

CONTRACT NO. 4xxxxxxxx/CZ/mp

between

**THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
(UNIDO)**

and

[NAME OF CONTRACTOR]

CMO/OSS/PRO/xx

[date]

This Contract comprises xxxxxx (xx) pages and xxx (xx) Annexes (A to xx)

TABLE OF CONTENTS

Preamble	Page	3
Section 1.00 Aim of the Contract	Page	4
Paragraph 1.01 Synopsis	Page	4
Section 2.00 Responsibilities of the Contractor	Pages	4-10
Paragraph 2.01 Statement of Work	Pages	4-5
Paragraph 2.02 Contractor's Personnel	Page	5
Paragraph 2.03 Facilities and Services	Page	5
Paragraph 2.04 Deliverables and Ordering Procedure	Pages	6-7
Paragraph 2.05 UNIDO catalogue	Pages	7-8
Paragraph 2.06 Reporting requirements	Page	8
Paragraph 2.07 Limitations	Page	9
Paragraph 2.08 Standards of Work	Page	9
Paragraph 2.09 Warranty	Page	10
Paragraph 2.10 Failure of performing the required services		
Section 3.00 Prices and Terms of Payments	Pages	10-13
Paragraph 3.01 Contract Prices	Pages	10-11
Paragraph 3.02 Currency of Payments	Page	11
Paragraph 3.03 Withholding of Payments	Pages	11-12
Paragraph 3.04 Contractor's Invoices	Page	12
Paragraph 3.05 Mode of Payment	Pages	12-13
Section 4.00 Liquidated Damages	Page	13
Section 5.00 General Provisions	Pages	13-16
Paragraph 5.01 Entry into Effect of the Contract and its Duration	Page	13
Paragraph 5.02 General Conditions	Pages	13-14
Paragraph 5.03 Contract Amendment	Page	14
Paragraph 5.04 Points of Contact	Page	14
Paragraph 5.05 Covenant against Contingent Fees	Pages	14-15
Paragraph 5.06 Default	Page	15
Paragraph 5.07 Other UN Organizations	Page	15
Signatures and Dates	Page	16

LIST OF ANNEXES

- Annex A: UNIDO General Terms and Conditions
- Annex B: Terms of Reference, Technical Specifications of IT Equipment and related documents
- Annex C: Price List
- Annex D: Contractor's Proposal

CONTRACT

between

**THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION
(UNIDO)**

and

[NAME OF CONTRACTOR]

for the provision of services related to the provision of

**IT equipment such as
standardized business models of personal computers, monitors, notebooks and printers
for UNIDO Headquarters (HQs), UNIDO Field Offices and
Technical Cooperation (TC) project destinations**

This CONTRACT/LONG-TERM AGREEMENT is entered into 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 [company name] (hereinafter referred to as "the Contractor"), having its principal office located at [address]. The Contractor and UNIDO are jointly referred to as "the Parties" and individually as "the Party".

WHEREAS, in this connexion, UNIDO desires to engage the Contractor to provide
xxxxxxxxxxxxxxxxxxxx

WHEREAS, the Contractor represents that he possesses the required IT equipment, accessories, personnel, technical knowledge and facilities for the purpose and that it is ready, willing and able to provide such equipment, supplies and services required within the context of this Contract;

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

1.00 AIM OF THE CONTRACT

1.01 Synopsis

The aim of this Contract is to provide on an “as and when required basis” various IT equipment including accessories, freight and warranty to UNIDO Headquarters, UNIDO field office and Technical Cooperation (TC) project destinations on a call-off basis, if and when required, in accordance with the terms and conditions in this Contract,

The Contractor shall provide the Goods and Work/Service to UNIDO as may be required from time to time pursuant to a Purchase Order, in accordance with the terms and conditions in the Contract.

2.00 RESPONSIBILITIES OF THE CONTRACTOR

2.01 Statement of Work

Given the aim of this Contract, the Contractor shall render the Services described in Annex B to this Contract, on the terms and conditions set forth herein.

In carrying out the Services hereunder, the Contractor shall conform to the methodology, approach and work plan set forth in the Contractor’s Proposal dated [xx xxxx 2018] (hereinafter referred to as "the Proposal”).

The Contractor's said Proposal, although not attached hereto, is made a part hereof by way of reference. The Contractor’s general responsibility includes all items necessary for the proper execution and completion of the Services. The Services not expressly covered in the Contract will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results.

The Contractor shall carefully study the Contract and its Annexes. Where the Contractor observes errors, inconsistencies, omissions or ambiguities, it shall immediately in writing refer the same to UNIDO for its written interpretation or correction. If the Contractor fails to notify UNIDO, the Contractor shall be deemed to have waived any claim related to the said error, discrepancy, omission or ambiguity, shall be deemed to have estimated the most expensive

material or method of execution of the Services, and shall bear an appropriate amount attributable to the costs of any correction.

The Contractor shall perform its obligations under the Contract in accordance with applicable laws, norms, standards and regulations.

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) Annex A, UNIDO General Terms and Conditions
- (3) UNIDO Request for Proposal No. xxxxxxxx/CZ/mp dated xxxxxx 2018, including UNIDO Terms of Reference, Technical Specifications of IT equipment and other documents (Annex B) and related documents;
- (4) Annex C, Price List
- (5) Contractor's Proposal (not attached)
- (6) Annex D, Completed Bank Information Form

2.02 Contractor's Personnel

The Contractor must ensure that any personnel performing the Contract have the professional qualifications and experience required for execution of orders and related services.

The Contractor shall be responsible for any delay in the execution of the orders resulting from the replacement of staff in accordance with this paragraph.

The Contractor's delivery personnel shall at all times be subject to the security rules and regulations of UNIDO and the Contractor's delivery personnel shall at all times obey the lawful instructions of the United Nations Security Officers at UNIDO Headquarters as well as UNIDO Field Offices and Technical Cooperation Project destinations (where applicable).

The Contractor is an independent contractor whose personnel shall not be considered, under any circumstance, to be employees, agents, servants or representatives of UNIDO.

2.03 Facilities and Services Provided by the Contractor

The Contractor shall provide all the facilities and services required by the Contractor's personnel for the execution of the Contract. Expenses of every kind incurred in connection with such

execution 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 insurance.

2.04 Deliverables and Ordering Procedure

The Contractor undertakes to provide the Services referred to in Annex B to this Contract within the delivery time specified unless agreed otherwise by UNIDO.

The Service to be provided by the Company shall be requested by UNIDO through issuance of signed Purchase Order by authorized UNIDO personnel (hereinafter referred to as the “UNIDO Buyer”). At no time during the term of this Contract shall the Contractor provide Services, commence work without possession of a signed UNIDO Purchase Order. UNIDO shall not be liable to reimburse the Contractor for Services provided by the Contractor without a signed UNIDO Purchase Order.

In the event of UNIDO issuing a Purchase Order, which the Contractor considers it cannot substantially met because of limited quantities of stock or the inability to meet the specifications, before proceeding to make a partial delivery, the Contractor shall seek further written instruction from UNIDO.

The Contractor shall accept change to or cancellations of Purchase Order(s) provided that reasonable written notice is given by UNIDO in the circumstances.

The Contractor will be notified in writing (hereinafter “Defect notice”) of the rejections of non-confirming IT equipment. The Contractor shall at its own expense, replace the rejected equipment due to poor quality or workmanship, within ten (10) business days after the receipt of the Defect notice. If the non-confirming Goods cannot be replaced, the Contractor shall, at the sole option of UNIDO appropriately credit UNIDO (hereinafter “Defect credit”). The Contractor shall replace the rejected Goods or provide Defect credit within ten (10) business days from the date the Contractor is informed from the option exercised.

The Contractor agrees to cover all transportation reasonable costs and expenses related to the return of such rejected Goods.

Delivery shall only occur upon the arrival of the Goods in accordance with instructions on the Purchase Order, and verifications by UNIDO’s designated personnel that the Goods are in a satisfactory condition. Inspection and verification of the Goods shall be made as soon as

reasonably practicable after receipt and UNIDO shall be entitled to reject and refuse acceptance of the Goods not conforming to this Contract. Payment for any non-conforming Goods pursuant to this Contract shall be deemed acceptance of the Goods.

The Contractor acknowledges that any inspection and/or verification of the Goods, by UNIDO, do not involve the operational and functional status of the Goods.

If an export license or licenses are required for the Goods the Contractor shall obtain that license(s).

The Contractor acknowledges that time shall be of the essence in the performance of the Contract, and it shall use its best endeavors to abide by the delivery periods as indicated in Annex B and as may be specified in the Purchase Order(s), provided, however, that where the Contractor does not meet the delivery period(s) UNIDO shall be entitled to give the Contractor notice of its intention to cancel the Contract unless Goods are delivered within a reasonable and specified time frame.

All risk of loss or damage to the Goods shall remain with the Contractor until physical delivery takes place at UNIDO Vienna, Austria, and at the designated destination of the respective UNIDO Field Office or UNIDO project destination.

All deliveries should make reference to the respective Purchase Order number and include the serial numbers of the delivered items. Should deliveries arrive without any reference to the Purchase Order(s) and/or missing the respective serial numbers, UNIDO may reject the shipment.

All deliveries to UNIDO in Vienna, Austria, will be DAP (INCOTERMS 2010), UNIDO Receiving Area Vienna International Centre, Leonard Bernstein Strasse (Gate 5), A-1223 Vienna, Austria. The Contractor shall notify UNIDO of the exact date/time of delivery as soon as possible. All deliveries shall be made Monday through Friday from 10:00 a.m. to 12:00 p.m. and from 2:00 p.m. to 4:00 p.m. at the place indicated above.

If not otherwise agreed upon between UNIDO and the Contractor during the execution of a Purchaser Order, deliveries to UNIDO Field Offices or UNIDO Project destination will be DAP (INCOTERMS 2010) delivery by air to respective Field Office/Project location.

2.05 UNIDO catalogue

The UNIDO catalogue shall include the standardized business IT equipment and related services indicated in Annex B and related documents. In addition UNIDO reserves the right to order additional (non UNIDO catalogue) equipment from the Contractor's IT assortment.

The Contractor shall provide a UNIDO Catalogue/List of items which shall include the manufacturer stock numbers, description and, if possible, photos of the various IT items, standard units of issue, discounted unit prices or any other relevant information required to allow use of the UNIDO Catalogue. The UNIDO Catalogue shall be provided in the English language.

Purchase Orders under this Contract may be placed by all authorized UNIDO Buyers. UNIDO Buyers shall issue Purchase Orders indicating the date of each order, its number, budget account code, supplies ordered and delivered destination.

The Contractor shall enter all the information in a Pro-forma Invoice along with expected delivery date, discounted unit prices, freight charges and extensions, and return same to the authorized Buyer at UNIDO.

The Contractor shall propose a replacement model whenever the required model(s) are no more available in the market. All proposed replacement model(s) should be agreed mutually by UNIDO and the Contractor and in case of adaptations/changes the 'UNIDO Catalogue/List' shall be adapted accordingly.

2.06 Reporting requirements

The Contractor shall on a monthly basis provide UNIDO with an overview of all open/pending orders, which should stipulate reference numbers, updated expected delivery date, a brief status update, outstanding amount and any/all comments for the applicable order. This overview shall be provided electronically to the designated Procurement and ITS Officer at UNIDO on a basis.

The Contractor shall provide written notice to UNIDO when IT equipment and related accessories in an amount equal to 75% of the NTE Amount (as defined above) have been ordered by UNIDO.

2.07 Limitations

(a) UNIDO does not guarantee any minimum number of Purchase Orders to be placed under the Contract.

(b) UNIDO reserves the right to enter, concurrently, into additional contract(s) with other Companies for services subject of this Contract.

2.08 Standards of Work

The Contractor shall exercise all reasonable skill, care and diligence in the performance of the work hereunder and shall carry out all his responsibilities in accordance with the highest recognized professional standards.

2.09 Warranty

The Contractor represents and warrants that the offered IT items, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such items were manufactured and designed for and that the offered IT items shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship. The Contractor also warrants that the various IT items shall be contained and packaged in a manner adequate to protect the equipment for shipment by road and by air.

The Contractor shall provide UNIDO with the benefit of all manufacturers' warranties in addition to any other warranties required to be provided hereunder, including but not limited to the warranty that the various IT items shall be free of defects.

The Contractor represents and warrants that the offered IT items and accessories are of the quality, quantity and description required by the Contract.

The Contractor represents and warrants that the contracted IT items are genuine (i.e. authorized by the manufacturer), and that substitutes thereof are not acceptable to UNIDO.

The Contractor represents and warrants that the various IT items are free from any known and valid right of claim by any third party, including claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets.

The Contractor represents and warrants that the offered IT items are unused and manufactured using new material and replacement products are new.

The Contractor warrants that all offered IT equipment are with three years extended on-site warranty.

2.10 Failure of performing the required services

Should any unforeseen event, action or omission directly or indirectly hamper execution of the orders, either partially or totally, the Contractor shall immediately and at its own initiative record it and report it to UNIDO. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under this Contract.

Should the Contractor fail to perform its obligations under the Contract, UNIDO may without prejudice to its rights to terminate the Contract reduce or recover payments in proportion to the scale of failure. In addition, UNIDO may impose liquidated damages, as provided in Article 4.

3.00 PRICES AND TERMS OF PAYMENT

3.01 Contract prices

For the purposes of this Contract, the Contractor shall grant UNIDO the status of most favored customer, signifying that the prices charged to UNIDO shall be lower or equal to the lowest price charged by the Contractor to other major customers or UN and similar organizations. In case the manufacturers of the various equipment reduce their list of prices during the Contract period, the Contractor agrees to pass on such price reductions to UNIDO. The reduced prices shall apply to all new purchases after the price reduction becomes effective.

UNIDO shall pay the Contractor for each delivery made in accordance with the terms of this Contract, a sum that shall be based on the quantities ordered by UNIDO and delivered by the Contractor, at the prices specified in Annex C. The Contractor acknowledges that total payments by UNIDO under this Contract shall not exceed the Contract Price except if that amount has been increased by Amendment of the Contract or, for extraordinary requirements a single stand-alone Purchase Order placed by UNIDO on the same terms and conditions of this Contract.

The rates set forth in Annex C shall be reviewed by the Parties from time to time to reflect reductions in local market prices for Goods and/or Work/Service identical to those covered by this Contract. Without prejudice to the above, UNIDO reserve the right to request price reductions and revisions set forth in Annex C, if UNIDO demonstrates to the Contractor that lower prices for Goods and/or Work/Service identical to those covered by this Contract can be

achieved by contracting with other providers. Should the foregoing be shown by UNIDO, the Contractor shall be obliged to review and reduce the prices set forth in Annex C, failing, which UNIDO may without the provisions of Article 12 Termination” of UNIDO’s General Terms and Conditions, terminate this Contract within six (6) months written notice.

The Contractor shall not provide Goods and Services at a price higher than those accepted in the Contract which appear in Annex C.

The amounts prescribed in Annex C are exclusive Value Added Tax (VAT). Other taxes, fee and dues shall be borne by UNIDO insofar as they are levied on the conclusion or implementation of this Contract with the exception of taxes, fees and dues from which UNIDO is exempt by virtue of the privileges and immunities accorded to UNIDO by its Member States.

The Not to Exceed Amount (NTE) of this Contract is Euro xxxxxxxxxxxxxx (€xxxxxxxxxxxxxx). It is to be understood that UNIDO is not obliged to purchase the whole amount of the NTE.

3.02 Currency of Payment

Payments shall be made by UNIDO in US Dollars (USD) or Euro (EUR) as specified in the purchase order with base currency as indicated in Annex C.

3.03 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 therefore given, to such an extent as may be necessary to protect UNIDO from loss under the Contract on account of:

- (i) The Contractor’s failure to provide the Goods and/or Work/Services or to make adequate progress on the provision of the Goods and/or Work/Services, except for failure arising from *Force Majeure*;
- (ii) The Contractor’s failure to remedy defective equipment and/or unsatisfactory performance, when such failure has been drawn to his attention by UNIDO;
- (iii) The existence of damage claims presented by UNIDO or of reasonable evidence indicating the probable basis on which damage claims may be presented by UNIDO;
- (iv) 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.

3.04 Contractor's Invoices

The Contractor shall provide detailed billing information to UNIDO. Each invoice shall indicate, at a minimum:

- The Contract number;
- The reference number of the relevant signed Purchase Order;
- Description of the invoiced Goods and Services;
- Total invoiced payment amount in US Dollar or Euro as per the Purchase Order (exclusive of VAT);
- Detailed banking instructions including the name and address of the Contractor's bank, account No., sort code for payment by electronic transfer, SWIFT, IBAN.

Each payment shall be made by UNIDO on the basis of an invoice submitted by the Contractor in one (1) original and one (1) copy.

In case the Contractor elects to propose a discount (SCONTO) for accelerated payments, the payment period shall be counted from the date of receipt by UNIDO of the Contractor's invoice. The making of any payment shall not be construed as an unconditional acceptance of UNIDO of the Goods or Work/Services delivered by the Contractor up to the time of such payment.

3.05 Mode of Payment

All payments under this Contract shall be made by UNIDO by electronic transfer to the bank account indicated in the Bank Information Form (Annex D).

Payment(s) shall be made within thirty (30) days after receipt of the invoice(s) issued in accordance with the invoicing instructions set forth in Article 3.04 and subject to the acceptance of the Goods and/or Work/Service under the Contract by UNIDO.

All bank charges outside of Austria are to be borne by the Contractor. Only Goods and/or Work/Service actually delivered/performed will be reimbursed.

Payment of the fixed Contract price(s) prescribed in Article 3.01 of this Contract shall be made by UNIDO to the Contractor after receipt of an invoice and the relevant supporting documents.

All invoices shall be submitted in the currency indicated in the Purchase Order (Euro or USD).

Hardcopies of invoices, quoting the Purchase Order Numbers which may be produced under this Contract shall be sent, in one (1) original and one (1) copy to the invoicing address indicated in the Purchase Order. In case of doubt the UNIDO Procurement Officer, Ms. C. Ziniel, and/or her representative(s) shall be contacted for clarification.

4.00 LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the specific order, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to UNIDO's right to terminate the Contract, UNIDO may decide to impose liquidated damages of 0.5% of the amount of the relevant order per calendar day of delay until actual delivery up to a maximum deduction of 10% of the value of the order. Said amount shall be payable by the sole fact of delay without the need for any previous notice or any legal or arbitral proceedings or proof of damage, which shall in all cases be considered as ascertained. Without prejudice to any other method of recovery, UNIDO may deduct the amount of the liquidated damages from any payment(s) due to the Contractor. The payment and the deduction of any such damages shall not relieve the Contractor from its obligation to fulfill all its obligations in performance of this Contract or limit UNIDO's right to any other remedies.

5.00 GENERAL PROVISIONS

5.01 Effective Date of the Contract and its Duration

This Contract shall become effective on the date when both Parties have signed this Contract, or if the Parties have signed this Contract on different dates, the date of the latest signature ("the Effective Date").

This Contract shall be in force from the Effective Date and shall remain in force for a period of thirty-six (36) months unless terminated earlier pursuant to the terms of the Contract. UNIDO may extend this Contract for additional two twelve (12) months periods at UNIDO's sole discretion subject to the Contractor's satisfactory performance.

5.02 General Conditions

The Parties hereto agree to be bound by the UNIDO General Conditions of Contract a copy of which is attached hereto as Annex A and made a part hereof.

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

5.03 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 the Contractor and UNIDO.

5.04 Points of Contact

Unless specified otherwise in the Contract all communications relating to the execution of this Contract shall be made or confirmed in writing in English to:

UNIDO:

For contractual matters, reports and notices:

UNIDO

Procurement Services Division/OSS/CMO

Attention: Ms. C. Ziniel, D-2011

P.O. Box 300

A-1400 Vienna, Austria

Tel.: +43 1 26026 Ext. 5159

e-mail: c.ziniel@unido.org

For IT related, technical matters:

UNIDO

Information Technology Services Division/OSS/CMO

Attention: xxx

P.O. Box 300

A-1400 Vienna, Austria

Tel.: +43 1 26026 Ext. xxxxx

e-mail: xxxxxxx

Contractor:

For contractual and technical matters:

[name of Contractor]

Attention: xxxxxxxxxxxxxx

Key Account Manager

[address, telephone etc. of Contractor]Tel.: +45 6221 1766

Each party shall inform the other promptly in writing of any change of the point of contact, including the name and designation of the new person.

5.05 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 United Nations or the IAEA, who is not a bona fide 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.

5.06 Default by the Contractor

In case the Contractor fails to fulfill his obligations and responsibilities under this Contract, and provided the Contractor has not remedied such failure(s) within fifteen (15) 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.

UNIDO may, at any time, temporarily stop the Work/Services being performed by the Contractor under this Contract by giving notice in writing to the Contractor. All Work/Services 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 both Parties.

5.07 Other UN Organizations

By signing this Agreement, the Supplier agrees that UNIDO is free to share this Agreements with other UN Organizations for their use in direct ordering under the same prices and conditions as stated in this Agreements.

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

[Contractor]

**UNITED NATIONS INDUSTRIAL
DEVELOPMENT ORGANIZATION**

By.....

By.....

Procurement Services Division
Division of Operational Support Services
Directorate of Corporate Management and
Operations
P.O.Box 300, A-1400 Vienna
Austria

Date.....

Date.....