acting as an independent contractor and is not an employee or agent of the Employer and must not represent itself as such.

### 3.4

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#### **Sub-contracting**

In the event the Contractor requires the services of subcontractors, the Contractor must obtain the prior written approval of the Employer's Representative for all such subcontractors. The approval of the Employer's Representative does not relieve the Contractor of any of its obligations under this Contract, and the terms of any sub-contract must be subject to and in conformity with the provisions of this Contract.

### 3.5

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## **Inspection of Site**

The Contractor is deemed to have inspected and examined the Site, its surroundings, and access to the Site and to have satisfied itself that the Site and access to the Site, including security, is suitable for the Works and is deemed to have obtained all necessary information as to risks which may affect execution of the Works including climatic, hydrological and natural conditions and is not entitled to an increase to the Contract Price or to an extension to the Time for Completion based upon such conditions encountered during the execution of the Works that could have been reasonably foreseen by an experienced contractor acting in accordance with industry best practice.

### **3.6**

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#### **Care of Works & Security**

The Contractor must provide and maintain at its own cost all lights, guards and security necessary for the protection of the Works, the Contractor's personnel and the Employer's personnel, including materials and equipment, as well as for the safety of the public. The Contractor must comply with any additional security requirements set out in the Schedule of Site. In the event that any damage or loss should happen to the Works before hand-over, the Contractor must at its own cost repair the Works.

Unless otherwise stated in the Schedule of Works or instructed or permitted by the Employer in writing, the Contractor shall not bring onto or store on the Site, give, barter or otherwise dispose of to any person or persons, any arms, ammunition or explosives of any kind or permit or suffer the same.

### **3.7**

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#### **Unexploded Ordinances**

If at any time during the carrying out of the Works the Contractor discovers an unexploded ordinance or land mine, the Contractor must immediately stop work, notify the Employer's Representative, take all necessary steps to ensure the safety of all persons and property and secure the Site. The Contractor must immediately resume the Works when instructed by the Employer's Representative that it is safe to do so.

## **4. CONTRACT PRICE, PAYMENT & SECURITY**

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### **4.1**

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#### **Contract Price & Valuation of the Works**

The Employer must pay the Contractor the Contract Price in accordance with this Clause 4 and the Schedule of Contract Price & Payment. The Contractor is deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price and all fixed unit rates and prices in the Contract.

## 4.2

### Invoicing

The Contractor must submit an invoice to the Employer's Representative in accordance with the timings and requirements set out in the Schedule of Contract Price & Payment in a form approved by the Employer's Representative. The invoice must include details of the value of the work performed by the Contractor.

If requested by the Employer's Representative, when submitting an invoice, the Contractor must provide documentary evidence of all payments made to all its staff, labour and any subcontractors. The parties agree that if the Employer's Representative becomes aware that the Contractor has failed to pay its staff, labour or any subcontractors in accordance with this Contract, and the Employer's Representative gives the Contractor written notice 48 hours before the Employer intends to pay, the Employer may, in its absolute discretion, pay those staff, labour or subcontractors the amount the Employer's Representative determines is, or may be owing and the Employer may recover any such amount paid as a debt due from the Contractor to the Employer.

## 4.3

### Payment

The Employer may make an advance payment, if any, as a loan for mobilisation which must be repaid by the Contractor through percentage deductions, determined by the Employer's Representative, in the payments made under this Clause until the advance payment has been repaid. An advance payment will only be made if an amount is stated in the Schedule of Details for that amount. If requested, the Contractor must provide an advance payment guarantee from a bank approved by the Employer and in a form provided by or otherwise approved by the Employer.

Subject to the Contractor's compliance with clause 4.2, the Employer will pay the Contractor the amount set out in the invoice submitted under Sub-Clause 4.2 within 30 days of receipt of the invoice, less any amount to be deducted for advance payment and/or retention or where the Employer exercises its right to withhold, retain or set off part of the Contract Price under Sub-Clause 4.5.

Payment must be in the currency stated in the Schedule of Details.

No interest will be payable by the Employer in respect of any invoice rendered to the Employer by the Contractor under Sub-Clause 4.2 which remains due and unpaid (including any amounts withheld as a result of a dispute).

## 4.4

### Bank Guarantee for Performance

If stated in the Schedule of Details, the Contractor must provide an irrevocable and unconditional, on-demand bank guarantee for performance for such amount and in a form provided by or otherwise acceptable to the Employer. The bank guarantee for performance must be valid until the

Taking-Over Certificate is issued under Clause 7 at which time it will reduce by half and must remain valid until the end of the Defects Notification Period. If a bank guarantee for performance is required to be submitted under this Clause, the Employer may withhold payments under the Contract until it receives such bank guarantee for performance.

#### 4.5

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##### Retention & Set-Off

The Employer may withhold, retain or set off from any payment due to the Contractor under this Contract amounts to protect it against any costs, charges, expenses and damages for which the Contractor is liable to the Employer under or in connection with this Contract. Notwithstanding this, if an amount for retention is stated in the Schedule of Details, this amount will be deducted from each payment made under Sub-Clause 4.3 and must be reimbursed to the Contractor in accordance with the times stated in the Schedule of Details. This right to withhold, retain or set off does not limit the Employer's right to recover those amounts in any other way.

## 5. VARIATIONS

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The Employer's Representative may, by written notice, instruct the Contractor at any time to carry out a Variation and the Contractor must carry out and be bound by any such Variation. Unless otherwise instructed by the Employer's Representative in this notice, the Contractor must provide a detailed breakdown of the increase or decrease in the Contract Price and any effect on the Time for Completion within 7 days of receipt of this notice, and before the Contractor carries out the Variation. Where the Variation results in an increase to the Contract Price or extension to the Time for Completion, as determined by the Employer's Representative, the Contractor will be entitled to such amount and/or extension. The rate or price for any Variation must be determined by agreement, or in the absence of agreement, a valuation will be made by the Employer's Representative based on the rates in the bill of quantities contained in the Schedule of Contract Price & Payment. If no applicable rates or prices are stated in the bill of quantities, the rates and prices in the schedule of rates for Variations contained in the Schedule of Contract Price & Payment will be applied. If no applicable rates or prices are stated in the Schedule of Contract Price & Payment, a fair and reasonable valuation will be made by the Employer's Representative. For the avoidance of doubt the Contractor's entitlement to payment for a Variation excludes non-project specific overheads and costs. The Contractor must not carry out a Variation unless authorised by the Employer's Representative in writing.



## **6. INCREASE AND DECREASE OF COSTS**

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No adjustment of the Contract Price will be made in respect of fluctuations of market, prices of labour, materials, plant or equipment, neither due to fluctuation in interest rates nor devaluation or any other matters affecting the Works.

## **7. COMPLETION**

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As soon as the Works have, in the Contractor's opinion, reached Substantial Completion, the Contractor must give a notice to the Employer's Representative. Within 10 days the Employer's Representative must issue a Taking-Over Certificate to the Contractor stating the Date of Substantial Completion or notify the Contractor that there are defects or deficiencies in the Works and the Contractor must correct these. This procedure will be repeated until the Employer's Representative issues a Taking-Over Certificate.

Subject to the remainder of this Clause, the Contractor is entitled to an extension to the Time for Completion if it is delayed by;

- a) a Force Majeure Event; or
- b) any delay or disruption caused by any Variation, except where that Variation is caused by the Contractor's failure, act, omission or breach; or
- c) an act, omission or breach by the Employer or its agents.

The Contractor must notify the Employer's Representative as soon as practicable and in any case in writing no later than 7 days after it becomes aware of any event or circumstance which may delay or disrupt the Works. This notice must include details of the event or circumstance.

As soon as practicable after the Contractor submits this notice, the Employer's Representative will notify the Contractor of the period, if any, by which the Time for Completion will be extended, or respond with comments and request further particulars.

## **8. DELAY DAMAGES**

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If the Contractor fails to achieve Substantial Completion within the Time for Completion the Contractor must pay the Employer delay damages in the amount stated in the Schedule of Details for each calendar day of delay between the Time for Completion and the Date of Substantial Completion. The Employer is entitled to deduct any delay damages from the Contractor's outstanding invoices.

If the cumulative amount of delay damages reaches the amount stated in the Schedule of Details, the Employer may, at any time, terminate the Contract in accordance with Clause 26.

## **9. DEFECTS NOTIFICATION PERIOD**

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The Contractor must, at its own cost, repair, replace or otherwise make good any defects in the Works notified by the Employer's Representative during the Defects Notification Period. Any such defects must be remedied by the Contractor without delay and in the time notified by the Employer's Representative. If the Contractor fails to rectify the defect within this time, the Employer may engage another party to do so at the Contractor's risk and cost.

## **10. OWNERSHIP OF PAID MATERIAL AND WORK**

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All material and work covered by payments made by the Employer to the Contractor become the sole property of the Employer, but this provision does not relieve the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work or as waiving the right of the Employer to require the fulfilment of all of the terms of the Contract.

## **11. COPYRIGHT, PATENT AND OTHER PROPRIETARY RIGHTS**

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The Contractor must defend, indemnify and hold harmless the Employer from and against all claims and proceedings for infringement of any copyright, patent rights, design trademark or name or other protected rights resulting from Contractor's performance. The Contractor is responsible for all legal costs associated with the defence of the Employer. In defending the Employer, the Contractor shall not enter into a settlement agreement without the prior written approval of the Employer.

## **12. CONFIDENTIAL NATURE OF DOCUMENTS**

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All maps, drawings, plans, reports, documents and all other data created by or received by the Contractor under the Contract are the property of the Employer, and must be treated as confidential and must be delivered to the Employer's Representative on completion of the Works.

## **13. DAMAGE TO PERSONS AND PROPERTY**

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The Contractor must defend, indemnify and hold harmless the Employer, its officers, agents, employees and servants from and against all suits, claims, demands, proceedings, and liability of any nature or kind, including costs and expenses, for injuries or damages to any person or any property whatsoever which may arise out of or in consequence of acts or omissions of the Contractor or its agents, employees, servants or subcontractors in the execution of this Contract. The Contractor is

responsible for all legal costs associated with the defence of the Employer. In defending the Employer, the Contractor shall not enter into a settlement agreement without the prior written approval of the Employer.

## **14. INSURANCE**

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The Contractor must, on or prior to the Commencement Date, effect and thereafter maintain at all times, in the joint names of the Parties, those insurances, if any, as set out in the Schedule of Works.

All insurances must conform with any requirements detailed in the Schedule of Works. The policies must be issued by insurers and in terms approved by the Employer. The Contractor must provide the Employer with evidence that any required policy in connection with the Contract is in force and that the premiums have been paid.

All payments received from insurers relating to loss or damage to the Works must be held jointly by the Parties and used for the repair of the loss or damage or as compensation for loss or damage that is not to be repaired.

If the Contractor is required to effect insurance under this Clause and fails to do so or keep in force any of the insurances referred to, or fails to provide satisfactory evidence, policies or receipts, the Employer may, without prejudice to any other right or remedy, effect insurance for the cover relevant to such default and pay the premiums due and recover the same as a deduction from any other monies due to the Contractor.

## **15. SOURCE OF INSTRUCTIONS**

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The Contractor must not seek nor accept instructions from any authority external to the Employer or its authorised representatives under Sub-Clause 2.2, without the approval of the Employer's representative, in connection with the carrying out of the Works under this Contract.

## **16. OFFICIALS NOT TO BENEFIT**

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The Contractor warrants that no direct or indirect benefit has been given or will be given to any United Nations official in connection with this or any other Contract or the award thereof. The breach of this provision entitles the Employer to terminate the Contract immediately by written notice.

## **17. PREVENTION OF CORRUPTION**

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The Employer is entitled to terminate the Contract immediately by written notice and to recover from the Contractor the amount of any loss resulting from such termination if the Contractor, its personnel or anyone acting on its behalf, has offered or given any person any gift or consideration of any kind as an inducement or reward for doing or intending to do any action in relation to the award or execution of the Contract or any other contract with the Employer or for showing or intending to show favour or disfavour to any person in relation to the Contract or any other contract with the Employer, whether with or without the Contractor's knowledge.

## **18. NAME, EMBLEM OR OFFICIAL SEAL OF UNOPS OR THE UNITED NATIONS**

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The Contractor must not advertise or otherwise make public the fact that it is carrying out, or has carried out the Works for the Employer or use the name, emblem or official seal of the Employer or the United Nations or any abbreviation of the Employer's name or the United Nations for advertising purposes or any other purposes.

## **19. FORCE MAJEURE**

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If the Contractor is rendered unable, wholly or in part, to perform its obligations under this Contract due to a Force Majeure event, it must give notice and full particulars in writing to the Employer's Representative as soon as possible but no later than seven (7) days after the Contractor first became aware of the event. Subject to acceptance by the Employer of the existence of such Force Majeure event, the carrying out of the Works, or part of the Works, may be suspended by the Employer's Representative or, where Force Majeure circumstances otherwise frustrate the purpose of this Contract, either in time or purpose, the Employer may terminate this Contract by giving 14 days written notice to the Contractor.

The Contractor acknowledges and agrees that, with respect to any of its obligations under the Contract, the Contractor will be performing such obligations in areas in which the United Nations, including the Employer, is engaged in, preparing to engage in, or disengaging from peacekeeping, humanitarian or similar operations and any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas, shall not, in and to itself, constitute a Force Majeure event.

## **20. RECORDS, ACCOUNTS, INFORMATION AND AUDIT**

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The Contractor must maintain accurate and systematic records and accounts in respect of the Works and must furnish to the Employer any records or information,

oral or written, which may be reasonably request in respect of the Works or the Contractor's performance. The Contractor must allow the Employer or its authorised agents to inspect and audit such records or information upon reasonable notice. The Contractor must keep the records and accounts for a minimum of 5 years after the completion, expiry or termination of the Contract.

## **21. TAXATION**

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The Contractor is responsible for the payment of all charges and taxes in respect of income including value added tax, all in accordance with and subject to the provisions of the income tax laws and regulations in force and all amendments. It is the Contractor's responsibility to make all the necessary inquiries in this respect and is deemed to have satisfied itself regarding the application of all relevant tax laws.

## **22. RIGHTS AND REMEDIES OF THE EMPLOYER**

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Nothing in or relating to this Contract constitutes a waiver of any other rights or remedies of the Employer. The Employer is not liable for any consequences of, or claim based upon, any act or omission on the part of the Government of the Country.

## **23. PRIVILEGES AND IMMUNITIES**

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Nothing in or relating to this Contract is deemed a waiver of any of the privileges and immunities of the United Nations of which the Employer is an integral part.

## **24. FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK, CHILD LABOUR AND SEXUAL EXPLOITATION:**

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The Contractor warrants that it will comply with, and ensure the Contractor's Personnel will comply with, the 1998 International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work.

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 must 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 must take all appropriate measures to prevent sexual exploitation or abuse of anyone by the Contractor's personnel. For these purposes, sexual

exploitation and abuse includes sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, unless such sexual activity is consensual between two persons who are married and such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel.

In addition, the Contractor must refrain from, and must 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 favours or activities, or from engaging any sexual activities that are exploitive or degrading to any person.

## 25. SETTLEMENT OF DISPUTES

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### 25.1

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#### Dispute Resolution Procedure

Any dispute arising out of or in connection with the Contract, including any valuation or other decision of the Employer ("Dispute"), unless settled amicably by the Parties' Representatives, must be referred, at the request of either Party, to the Senior Representatives of the Parties set out in the Schedule of Details, or any replacement notified by a Party to the other Party in writing.

If the Senior Representatives of the Parties are unable to resolve a Dispute referred to them within 28 days, either Party may invite the other Party to conciliate the Dispute in accordance with the provisions of Sub-Clause 25.2. Otherwise, the Dispute must be referred, if requested by either Party, directly to arbitration in accordance with the provisions of Sub-Clause 25.3.

### 25.2

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#### Conciliation

- (a) In accordance with Sub-Clause 25.1, either Party may invite the other Party to conciliate a Dispute under the UNCITRAL Permanent Court of Arbitration Optional Conciliation Rules, 1996 (the "**Conciliation Rules**") provided that;
  - i. the language of the conciliation shall be in English;
  - ii. one conciliator must be appointed by agreement between the Parties;
  - iii. if the Parties are unable to appoint a conciliator within 14 days after the matter has been referred to conciliation, the conciliator will be appointed by the Secretary-General of the Permanent Court of Arbitration in accordance with the Conciliation Rules.

If the Parties do not reach agreement under the Conciliation Rules, the Dispute must be referred, if requested by either Party, to arbitration in accordance with Sub-Clause 25.3.

## 25.3

### Arbitration

If a Party are unable to resolve the Dispute in accordance with Sub-Clause 25.1 or 25.2, the Dispute must be referred, if requested by either Party, to and finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules ("**Arbitration Rules**") then in effect, provided that:

- (a) there is no seat or place of arbitration. The place of hearing must be the place stated in the Schedule of Details;
- (b) the language of the arbitration must be English;
- (c) the decisions of the arbitral tribunal must be based on general principles of international commercial law. The arbitral tribunal must not award punitive damages. In addition, the arbitral tribunal must not award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest must be simple interest only.

The Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

The arbitral proceedings and any information and documents relating to these proceedings must be regarded as confidential.

## 25.4

### Dispute resolution not to delay execution of the Works

Despite any activation of the dispute resolution procedures under this Clause 25, the Contractor must continue to execute the Works and its other obligations under or in connection with the Contract.

## 26. TERMINATION

The Employer may terminate this Contract by written notice for a breach by the Contractor of any of its obligations under this Contract if, within 14 days written notice by the Employer's Representative identifying the breach, the Contractor has not rectified such breach. If the Contract is terminated by the Employer due to a breach by the Contractor then the Employer is not obliged to pay any outstanding amounts until such time that the Employer has completed the Works and recovered its costs from the Contractor in doing so. After recovering any such costs, the Employer must pay any balance to the Contractor.

The Employer may terminate this Contract for convenience in the interest of the Employer by giving fourteen (14) days written notice to the Contractor. If the Employer terminates the Contract for its convenience or due to a Force Majeure event in accordance with Clause 19, the Contractor is entitled to be paid for the part of the Works satisfactorily completed, the materials and equipment properly delivered to and stored on the Site as of the date of termination for incorporation into the Works and any reasonable substantiated direct costs incurred by the Contractor as a result of the termination, but is not entitled to receive any other or further payment or damages. The Employer's Representative will make such determinations.

After a notice of termination under this Clause has taken effect, the Contractor must promptly cease all further work (except to the extent specified in the notice from the Employer) and take such action as necessary or as directed by the Employer, for the transfer, protection and preservation of the Employer's property, protection of life or for the safety of the Works. The Contractor must remove from the Site any wreckage, rubbish and debris of any kind and leave the whole of the Site in a clean and safe condition.



**PARTICULAR CONDITIONS**

**[Note to be deleted:]**

***Particular Conditions must be approved by the UNOPS legal department.***

***They should be incorporated in certain circumstances where additions are required to the General Conditions for a specific works package, either prior to issuing the Contract to tenderers, or following negotiations with the selected Contractor.***

***Please refer any requests for Particular Conditions to the UNOPS legal department who will provide the appropriate legal drafting. The current clauses of the General Conditions must not be amended without the approval of GPL-I]***

**Additional Clauses**

The General Conditions are amended by the inclusion of the following additional conditions:

If nothing is stated, then no additional conditions apply.

Clause	Additional General Condition

**SCHEDULES****SCHEDULE 1 - SCHEDULE OF DETAILS**

Commencement Date (Sub-Clause 1.1)	<b>[insert the date for commencement. Unless there is good reason it should be “The date of execution of the Contract as stated in the Instrument of Agreement”]</b>
Contract Price (Sub-Clause 1.1)	<b>[If this is a lump sum contract insert the following: “The lump sum amount of [insert the amount in words and figures]”]</b> <b>Or</b> <b>If the Contract Price is to be calculated on a measured price/re-measurement basis insert the following “The total estimated Contract Price amounts to [insert the amount]. The final Contract Price will be determined in accordance with the Schedule of Contract Price &amp; Payment ”]</b> See the Schedule of Contract Price & Payment for a breakdown of the Contract Price
Contractor's Representative (Sub-Clause 1.1)	<b>[name, position title and contact details to be inserted]</b>
Defects Notification Period (Sub-Clause 1.1 & Clause 9)	<b>[insert the number of months- the recommended period is 12 months. The threshold is between 6 – 18 months. Any length of time outside this threshold must be approved by GPL-I]</b> months
Employer's Representative (Sub-Clause 1.1)	<b>[insert name, position title and contact details]</b>
Substantial Completion (Sub-Clause 1.1)	<b>[insert additional pre-conditions to Substantial Completion]</b>  If none stated, then no additional grounds.

Time for Completion (Sub-Clause 1.1)	<b>Whole of the Works</b> <i>[insert no.] [months or weeks or days: select one]</i> from the Commencement Date.
Address for Service of Notices and Communications (Sub-Clause 1.5)	<b>Employer</b> Attention: <i>[insert]</i> Position title: <i>[insert]</i> Address: <i>[insert]</i> Facsimile Number: <i>[insert]</i> Email Address: <i>[insert]</i>  <b>Contractor</b> Attention: <i>[to be inserted]</i> Position title: <i>[to be inserted]</i> Address: <i>[to be inserted]</i> Facsimile Number: <i>[to be inserted]</i> Email Address: <i>[to be inserted]</i>
Advance Payment (Sub-Clause 4.3)	<i>[insert amount of advance payment]</i> If no amount is stated, no advance payment will be made.
Currencies of payment (Sub-Clause 4.3)	Payments will be made in local currency.
Bank Guarantee for Performance (Sub-Clause 4.4)	<i>[Insert either "The Contractor is required to submit a bank guarantee for performance" or "The Contractor is not required to submit a bank guarantee for performance".]</i>  The amount of the Bank Guarantee to be provided under Sub-Sub-Clause 4.3 is the amount equal to <i>[5 or 10 percent is recommended. An amount outside this threshold must be approved by GPL-]</i> % of the Contract Price. <i>[If a Bank Guarantee for performance is not required delete this paragraph]</i>

Retention (Sub-Clause 4.5)	<p><b>Amount of Retention</b></p> <p>The amount of <b>[5 or 10: select one]</b>% of the estimated value of Works executed in the relevant payment period as set out in the invoice for that period will be retained from each and every payment, except for any advance payment made, up to a maximum of <b>[5 or 10: select one]</b>% of the Contract Price..</p> <p><b>Release of Retention Money</b></p> <p>The Employer will release half of the retention money after issuance of the Taking-Over Certificate and the remainder at the end of the Defects Notification Period</p>
Delay Damages (Sub-Clause 8)	<p><b>Whole of the Works</b></p> <p><b>[insert amount]</b> per day.</p>
Cumulative Amount of Delay Damages (Clause 8)	<p><b>[insert]</b>.</p> <p><i>[It is recommended that the cumulative amount is around 10%. Delay damages should reflect real costs that would be incurred to UNOPS or our clients as a result of late completion. Note: a prudent manager would allow for some delay in project planning so as not to be fully reliant on delay damages.]</i></p>
Senior Representatives (Sub-Clause 25.1)	<p><b>Employer</b></p> <p><b>[insert name, position title and contact details]</b></p> <p><b>Contractor</b></p> <p><b>[insert name, position title and contact details]</b></p>
Arbitration (Sub-Clause 25.3)	<p>The place of the hearing, if any, is <b>[insert]</b></p>

**SCHEDULE 2 - SCHEDULE OF WORKS****Note:**

***This Schedule must set out a detailed description of the Works to be performed under this Contract and the other relevant information set out below including any insurance requirements.***

***For example you should include:***

- ***the Specification including a detailed description of all the work to be performed by the Contractor, including temporary work and the Employer's technical requirements and references to drawings and other relevant materials where applicable.***
- ***A complete list of the Drawings should be set out here and are referenced by drawing number, title, date and revision number, of which the latest of each prevails and the Drawings attached.***
- ***a list of any equipment or materials if applicable and any the Employer will provide (see Sub-Clause 3.1)***
- ***any applicable occupational health & safety requirements the Contractor is to comply with (see Sub-Clause 3.1)***
- ***any regular reporting requirements in relation to the Works and occupational, health and safety issues (see Sub-Clause 3.1)***
- ***any other documents requested (see Sub-Clause 3.1)***
- ***requirements for the contract programme (see Sub-Clause 3.1)***
- ***testing requirements (see Sub-Clause 3.1 & definition of Substantial Completion)***
- ***any requirements for the Contractor provide insurance i.e. for loss and damage to the Works, materials, plant and the contractor's equipment, for liability of both Parties for loss, damage, death or injury to third parties or their property arising out of the Contractor's performance of the Contract, including the Contractor's liability for damage to the Employer's property other than the Works, or for liability of both Parties and of any Employer's personnel for death or injury to the Contractor's personnel except to the extent that liability arises from the negligence of the Employer, any Employer's representative or their employees. (see Clause 14)***
- ***etc***

**SCHEDULE 3 - SCHEDULE OF SITE****Note:**

***This Schedule must set out a detailed description of the Site on which the Works will be performed.***

***For example, this Schedule could be set out in the following manner:***

**1. Description of the Site**

***[insert site details including address and include or refer to drawing numbers or maps of the Site]***

**2. Access to the Site**

***[insert details of access and any conditions which may impact on access of which the Contractor should be aware]***

**4. Site Security**

***[Insert any site security requirements in accordance with Sub-Clause 3.6]***

**SCHEDULE 4 - SCHEDULE OF CONTRACT PRICE & PAYMENT****Note:**

*This Schedule must set out the Contract Price (stating whether it is a lump sum price or based on a bill of quantities), a detailed breakdown of the Contract Price, invoicing requirements and payment. If this is a lump sum contract, insert “Not applicable” under the heading “Bill of Quantities”. If rates and prices are included only for the purpose of valuing Variations, this must be made clear and they must be inserted under the heading Schedule of Rates for Variations.*

**For example:****Contract Price****1. Contract Price**

*[If this is a lump sum contract insert the lump sum amount and include the clearest breakdown of the Contract Price that you can obtain. This may be in tabular form. ]*

**OR**

*If this is a measured price/re-measurement contract insert the estimated Contract Price and the following: “The Works shall be measured and valued for payment and the final Contract Price will be determined on the basis of the actual quantities of work and materials utilised in the complete and satisfactory performance of the Works as certified by the Employer’s Representative at the appropriate rate or price specified in the Bill of Quantities.”]*

**2. Bill of Quantities**

*[Insert any applicable Bill of Quantities. If the Bill of Quantities is too large to be physically included in this Schedule it should be incorporated by reference and then, the actual Bill of Quantities should be annexed to the Contract. If this is done, the Schedule must clearly identify the Bill of Quantities by author, title, date, revision number and annexure number.]*

*If there are no rates and prices, you should insert “Not Applicable under this heading”*

**3. Schedule of Rates for Variations**

**The rates for the purposes of valuing Variations are set out below.**

*Note: it is advisable to include in Variation rates any items that may be reasonably foreseeable to be utilised in Variations even if not included directly in the known scope of works at the time of bidding. In the event that a variation is required that utilises items not included in the schedule of*

*variation rates or BOQ UNOPS procurement rules may require a waiver to utilise enact a variation as the rates will be outside of the procurement process utilised to award this contract*

*The rates set out are fixed for the duration of the Contract and are not subject to escalation or adjustment for rises or falls in the cost of labour, goods, material and other inputs to the Works. The rates set out in the Schedule of Rates also include provision for Contractor's overheads and profit.*

*[Insert any applicable schedule of rates]*

#### **Invoicing & Payment (see Sub-Clause 4.1)**

##### **Note:**

*Various payment options are listed below.*

*Delete whichever option is not appropriate.*

##### **["Option 1 - Monthly Progress Payments**

*On the [insert date] of each month (or as otherwise agreed by the Parties) the Contractor must submit an invoice to the Employer's Representative."]*

**or**

##### **["Option 2 - Milestone Payments**

*Within [insert days] of completion of each milestone set out in the milestone payment schedule below, the Contractor must submit an invoice to the Employer's Representative for the relevant amount payable on achievement of the milestone.*

*[insert milestone payment schedule]"*

**or**

##### **["Option 3 - Lump Sum Payment**

*Within [insert days] of completion of the Works, the Contractor must submit an invoice to the Employer's Representative for the relevant amount payable on completion."]*

*An option is to back end the payment and include an amount which will be paid x days after the Date of Substantial Completion or on the expiry of the Defects Notification Period.*





PO Box 2695  
2100 Copenhagen  
Denmark  
[www.unops.org](http://www.unops.org)

Tel: +45 3546 7500  
Fax: +45 3546 7501  
E-mail: [info@unops.org](mailto:info@unops.org)