



MODEL CONTRACT FOR WORKS

Date _____

Dear Sir/Madam,

Ref.: _____/ _____/ _____ **[INSERT PROJECT NUMBER AND TITLE]**

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your company, duly incorporated under the Laws of _____ **[INSERT NAME OF THE COUNTRY]** (hereinafter referred to as the "Contractor") in order to perform _____ **[INSERT SUMMARY DESCRIPTION OF THE WORKS]** (hereinafter referred to as the "Works"), in accordance with the following Contract:

1.Contract Documents

- 1.1 This Contract is subject to the UNDP General Conditions for Civil Works, _____ **[INSERT REVISION NUMBER AND DATE FROM THE CONTRACTS DOCUMENTS LIBRARY]**, attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
- a) this letter;
 - b) the Technical Specifications and Drawings [ref.dated.....], attached hereto as Annex II;
 - c) the Contractor's Tender _____ **[IF THE CONTRACT IS ON THE BASIS OF UNIT PRICE, INSERT: including the Priced Bill of Quantities]** [ref....., dated], as clarified by the agreed minutes of the negotiation meeting¹ [dated.....], not attached hereto but known to and in the possession of both parties.

¹ If there are updates to the technical proposal or correspondence exchanged in clarification of certain aspects, reference them too, provided that they are acceptable to UNDP. Otherwise, aspects which resolution is pending should be dealt with in this letter itself or in the Technical Specifications/Drawings, as appropriate.

- 1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

**[INSERT NAME AND ADDRESS OF
THE CONTRACTOR]**

2. Obligations of the Contractor

- 2.1 The Contractor shall commence work within ____ **[INSERT NUMBER OF DAYS]** days from the date on which he shall have been given access to the Site and received the notice to commence from the Engineer, and shall perform and substantially complete the Works by .././.... **[INSERT DATE]**, in accordance with the Contract. The Contractor shall provide all materials, supplies, labour and other services necessary to that end.
- 2.2 The Contractor shall submit to the Engineer the Programme of Work referred to in Clause 13 of the General Conditions by .././.... **[INSERT DATE]**.
- 2.3 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the Works foreseen under this Contract in accordance with the highest industrial and professional standards.

OPTION 1 (FIXED PRICE)

3. Price and Payment²

- 3.1 In full consideration of the complete and satisfactory performance of the Works under this Contract, UNDP shall pay the Contractor a fixed contract price of _____ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.
- 3.3 Invoices shall be submitted by the Contractor to the Engineer upon achievement of the corresponding milestones and for the following amounts:

² This version of section 3 is to be used for fixed price contracts. Fixed price contracts should normally be used when it is possible to estimate with reasonable accuracy the costs of the activities which are the subject of the Contract.

<u>MILESTONE³</u>	<u>AMOUNT</u>	<u>DATE</u>
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Upon signature of Contract/./....
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....././....
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Upon substantial completion of Works/./....
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Upon final completion of Works/./....
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OPTION 2 (COST REIMBURSEMENT)

3. Price and payment

3.1 The total estimated price of the Contract is contained in the Bill of Quantities and amounts to _____ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.

3.2 The final price of the Contract will be determined on the basis of the actual quantities of work and materials utilized in the complete and satisfactory performance of the Works as certified by the Engineer and the unit prices contained in the Contractor's financial proposal. Such unit prices are fixed and are not subject to any variation whatsoever.

3.3 If the Contractor foresees that the final price of the Contract may exceed the total estimated price contained in 3.1 above, he shall so inform the Engineer without delay, in order for UNDP to decide, at its discretion, to increase the estimated price of the Contract as a result of a larger quantity of work/material or to reduce the quantity of work to be performed or materials to be used. UNDP shall not be responsible for payment of any amount in excess of that stipulated in 3.1 above unless this latter amount has been increased by means of a written amendment of this Contract in accordance with its paragraph 8 below.

3.4 The Contractor shall submit an invoice for _____ **[INSERT AMOUNT AND CURRENCY OF THE ADVANCE PAYMENT IN FIGURES & WORDS]** upon signature of this Contract by both parties, invoices for the work performed and materials utilized every _____ **[INSERT PERIOD OF TIME OR MILESTONES]** and a final invoice within 30 days from the issuance of the Certificate of Substantial Completion by the Engineer.⁴

[THE FOLLOWING CLAUSES ARE COMMON TO OPTIONS 1 & 2 AND MUST BE NUMBERED ACCORDING TO THE OPTION CHOSEN FOR ARTICLE 3]

³ In the case of advance payments, the amount should not exceed 15%.

⁴ In the case of advance payments, the amount should not exceed 15%.

- 3.@ UNDP shall effect payment of the invoices after receipt of the certificate of payment issued by the Engineer, approving the amount contained in the invoice. The Engineer may make corrections to that amount, in which case UNDP may effect payment for the amount so corrected. The Engineer may also withhold invoices if the work is not performed at any time in accordance with the terms of the Contract or if the necessary insurance policies or performance security are not valid and/or in order. The Engineer shall process the invoices submitted by the Contractor within 15 days of their receipt.
- 3.@ Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Works.
- 3.@ Payment of the final invoice shall be effected by UNDP after issuance of the Certificate of Final Completion by the Engineer.

4. Special conditions⁵

- 4.1 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP of a bank guarantee ⁶for the full amount of the advance payment issued by a Bank and in a form acceptable to UNDP.⁷
- 4.2 The amounts of the payments referred to under section 3.6 above shall be subject to a deduction of _____ **[INSERT PERCENTAGE OF TOTAL CONTRACT PRICE THAT THE ADVANCE REPRESENTS]** % (... percent) of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment.⁸ Should the cumulative amount of the deductions so made be lower than the amount of the advance payment after the date of substantial completion of the Works, UNDP may deduct the amount equal to the difference between the advance payment and the cumulative deductions from the payments due after substantial completion or may recover such amount from the bank guarantee referred to in 4.1 above.
- 4.3 The Performance **[SELECT BOND/GUARANTEE]** referred to in Clause 10 of the General Conditions shall be submitted by the Contractor for an amount of _____ **[INSERT - PERCENTAGE OF THE TOTAL]**

ESTIMATED OR FIXED PRICE OF THE CONTRACT IN THE CASE OF A GUARANTEE AND 30% IN THE CASE OF A BOND].⁹

⁵ Under this Section, the Programme Officer may propose special clauses in order to adapt the model contract to the specific situation. In this sample clause 4, several clauses of common use are given. If they are not required, they should be deleted.

⁶ If the legislation of the Country of the Contractor forbids the use of bank guarantees, a bond may be accepted.

⁷ This clause must be used when an advance payment of \$50,000 or more is granted to the Consultant..

⁸ This clause must be used when an advance payment is granted (whatever the amount) in a cost reimbursement contract.

⁹ The reason for the distinction between a 10% bank guarantee and a 30% performance bond is that bank guarantees are generally unconditional and can be called directly without proof of nonperformance, whereas most performance bonds are conditional and require some proof of nonperformance. There are usually additional costs and time delays incurred with cashing a performance bond and so a higher percentage is requested to cover the extra work involved. Some banks outside of the U.S. may call certain guarantee instruments, "performance bonds or guarantees" although they may only be conditional guarantees. It is important to

4.4 ***[THE USE OF THIS CLAUSE REQUIRES APPROVAL BY THE PROJECT DIRECTOR/UNDP PROGRAMME OFFICER]*** The Contractor may submit invoices for materials and plant stored at the Site, provided they are necessary and adequate for the performance of the Works and they are protected from weather conditions and duly insured as per the instructions of the Engineer.

4.5 The liability insurance referred to in Clause 23 of the General Conditions shall be taken out by the Contractor for an amount of.....**[CONSULT THE ENGINEER FOR APPROPRIATE AMOUNT]**.

4.6 According to Clause 45 of the General Conditions, the liquidated damages for delay shall be ____ **[INSERT PERCENTAGE]** of the price of the Contract per week of delay, up to a maximum of 10% of the final price of the Contract.

5. Submission of invoices

5.1 One original and one copy of every invoice shall be submitted by mail by the Contractor for each payment under the Contract to the Engineer's address specified in clause 8.2.

5.2 Invoices submitted by fax shall not be accepted by UNDP.

6. Time and manner of payment

6.1 Invoices shall be paid within thirty (30) days of the date of their receipt and acceptance by UNDP.

6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

_____ **[NAME OF THE BANK]**

_____ **[ACCOUNT NUMBER]**

_____ **[ADDRESS OF THE BANK]**

7. Modifications

7.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representatives of the Contractor and UNDP.

8. Notifications

review the text of the instrument to determine whether it is a conditional or unconditional guarantee.

8.1 For the purpose of notifications under the Contract, the addresses of UNDP and the Contractor are as follows:

For the UNDP:

_____ [INSERT NAME OF RR OR
DIVISION CHIEF]
Chief
United Nations Development Programme

Ref. ____/____/____ [INSERT CONTRACT REFERENCE & NUMBER]

Telex: _____

Fax: _____

Cable: _____

For the Contractor:

[Insert Name, Address and Telex,
Fax and Cable Numbers]

8.2 For the purposes of communications with the Engineer, the address of the Engineer shall be as follows:

[Insert Name, Address and Telex,
Fax and Cable Numbers of the Engineer]

OR

8.2 UNDP shall communicate as soon as possible to the Contractor after the signature of the Contract, the address of the Engineer for the purposes of communication with the Engineer under the Contract.

If the above terms and conditions meet with your agreement as typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

[INSERT NAME OF RR or Bureau/Division Director]

For [Insert name of the company/organization]

Agreed and Accepted:

Signature _____

Name _____

Title _____

Date _____

SAMPLE