

## UNOPS NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“**Agreement**”) is made on the [insert] day of [insert month] 20[insert] between:

- 1) The United Nations Office for Project Services, a subsidiary organ of the United Nations, having its principal address at Marmorvej 51, PO Box 2695, 2100 Copenhagen, Denmark (the “**Disclosing Party**”); and
- 2) [insert name], a [insert details of Counterparty], having its principal address at [address], [insert name of city and country] (the “**Receiving Party**”);

(collectively referred to as the “**Parties**”, and individually as a “**Party**”).

### BACKGROUND

- A. UNOPS is a subsidiary organ established by UN General Assembly decision 48/501 of 19 September 1994 as a central resource for the UN system in relation to procurement, contracts management and other capacity development activities;
- B. The Parties wish to enter into discussions with each other concerning [insert nature of discussions] (the “**Discussions**”). In the course of such Discussions, the Disclosing Party may disclose to the Receiving Party Confidential Information (as defined below).
- C. For good and valuable consideration, the receipt and sufficiency of which is acknowledged by each Party, this Agreement sets out the respective obligations with respect to Confidential Information received by the Receiving Party from the Disclosing Party.

The Parties therefore agree as follows:

### 1. CONFIDENTIAL INFORMATION

- 1.1. In this Agreement, “**Confidential Information**” means any operational, administrative business or technical information, in whatever form transmitted, whether or not stored in any medium, relating to the Disclosing Party’s operations and/or business (and/or those of its suppliers and customers), including but not limited to equipment, software, designs, technology, technical documentation, product or service specifications or strategies, marketing plans, pricing information, financial information, information relating to existing, previous and potential suppliers, customers and contracts, inventions, applications, methodologies and other know-how, that is either proprietary to the Disclosing Party or its contractors or which either of the foregoing maintains as confidential and nonpublic. Confidential Information includes original information supplied by the Disclosing Party, as well as all copies.
- 1.2. “**Confidential Information**” does not include information which:
  - (a) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party in breach of this Agreement;

- (b) was available to the Receiving Party on a non-confidential basis prior to its disclosure;
- (c) is independently developed by the Receiving Party; or
- (d) is disclosed, without obligation of confidentiality, to the Receiving Party by a person or entity not party to this Agreement and who is entitled to disclose such information without breaching an obligation of confidentiality.

## **2. CONFIDENTIALITY**

- 2.1. The Receiving Party shall hold in the strictest confidence, and, except as provided herein, shall not disclose to any person outside its organization, any Confidential Information. The Receiving Party agrees use an appropriate degree of care (which, in any case, will not be less than the degree of care it uses with respect to its own information of like nature) to prevent disclosure of the Confidential Information. The Receiving Party will use the Confidential Information only for the Discussions and shall not use or exploit such Confidential Information for its own benefit or the benefit of another without the prior written consent of the Disclosing Party. Without limitation of the foregoing, the Receiving Party shall not cause or permit reverse engineering of any Confidential Information or recompilation or disassembly of any software programs that are part of the Confidential Information received by it under this Agreement and shall disclose Confidential Information only to persons within its organization who have a need to know such Confidential Information in connection with the Discussions and who are bound by a written agreement to protect the confidentiality of such Confidential Information.
- 2.2. Nothing in this Agreement is to be construed as granting the Receiving Party any title, ownership, license or other right or interest with respect to the Confidential Information. Confidential Information will be held in trust by the Receiving Party for the Disclosing Party.
- 2.3. Nothing in this agreement shall be construed as obligating any Party to continue any discussions or to enter into a business relationship.
- 2.4. The Receiving Party shall, upon expiration of this Agreement or the request of the Disclosing Party, destroy or return to the Disclosing Party all drawings, documents, and other tangible or electronic manifestations of Confidential Information received by the Receiving Party pursuant to this Agreement (and all copies and reproductions thereof). A senior officer or official of the Receiving Party, if requested by the Disclosing Party in writing, shall certify, by way of affidavit or declaration, on behalf of the Receiving Party that all such Confidential Information has been returned or destroyed, as applicable, and that it will not use any archived copies of Confidential Information that cannot be reasonably removed from archival storage. However, the counsel for each Party may retain one archival copy of all Confidential Information received under this Agreement for the sole purpose of reference in any subsequent legal disputes that may arise.

- 2.5. The Receiving Party will not copy or reproduce the Confidential Information except as reasonably required for the purposes contemplated in this Agreement, and will ensure that any confidentiality or other proprietary rights notices on the Confidential Information are reproduced on all copies.
- 2.6. The Receiving Party acknowledges that the Disclosing Party makes no representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information, and that the Confidential Information is not purported to represent a substitute, in whole or in part, for an independent evaluation of the operations or any transaction relating thereto.

### **3. AUTHORISED DISCLOSURE**

- 3.1. The Receiving Party may disclose the Confidential Information only if it is required to do so in compliance with the law, an order of court, or the rules or regulations of any relevant regulatory or administrative authority with jurisdiction over the Receiving Party, provided always that the Receiving Party shall:
- (a) give the Disclosing Party reasonable notice prior to the impending disclosure so that the Disclosing Party may seek protective relief and/or waive the duty of non-disclosure;
  - (b) only disclose the Confidential Information to such extent as is necessary for such compliance; and
  - (c) use its best endeavours to ensure that any person who receives the Confidential Information keeps such Confidential Information confidential and does not use it except for the purpose for which the disclosure is made.

### **4. OBLIGATION FOR PROMPT NOTIFICATION**

- 4.1. The Receiving Party shall promptly inform the Disclosing Party of any loss of confidentiality, unauthorised disclosure, misappropriation or misuse by any person of any Confidential Information, upon the Receiving Party having knowledge of the same.

### **5. TERM AND TERMINATION**

- 5.1. This Agreement shall remain in full force and effect for a period of one (1) year from the date of last signature by both Parties, provided that the restrictions on disclosure shall survive expiration of this Agreement for a period of five (5) years after the said expiration. This Agreement may not be modified, amended, discharged or terminated, except by mutual written agreement of the Parties.

### **6. GOVERNING LAW AND DISPUTE RESOLUTION**

- 6.1. This Agreement shall be governed by the UNIDROIT Principles of International Commercial Contracts (2010) and, with respect to issues not covered by such Principles, by generally accepted principles of international commercial law.

- 6.2. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be one. The language used in the arbitral proceedings shall be English. The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

## **7. MISCELLANEOUS PROVISIONS**

- 7.1. This Agreement constitutes the complete understanding of the Parties in respect of the subject matter in this Agreement and supersedes all prior agreements relating to the same subject matter.
- 7.2. The Parties agree to deliver further written documentation and to do or cause to be done any other things reasonably necessary to implement this Agreement.
- 7.3. This Agreement shall benefit and be binding on the Receiving Party and the Disclosing Party and their respective successors and permitted assigns. No Party may assign or transfer all or any part of its rights and obligations under this Agreement without the prior written consent of the other Party.
- 7.4. Nothing in or relating to this Agreement shall be construed as a waiver of any privileges and immunities of the United Nations of which UNOPS is an integral part.

For UNOPS:

For **[insert name of Receiving Party]**:

---

Name:

Designation:

Date:

---

Name:

Designation:

Date: