

APPENDIX 5

MODEL

CONTRACT NO.

between

THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
(UNIDO)

and

< NAME OF THE CONTRACTOR >

UNIDO Project Number: /
Activity Code:

This Contract comprises this cover page, a table of contents and () pages of text and () Annexes (A through).

UNIDO
PSM/OSS/PRS

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- Annex A : UNIDO General Conditions
- Annex B : Facilities, Privileges and Immunities Section
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- Annex D : Packing and Marking of Shipments
- Annex E : Drawings, Specifications and Manuals
- Annex F : Performance Bank Guarantee
- Annex G : UNIDO Terms of Reference dated

UNIDO Contract No:
Project No:

CONTRACT

between

THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

and

< NAME OF THE CONTRACTOR >

for the

PROVISION OF SERVICES AND SUPPLY OF EQUIPMENT, MATERIALS AND PARTS

related to the

< BRIEF TITLE OF THE WORK >

in the

< NAME OF THE COUNTRY >

THIS CONTRACT is made between the UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION (hereinafter referred to as "UNIDO"), having its headquarters located at Wagramer Strasse 5, A-1220 Vienna, Austria, and < NAME OF THE CONTRACTOR > (hereinafter referred to as "the Contractor"), having its principal office located at < ADDRESS OF THE CONTRACTOR >.

WHEREAS, UNIDO, in response to a request from the GOVERNMENT of the < NAME OF THE COUNTRY > (hereinafter referred to as "the Government"), has agreed to assist the Government in carrying out the project entitled "< NAME OF THE PROJECT >" (hereinafter referred to as "the Project") in < NAME OF THE PROJECT SITE >, the < NAME OF THE COUNTRY > (hereinafter referred to as "the Project Area");

WHEREAS, in this connexion, UNIDO desires to engage the Contractor to provide technical services, equipment and supplies required to carry out < WORK TITLE > (hereinafter referred to as "Work"), at < NAME OF THE RECIPIENT COMPANY >, < ADDRESS >, < COUNTRY >, (hereinafter referred to as "the Work Site"),

WHEREAS, the Contractor represents that he possesses the required technical knowledge, personnel and facilities for the purpose and that he is ready, willing and able to provide such technical services, equipment and supplies required to carry out the Work;

WHEREAS, the recipient of the technical assistance under the Project is < NAME OF THE RECIPIENT COMPANY/ORGANIZATION >, < ADDRESS >, < COUNTRY > (hereinafter referred to as "the Project Counterpart");

WHEREAS, references in this Contract to the Government shall be deemed to include the Project Counterpart;

NOW, THEREFORE, the Parties hereto mutually agree as follows:

1.00 AIM OF THE CONTRACT

1.01 Synopsis

The aim of the Contract is to provide services and supply equipment, materials and parts required to carry out the Work as specified by the Terms of Reference (Annex G to the Contract).

2.00 RESPONSIBILITIES OF THE CONTRACTOR

2.01 Statement of Work and Supply

In accordance with the terms and conditions stated herein and in the Annexes hereto, the Contractor shall provide all the technical services, equipment and supplies (hereinafter referred to as the "Equipment") as described in the Terms of Reference dated < DATE > and Contractor's Proposal dated < DATE >. A copy of the Terms of Reference is attached hereto as Annex G and made a part hereof. The Contractor's said Proposal, although not attached hereto, is made a part hereof by way of reference.

The Contractor shall carefully study the Contract and its Annexes as well as the Work Site conditions. Where the Contractor observes errors, inconsistencies, omissions or ambiguities, he shall immediately in writing refer same to UNIDO for UNIDO's written interpretation or correction. If the Contractor fails to so notify UNIDO, the Contractor shall be deemed to have waived any claim relating to said error, discrepancy, omission or ambiguity, shall be deemed to have estimated the most expensive material or method of execution of the Contract, and shall bear an appropriate amount attributable to the costs of any correction.

If there are discrepancies or conflicts between or among the Contract and its Annexes, then the document to prevail shall be given precedence in the following order:

- (1) Contract
- (2) Annexes A, B, C, D, E
- (3) Terms of Reference (Annex G)
- (4) Contractor's Proposal

2.02 Schedule of Delivery

- a) The Contractor shall deliver the Equipment under the Contract in accordance with the following delivery schedule:
- b) The Contractor shall complete the delivery under the Contract no later than < DATE AND MONTH >.
- c) The Contractor recognizes that time is of the essence for performance of this Contract and that UNIDO and the Project Counterpart will suffer damages if the Contractor does not complete delivery at the time set forth in the Contract.

2.03 Packing, Marking and Delivery of the Equipment and Technical documentation

- a) The Contractor shall pack and mark the Equipment and the technical documentation before shipment in accordance with Annex D hereto.
- b) Bills of Lading/Way Bills evidencing the shipment of the Equipment and/or Technical Documentation shall quote the shipping markings, designation of contents and dimensions in metric units, itemized net weight of the contents and total gross weight of each package and shall show as consignee the Resident Representative of the United Nations Development Programme (UNDP) in <COUNTRY OF DESTINATION>.
- c) The Contractor shall, in respect of each despatch/shipment of the Equipment and/or Technical Documentation, submit the following Shipping Documents:
 - (i) clean on-board ocean bill of lading/way bill under sub-paragraph 2.03 b) above;
 - (ii) insurance policy covering Delivery Duty Unpaid to the <Place of Destination> (INCOTERMS 2000) referred to under sub-paragraph 2.03 e) below;
 - (iii) certificate of origin;
 - (iv) commercial invoice and
 - (v) packing list.

Two (2) sets of shipping documents (including one original set) shall be submitted to UNIDO, Vienna, and two (2) sets to the said Resident Representative of the UNDP at least three (3) weeks in advance of the arrival of the Equipment at the <Place of Destination>.

- d) The term "Delivery Duty Unpaid the <Place of Destination>", wherever used in this Contract has the meaning and effect ascribed to it by "INCOTERMS 2000".
- e) The Contractor shall insure the Equipment and Technical Documentation during their shipment and transit to the <Place of Destination> and thereafter until the packing crates are opened in the presence of the Contractor's representative(s), against all risks of loss or damage from any cause. Such insurance shall be with a reputable insurance company acceptable to UNIDO and shall be in the names of the Contractor and UNIDO in their respective rights and interests. Any insurance moneys payable shall be paid to UNIDO who shall apply the same according to this Contract and the Parties' respective rights hereunder. The insurance shall cover the full price of the Equipment and Technical Documentation Delivery Duty Unpaid the <Place of Destination> plus ten percent (10%) and shall be in the currency of the Contract Price.
- f) The Contractor shall, regarding Customs clearance of the Equipment and/or Technical Documentation in the Project Area, liaise with the Resident Representative of the UNDP in <COUNTRY OF DESTINATION>, who is responsible, in conjunction with the Government, for obtaining such clearance.
- g) The Contractor shall be responsible for costs, fees and charges in respect of the export and transit of the Equipment and Technical Documentation, but not for customs duties in the Project Area, which are the responsibility of the Project Counterpart. The Contractor shall also obtain, at his own risk and expense, any export license or other

governmental authorization(s) necessary for the export of the Equipment and Technical Documentation.

- h) Storage of the Equipment and Technical Documentation on arrival at the <Place of destination> is the responsibility of the Project Counterpart under paragraph 4.01.
- i) In the event of loss of or damage to any of the Equipment and/or Technical Documentation during shipment or during transit or storage, or in the event of the Equipment and/or Technical Documentation being found, upon the opening of the packing crates at the <Place of destination> (in the presence of the Contractor's representative(s)), to be otherwise defective, unusable or ineffective for the purpose for which it(they) was(were) supplied, the Contractor shall promptly replace or repair such Equipment and/or Technical Documentation, by whatever means of transport or personnel services as are most suitable and reasonable in the circumstance. In the case of loss or damage which is covered by the insurance under sub-paragraph (e) above, the amount paid by the insurance company shall be made available by UNIDO towards the cost of replacement and/or repair.

2.04 Review of the Work Site Conditions

The Contractor shall visit the Work Site and ascertain all conditions and information pertaining to his Work prior to executing the Contract. By executing the Contract, the Contractor represents that he has examined the Work Site, determined its physical characteristics and correlated his personal observations with the requirements of the Contract, including but not limited to:

- (a) the condition of all structures and obstructions thereon, both natural and man-made, and the surface water conditions of the Work Site;
- (b) the nature, location, and character of the general area in which the Work Site is located, including its climatic conditions, available labour and equipment supply;
- (c) the quantity and quality of all materials, supplies, tools, equipment labour, and professional services necessary to complete the Work in the manner required by the Contract;
- (d) all pertinent national laws, rules, ordinances, and regulations; and
- (e) all the risks, contingencies and other circumstances, which may influence or affect the execution of this Contract.

No claim on the part of the Contractor arising from the non-fulfilment of the above shall be entertained.

2.05 Contractor's Personnel

The Contractor shall be responsible for the professional competence of its personnel assigned for the implementation of the work under the Contract. The Contractor shall select for this purpose, sufficiently qualified and experienced personnel who shall effectively perform the Work.

2.06 Warranty

The Contractor warrants that, the Work shall meet the specifications and requirements set forth in the Terms of Reference (Annex G).

2.07 Acceptance of the Work

- a) Conformity of the Work with the requirements of paragraph 2.06 shall be established by the inspection conducted jointly by the Contractor and UNIDO as per requirements of the Terms of Reference.
- b) The results of the inspection, together with a statement indicating whether or not the Work was proven to meet the requirements of paragraph 2.06 and sub-paragraph a) above, shall be certified by the authorized representatives of the Contractor and UNIDO in the Certificate of Acceptance of the Work.

2.08 Failure to meet Contract Specifications and Requirements - Remedial Measures/ Compensation

- a) If the inspection under paragraph 2.07 reveals that the Work does not meet the requirements referred to paragraph 2.06, then (unless the failure is due to factors outside the responsibility of the Contractor) the Contractor shall, at his own cost and expense, correct, modify or change any faulty work performed by him and shall, either by repair or replacement, correct, modify or change any faulty materials, parts and equipment supplied by him to the extent necessary for the purpose of achieving the above warranty. After execution of these corrections, modifications, changes, repairs and/or replacements, which shall be carried out by the Contractor without delay, a new inspection shall be carried out in conformity with paragraph 2.07.
- b) If any failure under paragraphs 2.07 or 2.08 a) to meet the stipulations of paragraph 2.06 cannot be rectified by remedial measures within the period (including extended period) agreed by UNIDO and the Contractor, UNIDO may hold the Contractor in default under paragraph 7.06.

2.09 Mechanical Warranty

The Contractor warrants that the Equipment, components, tools and spare parts supplied by him, his subcontractor(s) and/or suppliers under this Contract shall be new and free from defects in workmanship, materials and design. The Contractor shall repair or replace at his own expense and as soon as practicable any of the equipment, components, tools or spare parts which within a period of twelve (12) months from the date of the Certificate of Acceptance of Work referred to in sub-paragraph 2.07 b) hereinabove, prove to be defective as mentioned above or as a result of any erroneous or inadequate engineering drawings, technical specifications and/or operating instructions of the Contractor.

Damage caused by improper operation contrary to the Contractor's instructions or by negligence or lack of proper maintenance on the part of the Project Counterpart shall not be covered by this warranty. The warranty shall be deemed modified to the extent of any modifications to the Equipment and/or its working conditions made without authorization by the Contractor.

2.10 Correction of Defective Work

- a) If, within one year after the date of the acceptance of the Certificate of Acceptance of Work as per sub-paragraph 2.07 b), or under the terms of an applicable special warranty required by the Contract, any of the Work is found to be defective or non-conforming to the Contract, the Contractor shall correct it as soon as practicable after receipt of written notice from UNIDO to do so. This obligation shall survive acceptance of the Work under the Contract and termination of the Contract.

- b) Nothing contained in this paragraph 2.10 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract. The establishment of the time period of one year after the date of the completion of the Work or other dates or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract relates only to the specific obligations of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

2.11 Delays and Extension of Time

- a) If the Contractor is delayed at any time in the progress of the Work by any act or omission or changes ordered in the Work by UNIDO or the Project Counterpart, or by any employee of either, or by any separate contractor employed by the Project Counterpart, or any causes beyond the Contractor's reasonable control, or by any other cause which UNIDO determines may justify the delay, then the time for completion of the Work shall be extended by an Amendment to the Contract for such reasonable time as UNIDO may determine. This sub-paragraph does not apply to Force Majeure causes, which are covered by Clause 11 of the UNIDO General Conditions of Contract (Annex A hereof).
- b) Any claim for extension of the time for completion under sub-paragraph 2.11(a) shall be made in writing to UNIDO not more than twenty days (20) after the commencement of the delay; otherwise said claim shall be deemed to be waived. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work at the same time he serves notice of the delay.

2.12 Permits, Fees, Notices and Legal Requirements

- a) Unless otherwise provided in the Contract, the Contractor shall secure and pay for all the permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work, which are customarily secured after execution of the Contract and which are legally required at the time Contractor's Proposal is received.
- b) The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.
- c) If the Contractor observes that the Work required under the Contract is not in accordance with applicable laws, statutes, building codes and regulations, he shall promptly notify UNIDO in writing.

2.13 Protection of Persons and Property

- a) The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.
- b) The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
 - (i) all employees at the Work Site and all other persons who may be affected thereby;

- (ii) all the Work and all the equipment to be incorporated therein, whether in storage on or off the Work Site, under the care, custody or control of the Contractor or any of his subcontractor(s); and
 - (iii) other property at the Work Site or adjacent thereto.
- c) The Contractor shall give all notices and comply with all applicable laws, ordinances, building codes, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- d) The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying the Project Counterpart's personnel.
- e) When the use or storage of combustible, explosive or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- f) The Contractor shall promptly remedy all damage, injury or loss to any person or property referred to in sub-paragraph 2.13 b) caused in whole or in part by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under sub-paragraph 2.13 b), except damage, injury or loss attributable to the acts or omissions of the Project Counterpart or anyone directly or indirectly employed by him, or by anyone for whose acts the Project Counterpart may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligations under Clause 15 of the UNIDO General Conditions of the Contract (Annex A).
- g) The Contractor shall designate a responsible member of his Team, whose duty shall be the prevention of accidents at the Work Site during the execution of the Work. This person shall be the Contractor's Team Leader unless otherwise designated by the Contractor in writing to UNIDO.
- h) The Contractor shall not load any systems or equipment or permit any part of the Work to be loaded, so as to endanger safety of the operation.
- i) In any emergency affecting the safety of persons or property, the Contractor shall act reasonably, at his discretion, to prevent threatened damage, injury or loss.

2.14 Patent Rights

- a) The Contractor declares that he does not know of any protective rights of third parties which might be infringed by this Contract. Should, contrary to the Contractor's expectation, claims be raised against UNIDO charging them with infringement of patents, the Contractor shall hold harmless UNIDO and shall indemnify it to the full extent of any damages or awards arising from such claims. This obligation of the Contractor shall continue to be in full force and effect up to the expiration of such patents.
- b) UNIDO and/or the Project Counterpart shall give the Contractor due notice in writing of any charge of infringement brought against UNIDO and/or the Project Counterpart

and of the filing of any suit for infringement and shall give the Contractor opportunity to defend said suit at his discretion and shall not, without the Contractor's consent in writing, make any admissions or consent to any claim of any third party which might be prejudicial to the Contractor's position.

2.15 Other Facilities and Services to be provided by the Contractor

Except as otherwise stipulated in this Contract, the Contractor shall provide all the facilities and services required by his personnel for the execution of this Contract. Expenses of every kind incurred in connexion with such personnel shall be solely for the account of the Contractor. Such expenses shall include, but shall not be limited to, the cost of wages, housing, food, travel, medical attention and personnel insurance.

2.16 Standards of Work

The Contractor shall furnish the highest skill and judgment and cooperate with UNIDO and the Project Counterpart and all UNIDO's consultants and agents in best furthering the interests of UNIDO and the Project Counterpart. The Contractor shall furnish efficient business administration and superintendence, and he shall perform the Work in the best way and in the most expeditious and economical manner consistent with the interests of UNIDO and the Project Counterpart.

2.17 Reports

The Contractor shall submit to UNIDO, Vienna, in accordance with Annex C hereto entitled "Instructions to Contractors for the Dispatch of Reports", the following reports, in the English language.

<the number of reports is specific for each contract and may differ depending on the requirements of the work>

a) Progress Report(s)

Progress Report (s), in five (5) copies, elaborating on the progress of the Work, before
.....

b) Final Report

A Final Report, in ten (10) copies, covering the work performed under the Contract, no later than

2.18 Relationship between the Contractor's Team Leader and UNIDO Representative

The Contractor's Team Leader shall maintain a close and continuing relationship with the UNIDO Representative, or UNDP Resident Representative in case UNIDO is not directly represented in *<name of the country>* and/or his designated representative(s), and shall co-operate with him (them) in the performance of the Work hereunder and shall keep him/them currently informed of the progress of the assignment and plans for the performance of the Work. The UNIDO Representative, or UNDP Resident Representative in case UNIDO is not directly represented in *<name of the country>*, and/or his designated representative(s) shall have the right to observe at any time the progress of the Work carried out under this Contract and to consult with the Contractor's Team Leader and the other specialists concerning their Work performance.

2.19 Briefings and Debriefings

The Contractor's Team leader may be required during implementation of the Contract to visit UNIDO Headquarters in Vienna, Austria for briefings and debriefings. The dates and duration of such visits will be agreed upon by UNIDO and the Contractor.

2.20 Clearance of Site on Completion

Upon completion of the Work, the Contractor shall, at his expenses, clear away and remove from the Work Site all surplus materials, rubbish and temporary works of every kind including the covering up of holes of any nature and leave the whole of the Work Site clean and in a workmanlike condition to the satisfaction of UNIDO.

2.21 Supervision of the Execution of the Work by UNIDO's Site Engineer

(This paragraph will be included when the Project foresees appointment of a Site Engineer)

- a) UNIDO may, at its sole discretion, appoint a Site Engineer to supervise the execution of the Work at the Plant Site. The Site Engineer shall in general carry out such duties as are required for the satisfactory execution of the Contract. The Contractor shall cooperate with the Site Engineer in best furthering the interests of UNIDO and the Project Counterpart.
- b) The duties of the Organization's Site Engineer shall be as follows:
 - (i) Carry out inspection of the delivered Equipment, tests of samples of materials and supplies and verify workmanship, as he may consider necessary at the cost of the Contractor in order to ensure their compliance with the relevant specifications and standards of the Terms of Reference (Annex G);
 - (ii) Subject to sub-paragraph 2.11(b), propose and submit for appropriate approval to UNIDO's Substantive Office (hereinafter referred to as "the Substantive Office"), the extensions of the Schedule of Work as set out in the Terms of Reference (Annex G) except if they are caused by circumstances for which, in the opinion of the Site Engineer, the Contractor is responsible;
 - (iii) Explain, adjust and modify, in case of ambiguities or discrepancies, the specifications of the Terms of Reference (Annex G) and the relevant drawings, provided always that any adjustments and modifications shall receive prior approval by the Substantive Office and shall not result in any additional costs to UNIDO beyond the amount specified in paragraph 4.01 hereunder;
 - (iv) Whenever necessary, provide on site, a technical solution for the execution of the Work in close collaboration with the Substantive Office;
 - (v) Check quantities of Work completed and clear or reject, in consultation with the Substantive Office, invoices submitted by the Contractor for such quantities;
 - (vi) Determine the amount(s) due from the Contractor's as provided in Clause 5.00 of the Contract and recommend to the Substantive Office their deduction from any of the Contractor's invoices due for payment;
 - (vii) Prepare and submit for the approval of the Substantive Office concerned any modification of the Work.

- (viii) Submit the Certificate of Acceptance of the Plant to the Substantive Office for signature.

It is understood that any modification of the specifications of the Work or of the approved final designs or drawings or plans related thereto which may result in additional costs to UNIDO, does not commit UNIDO without its prior written approval to increase UNIDO's financial liability as determined in paragraph 4.02 below.

3.00 RESPONSIBILITIES OF THE GOVERNMENT/PROJECT COUNTERPART

3.01 Responsibilities of the Government/Project Counterpart

UNIDO has entered into this Contract with the Contractor on the basis of the Government undertaking to provide, at no cost to the Contractor (through the Project Counterpart, where appropriate), the services and facilities as specified in the Terms of Reference (Annex G) as well as the following complementary services and facilities:

(the scope of responsibilities of the Government/Project Counterpart will be determined based on the provisions of the Project Document)

3.02 Responsibilities of the UNIDO Representative/UNDP Resident Representative

The UNIDO Representative in the Project Area, or UNDP Resident Representative in case UNIDO is not directly represented in *(the country)*, as the representative of UNIDO, shall:

- a) act as Liaison Officer between the Contractor's personnel and officials of the Government in all matters relating to this Contract;
- b) cable UNIDO, Procurement Services/ADM, confirming the arrival in, and departure from, the Project Area of the Contractor's personnel;
- c) refer to UNIDO, Procurement Services/ADM, such administrative matters relating to execution of this Contract as may be brought to its attention and which cannot be resolved in the Project Area.

4.00 CONTRACT PRICE AND TERMS OF PAYMENT

4.01 Contract Price

UNIDO shall pay the Contractor, for the full and proper performance of his obligations under this Contract, the sum of < CURRENCY, THE SUM IN WORDS > (< FIGURE >).

This sum shall cover all expenses incurred by the Contractor including, but not limited to the cost of the Equipment and technical documentation and their delivery to the <Place of destination>, the complete technical services, the remuneration of the Contractor's personnel and all other compensations, insurance and social charges as well as his overheads, technical assistance and supervision costs. It also shall cover the costs in connexion with the travels of the Contractor's technical personnel from their place of residence and/or place of work to the <Place of Destination> and return, and their subsistence in the Project Area.

The Contractor shall be responsible for payment at his own cost of all taxes, assessments, liens and charges which will be due to be paid by the Contractor as a result of this Contract.

4.02 Contract Ceiling

The Contractor shall not provide any materials or equipment, or perform any services which may result in any charges to UNIDO over and above the said sum of < CURRENCY, THE SUM IN WORDS > (< FIGURE >) without the prior written consent of UNIDO and a formal amendment to this Contract.

4.03 Exclusion of Escalation

The Contract price set forth in paragraph 4.01 is fixed and firm and not subject to escalation.

4.04 Currency of Payment

The total Contract price of < CURRENCY, THE SUM IN WORDS > shall be paid in <CURRENCY>.

4.05 Progress Payments

Progress payments on account of the Contract price set forth in paragraph 3.01 shall be made in accordance with the following schedule:

<prepared for each contract individually depending on the requirements of the work>

The making of any payment hereunder by UNIDO shall not be construed as an unconditional acceptance by UNIDO of the work accomplished, or the equipment or technical documentation delivered by the Contractor up to the time of such payment.

4.06 Performance Bank Guarantee

The Contractor shall, within one (1) month from the signing of the Contract, submit to UNIDO a performance bank guarantee issued by a bank or insurance company approved by UNIDO, for the initial sum of < CURRENCY, THE SUM IN WORDS >. This sum will be lowered to < CURRENCY, THE SUM IN WORDS > on the date of the acceptance by UNIDO and/or its authorized representative(s) at the Plant Site in the performance tests of all the Equipment to be supplied by the Contractor under the Contract. The performance bank guarantee shall secure proper and faithful performance by the Contractor of his obligations under the Contract and shall be in the form set out in Annex F attached hereto. The guarantee will become effective on the date that the initial payment made by UNIDO is received into the Contractor's bank account and shall remain in full force and effect until the date calculated as the date of the acceptance by UNIDO of the Contractor's Final Report to be submitted in accordance with sub-paragraph 2.17 of the Contract plus twelve (12) months.

4.07 Withholding of Payments

UNIDO may withhold any payment to the Contractor or, on account of subsequently discovered evidence, nullify the whole or part of any payment approval theretofore given, to such an extent as may be necessary to protect UNIDO, and/or the Government from loss under this Contract on account of:

- a) the Contractor's failure to carry out the work or to make adequate progress on the work, except for failure arising out of force majeure;
- b) the Contractor's failure to remedy defective work and/or unsatisfactory performance, when such failure has been drawn to his attention by UNIDO;
- c) the Contractor's failure to submit the reports required under paragraph 2.17;

- d) the Contractor's failure to pay properly to subcontractor(s) and for material, labour and equipment;
- e) the existence of damage claims presented by the UNIDO or of reasonable evidence indicating the probable basis on which damage claims may be presented by the UNIDO;
- f) breach by the Contractor of the Contract.

The withholding by UNIDO of any interim payment shall not affect the Contractor's obligation to continue performance under this Contract.

No interest shall accrue on payments eventually withheld by UNIDO in application of the stipulations of this paragraph.

4.08 Submission of Invoices

Each payment shall be made on the basis of an original invoice submitted by the Contractor and indicating Contractor's account number, bank name and address, sort code for electronic transfer, SWIFT, IBAN and other information as may be required UNIDO for effecting the payment.

4.09 Mode of Payment

Payments under this Contract shall be made by the UNIDO by bank transfer to the bank account of the Contractor.

5.00 PENALTIES

- 5.01** In case the Contractor, for reasons attributable to him, does not comply with the dates/time limits stipulated in paragraph 2.02 of the Contract regarding performance and delivery, the Contractor is obliged to pay as compensation for any delay one quarter (0.25) percent of the Contract Price for each week of delay but not more than a maximum of ten (10) percent of the Contract Price. The penalties shall be deducted by UNIDO from the sums due to be paid to the Contractor in accordance with sub-paragraph 4.05 of the Contract.

6.00 CONTRACTOR'S CLAIMS AND REMEDIES

- 6.01** In no event shall the Contractor make any claim against UNIDO for or be entitled to additional costs or compensation resulting from any delays in the progress or completion of the Contract or any portion thereof, whether caused by the acts or omissions of UNIDO or the Project Counterpart, including but not limited to damages related to overhead, loss of productivity, acceleration delay, total costs and inefficiency. Contractor's sole remedy in such event shall be an extension of the time for completion of the Contract, provided the Contractor otherwise meets the requirements and conditions set forth in paragraph 2.02.

7.00 INSURANCE

7.01 Insurance of the Works

The Contractor shall, without limiting his or UNIDO's obligations and responsibilities under the Contract, insure with an insurance company acceptable to UNIDO:

- a) The Works, together with the materials and equipment for incorporation therein, to their full replacement cost, plus an additional sum of fifteen (15) per cent of such replacement cost, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature;
- b) The insurance referred to in sub-paragraphs 7.01 a) shall be in the joint names of the Contractor and UNIDO and shall cover UNIDO and the Contractor against all loss or damage from whatsoever cause arising from the start of the Work at the Work Site until the date of the final payment.

7.02 Liability Insurance

The Contractor shall provide and maintain insurance for an appropriate amount against public or third party liabilities for bodily injury or death or property damage resulting from any operations carried out by the Contractor in order to comply with his obligations under the Contract.

7.03 Responsibility for Amounts not Recovered

Any amounts not insured or not recovered from the insurers shall be borne by the Contractor.

8.00 GENERAL PROVISIONS

8.01 Entry into Effect of the Contract

This Contract shall become effective upon the signing hereof by both Parties.

8.02 General Conditions

The Parties hereto agree to be bound by the UNIDO General Conditions which are attached hereto as Annex A.

8.03 Notices

Any notice given by either of the Parties hereunder shall be in writing.

8.04 Transmission of Notices, Invoices, Reports and other Documents

Unless otherwise stipulated in this Contract, instructions, manuals, reports, invoices, notices and shipping documents required to be submitted by the Contractor shall be addressed to the Procurement Services Unit/OSS//PRS, UNIDO, P.O. Box 300, A-1400 Vienna, Austria.

8.05 Covenant against Contingent Fees

The Contractor warrants that:

- a) no person or selling agency has been employed or retained by him to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, contingent fee or retainer, except regular employees or bona fide and officially established commercial or selling agencies maintained by the Contractor for the purpose of securing business;
- b) no official or servant or retired employee of UNIDO, the Executive Committee, the United Nations, the UNDP and the Participating and Executing Agencies of the UNDP or the Government and/or its co-operating Agency(ies), who is not a regular employee of the Contractor, has been or shall be admitted by the Contractor to any direct or indirect benefit arising from this Contract or the award thereof.

For breach of these warranties, UNIDO shall have the right to deduct from the Contract price, or otherwise recover from the Contractor, the full amount of any such commission, percentage, brokerage, contingent fee or retainer so paid.

8.06 Default by the Contractor

In case the Contractor fails to fulfil his obligations and responsibilities under this Contract, and provided the Contractor has not remedied such failure(s) within thirty (30) days of having been given UNIDO's express written notification of the nature of the failure(s), UNIDO may, at its sole option and without prejudice to its right to withhold payment(s) as hereinbefore provided, hold the Contractor in default under this Contract. When the Contractor is thus in default, UNIDO may, by giving written notice to the Contractor, terminate the Contract as a whole or such part or parts thereof in respect of which the Contractor is in default. Upon such notice, UNIDO shall have the right to seek completion, at the Contractor's expense, of that part or those parts of the Contract with respect to which the Contractor is in default. The Contractor shall, in this case, be solely responsible for any reasonable costs of completion, including such costs which are incurred by UNIDO over and above the originally agreed Contract price stipulated hereinbefore.

8.07 Temporary Suspension of Work

The UNIDO may, at any time, temporarily stop the work being performed by the Contractor under this Contract by giving notice in writing to the Contractor. All work so stopped shall be resumed by the Contractor on the basis of a revised time schedule and on terms and conditions to be mutually agreed upon between the Parties.

8.08 Transfer of Rights and Responsibilities from the UNIDO to the Government/Project Counterpart

The Contractor is aware that, in due course, the title to the Equipment will be transferred by the UNIDO to the Government/Project Counterpart accepts that, from such time, all related rights and responsibilities of UNIDO shall pass to the Government/Project Counterpart.

8.09 Contract Amendment

No modification of, or change in, this Contract, or waiver of any of its provisions, or additional contractual relationship with the Contractor shall be valid unless approved in the form of a written amendment to this Contract, signed by a fully empowered representative of the Contractor and UNIDO.

8.10 No contractual relationship between Contractor and Project Counterpart

Nothing contained in the Contract shall create any contractual relationship between the Project Counterpart and the Contractor.

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

UNITED NATIONS INDUSTRIAL
DEVELOPMENT ORGANIZATION

By.....

By.....

Procurement Services Division
Department of Operational Support Services
Directorate of Corporate management
and Operations
Wagramer Strasse 5
A-12200 Vienna
Austria

Date.....

Date.....

UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

Annex A

GENERAL TERMS AND CONDITIONS

(TC Contracts)

1. Confidential Nature of Documents

All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of UNIDO, shall be treated as confidential and shall be delivered only to UNIDO's authorized officials on completion of the work under this Contract; their contents shall not be made known by the Contractor, without the written consent of UNIDO, to any person other than the personnel of the Contractor performing services under this Contract. The obligations of this paragraph do not lapse upon satisfactory completion of the work under this Contract or termination of this Contract, including termination by UNIDO.

2. Independent Contractor.

The Contractor shall have the legal status of an independent contractor. Any person assigned by the Contractor to perform services under this Contract shall remain in the employment of the Contractor. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNIDO or the United Nations. Without restricting the generality of the foregoing, UNIDO shall not be liable for any claims and demands, loss, costs, damages, actions, suit or other proceedings, brought or prosecuted, in any manner based upon, occasioned by or attributable to the employment relationship between any person assigned by the Contractor to perform services under this Contract and the Contractor. Unless otherwise provided for in this Contract, UNIDO shall not be liable for claims of any kind in connexion with the performance of such services. The Contractor and his employees shall conform to all applicable laws, regulations and ordinances promulgated by legally constituted authorities of the Government.

3. The Contractor's Responsibility for Employees

The Contractor shall supervise and be fully responsible for the work performed by and the professional and technical competence of his employees and shall select, for work under this Contract, reliable individuals who will perform effectively in the implementation of the Contract, comply with the laws of the Government, respect the local customs and conform to a high standard of moral and ethical conduct.

4. **Assignment of Personnel**

The Contractor shall not assign any personnel other than those referred to in this Contract for the performance of work in the field without the prior written approval of UNIDO. Prior to assigning any other personnel for the performance of work in the field, the Contractor shall submit to UNIDO for its consideration, the curriculum vitae of any person the Contractor proposes to assign for such service.

5. **Removal of Personnel**

Upon written request by UNIDO, the Contractor shall withdraw from the field any personnel provided under this Contract and shall replace such personnel by other acceptable to UNIDO, if UNIDO so requests. All costs and additional expenses resulting from the replacement, for whatever reason, of any of the Contractor's personnel shall be for the account of the Contractor. Such withdrawal shall not be considered as termination in part or in toto of this Contract under the provisions of paragraph 12 "Termination" hereafter.

6. **Assignment**

The Contractor shall 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 except with the prior written consent of UNIDO.

7. **Sub-Contracting**

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNIDO for all sub-contractors. UNIDO's approval of a sub-contractor shall not relieve the Contractor of any of his obligations under this Contract, and the terms of any sub-contract shall be subject to and in conformity with the provisions of this Contract.

8. **UNIDO Privileges and Immunities**

Nothing in or relating to this Contract shall be deemed a waiver of any of the privileges and immunities of UNIDO.

9. **Non-employment of UNIDO Staff Members**

The Contractor shall not, while this Contract is in effect, employ or consider the employment of UNIDO staff members without the prior written approval of UNIDO.

10. **Language, Weights and Measures**

Unless otherwise specified in the Contract, the English language shall be used by the Contractor in all written communications to UNIDO with respect to the services to be rendered and all documents procured or prepared by the Contractor pertaining to the work. The metric system of weights and measures shall be used by the Contractor and estimates of quantities involved shall be made and recorded in metric units, except when otherwise specified in the Contract.

11. Force Majeure

Force Majeure as used herein shall mean acts of God, laws or regulations, industrial disturbances, acts of the public enemy, civil disturbances, explosions and any other similar event of equivalent force not caused by nor within the control of either party and which neither party is able to overcome. As soon as possible after the occurrence of any event constituting Force Majeure, and if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract, the Contractor shall give notice and full particulars thereof in writing to UNIDO. In this event, the following provisions shall apply:

- (a) The obligations and responsibilities of the Contractor under this Contract shall be suspended to the extent of its inability to perform them and for as long as such inability continues. During such suspension and in respect of work suspended, the Contractor shall be entitled only to reimbursement by UNIDO, against appropriate vouchers, of the essential costs of maintenance of any of the Contractor's equipment and of per diem of the Contractor's personnel rendered idle by such suspension.
- (b) The Contractor shall, within fifteen (15) days of the occurrence of the Force Majeure, submit a statement to UNIDO of estimated expenditures for the duration of the period of suspension.
- (c) The term of this Contract shall be extended for a period equal to the period of suspension taking, however, into account any special conditions which may cause the time for completion of the work to be different from the period of suspension.
- (d) If the Contractor is rendered permanently unable, wholly or in part, by reason of Force Majeure, to perform its obligations and meet its responsibilities under this Contract, UNIDO shall have the right to terminate this Contract on the same terms and conditions as are provided for in paragraph 12, "Termination" except that the period of notice may be seven (7) days instead of thirty (30) days.
- (e) For the purpose of the preceding sub-paragraph (d), UNIDO may consider the Contractor permanently unable to perform in case of any period of suspension in excess of ninety (90) days. Any such period of ninety (90) days or less shall be deemed temporary inability to perform.

12. Termination

UNIDO may terminate this Contract in whole or in part and at any time, upon thirty (30) days' notice of termination to the Contractor. The initiation of arbitral proceedings in accordance with paragraph 16, "Arbitration", below shall not be deemed a termination of this Contract. In the event such termination is not caused by the Contractor's negligence or fault, UNIDO shall be liable to the Contractor for payment in respect of work already

accomplished, for the cost of repatriation of the Contractor's personnel, for necessary terminal expenses of the Contractor, and for the cost of such urgent work as is essential and as the Contractor is asked by UNIDO to complete. The Contractor shall keep expenses at a minimum and shall not undertake any forward commitment from the date of receipt of UNIDO's notice of termination.

13. Bankruptcy

Should the Contractor be adjudged bankrupt or be liquidated or become insolvent, or should the Contractor make a general assignment for the benefit of its creditors, or should a receiver be appointed on account of the Contractor's insolvency, UNIDO may, without prejudice to any other right or remedy it may have under the terms of this Contract, terminate this Contract forthwith by giving the Contractor written notice of such termination. The Contractor shall immediately inform UNIDO of the occurrence of any of the above events.

14. Insurance and Liabilities to Third Parties

- (a) The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- (b) The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- (c) The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.
- (d) Except for the workmen's compensation insurance, the insurance policies under this Article shall:
 - (i) Name UNIDO as additional insured;
 - (ii) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNIDO;
 - (iii) Provide that UNIDO shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

- (e) The Contractor shall, upon request, provide UNIDO with satisfactory evidence of the insurance required under this Article.
- (f) Any amounts not insured or not recovered from the insurers shall be borne by the Contractor.
- (g) If the Contractor fails to effect and keep in force any of the insurances required under the Contract, then and in any such case UNIDO may, at its option, hold the Contractor in default in accordance with the Contract, or effect and keep in force any such insurances and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due to the Contractor, or recover the same as a debt due from the Contractor.

15. Indemnification

The Contractor shall indemnify, hold and save harmless and defend at its own expense UNIDO, its officers, agents, servants and employees from and against all suits, claims, demands and liability of any nature or kind, including costs and expenses, arising out of acts, omissions, negligence or misconduct of the Contractor or its officers, agents, servants, representatives, employees, or sub-contractors in the performance of this Contract. This requirement shall extend to claims or liabilities in the nature of workmen's compensation and to claims or liabilities arising out of the use of patented inventions or devices. The obligations under this paragraph do not lapse upon termination of this Contract.

16. Settlement of Disputes

(a) Amicable Settlement

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to this 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 UNCITRAL

Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

(b) Arbitration

Unless, any such dispute, controversy or claim between the Parties arising out of or relating to this Contract or the breach, termination or invalidity thereof is settled amicably under the preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, including its provisions on applicable law. The arbitral tribunal

shall have no authority to award punitive damages. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute. It is understood, however, that the provisions of this paragraph shall not constitute nor imply the waiver by UNIDO of its privileges and immunities.

17. Conflict of Interest

No employee of the Contractor assigned to perform work under this Contract shall engage, directly or indirectly, either in his own name or through the agency of another person, in any business, profession or occupation in the country of the Government; nor shall he make loans to or investments in any business, profession, or occupation in the said country.

18. Obligations

In connexion with the performance of its services under this Contract, the Contractor shall neither seek nor accept instructions from any authority external to UNIDO. The Contractor shall refrain from any action which may adversely affect UNIDO and shall fulfil its commitments with full regard for the interests of UNIDO. Unless authorized in writing by UNIDO, the Contractor shall not advertise or otherwise make public the fact that it is performing or has performed services for UNIDO. Also, the Contractor shall not, in any manner whatsoever, use the name, emblem or official seal of the United Nations or of UNIDO or any abbreviation of the name of the United Nations in connexion with its business or otherwise. The Contractor is required to exercise utmost discretion in all matters relating to this Contract. Unless required in connexion with the performance of its work under this Contract or where specifically authorized by UNIDO, the Contractor shall not communicate at any time to any person, government or authority external to UNIDO any information which has not been made public and which is known to it by reason of its association with UNIDO. The Contractor shall not, at any time, use such information to private advantage. These obligations do not lapse upon satisfactory completion of the work under this Contract or termination of this Contract, including termination by UNIDO.

19. Title Rights

- (a) The United Nations or UNIDO, as the case may be, shall be entitled to all property rights including but not limited to patents, copyrights and trademarks, with regard to material which bears a direct relation to, or results from the services provided to the United Nations or UNIDO by the Contractor under this Contract. At the request of UNIDO, the Contractor shall take all necessary steps, prepare and process all necessary documents and assist in securing such property rights and transferring them to the United Nations and UNIDO in compliance with the requirements of the applicable law.
- (b) Title to any equipment and supplies which may be furnished by UNIDO shall rest with the United Nations or UNIDO as the case may be and any such equipment and supplies shall be returned to UNIDO at the conclusion of this Contract or when no longer needed by the

Contractor. Such equipment and supplies, when returned to UNIDO, shall be in the same condition as when delivered by UNIDO to the Contractor, subject to normal wear and tear.

20. Facilities, Privileges and Immunities of Contractor and Contractor's Personnel

UNIDO agrees to use its best efforts to obtain for the Contractor and his personnel (except Government nationals employed locally), to the extent granted by the Government to UNIDO staff members, such facilities, privileges and immunities as the Government has agreed to grant to contractors and to their personnel performing services for the United Nations Development Programme within the country. Such facilities, privileges and immunities shall include exemption from or reimbursement of the cost of any taxes, duties, fees or levies which may be imposed in the country on salaries or wages earned by the Contractor's foreign personnel in connexion with the execution of the work under this Contract and on any equipment, materials and supplies which the Contractor may bring into the country in connection with the work under this Contract or which, after having been brought into the country, may be subsequently withdrawn therefrom. A copy of the relevant provisions concerning facilities, privileges and immunities which UNIDO shall seek to obtain, is attached to and made a part of this Contract (Annex B).

21. Waiver of Facilities, Privileges and Immunities

Any provision, whether in an Agreement, Plan of Operation or any other instrument, to which the recipient Government is a party and by which the recipient Government confers benefits upon the Contractor and his personnel in the form of facilities, privileges, immunities, or exemptions by reason of his performance of services for UNIDO under this Contract may be waived by the UNIDO where, in its opinion, the facility, privilege or immunity would impede the course of justice and can be waived without prejudice to the successful completion of the work under this Contract or to the interest of the United Nations Development Programme or UNIDO.

22. Encumbrances/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 UNIDO against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

23. Tax Exemption

- (a) In accordance with Section 7 of the Convention on the Privileges and Immunities of the United Nations and Section 9 of the Convention on the Privileges and Immunities of Specialized Agencies which are applicable to UNIDO by virtue of Article 21 of its Constitution, UNIDO is exempt from all direct taxes, except charges for public utility services, and is exempt from customs 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 UNIDO's exemption from such taxes, duties or charges, the Contractor shall immediately consult with UNIDO to determine a mutually acceptable procedure.

- (b) Accordingly, the Contractor authorizes UNIDO to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNIDO before the payment thereof and UNIDO has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide UNIDO with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

24. Child labor

- (a) The Contractor represents and warrants that neither him, nor any of his suppliers 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.
- (b) Any breach of this representation and warranty shall entitle UNIDO to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNIDO.

25. Mines

- (a) The Contractor represents and warrants that neither him, nor any of his suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.
- (b) Any breach of this representation and warranty shall entitle UNIDO to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNIDO.

UNIDO
VIENNA

ANNEX B

UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

PRIVILEGES AND IMMUNITIES SECTION

1. The Contractor's personnel (except nationals of the Government employed locally) shall have the right to the following:
 - (i) Immunity from legal process in respect of all acts performed by them in execution of the work under this Contract;
 - (ii) Immunity from national service obligations;
 - (iii) Immunity from immigration restrictions;
 - (iv) The privilege of bringing into the country reasonable amounts of foreign currency for the purpose of the work under this Contract or for personal use of such personnel, and of withdrawing any such amounts brought into the country or, in accordance with the relevant foreign exchange regulations, such amounts as may be earned therein by such personnel in the execution of the work under this Contract and
 - (v) In the event of international crises, the same repatriation facilities as diplomatic envoys.
2. All personnel of the Contractor shall enjoy inviolability for all papers and documents relating to the work under this Contract.
3. The Government shall either exempt from or bear the cost of any taxes, duties, fees or levies which it may impose on any foreign firm or organization which may be retained by the UNIDO, and on the foreign personnel of any such firm or organization in respect of:
 - (i) The salaries or wages earned by such personnel in the execution of the work under this Contract and
 - (ii) Any equipment, materials and supplies brought into the country in connection with the work under this Contract or which, after having been brought into the country, may be subsequently withdrawn therefrom.
4. The facilities, privileges and immunities to which the Contractor and his personnel may be entitled may be waived by the UNIDO where, in its opinion, such facilities, privileges and immunities would impede the course of justice and can be waived without prejudice to the successful completion of the work under this Contract or to the interests of the United Nations Development Programme or UNIDO.

INSTRUCTIONS FOR THE DISPATCH OF REPORTS

PLEASE NOTE COMPLIANCE WITH THE FOLLOWING INSTRUCTIONS IS MANDATORY

1. The Contractor shall dispatch all copies of his interim, preliminary, draft final and final reports to the addresses stipulated in the Contract via air parcel post or airfreight. If the reports consist of several volumes, and are bulky and of considerable weights, the Contractor shall obtain appropriate instructions from UNIDO prior to effecting shipment.
2. In all instances, reports shall be packed in suitable containers, which shall be carefully marked with the following information:
 - Name(s) and address (es) of the consignee(s) as stipulated in the Contract
 - Description of Contents (i.e. interim, preliminary, draft final or final report)
 - Project No. And Title
 - UNIDO Contract No.
3. An envelope shall be securely fastened to the outside of the container(s) which shall enclose a detailed list of the contents specifying:
 - No. of copies of the reports contained in the package
 - Volume(s) number(s) (when the reports consist of more than one volume)
 - Language(s) of the report.
4. The Contractor shall ensure that the recipient(s) of the reports is (are) notified in advance of the shipment by airmail letter accompanied by copies of the above-mentioned list(s) and shipping documents if any.
5. When the Contractor is required to ship his reports to a recipient other than UNIDO Headquarters, he shall ensure that copies of the correspondence relating to and the shipping documents covering such shipments are sent, for information, to UNIDO Headquarters.

It should be noted that the above instructions do not apply to “Monthly Progress Reports”

PACKING AND MARKING INSTRUCTIONS

1. PACKING OF EQUIPMENT

The Goods shall be securely protected and packed in accordance with the best established practices so as to protect from damage during transit from the point(s) of manufacture and until arrival at the Plant site under conditions which may involve multiple handlings, transport by ship, rail and road, re-shipment, storage, exposure to heat, moisture, rain and possibility of pilferage. All packing shall allow for easy removal and checking at site.

2. EQUIPMENT CLEANING, SANDBLASTING AND PAINTING

The Goods shall be properly cleaned and/or sand-blasted and, where applicable, applied with one coat of rust inhibitor and a flat shop coat of paint except for shop finished equipment which shall be supplied finish painted.

3. LIFTING TACKLES, SKIDS AND OTHER EQUIPMENT LIFTING AND PROTECTION MEASURES

Heavy equipment shall be provided with suitable lifting tackle(s) and be mounted on and bolted to skids, which shall be of sufficient strength to support, and prevent distortion to it. All openings of pipes and large valves must be protected by wooden covers or plugs and machined threads must be covered by caps to protect them against damage in transit.

4. SPECIAL PACKING INSTRUCTIONS

All equipment and parts susceptible to corrosion by exposure to moisture and all electrical equipment shall be thoroughly protected against damage during transit and storage. Machine-finished surfaces shall be coated with approved anti-rust compound and all unfinished surfaces of machinery are to be given one coat of rust protective paint. In addition to normal packing, all electrical equipment shall be wrapped in polyethylene and polypropylene plastic sheets, and all openings in electrical equipment shall be sealed with waterproof tapes. A protective greaseproof paper shall be inserted between the brushes and armatures of motors and generators.

5. ITEMS TO BE PACKED SEPARATELY

The Contractor shall deliver the following equipment in individual separate packages with appropriate markings:

- Commissioning spares;
- Special welding rods and fluxes, if required for the equipment being supplied by him;
- Specialized erection tools and tackles, instrument and appliances, if required for the equipment being supplied by him;
- Spare parts and accessories.

PACKING AND MARKING INSTRUCTIONS

6. PACKING OF FRAGILE ITEMS

Fragile items shall be wrapped in crepe cellulose wadding or some equally efficient cushioning material and packed in substantial wooded boxes.

7. RESPONSIBILITY FOR DAMAGES DUE TO FAULTY PACKING

Notwithstanding anything stated in this Annex D, the Contractor shall be entirely responsible for loss, damage or deterioration to the Goods occasioned by faulty, defective or insecure packing or due to improper or insufficient protective measures up to C.I.F. (port of destination).

8. TAGGING

Each piece of equipment or parts thereof shall, when shipped or railed or otherwise dispatched, be tagged with the corresponding part numbers.

9. MARKINGS

(a) Markings on Package Side 1

The following shipping marks shall be clearly stenciled with good quality non-fading paint on one side of the containers (boxes, crates, packages, etc.), in characters at least 150 mm high where the size of the containers permits.

UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
 UNIDO _____ PLANT PACKAGE NO.
 Project No.
 UNIDO Contract No.

There shall be no duplication of package numbers.

(b) Markings on Package Top and Bottom

On the top and end the following symbol shall be marked:

Project No. _____ UNIDO _____ PLANT
 UNIDO Contract No. _____ PACKAGE NO.

(c) Markings on Package Side 3

On one end the following information shall be marked:

Project No. _____ UNIDO _____ PLANT
 UNIDO Contract No. _____

PACKING AND MARKING INSTRUCTIONS

GROSS WEIGHT _____ (KILOGRAMS)

NET WEIGHT _____ (KILOGRAMS)

LENGTH _____ (METRES)

WIDTH _____ (METRES)

HEIGHT _____ (METRES)

MADE IN _____

(Country of Origin)

(d) Markings on Package Side 4

On the side opposite the above, the name of the Contractor, UNIDO Contract number and other identifying data shall be clearly marked.

(e) Special Marking Requirements for Bundles and Metal Bases

In the case of bundles or metal bases, the proper markings, as hereinbefore designated shall be placed on metal tags, which are to be securely attached to the bundle or base as conspicuously as possible.

(f) Package Topside Indication

If necessary, packages must be marked on all four sides with arrows pointing to the top.

(g) Markings for Fragile Items

Fragile material shall be marked on all sides with appropriate cautionary symbols.

(h) Markings for Unbalanced Weights

When required due to length of unbalanced weight, the containers or pieces of equipment shall show the location of cables or hooks and the centre of balance.

DRAWINGS, SPECIFICATIONS AND MANUALS

Drawings, Specifications and Manuals

- Process mechanical flow sheet
- Drawings and technical characteristics of the equipment
- Drawings of main equipment piping layout
- Drawings required to assemble the plant
- Architectural specification for the civil building and layout of the foundations for the machinery
- One line and assembling drawings for power distribution; detailed drawing for the utilities within battery limits
- Operating and Maintenance Manuals
- Chemical Analysis Manual

The above shall cover and include all necessary basic engineering and, to the usual extent, detailed engineering specifications, operating and maintenance manuals and instruction, and shall conform to the following:

a) DRAWING MEASUREMENTS AND TEXTS

All drawings shall be dimensioned in the Metric System. Where drawings are usually made in the English (or other) systems, they shall also have Metric System dimensions in parenthesis or below the dimension line. Titles and written notations shall be in English. In general, all drawings shall be of the same size. All design drawings shall be oriented to match the Plant arrangement drawings and shall have a key plan identifying the Plant area to which they apply. The Plant arrangement drawings shall include an arrow pointing to the north. There shall be sufficient reference notes on the drawings to permit quick identification and proper understanding.

b) PLANT PIPING DRAWINGS

This category of drawings shall include temperatures and pressures, all pumps, valves and instrumentation. The piping diagram and one (1) line pipeline plans shall include general pipeline/duct routings to avoid equipment and electrical interferences and to make units requiring servicing and maintenance accessible. Both the piping diagram and one line pipeline plans shall show inter-connecting pipelines/ducts and terminal points of the Contractor's piping/ducting. Where necessary, the Contractor shall also give diagrams and drawings showing waste disposal systems.

c) PLANT ELECTRICAL DRAWINGS

This category of drawings shall include layout drawings showing locations of electrical equipment, including motors, controls, motor list for items of the Contractor's supply, single line, inter-locking and sequence diagrams. The details furnished by the Contractor shall include main routings for cabling.

d) PLANT INSTRUMENTATION DRAWINGS

This category of drawings shall include the control scheme and instrumentation flow diagrams and the general arrangement of the instrument and control panels.

e) SUPPLIER'S EQUIPMENT DRAWINGS

Supplier's equipment drawings, as may be available without restrictions to the Contractor, shall be provided by the Contractor as soon as possible before commencement of erection.

DRAWINGS, SPECIFICATIONS AND MANUALS

f) FOUNDATION OUTLINE DRAWINGS AND LOAD DATA

When applicable, the Contractor shall supply foundation arrangement drawings, including dimensional anchor/foundations, bolt location plans and loading drawings for all foundations and structures, giving the size and specification of any foundation/anchor bolts, sleeves, inserts, supports and other materials which have to be embedded in concrete.

g) PLANT MACHINERY ASSEMBLY AND ERECTION INSTRUCTIONS AND DRAWINGS

Where applicable, the contractor shall furnish five (5) copies of the following:

- Descriptive literature and drawings to illustrate the working principles, method of assembly and dismantling.
- Instruction manuals for proper erection and assembly of all the equipment supplied by him.
- Instruction sheets for proper equipment balancing, alignment, checking and calibration as may be necessary.
- Erection drawings showing all details and particulars, in sequence, required for the erection and installation of the equipment supplied by him.

The documents and drawings referred to in this sub-paragraph g) shall be submitted so as to be available at site in sufficient time prior to commencement of erection.

h) MAINTENANCE AND OPERATING MANUALS

The Contractor shall furnish to UNIDO:

- Ten (10) copies of maintenance manuals covering all phases of maintenance, including lubricating charts, showing every point requiring lubrication, grade of lubricant, schedule for lubrication, and, where required, the correct amount and grade of oil or grease necessary to refill after drainage.
- Ten (10) copies of operating instructions, including all details necessary to ensure proper procedure and sequence of operation.

The documents, drawings and other information referred to in this sub-paragraph shall be submitted prior to commissioning of the Plant.

i) INSPECTION PROTOCOLS

After shipment of the equipment, the Contractor shall, without delay, submit to UNIDO five (5) sets of final inspection protocols for major and important equipment, which has been inspected and tested.

j) DRAWING AND DOCUMENTS AT COMPLETION OF WORK

Upon completion of his work, the Contractor shall provide, for all the items supplied by him and his sub-contractor, one (1) reproducible and five (5) prints of each drawing incorporating all changes made during the execution of the work, including those made at the Plant site during erection, assembly and commissioning.

FORM OF PERFORMANCE BANK GUARANTEE*(Used when 'acceptance of the work under the Contract plus 12 months' is the criteria)*

TO: UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION (UNIDO)
 Wagramer Strasse 5, A-1400 Vienna, Austria

WHEREAS (...Name and Address of Contractor...) (hereinafter referred to as "the Contractor") has undertaken, in pursuance of UNIDO Contract No. (...) dated (...) to execute (...Name of Contract and Brief Description of Works...) (hereinafter referred to as "the Contract");

WHEREAS it has been stipulated by UNIDO in the said Contract that the Contractor shall furnish UNIDO with a Performance Bank Guarantee by a recognized bank for the sums specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor: up to a total of (...Amount of Guarantee...)(...in words...), within the period from the signature of the Contract until the date calculated as the date of the acceptance of the Work under the Contract plus 12 months, such sum being payable in the types and proportions of currency in which the Contract Price is payable, and we undertake to pay UNIDO, upon UNIDO first written demand and without cavil or argument, any sum or sums within the limits of (...Amounts of Guarantee...) as aforesaid without your needing to prove - or show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of UNIDO demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification or the terms of the Contract or of the Work to be performed there under or of any of the Contract documents which may be made between UNIDO and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee will become effective on the date that the initial payment by UNIDO is received into the Contractor's bank account with us and shall remain in full force and effect until the date calculated as the date of the Certificate of Acceptance of the work under the Contract plus twelve (12) months.

SIGNATURE AND SEAL OF THE GUARANTOR*Name of Bank**Address**Date*

BANK INFORMATION FORM

Annex G

1. Important: Please provide **complete** and **correct** bank details as required below. The beneficiary is responsible for the banking data provided in this form. UNIDO is not responsible for any delay in payments resulting from changes in banking information which have not been promptly communicated to UNIDO, nor will bear any charges resulting from incorrect and incomplete information provided in this form.

2. Any changes to the banking details should be communicated by using a new Bank Information Form, as requests by email will not be accepted.

3. The undersigned authorizes UNIDO to contact the bank for confirmation/verification of information provided, if necessary.

Note: Only one bank account in the name of the beneficiary will be accepted. No third-party payee is allowed.

NAME AND ADDRESS OF ACCOUNT HOLDER	MG Worldwide Pvt. Ltd.
	1004, 10th Floor, Hemkunt Tower, 98, Nehru Place, New Delhi - 110019
BANK NAME AND ADDRESS TELEPHONE AND EMAIL	Bank Of India
	CGO Complex Branch, Plot No.-6, Electronic Niketan, CGO Complex, Lodhi Road, New Delhi- 110003
	91-11-24364051, 24364800 cgocomplex.newdelhi@bankofindia.co.in
ACCOUNT NUMBER	6048-201000-10081
IBAN (INT'L BANK ACCOUNT NO.)	-----
BIC OR SWIFT CODE	BKIDINBBCGO
ABA NUMBER 9-DIGITS CODE FOR ACH	-----
ACH (AUTOMATED CLEARING HOUSE) AND FED WIRE TRANSFES (ONLY FOR USA)	
BANK ROUTING NO. (BLZ, SORT CODE, CHIP UID, TRANSIT NO. etc.)	-----
DATE	NAME AND SIGNATURE OF AUTHORIZED SIGNATORY (1)
5/9/2018	
DATE	NAME AND SIGNATURE OF AUTHORIZED SIGNATORY (2)