

***This is a template Contract for Supply and Delivery of Goods and may need to be modified according to the specific requirements of the Mission. As per IOM policy, all Contracts must be reviewed/approved by Legal Services prior to signing.*

***If subcontracting, please check the donor agreement for any donor requirement regarding a subcontract. (i.e. use of donor's logo, reporting requirements, anti-corruption clause or any particular provision to be inserted in a subcontract etc.)*

FPU.SF 19.18

IOM Office-specific Ref. No.: XXXXXX IOM Project code: XXXXXX LEG Approval/Checklist Code: XXXXXX

CONTRACT FOR THE SUPPLY AND DELIVERY OF GOODS

Between

The International Organization for Migration

And

[Name of the Other Party]

This Contract for the Supply and Delivery of Goods (“Contract”) is entered into between the International Organization for Migration (“IOM”) of [insert address] represented by [insert Name, Title of Chief of Mission], hereinafter referred to as IOM, and [Name of the Other Party] of [insert address], represented by [insert Name, Title of the representative of the Other Party], hereinafter referred to as the the Supplier on [insert date].

1. Introduction and Integral Documents

The Supplier agrees to provide IOM with [insert description of goods] in accordance with the terms and conditions of this Contract and its Annexes, if any.

The following documents form an integral part of this Contract: [add or delete as required]

Bid/Quotation Form

Price Schedule

Delivery Schedule and Technical Specifications

Accepted Notice of Award (NOA)

Performance Security

2. Goods/Services Supplied

2.1. The Supplier agrees to supply to IOM the Goods in strict accordance with the specifications, and at the price stated for each item outlined below:

No.	Description	Project budget line/ WBS	Qty	Unit	Unit Price	Total

2.2 The Supplier agrees to supply the following incidental services: *[add or delete as required]*

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
- (d) performance, supervision, maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- (e) training of IOM's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

3. Charges and Payment

- 3.1 The total Price for the supply and delivery of the Goods and any Incidental Services under this Contract is **XXX** *[write in figures and then in words, including currency]*
- 3.2 The Supplier shall invoice IOM on delivery of the Goods in accordance with this Contract and payment shall become due 30 calendar days after acceptance by IOM of the Goods.
- 3.3 The invoice will be accompanied by the following documents: Air Way Bill number, shipping invoice, packing list, certificate of origin *[add or delete as required]*
- 3.4 Payments shall be made in *[currency]* by bank transfer to the following bank account of the Supplier: *[bank account details]*.
- 3.5 The Price specified in clause 3.1 is the total charge to IOM. The Supplier shall be responsible for the payment of all taxes, duties, levies and charges assessed on it in connection with this Contract.
- 3.6 IOM shall be entitled, without derogating from any other right it may have, to defer payment of part or all of the Price until the Supplier has completed, to the satisfaction of IOM, the delivery of the Goods and the incidental services to which those payments relate.

4. Delivery

- 4.1 The Goods shall be delivered to: *[insert place of delivery]* on *[insert delivery schedule]* by *[insert method of delivery or refer to Delivery Schedule annexed]*. Cost of delivery is deemed included in the Price specified in clause 3.1 of this Contract. The incidental services as described in clause 2.2 shall be performed at the place of delivery and completed by the same delivery date, unless otherwise stated in clause 2.2 of this Contract.
- 4.2 In the event of breach of this clause IOM reserves the right to:
- (a) Terminate this Contract without liability by giving an immediate notice and to charge the Supplier with any loss incurred as a result of the Supplier's failure to make the delivery within the time specified; or
 - (b) Charge a penalty of 0.1% of the total contract price for every day of delay or breach of the delivery schedule by the Supplier.

5. Performance Security (applicable for contracts over USD250,000)

- 5.1 The Supplier shall furnish IOM with a Performance Security in the amount equivalent to *[ten (10)]* percent of the Contract Price, to be issued by a reputable bank or company, and in the format acceptable to IOM.
- 5.2 The Performance Security shall serve as the guarantee for the Supplier's faithful performance and compliance with the terms and conditions of this Contract. The amount of the Performance Security shall not be construed as the limit of the Supplier's liability to IOM, in the event of breach of this Contract by the Supplier. The Performance Security shall be effective until *[insert a date 30 days from the completion of Supplier's obligations]* following which it will be discharged by IOM.

6. Inspection and Acceptance

- 6.1 Where any annexed Technical Specifications state what inspections and tests are required and where they will be carried out, those terms will prevail in the event of any inconsistency with the provisions in this clause.
- 6.2 IOM or its representative shall have the right to inspect and/or test the goods at no extra cost to IOM at the premises of the Supplier, at the point of delivery or at the final destination. The Supplier shall facilitate such inspections and provide required assistance.
- 6.3 IOM shall have 30 calendar days after proper receipt of the Goods purchased to inspect them and either accept or reject them as non-conforming with this Contract. Based on an inspection of a valid sample, IOM may reject the entire delivery. IOM may also charge the cost of inspecting rejected Goods to the Supplier. All rejected Goods will be returned to the Supplier, transportation charges collect, or held by IOM for disposition at Supplier's risk and expense. IOM's right to reject the Goods shall not be limited or waived by the Goods having been previously inspected or tested by IOM prior to delivery.
- 6.4 The Supplier agrees that IOM's payment under this Contract shall not be deemed acceptance of any Goods delivered hereunder.
- 6.5 The Supplier agrees that any acceptance by IOM does not release the Supplier from any warranty or other obligations under this Contract.
- 6.6 Title to the Goods shall pass to IOM when they are delivered and accepted by IOM. Risk of loss, injury, or destruction of the Goods shall be borne by the Supplier until title passes to IOM.

7. Adjustments

- 7.1 IOM reserves the right to change at any time the quantities, packaging, unit size, place, method and/or time of delivery or the ancillary services to be provided. Where Goods are being specifically produced for IOM, IOM may also make changes to the drawings, designs or specifications.
- 7.2 The Supplier agrees to proceed with this Contract in accordance with any such change(s) and to submit a claim request for an equitable adjustment in the Price or delivery terms caused by such change(s).
- 7.3 IOM may deem any claim by the Supplier for equitable adjustments under this clause waived unless asserted in writing within 10 days from the date of receipt by the Supplier of IOM's change(s).
- 7.4 No change in, modification of, or revision to this Contract shall be valid unless made in writing and signed by an authorized representative of IOM.

8. Packaging

- 8.1 The Supplier must provide proper and adequate packaging in accordance with best commercial practice, to ensure that the Goods being delivered to IOM will be free of damage. Packaging must be adequate to allow for rough handling during transit, exposure to extreme temperatures, salt and precipitation during transit and open storage, with consideration for the type of Goods and transportation mode. IOM reserves the right to reject any delivery that is deemed not to have been packaged adequately.
- 8.2 Packing, marking and documentation shall comply with any requirements or instructions notified by IOM.

9. Warranties

- 9.1 The Supplier warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination. This warranty shall remain valid for twelve (12) months after the Goods have been delivered to and accepted at the final destination indicated in the Contract.
- 9.2 The Supplier warrants that all Goods supplied under this Contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials unless provided otherwise in this Contract. All Goods/Services delivered under this Contract will conform to the specifications, drawings, samples, or other descriptions furnished or specified by IOM.
- 9.3 IOM shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 9.4 Upon receipt of such notice, the Supplier shall, within the time period specified in the notice, repair or replace the defective Goods or parts thereof, without cost to IOM.
- 9.5 IOM's continued use of such Goods after notifying the Supplier of their defect or failure to conform or breach of warranty will not be considered a waiver of the Supplier's warranty.
- 9.6 The Supplier further represents and warrants that:

- (a) It has full title to the Goods, is fully qualified to sell the Goods to IOM, and is a company financially sound and duly licensed, with adequate human resources, equipment, competence, expertise and skills necessary to carry out fully and satisfactorily, within the stipulated completion period, the delivery of the Goods in accordance with this Contract;
- (b) It shall comply with all applicable laws, ordinances, rules and regulations when performing its obligations under this Contract;
- (c) In all circumstances it shall act in the best interests of IOM;
- (d) No official of IOM or any third party has received or will be offered by the Supplier any direct or indirect benefit arising from this Contract or award thereof;
- (e) It has not misrepresented or concealed any material facts in the procuring of this Contract;
- (f) The Supplier, its staff or shareholders have not previously been declared by IOM ineligible to be awarded contracts by IOM;
- (g) It shall abide by the highest ethical standards in the performance of this Contract, which includes not engaging in any discriminatory or exploitative practice or practice inconsistent with the rights set forth in the Convention on the Rights of the Child;
- (h) The prices for the Goods under this Contract do not exceed those offered for similar goods to Supplier's other customers;
- (i) The Price specified in clause 2.1 of this Contract shall constitute the sole remuneration of the Supplier in connection with this Contract. The Supplier shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or the discharge of its obligations hereunder. The Supplier shall ensure that any subcontractors, as well as the personnel and agents of either of them, similarly, shall not receive any additional remuneration.

9.7 The Supplier further warrants that:

- (a) It shall take all appropriate measures to prevent actual, attempted or threatened sexual exploitation or abuse (SEA) by its employees or any other persons engaged and controlled by it to perform any activities under this Agreement. In addition, it shall take all appropriate measures to prohibit its employees or other persons engaged and controlled by it from exchanging any money, goods, or services at their disposal under this Agreement, for sexual favours or activities.
- (b) It shall strongly discourage sexual relationships between its employees and IOM beneficiaries, and between any other person engaged and controlled by it to perform activities under this Agreement and IOM beneficiaries.
- (c) It shall take all appropriate measures to ensure that its employees or any other persons engaged and controlled by it to perform any activities under this Agreement do not engage in sexual activity with children (persons under the age of 18) regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defence. This prohibition shall not apply where the employee or other person engaged and controlled by it to perform activities under this Agreement is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.
- (d) It shall report all and any complaints or concerns regarding possible SEA by its employees, any other persons engaged and controlled by it to perform any activities under this Agreement, or IOM personnel; and it shall take all appropriate measures to ensure that its employees or any other persons engaged and controlled by it to perform any activities under this Agreement shall report to IOM and/or the Supplier any complaints or concerns regarding possible SEA by its employees, any other persons engaged and controlled by it to perform any activities under this Agreement, or IOM personnel.

- (e) It shall take all necessary measures to investigate allegations or suspicions of SEA and take appropriate corrective action, including disciplinary action, against its employee or any other person engaged and controlled by it to perform any activities under this Agreement who is found to have committed SEA.
- (f) Its failure to take preventive measures against SEA, to duly report any complaints or concerns about SEA to IOM, to investigate allegations thereof, or to take corrective action when SEA has occurred, shall constitute grounds for termination of this Agreement.
- (g) In the event of subcontracting approved by IOM in accordance with this Agreement, it shall receive a written confirmation from subcontractors that they accept the standards above and shall include them in all subcontracts.

10. Termination and Re-procurement

- 10.1 IOM may terminate this Contract, in whole or in part, at any time with written notice to the Supplier. Any monies paid in advance by IOM shall be refunded on or before the date of termination.
- 10.2 If IOM terminates this Contract in whole or in part for default on the part of the Supplier, it may acquire elsewhere goods similar to those terminated and the Supplier shall be liable for any excess costs to IOM for the re-procurement of those Goods as well as the removal of any or all of the Supplier's product or equipment from IOM's premise or other places of delivery. The Supplier shall not be liable for any excess costs if the failure to perform under this Contract arises from causes beyond its control and without fault or negligence of the Supplier.
- 10.3 Upon any such termination, the Supplier shall waive any claims for damages including loss of anticipated profits on account thereof.

11. Force Majeure

Neither Party will be liable for any delay in performing or failure to perform any of its obligations under this Contract if such delay or failure is caused by force majeure, such as civil disorder, military action, natural disaster and other circumstances which are beyond the control of the Party in question. In such event, the party will give immediate notice in writing to the other Party of the existence of such cause or event and of the likelihood of delay.

12. Indemnification and Insurance

- 12.1 The Supplier shall at all times defend, indemnify, and hold harmless IOM, its officers, employees, and agents from and against all losses, costs, damages and expenses (including legal fees and costs), claims, suits, proceedings, demands and liabilities of any kind or nature to the extent arising out of or resulting from acts or omissions of the Supplier or its employees, officers, agents or subcontractors, in the performance of this Contract. IOM shall promptly notify the Supplier of any written claim, loss, or demand for which the Supplier is responsible under this clause.
- 12.2 This indemnity shall survive the expiration or termination of this Contract.
- 12.3 The Goods supplied under this Contract shall be fully insured in a freely convertible currency against loss or damage resulting from or related to manufacture or acquisition, transportation, storage, and delivery. Further insurance requirements may be specified in the Technical Specifications.

13. Independent Contractor

The Supplier shall provide the Goods under this Contract as an independent contractor and not as an employee, partner, or agent of IOM.

14. Audit

The Supplier agrees to maintain financial records, supporting documents, statistical records and all other records in accordance with generally accepted accounting principles to sufficiently substantiate all direct and indirect costs of whatever nature involving transactions related to the supply and delivery of Goods and incidental services under this Contract. The Supplier shall make all such records available to IOM or its designated representative at all reasonable times until the expiration of seven (7) years from the date of final payment, for inspection, audit, or reproduction. On request, employees of the Supplier shall be available for interview.

15. Dispute Resolution

Any dispute, controversy or claim arising out of or in relation to this Contract, or the breach, termination or invalidity thereof, shall be settled amicably by negotiation between the Parties. In the event that such negotiation is unsuccessful, either Party may submit the dispute to arbitration. The arbitration will be carried out in accordance with the UNCITRAL arbitration rules. The arbitral award will be final and binding.

16. Confidentiality

All information which comes into the Supplier's possession or knowledge in connection with this Contract is to be treated as strictly confidential. The Supplier should not communicate such information to any third party without the prior written approval of IOM. The Supplier shall comply with IOM Data Protection Principles in the event that it collects, receives, uses, transfers or stores any personal data in the performance of this Contract. These obligations shall survive the expiration or termination of this Contract.

17. Notices

Any notice given pursuant to this Contract will be sufficiently given if it is in writing and delivered, or sent by prepaid post or facsimile to the other Party at the following address:

[Insert IOM address]

[Insert Supplier's address]

18. Use of IOM's Name

The official logo and name of IOM may only be used by the Supplier in connection with this Contract and with the prior written approval of IOM.

19. Status of IOM

Nothing in this Contract affects the privileges and immunities enjoyed by IOM as an intergovernmental organization.

20. Assignment and Subcontracting

- 20.1 The Supplier shall not assign or subcontract the Contract or any work under this Contract in part or all, unless agreed upon in writing in advance by IOM. Any subcontract entered into by the Supplier without approval in writing by IOM may be cause for termination of the Contract.
- 20.2 In certain exceptional circumstances by prior written approval of IOM, specific jobs and portions of the Contract may be assigned to a subcontractor. Notwithstanding the said written approval, the Supplier shall not be relieved of any liability or obligation under this Contract nor shall it create any contractual relation between the subcontractor and IOM. The Supplier remains bound and liable there under and it shall be directly responsible to IOM for any faulty performance under the subcontract. The subcontractor shall have no cause of action against IOM for any breach of the subcontract.

21. Waiver

Failure by either Party to insist in any one or more instances on a strict performance of any of the provisions of this Contract shall not constitute a waiver or relinquishment of the right to enforce the provisions of this Contract in future instances, but this right shall continue and remain in full force and effect.

22. Severability

If any part of this Contract is found to be invalid or unenforceable, that part will be severed from this Contract and the remainder of the Contract shall remain in full force.

23. Entirety

This Contract and any Annexes embody the entire agreement between the Parties and supersede all prior agreements and understandings, if any, relating to the subject matter of this Contract.

24. Final Clauses

24.1 This Contract will enter into force upon signature by both Parties and shall remain in force until completion of all obligations of the Parties under this Contract.

24.2 Amendments to this Contract may be made by mutual agreement in writing between the Parties.

Signed in two copies in English , on (date) at (place).

For: The International Organization
for Migration

For: (Name of Supplier)

(name)

(title)

(name)

(title)