

(CONTRACT FORM)  
**CONTRACT NO. ....**  
**BETWEEN THE ..... DEPARTMENT**  
**AND**  
.....  
**FOR THE SUPPLY AND DELIVERY**  
**OF**  
.....

This Contract is executed and delivered this ..... day of  
....., B.E. ..... (A.D. ....) at  
....., Bangkok, Thailand,  
between .....  
represented by .....  
(hereinafter called "the Buyer") of the one part and .....  
incorporated under the law of ..... with its  
registered business office of ..... , represented by  
..... (hereinafter called  
"the Seller") of the other part.

The Buyer and the Seller mutually agree as follows:

**1. CONTRACT DOCUMENTS**

The following documents are attached to this Contract and made an integral part of  
this Contract, as though fully written out and set forth herein:

**Volume I – TERMS AND CONDITIONS**

- PART A. Conditions of Contract**
- PART B. Instructions of Bidders**
- PART C. Bid**
- PART D. Supplemental Notice (if any)**
- PART E. Special Provisions of the Source of Fund (if any)**

**Volume II SPECIFICATIONS AND DRAWINGS**

- PART A. Specifications**
- PART B. Drawings**

.....  
.....  
.....  
.....

All of the foregoing documents, together with this Contract, are referred to herein as  
"the Contract Documents"

## **2. AGREEMENT FOR SALE**

The Seller agrees to sell and the Buyer agrees to buy the goods as described and referred in the Contract Documents as "the Goods" at the total price of .....  
(.....)

Both parties mutually agree to perform, fulfill, abide by, and submit to any and all of the provisions and requirements and all matters and things contained of expressed in, or reasonably to be inferred from the Contract Documents.

## **3. PERFORMANCE SECURITY**

At the time of execution of this Contract, the Seller has submitted to the Buyer a performance security in the form of letter of guarantee ..... in the amount of ..... which is equivalent to ..... percent (..... %) of the Contract Price. The said security shall be valid from the date of signing this Contract until the Seller is free from his liabilities under this Contract.

## **4. NOTICES**

All notices called for by the terms of the Contract Documents shall be in writing in the English language and shall be delivered by hand or by registered mail to the party's address to which it is given. All notices shall be deemed to be duly made when received by the party to whom it is addressed at the following addresses or such other addresses as such party may subsequently notify to the other one:

Buyer .....  
.....  
.....  
.....

Seller .....  
.....  
.....  
.....

## **5. INTEGRATION**

The Buyer and the Seller agree that this Contract, including the Contract Documents, expresses all of the agreements, understandings, promises, and covenants of the parties, and that it integrates, combines, and supersedes all prior and contemporaneous negotiations, understanding and agreements, whether written or oral and that no modification or alteration of this Contract shall be valid or binding on either party, unless expressed in writing and executed with the same formality as this Contract.

## **6. COUNTERPARTS**

This Contract is executed in ..... identical counterparts, one for the Buyer, one for the Seller, .....

Both parties have read and understood all details in this Contract and all of the Contract Documents and have hereinto appended their respective signatures and affixed their seals (if any) in the presence of witnesses.

The Buyer

By .....  
(.....)

Witness

.....  
(.....)

The Seller

By .....  
(.....)

Witness

.....  
(.....)

## CONDITIONS OF CONTRACT

### 1. Definitions

In the Contract, words indicating the singular may also include the plural and vice versa as the context requires, and the following words and expression shall have the meanings assigned to hereunder except as the context requires otherwise:

- i) "the Buyer" means the Department of .....  
Ministry of ....., Kingdom of Thailand, which  
has invited bids for the supply and delivery of .....  
.....  
.....  
.....
- ii) "the Seller" means the person or persons, partnership or company whose bid has  
been accepted by the Buyer and agrees to supply and deliver goods to the Buyer.
- iii) "the Contract" means the Contract and all other documents specified therein as  
forming integral part of the Contract.
- iv) "the Contract Price" means the total price stated in Clause 2 of the Contract.
- v) "the Goods" means all of the equipment and/or materials to be purchased as stated  
in sub-paragraph i) above.
- vi) "the Specifications" comprise the Buyer specifications and the manufacturer's  
descriptive literature and technical specifications.
- vii) "Days" means consecutive calendar days unless otherwise specified.

### 2. Origin of Goods

The Seller shall provide the Buyer with a manufacturer's certificate of origin for all Goods to be delivered under the Contract stating the country or countries where the Goods and their principal components are manufactured and the manufacturer's name and address. Only Goods manufactured in member countries of ..... shall be accepted by the Buyer.

### 3. Guarantee of Quality of Goods

The Seller guarantees that the Goods sold under the Contract are of a quality not below that as stipulated in the Specifications and must be brand new, never been put to use except for testing.

In case of the purchase of Goods which will have to be subject to tests, the Seller guarantees that the tests will prove that the quality is not below that as stipulated in .....

### 4. Patents

The Seller shall save harmless and indemnify the Buyer, its officers, agents and employees from liability of any kind resulting from the use of any patented or unpatented inventions, articles, devices, appliances, manufacturing processes, etc. in the implementation of this Contract including their being used by or being at the disposal of the Buyer.

## 5. Taxes, Duties, etc. Payable in Countries Other Than Thailand

Any export taxes, duties, fees or other charges of whatsoever nature which shall be payable in countries other than Thailand for Goods which are to be imported into Thailand under the Contract shall be entirely the responsibility of the Seller.

## 6. Clearance of Goods from Port of Entry (option)

The Seller shall be solely responsible for clearing Goods being imported into Thailand under this Contract from the port of entry and shall take the Goods into safe custody at .....

.....

## 7. Certificate of Inspection (option)

Before shipment, the Seller shall see that the Goods to be delivered under the Contract are inspected and found correct in accordance with specifications and the Seller shall obtain an inspection certificate from the nominated inspector or his own inspection department showing that the said Goods are in accordance with the requirements of the Contract, and are not defective, due to materials used, the workmanship or design involved.

## 8. Import Duties, Fees and other Expenses, Taxes Payable in Thailand (option)

The Seller shall pay all import duties, taxes, fees and other expenses incurred in Thailand in supplying the Goods under the Contract.

## 9. Delivery of Goods

9.1 All Goods to be supplied under this Contract shall be delivered, at the Seller's expenses, to ..... during normal working hours within ..... days counted from the date of execution of this Contract.

9.2 The Seller shall arrange to have clear markings on each package as required by the Buyer with weight, width, length and height of each package on the sides thereof, and shall see that the Goods are packed securely enough to prevent deterioration, knocking about or causing any damage from transportation or weather conditions while the Goods are in transit, for which the Seller shall be solely responsible until the Goods arrive at the destination under the Contract.

9.3 The Seller undertakes to notify the Buyer in writing about the date of shipment, the description of Goods, the name of the ship, the date of the ship's departure together with other papers hereinafter mentioned, or to furnish a copy thereof to the Buyer by registered airmail at least ..... days before the arrival of the ship at the wharf.

- (1) Invoice in ..... copy (copies)
- (2) Bill of Lading in ..... copy (copies)
- (3) Packing List in ..... copy (copies)
- (4) Inspection Certificate or Certificate of Manufacture (if any)
- (5) Insurance Policy
- (6) Certificate of Origin in ..... copy (copies)
- (7) Operator's Handbook, Parts Manual, Service and Repair Manual in .....  
copy (copies)

**(8) Other Documents Required by the Loan Source,**

Besides the Seller shall furnish the documents necessary from abroad to the Buyer for use in customs clearance formalities and the invoice shall show unit prices and itemized prices with weight and others in detail according to customs clearance formalities. Should such furnishing not completely be done, or if it is not possible to furnish within the stipulated time to the extent that damage is suffered by the Buyer for any reason whatsoever, the Seller shall be responsible for the damages.

9.4 Delivery of the Goods under the Contract, whether individually, severally or in part, shall be notified by the Seller for each delivery not less than ..... working days before the date of delivery.

**10. Inspection and Acceptance of Goods**

The buyer will appoint an Inspection Committee to inspect the Goods delivered under the Contract at the place to be specified by the Buyer. The Seller will be notified by not less than 15 days in advance as to the date and place of instruction or any acceptance tests so that he or his representative will be able to be present at such time.

If the inspection Committee is satisfied that the Goods are correct and in full compliance with the Contract, the Certificate of Acceptance will be issued to the Seller. But if not correct or not in full compliance with the requirements under the Contract for any reason, the Seller agrees to allow the Buyer to have the sole right to reject the whole or part of the Goods found defective or non-conforming to Specifications, and in such case it shall be considered that the Seller has not delivered the Goods. If the Buyer orders the Seller to correct or replace the Goods, the Seller shall make correction or replacement of the Goods within ..... days from the date of the Buyer's notice at no cost to the Buyer. The time wasted due to the said cause shall not be taken by the Seller as an excuse for extension of time in the Contract

In purchasing the Goods assembled in one set, if the shortage of any part making it impossible for the goods to be used wholly as the assembled set, it shall be deemed that the Goods have never been delivered, for which penalty shall be imposed in full on the cost of the whole set.

The Seller shall be responsible for all costs incurred in starting up and test runs of the Goods as required by the Inspection Committee.

**11. Insurance**

The Seller shall arrange to insure all the Goods to be furnished under the Contract in amount equivalent to 110% of the CIF cost of each item which the Seller will furnish on each shipment with the right to claim payable in Thailand. The insurance shall cover all risks, including war risk, strike, riot and civil commotion (S.R.C.C.). The insurance policy shall be in the name of the Seller as the insured, while the Buyer shall be the beneficiary. The insurance as stated shall be effective from the date the Goods are shipped until their arrival at the place designated under Clause 9.

In case where there is any loss or damage incurred by the Goods during transportation, the Seller shall replace or repair such goods at his own expenses, but the Buyer shall reimburse

to the Seller the amounts paid by claiming from the insurer the compensation under the insurance policy. In no case shall the reimbursement exceed the compensation paid by the insurer.

## 12. Warranty

The Seller undertakes to warrant against the defect of the Goods for a period of ..... months from the date of issue of the Certificate of Acceptance under Clause 10. Should there be any defect or lack of efficiency associated with its operation due to the quality of materials, design, assembly, fabrication or production, the Seller shall repair or replace the material or component free of charge within a reasonable time. The Seller will bear the whole cost thereof except for cases of normal wear and tear or the Buyer's fault in maintenance or operations.

Should the Seller fail to carry out the repair or replacement of the Goods within a reasonable time to be determined by the Buyer, the latter is entitled to repair or replace the Goods at expense of the Seller.

## 13. Terms and Methods of Payment

### 13.1 For imported materials

#### 13.1.1. Payment of Foreign Currency Portion

Payment shall be made by an irrevocable letter of credit (L/C) to be established by the Buyer through a bank designated by the Seller in favor of the Seller or if requested in writing by the Seller in the name of a supplier or manufacturer; or directly by the Buyer or by ..... on the Buyer's instructions.

##### (A) Advance Payment (option)

Payment of the Goods in an amount equivalent to ..... percent (.....%) of the total Contract Price shall be made within .....(.....) days from the date of signing the Contract or from the date of receipt of L/C against the Bank Guarantee duly furnished by the Seller under clause 13.4.

##### (B) Payment Upon Shipment

Payment for ... percent (.....%) of the value of each shipment shall be made upon presentation by the Seller to the designated Bank (in case of L/C;) or to the Buyer (in case of direct payment) of the following documents:

- (i) Invoice in ..... original and ..... copies
- (ii) Bill of lading in ..... original and ..... copies
- (iii) Packing list in ..... original and ..... copies
- (iv) Insurance Policy
- (v) Certificate of Origin
- (vi) Certificate of Inspection (if applicable)
- (vii) Other Documents Required by the Loan Source.

##### (C) Payment upon Delivery to the Designated Place

(i) Except as provided in sub-paragraph C (ii) below, the remaining ..... percent (.....%) of the value of any shipment shall be paid (against the L/C or by the Buyer)

upon delivery to the designated place of any shipment of the Goods and upon presentation of the following documents:

- a) Invoice
- b) Certificate of Acceptance of the Goods signed by the Inspection Committee
- ii) if any item(s) in the shipment of the Goods is not delivered on schedule and if such item(s) is to be assembled with other items or is otherwise to be placed in working order at the designated place, then any outstanding payment for the value of such shipment shall be withheld until such item is delivered either assembled or placed in working order, and the Invoice and Certificate of Acceptance have been presented.

#### 13.1.2 Payment of Baht Portion

Payment of the Seller's invoice in Baht covering the local expenditures (e.g. local transportation, clearance expenses, etc.) shall be made by the Buyer directly to the Seller within 45 days after submission to the Buyer of the corresponding complete invoice together with a copy of the Certificate of Acceptance for the Goods delivered.

#### 13.2 For local Materials

##### 13.2.1 Advance Payment (option)

Payment of the Goods in an amount equivalent to ..... percent (.....%) of the total Contract Price shall be made within .....(.....) days from the date of signing the Contract against the Bank Guarantee duly furnished by the Seller under Clause 13.4

##### 13.2.2 Payment upon Delivery

Payment (for the balance amount from the advance payment or for the Contract Price) of each delivery shall be made by the Buyer directly to the Seller within 45 days after submission to the buyer of the corresponding complete invoice together with a copy of the Certificate of Acceptance of such delivery.

#### 13.3 Receipt

Upon receipt of each payment, the Seller shall furnish a cash receipt signed by the Seller or by the receiver to the Buyer by hand or by registered mail sent to the Buyer within.....(.....) days.

#### 13.4 Security for Advance Payment

On the date of receipt of advance payment, the Seller shall submit to the Buyer the Bank Guarantee issued by a bank in Thailand for an amount equivalent to the sum of advance payment to be received as security for the refund of such advance payment to the Buyer.

The said Bank Guaranteed shall be valid from the date of receipt of the advance payment up to the date of acceptance of the whole Goods correctly and completely.

13.5 All expenses incurred in relation to the opening of letter of credit in Thailand shall be borne by the Buyer and all expenses in relation to the confirming of letter of credit outside Thailand shall be borne by the Seller.

**14. Shipment (This clause should be deleted when it is contrary to the guidelines of the loan source)**

14.1 If the Goods to be delivered to the buyer according to this contract are Goods which have to be ordered or imported from abroad by the Seller and are to be carried by sea on the route where Thai vessels are in carriage service and their space are available according to Notification issued by the Minister of Transport and Communications, the Seller must make arrangements for the shipment of such goods to Thailand by Thai vessels or vessels which enjoy the rights similar to Thai vessels unless permission has been obtained from the Office of Mercantile Marine Promotion Commission before such Goods are carried by non-Thai vessels or they are goods which, according to the Notification of Minister of Transport and Communications, may be carried by non-Thai vessels.

14.2 Seller must submit a bill of lading or its certified copy to the Buyer together with the delivery of the Goods showing those Goods are carried by Thai vessels or vessels which enjoy the rights similar to Thai vessels.

In case such Goods are not carried from abroad by Thai vessels or vessels which enjoy the rights similar to Thai vessels, the Seller must submit either an evidence to the Buyer showing that permission has been obtained from the Office of Mercantile Marine Promotion Commission allowing the carriage of the Goods by non-Thai vessels or an evidence showing that payment of special fee has been made due to non-carriage of the Goods by Thai vessels according to the law on Mercantile Marine Promotion.

In case the Seller does not submit to the Buyer either of the evidence mentioned in the preceding paragraphs, but nevertheless desires to deliver such Goods to the Buyer without receiving payment for such Goods, the Buyer is entitled to accept such Goods and will pay for the price to such goods when the Seller has properly fulfilled the aforesaid requirements.

**15. Termination of the Contract for Cause**

In case of failure of the Seller to complete the delivery of the Goods within the scheduled time as may be extended from time to time under the Contract or in case of becoming bankrupt or non-compliance with the obligations under any Clauses of the Contract, the Buyer is entitled to terminate the Contract, in whole or in part by written notice of termination sent to the Seller

The Buyer's failure to terminate the Contract under the first paragraph shall not constitute justification for the Seller to be relieved of any liabilities under the Contract.

**16. Termination by the Buyer for Convenience**

a) The Contract may be terminated by the Buyer in whole, or from time to time in part, in accordance with this Clause whenever the Buyer shall determine that such termination is in the best interest of the Buyer.

b) Termination shall be effected by notice of termination sent to the Seller specifying that termination is for the convenience of the Buyer, the extent to which performance of work under the Contract be terminated, and the date upon which such termination becomes effective.

c) The Seller shall be reimbursed for all contract cost incurred up to the time of termination under this Clause excluding any amount already paid to the Seller.

#### **17. Liquidated Damages**

In case of failure of the Seller to complete the delivery of Goods by the time scheduled in the Contract, or in case the Goods have been rejected for not meeting the Specifications, the Seller agrees to pay liquidated damages to the Buyer on a daily basis at the rate of .....% of the cost of the Goods not completely delivered from the day following the specified date of delivery up to actual date of delivery of the Goods to the Buyer correctly and completely subject to the maximum amount of 10% of the Contract Price.

In case of purchasing the Goods assembled in one set, in penalty shall be imposed in full on the cost of the whole set. Regarding the purchase of the Goods in sets together with spare parts and/or tools, if the Seller delivers complete sets on schedule, with the exception of spare parts and/or tools which are behind schedule, liquidated damages will be imposed on a daily basis at the rate of ..... percent (.....%) of the cost of spare part and/or tools undelivered.

As regards the purchase of the Goods at a cost inclusive of the cost of installation or test, if the number of days involved in the installation or test extends beyond that scheduled in the Contract; the liquidated damages shall be imposed on a daily basis at the rate of ..... percent (.....%) of the whole cost.

If the Buyer has not yet terminated the Contract and considers that the Seller is unable to continue its performance of the Contract, or the liquidated damages amount exceeds the ceiling, the Buyer is entitled to terminate the whole or part of this Contract, as the Buyer may deem it appropriate and may exercise the right under Clause 18. In addition, if the Buyer notifies the Seller after the delivery time scheduled in the Contract that he demands the payment of the liquidated damages, the Buyer shall also be entitled to the liquidated damages up to the date of termination of the Contract.

In case the Buyer accepts the Goods which the Seller has delayed in delivering, the Seller agrees to pay the penalty at the time of acceptance of the Goods.

#### **18. Buyer's Right After Termination of the Contract**

In case the Buyer terminates the Contract under Clause 15, the Seller agrees to let the Buyer confiscate the security by claiming against the Bank issuing the performance security in whole or in part as may be deemed advisable by the Buyer. Besides, the Seller shall be liable to pay all damages to the Buyer, and if the Buyer procures the Goods from another person in whole or in part, especially for those falling short as the case may be, within a period of ..... (.....) months from the date of termination, the Seller agrees to reimburse the extra cost over and above those stipulated in the Contract.

#### **19. Claim for Penalty and Damages**

In claiming liquidated damages and damages from the Seller under this Contract, the Buyer may be reimbursed by way of deduction from the cost of the Goods including

reimbursable costs remaining unpaid to the Seller or by claiming against the bank issuing the performance security as the buyer may prefer.

## **20. Force Majeure**

Where there is Force Majeure which causes delay in delivery of the Goods under the Contract, the Buyer shall be notified in writing at once with evidence of the facts involving Force Majeure, Such evidence as stated shall be verified by an agency acceptable to the Buyer or by the Royal Thai Embassy or Thai Consulate in the country where such Force Majeure occurs in order to enable the Buyer to give the matter due consideration and extension of the delivery time to cover the delay due to said Force Majeure.

In this Contract Force Majeure denotes any event, the happening or pernicious results of which could not be prevented even though a person against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation.

## **21. Ownership of the Goods**

Any purported transfer of the ownership of the Goods as evidenced by a bill of lading, insurance policy and other such documents shall not affect the Seller's obligations under this Contract.

## **22. Transfer or Change of Right under the Contract**

Both parties shall not on any account transfer or change the rights under the Contract except with written consent from the other party.

## **23. Settlement of Disputes**

23.1 Any dispute or difference arising out of or in connection with this Contract or the implementation of any of the provisions of this Contract which cannot be settled amicably shall be referred to arbitration.

23.2 Unless both parties agree in the appointment of a single arbitrator, either party shall serve upon the other a notice of intention to submit the dispute or difference to arbitration and specify the name of an arbitrator to be appointed by him. Then the dispute or the difference shall be referred to two arbitrators, one to be appointed by the issuing party as aforesaid and the other one to be appointed by the other party within thirty (30) days after receipt of the said notice. If the two arbitrators are unable to agree on such dispute or difference, an umpire shall be appointed by the two arbitrators within thirty (30) days from the date of disagreement. The umpire so appointed shall resolve the dispute or difference.

23.3 Should either party be unable to appoint an arbitrator or in case of disagreement as regards to the appointment of an umpire, each party is entitled to refer the matter to the Civil Court in Bangkok, Thailand for the appointment of arbitrator or umpire as the case may be.

23.4 Any decision or award given by the single arbitrator or the two arbitrators jointly, or the umpire in case the two arbitrators disagree, shall be final, conclusive and binding upon the parties hereto. The arbitration proceedings shall follow the Rule of Arbitration of the Ministry of Justice's Arbitration Office or any rule as agreed by both parties and shall be conducted in Bangkok.

23.5 Each party shall bear the cost of his own arbitrator's service and share equally other cost of all proceedings. In case a single arbitrator or an umpire is appointed, the cost of the single arbitrator's service or the cost of the umpire's service shall be decided by the arbitrator, or the umpire, as the case may be.

23.6 The submission of any matter in dispute or difference to the arbitration proceedings as aforesaid, Shall be a condition precedent to the right of institution of court action.

23.7 Each party shall have the right to institute suit against the other in the Civil Court in Bangkok, Thailand, to enforce any decision or award rendered in arbitration proceedings.

#### **24. Law of Contract**

This Contract shall be subject to and construed in accordance with the Law of the Kingdom of Thailand.