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業者契約書フォーム(機材案件:据付なし)(英語)

CONTRACT

BETWEEN

(NAME OF THE EXECUTING AGENCY)

(NAME OF THE RECIPIENT COUNTRY)

AND

(NAME OF THE SUPPLIER)

JAPAN

FOR

(NAME OF THE PROJECT)

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CONTRACT

THIS CONTRACT, made and entered into this **th day of *****, 20** by and between (name of the executing agency), (name of the recipient country (以下「正式国名」)) (hereinafter referred to as “the Buyer”) and (name of the supplier), duly organized and existing under the laws of Japan, having its principal office of business at (address of the supplier) (hereinafter referred to as “the Supplier”),

WITNESSETH:

WHEREAS, the Japan International Cooperation Agency (hereinafter referred to as “JICA”) extends a grant to the Government of (name of the recipient country) on the basis of the Grant Agreement signed on the **th day of *****, 20** between the Government of (name of the recipient country) / (G/A の署名相手方の名称に合わせる) and JICA concerning (name of the project on the G/A) (hereinafter referred to as “the Project”); and

(ここで案件名を “the Project” と定義していますが、Article 1. Definitions においては、案件名を “the Project” とせず、G/Aに記載された正式案件名を記載してください。)

WHEREAS, the Buyer, as a competent authority for the Project, is desirous of having the works for the Project carried out by the Supplier; and

WHEREAS, the Supplier is willing to execute the works on the terms and conditions as set forth in this Contract;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

Article 1. Definitions

In interpreting or construing this Contract, the following expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

“**The Exchange of Notes**” means the notes exchanged between the Government of (name of the recipient country) and the Government of Japan on the **th day of *****, 20** (hereinafter referred to as “the E/N”) in connection with the Grant Aid from the Government of Japan concerning (name of the project on the G/A).

“**The Grant Aid**” means a scheme of Japanese official development assistance.

“**The Grant**” means the amount for the implementation of (name of the project on the G/A), which is stipulated in the Grant Agreement.

“**The Grant Agreement**” means the agreement signed on the **th day of *****, 20** between the Government of (name of the recipient country) and JICA (hereinafter referred to as “the G/A”) in connection with the execution of the Grant for the implementation of the (name of the project on the G/A).

“**The Project**” means (name of the project on the G/A) in conformity with the G/A and to be implemented by the Government of (name of the recipient country). The Project site(s) is/are located at/in (name of the site of the Project), (name of the recipient country) (hereinafter referred to as “the Project Site”). (サイトが1か所かそれ以外かで、単数・複数を使い分けてください)

(注: 二重下線については、案件毎に適宜選択後、二重下線を削除してください。以下同様)

“**The Buyer**” means (name of the executing agency), (name of the recipient country). The Buyer shall include any person or persons authorized by the

Buyer.

“The Consultant” means (name of the consultant) having its principal office at (address of the consultant), Japan, which shall be appointed by the Buyer for the execution of this Contract, shall provide professional services for design, assistance of tendering and supervision of the progress of the Project under the Agreement with the Buyer. The Consultant shall include any person or persons authorized by the Consultant.

“The Supplier” means (name of the supplier). The Supplier shall include any person or persons authorized by the Supplier.

“JICA” means an agency which was established based on the Japanese Act on Incorporated Administrative Agency - Japan International Cooperation Agency promulgated in 2002. JICA makes the Grant available for the Project based on the E/N and the G/A.

“The Equipment” means all the equipment and materials to be procured for the Project, which shall be manufactured, equipped and completed in accordance with the provisions of the Contract Documents.

“The Contract” means this contract concluded between the Buyer and the Supplier.

“The Contract Documents” means the documents consisting of the following and are incorporated in and made part of this Contract, as though fully written out and set forth herein.

- Tender of the successful tenderer
- General Conditions of Contract
- Particular Conditions of Contract
- Specifications
- Drawings
- Schedule

- Instruction to Tenderer

- (other addenda, if any, that are issued prior to the signing of this

Contract) (左記文書の()を取ってそのまま契約書の文書とする場合その他必要な書類を具体的に記載すること)

(上記に記した Contract Documents は、あくまでも標準の書類ですので、内容を確認の上、案件に合わせて記載してください)

“**The Party**” means the Buyer or the Supplier, as the case may be, and “the Parties” means both of them.

“**The Third Party**” means any natural person or legal entity or unincorporated entity other than the Buyer or the Supplier.

“**The Contract Price**” means the price defined in Article 7 hereof, and includes adjustments in accordance with the Article 8 hereof.

Words importing the singular only also include the plural and vice versa where the context requires. Words indicating one gender include all genders.

Article 2. Basis of Contract

Any and all stipulations of this Contract shall be consistent with the content of the G/A. Should any of the stipulations of this Contract be in conflict with the G/A, such stipulations shall be rectified to be consistent with the G/A.

Article 3. Scope of Work

The works to be rendered by the Supplier under this Contract are the supply and delivery of the Equipment, which shall be manufactured, equipped and completed in accordance with the provisions of the Contract Documents.

The scope of the works prescribed in this Article may be amended and

modified pursuant to mutual agreement in writing under this Contract.

Article 4. Period of Execution of Work

4.1 The Supplier shall commence the works stipulated in Article 3 of this Contract from the date of signing of the Contract.

4.2 The Supplier shall complete the works stipulated in Article 3 of this Contract on or before the **th day of *****, 20** unless the available period of execution under this Contract between the Buyer and the Supplier is extended by mutual agreements within the available period of the Grant stipulated in the G/A. The available period of the Grant may also be extended by mutual agreements between the authorities concerned of the Government of (name of the recipient country) and JICA within the available period of the E/N.

(コンサルタント契約書の Article 4. Period of Execution of Service の期間内であること。)

Article 5. Shipment and Packing

5.1 The equipment procured from (Japan and/or names of the third countries (正式国名)/areas) shall be shipped from (Japan and/or the third countries(正式国名)/areas of shipment) on or before the **th day of *****, 20**.

The equipment procured in (name of the recipient country) shall be delivered to (place of delivery) by the Supplier on or before the **th day of *****, 20**.

(日本もしくは第三国からの調達のみまたは、現地調達のみのもどちらか一つとなる場合、equipment は定義した Equipment を使用してください。Article 8, 8.2 も同じ)

5.2 The Supplier shall be responsible for the carriage of the Equipment to (place of delivery) and for the coverage of the shipping charges, freight, and insurance premiums.

- 5.3 Partial shipments are allowed.
Transshipment is also allowed.
- 5.4 The Supplier shall securely pack the Equipment so as to avoid damage in transit.

Article 6. Country/Area of Origin

The origin of the Equipment shall be limited to (Japan and/or names of the countries(正式国名)/areas of origin).

Article 7. Remuneration

The Buyer shall remunerate the Supplier from the Grant with a total amount of ***** million ***** thousand ***** Japanese Yen (JPY***,***,***) as the Contract Price for the works stipulated in Article 3 of this Contract, in accordance with the payment schedule stated in Article 8, 8.2 of this Contract.

(金額の数字表記は、単位も含めて途中で改行しない。例：“JPY”で改行して“***,***,000”としない。また、“JPY”の後にスペースを入れない。以下同様。)

Article 8. Payment

8.1 Terms of Payment

In accordance with the G/A, the Buyer shall make a Banking Arrangement (B/A) with a bank in Japan (hereinafter referred to as “the Bank”) to authorize the Bank to pay the Contract Price to the Supplier under this Contract. The payment to the Supplier under this Contract shall be made in Japanese Yen through the Bank under an irrevocable Authorization to Pay (A/P), which shall be issued by the Buyer to the

Bank.

8.2 Payment schedule

- (1) Payment for the equipment procured from (Japan and/or names of the third countries/areas)

***** million ***** thousand ***** Japanese Yen (JPY^{***,***,***}), which corresponds to one hundred percent (100%) of the Equipment Price for the equipment procured from (Japan and/or names of the third countries/areas), shall be paid upon shipment of the said equipment under this Contract.

The request for this payment shall be submitted together with the following documents of the said equipment.

- Clean On Board Ocean Bill of Lading, on which "Freight Prepaid" is described in full set
- Signed Commercial Invoice in triplicate
- Packing List in triplicate
- Insurance Policy in duplicate
- Report of Pre-shipment Inspection issued by the Consultant
..... photocopy

In case of sending one (1) original Bill of Lading directly to the Buyer, the requirements shall be:

- a) Full set less one (1) Bill of Lading mentioned above;
- b) Supplier's certificate stating that one (1) original Bill of Lading has been directly sent to the Buyer.

As for the Clean On Board Ocean Bill of Lading mentioned above, the following documents are acceptable as a payment document.

1. Air Waybill
2. Multimodal Transport B/L
3. Rail Transport Document
4. Charter Party B/L
5. Truck Transport Document

In case of delivery only by Truck Transport, the receipt of the said equipment issued by the Buyer shall be attached.

Stale B/L is acceptable.

When the said equipment is delivered in more than one shipment, a partial payment is acceptable for each shipment.

In case any amendments and/or modifications of the Equipment Price for the equipment procured from (Japan and/or names of the third countries /areas) are necessary in accordance with Article 19, the payment shall be adjusted accordingly.

(2) Payment for the equipment procured in (name of the recipient country) ***** million ***** thousand ***** Japanese Yen (JPY***,***,***), which corresponds to one hundred percent (100%) of the Equipment Price for the equipment procured in (name of the recipient country), shall be paid upon delivery to the Buyer of the said equipment under this Contract.

The request for this payment shall be submitted together with the following delivery documents of the said equipment.

- Signed Commercial Invoice.....in triplicate
- Receipt of the equipment issued by the Buyer..... one original

When the said equipment is delivered in more than one delivery, a partial payment is acceptable for each delivery.

In case any amendments and/or modifications of the Equipment Price for the equipment procured in (name of the recipient country) are necessary in accordance with Article 19, the payment shall be adjusted accordingly.

Article 9. Buyer's Responsibilities

- 9.1 The Buyer shall, on behalf of the Supplier, arrange the acquisition of visas, customs clearances and any other formalities that may be necessary for the entry of the Supplier's personnel into (name of the recipient country) and their stay therein for the works stipulated in Article 3 of this Contract.
- 9.2 The Buyer shall, in conformity with the G/A, (免税の場合)take necessary measures to exempt the Supplier from / (先方負担の場合)bear, without using the Grant, customs duties, internal taxes and other fiscal levies which may be imposed in (name of the recipient county) with respect to the works stipulated in Article 3 of this Contract.
- 9.3 The Buyer shall take necessary measures to ensure prompt unloading and customs clearance at the points of disembarkation in (name of the recipient country) and internal transportation therein of the Equipment.
- 9.4 The Buyer shall bear the following commissions to the Bank for the banking services based upon the Banking Arrangement.
- Advising Commission of Authorization to Pay
 - Payment Commission
- 9.5 If the Supplier suffers damage as a result of a default by the Buyer in the execution of its obligation under the Contract, the Supplier shall discuss the solution with the Consultant, give a written notice to the Buyer and send its copy immediately to JICA. Then the Buyer and the Supplier shall consult mutually to settle such matters. The Supplier shall properly inform JICA of its progress. If the Parties can not reach agreement within ***** (***) days from the date of the notice, the Parties shall comply with the dispute settlement process stipulated in Article 17 hereof.

(注 : **** (**))は本工事の規模と期間を踏まえ発注者と受注者の合意により決定される。**** (**)
は十分な議論を行い、かつ、不当な遅滞を来たさない適当な期間とする。以下同じ。)

Article 10. Supplier's Obligations

- 10.1 The Supplier shall perform the works stipulated in Article 3 of this Contract in accordance with the Contract Documents.
- 10.2 The Supplier shall submit to the Consultant the list of country/area of origin of the equipment and materials which the Supplier proposes to purchase for the Project.
- 10.3 The Supplier shall carry out a necessary inspection and testing of the Equipment prior to the shipment in order to ensure that the Equipment has been manufactured in accordance with the Contract Documents.
- 10.4 If the Buyer suffers damage as a result of a default by the Supplier in the execution of its obligations under this Contract, the Buyer shall discuss the solution with the Consultant, give a written notice to the Supplier and send its copy immediately to JICA. Then the Buyer and the Supplier shall consult mutually to settle such matters. The Buyer shall properly inform JICA of its progress. If the Parties can not reach agreement within ***** (**) days from the date of the notice, the Parties shall comply with the dispute settlement process stipulated in Article 17 hereof.

Article 11. Inspection

Pre-shipment inspection of the equipment and materials shall be carried out by an inspection agency assigned by the Consultant. The Supplier shall assist the agency in the pre-shipment inspection. The Supplier shall cover the

cost of additional pre-shipment inspection by the agency in case the equipment and materials are not certified and additional cost accrues.

Article 12. Warranty against Defects

12.1 Warranty period is twelve (12) months from the("each"を入れる場合は"the"を削除する) each(certificates と複数ある場合に記載) date of issue of the certificate(s) of receipt of the Equipment. Details of warranty for the Equipment are defined in the Contract Documents.

12.2 The Buyer shall notify the Supplier in writing, as stipulated in Article 26 hereof, of any defects for which a claim is made under this warranty as promptly as possible after discovery thereof.

The Buyer's written notice shall describe the nature and extent of the defects. The Supplier shall have no obligation for any defects discovered subsequent to the expiry date of the said twelve (12) months period, unless notice of such defects is received by the Supplier not later than twenty one (21) days after such expiry date.

12.3 The Supplier shall remedy, at his own expense, any defects against which the Equipment is warranted under this Article, by making all necessary repairs or replacements, except in the case that such defects result from the Buyer's negligence or failure.

Article 13. Performance Security

13.1 The Supplier shall provide a performance security issued by a Japanese financial institution, which secures the proper execution of all the Supplier's obligations during the period from the date of signing of this Contract to the date of receipt of the Equipment of this Contract. The Consultant shall have the custody of the performance security.

- 13.2 The amount of the performance security shall be **** percent (* %) of the Contract Price.
- 13.3 The performance security shall be released immediately after completion of the works stipulated in Article 3 of this Contract and the certificate of receipt of all the Equipment issued by the Buyer or issued by the Consultant and approved by the Buyer.

Article 14. Assignment and Subcontract

Neither of the Parties hereto shall assign this Contract or any part thereof to any Third Party without prior written consent of the other Party. However, the Supplier may subcontract this Contract or any part thereof to any Third Party on the condition that such subcontract statement shall be made in the specifications or prior written consent shall be obtained from the Buyer.

Article 15. Force Majeure

- 15.1 In the event that the performance or carrying out of this Contract by either Party is prevented or delayed in whole or in part by war, revolution, riot, strike or other labor dispute, fire, flood, typhoon, peril or accident, destruction of or damage to the manufacturer's factory or other works of the Supplier, or any other causes beyond the control of either Party hereto (hereinafter referred to as "Force Majeure"), then such Party shall not be liable for any default in performance or carrying out of all or any part of this Contract.
- 15.2 In the event of Force Majeure, the Parties are to consult and agree upon the appropriate measures to be taken in order to eliminate, mitigate and minimize the unfavorable consequences of such Force Majeure.

15.3 If the Supplier suffers damage due to Force Majeure, the Supplier shall discuss the solution with the Consultant, give a written notice to the Buyer and send its copy immediately to JICA. Then the Buyer and the Supplier shall consult mutually to settle such matters. The Supplier shall properly inform JICA of its progress. If the Parties can not reach agreement within ***** (**) days from the date of the notice, the Parties shall comply with the dispute settlement process stipulated in Article 17 hereof.

Article 16. Applicable Laws

This Contract shall be governed by and interpreted in accordance with the laws of (Japan or name of the recipient country). (国名は1カ国のみを記入)

Article 17. Disputes and Arbitration

17.1 This Contract shall be executed by the Parties hereto in good faith, and in case any doubtful point is raised or any dispute occurs concerning the interpretation or performance of this Contract, such matters shall be settled through consultation of the Parties and the Consultant. Unless the Contract has already been abandoned, repudiated or terminated in accordance with Article 22 hereof, the Supplier shall continue to perform the Work in accordance with this Contract. If the Parties can not reach agreement within ***** (**) days from the date of the notice informing the occurrence of such matters, JICA will offer its suggestion for the settlement of the matter.

17.2 In the event that an amicable settlement cannot be reached through consultation referred to in the Sub-Paragraph 17.1 above, the matter shall be referred to arbitration. The arbitration shall be conducted in

accordance with the Rules of Arbitration of the International Chamber of Commerce.

- 17.3 The arbitration shall be conducted in (例:English;1言語に限定)
- 17.4 The place of arbitration shall be (place of arbitration, 地名・国名を明記 例:Tokyo, Japan/Paris, French Republic). (1箇所のみ指定)(この部分の国名は略式名も可)
- 17.5 The arbitral award shall be final and binding upon the Parties hereto and the Parties shall comply in good faith with the decision. Judgment upon the award may be entered in any court having jurisdiction or application may be made to such court for juridical acceptance of the award or order of enforcement as the case may be.
- 17.6 As for fees for all proceedings for arbitration, each Party shall bear the costs of his own arbitrator's service and an equal share of the costs for the third arbitrator.

Article 18. Language and Measurement System

- 18.1 All correspondence between the Parties including notices, requests, consents, offers and demands shall be made in (例:English;1言語に限定). All drawings, specifications, reports, and other documents shall also be prepared in (例:English;1言語に限定).
- 18.2 All documents made under this Contract shall adopt the metric system and the Gregorian calendar day.

Article 19. Project Modifications

- 19.1 In case the Buyer considers any modifications of the works stipulated in

Article 3 of this Contract necessary, the Buyer shall discuss the solution with the Consultant, and the modifications can be made subject to the prior consent by JICA. Each modification may include:

- (a) change of the Project Site,
- (b) change in quality or quantity of major equipment,
- (c) change of the period of execution of the works stipulated in Article 3 of this Contract,
- (d) change of terms and/or amount of the Contract Price,
- (e) change that requires amendment of the verified contract; and
- (f) other changes for which JICA requires the Buyer to obtain its prior consent.

In addition to the changes mentioned above, modifications can be made on an ex-post fact report to JICA within the criteria of minor modifications set by JICA.

19.2 Proposal by the Supplier

In case the Supplier considers any modifications of the works stipulated in Article 3 of this Contract necessary, the Supplier shall discuss the solution with the Consultant, and the Supplier can propose the modifications to the Buyer. This proposal may include the changes from (a) to (f) mentioned in Sub-Paragraph 19.1.

19.3 Procedures

Modifications shall be agreed upon by the Parties and JICA's consent shall be obtained for the modifications. Details of the procedures for such modifications are advised by JICA.

Article 20. Amendments and Modifications

Any amendments and/or modifications, if necessary, may be negotiated between the Parties hereto and shall be agreed by a written document signed by

the Parties. The Consultant shall support the process of the amendments and/or modifications.

Article 21. Verification of Contract

This Contract and any amendments or modifications shall be verified by JICA to be eligible for the Grant in accordance with the G/A.

Article 22. Early Termination

- 22.1 Should either Party default in the execution of his obligations under this Contract, the other Party shall give the defaulting Party notice in writing to remedy such default promptly.
- 22.2 Failure of the defaulting Party, to take corrective measures as required by the other Party within thirty (30) days of the receipt of such notice, shall constitute a sufficient cause for the other Party to terminate this Contract.
- 22.3 Either Party may terminate this Contract without prejudice, should the performance of his obligations under this Contract not be resumed within a cumulative period of one hundred and twenty (120) days of suspension due to Force Majeure stipulated in Article 15 hereof.
- 22.4 The early termination of this Contract under this Article shall be subject to the approval of the competent authorities of the Buyer and the approval of JICA.
- 22.5 In the event of early termination for reasons stated in Sub-Paragraph 22.2 and 22.3, the Supplier shall, with the approval of JICA, be paid by the Buyer, within the Grant, a fair and reasonable proportion of the Contract Price that is calculated on the basis of the Supplier's works carried out up

to the termination date, instead of the payment schedule stipulated in Article 8 hereof.

Article 23. Patents, Trademarks and Copyrights

- 23.1 The Equipment may bear patent numbers, trademarks, or trade names of the manufacturers thereof. Nothing contained herein shall be construed as transferring any patent or trademark right or copyright for such Equipment and all such rights are hereby expressly reserved to the true and lawful owners thereof.
- 23.2 The Supplier shall defend the Buyer and hold the Buyer harmless from patent liability or claim of patent infringement of any nature or kind, including costs and expenses for, or on account of, any patent or unpatented invention made or used in such Equipment, including the costs and expenses of litigation, if any.

Article 24. Interpretation

- 24.1 All general language or requirements embodied in the specifications are intended to amplify, explain and implement the requirements of this Contract. However, in the event that any language or requirements so embodied permit an interpretation inconsistent with any provisions of this Contract, then in each and every such event, the applicable provisions of this Contract shall prevail and govern.
- 24.2 The specifications and drawings are also intended to explain each other, and anything shown on the drawings and not stipulated in the specifications or vice versa shall be deemed and considered as if embodied in both. In the event of conflict between the specifications and drawings, the specifications shall prevail and govern.

(第 1 条の定義“the Contract Document”に Drawings がない場合は、この項(24.2)を削除。
その場合、24.1 の本文のみを記載し、24.1 という数字を削除する。)

Article 25. Entire Agreement

This Contract sets forth the entire agreement between the Parties in respect of the subject matter hereof and supersedes and cancels any and all previous agreements, negotiations, commitments, and writings in respect of the subject matter thereof.

Article 26. Notice

All notices pertaining to this Contract between the Buyer and the Supplier shall be sent in writing by registered airmail, facsimile, electronic mail or shall be handed to the addresses so stated herein. Such notices shall take effect from the date of receipt by the other Party. In case either Party hereto changes the address, the Party concerned shall give such notice to the other Party beforehand.

The Buyer:

Name : (name of the executing agency), (name of the recipient country)

Address :

Telephone :

Facsimile :

E-mail address :

The Supplier:

Name :

Address :

Telephone :

Facsimile :

E-mail address :

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed, as of the day and year first above written, in their respective names in duplicate, each Party retaining one (1) copy thereof.

The Buyer

The Supplier

(Signature) _____

(Name of the signer)

(Status of the signer)

(Name of the executing agency)

(Name of the recipient country)

(Signature) _____

(Name of the signer)

(Status of the signer)

(Name of the Supplier)