
PURCHASE AGREEMENT TEMPLATE – CBD-PAYMENT

CONTRACT NUMBER: XXXXXXXXXXXX

BUYER'S TRANSACTION CODE: XXXXXXXXXXXX

THIS AGREEMENT IS MADE ON XXXXXXXXXXXX

THE SELLER:

ORGAKOM MILINDO GMBH

IM ERMILISGRUND 20-24
76337 WALDBRONN / GERMANY

TELEPHONE: +49 7243 5646-0
E-FAX: +49 7243 5646-24
E-MAIL: MILINDO@ORGAKOM.DE

REPRESENTED HEREIN BY ITS MANAGING DIRECTOR MR. JUERGEN HUBER
HEREINAFTER REFERRED TO AS "SELLER"

AND

THE BUYER:

XXXXXXXXXX

XXXXXXXXXX
XXXXXXXXXX

TELEPHONE: XXXXXXXXXXXX
E-FAX: XXXXXXXXXXXX
E-MAIL: XXXXXXXXXXXX

REPRESENTED HEREIN BY ITS XXXXXXXXXXXX XXXXXXXXXXXX
HEREINAFTER REFERRED TO AS "BUYER"

HEREINAFTER TOGETHER SHALL BE REFERRED TO AS "PARTIES" OR "PARTY"

THIS CONTRACT IS MADE BY AND BETWEEN THE SELLER AND BUYER WHEREBY THE SELLER
AGREES TO SELL AND THE BUYER AGREES TO BUY THE UNDER MENTIONED GOODS, ON THE
TERMS AND CONDITIONS STATED BELOW.

1. OBJECT

1.1 THE SELLER HEREWITH SELLS AND THE BUYER HEREWITH PURCHASE **GOODS** IN
ACCORDANCE WITH THE SPECIFICATIONS AND QUALITY DESCRIBED IN THIS
CONTRACT (HEREINAFTER CALLED "GOODS").

1.2 THE SPECIFICATION OF THE GOODS IS PROVIDED IN APPENDIX NO. 2 HERETO.

2. DELIVERY BASIS AND TERMS

- 2.1 THE UNIT OF MEASUREMENT IN THIS CONTRACT IS METRIC TONS OF WEIGHT (MT). MONTHS ARE CALENDAR MONTHS ACCORDING TO THE GREGORIAN CALENDAR.
- 2.2 THE SELLER SHALL DELIVER THE GOODS UNDER DELIVERY OF CONDITIONS: **CIF ASWP** IN ACCORDANCE WITH INCOTERMS-2000.
- 2.3 COUNTRY OF EXPORT: AS PER DELIVERY SCHEDULE APPENDIX 3, OR AS DESIGNATED BY SELLER, AND COUNTRY OF IMPORT TO BE DESIGNATED BY THE BUYER.
- 2.4 IF THE DESTINATION PORT DIFFERENT FROM ARTICLE 2.2, THEN THE BUYER WILL INFORM THE SELLER THIRTY (30) DAYS BEFORE THE BEGINNING OF SHIPMENT OF EACH VESSEL.
- 2.5 TERMS OF DELIVERY ARE INCLUDED IN THE DELIVERY SCHEDULE IN APPENDIX NO. 3 HERETO.
- 2.6 THE SHIPPING COMPANIES USED TO UNDERTAKE SEA TRANSPORT TO DESTINATION HAVE TO BE MUTUALLY AGREED UPON. THE SHIPPING COMPANIES HAVE TO BE LLOYDS REGISTERED. THE VESSELS MUST BE CLASSIFIED AS 100-A-1 IN THE LLOYDS' REGISTER OR BE OF AN EQUIVALENT CLASSIFICATION AND MUST NOT BE OLDER THAN 20 (TWENTY) YEARS.

3. QUANTITY OF GOODS

- 3.1 THE UNIT OF MEASUREMENT IN THIS CONTRACT IS METRIC TONS OF WEIGHT (MT). MONTHS ARE CALENDAR MONTHS ACCORDING TO THE GREGORIAN CALENDAR.
- 3.2 THE TOTAL QUANTITY OF GOODS IS **XXX.XXX** MT (+/- 10%) WITHIN **XX** MONTHS.
- 3.3 THE DELIVERY VOLUME OF EACH MONTH IS **XX.XXX** MT, +/- 10% AT BUYERS OPTION.
- 3.4 THE SELLER SHALL DELIVER THE GOODS ON **CIF ASWP** IN ACCORDANCE WITH INCOTERMS. IF THE DESTINATIONS PORT DIFFERENT, THEN BUYER WILL INFORM THE SELLER LATEST 30 DAYS PRIOR THE BEGINNING OF SHIPMENT
- 3.5 THE DELIVERY SHALL STARTING WITHIN **60** DAYS AFTER FINAL SIGNATURE UNDER THIS CONTRACT AND THE PAYMENT INSTRUMENT ACCORDING TO ARTICLE NUMBER 8 IS OPERATIVE.
- 3.6 LOADING PORT IS **XXXXXXXXXX SEAPORT**

4. QUALITY OF GOODS

- 4.1 THE GOOD SHALL CONFORM TO THE SPECIFICATIONS IN APPENDIX NO. 2 HERETO.
- 4.2 THE QUALITY OF THE GOODS WILL BE CONFIRMED BY A CERTIFICATE ISSUED BY THE INDEPENDENT INTERNATIONAL SURVEY COMPANY "SGS" (SOCIETE GENERAL DE SURVEILLANCE), AT LOADING PORT WHICH SHALL BE BINDING ON BOTH PARTIES IN ALL RESPECTS, INCLUDING BUT NOT LIMITED TO THE REPLACEMENT OF FAULTY GOODS PAID FOR BY THE SELLER.

5. PRICE

5. THE BUYER SHALL PAY THE SELLER IN UNITED STATES DOLLARS "US\$".
- 5.2 THE PRICE IS **XXX,XX** US\$ PER MT **CIF ASWP**.
- 5.3 THE MONTHLY VALUE OF DELIVERIES IS **X.XXX.XXX,XX** US\$ (+/- 10%) (PLUS MINUS TEN PERCENT) UNITED STATES DOLLARS.
- 5.4 THE TOTAL AMOUNT OF THE CONTRACT IS ABOUT **XXX.XXX.XXX,XX** US\$ (+/- 10%) (PLUS MINUS TEN PERCENT) UNITED STATES DOLLARS.

6. DELIVERY TERMS AND PARTIES OBLIGATIONS

- 6.1 THE SELLER SHALL DELIVER THE TOTAL QUANTITY OF GOODS IN ACCORDANCE WITH THE DELIVERY SCHEDULE, APPENDIX NO. 3 HERETO.
- 6.2 THE SELLER SHALL START THE DELIVERY OF THE FIRST CONSIGNMENT IN ACCORDANCE WITH THE PROCEDURE & TERMS, APPENDIX NO. 1 HERETO.
- 6.3 ALL PROVISIONS INCLUDED IN THE DELIVERY SCHEDULE WILL BE OBSERVED BY BOTH BUYER AND SELLER AND BREACHES IN THE PROVISIONS WILL BE SUBJECT TO PENALTIES AS PER PROVISIONS UNDER CLAUSES 11, 12 AND 13 HEREIN.
- 6.4 THE PARTIES MAY AGREE UPON THE EXTENSION OF THE DELIVERY PERIOD. ON THIS EVENT, THE PARTY RESPONSIBLE FOR THE DELAYS (SELLER IN DELIVERY OR BUYER IN UNLOADING) WILL HAVE TO BEAR THE COSTS FOR THE EXTENSION OF THE VALIDITY OF THE PAYMENT INSTRUMENT AS WELL AS THE COSTS OF STORAGE IN THE PORT OF LOADING.

7. DELIVERY ACCEPTANCE OF GOODS

- 7.1 UNDER THE CONDITION OF DELIVERY CIF, THE SELLER AND BUYER ARE OBLIGATED TO PAY CHARGES, HOWEVER, RISK OF LOSS OR DAMAGE OF THE GOODS AND ANY ADDITIONAL CHARGES ARISING AFTER THE TRANSFER OF THE GOODS OVER THE HAND-RAIL OF A VESSEL IN THE PORT OF UNLOADING SHALL PASS FROM SELLER TO THE BUYER ONLY IF THE BUYER IS PROVIDING SUPPLEMENTAL INSURANCE.
- 7.2 TITLE FOR THE GOODS WILL PASS FROM SELLER TO THE BUYER UPON CLEARANCE OF FUNDS INTO THE SELLERS ACCOUNT BY MEANS OF CLEAN ON BOARD BLANK ENDORSED OCEAN BILL OF LADING MARKED "NEGOTIABLE" AND RISK IF SUBJECT TO CLAUSE 7.1
- 7.3 THE QUALITY AND QUANTITY OF GOODS STATED IN THE BILL OF LADING, AND OR WR (WHERE PERMITTED) SHALL BE CONCLUSIVE EVIDENCE OF THE QUALITY AND QUANTITY OF GOODS DELIVERED.
- 7.4 NO CLAIM(S) AGAINST QUALITY OR QUANTITY RECEIVED 30 (THIRTY) DAYS FOLLOWING RECEIPT OF SGS QUALITY OR QUANTITY REPORT AS APPROPRIATE WILL BE TAKEN INTO CONSIDERATION OR ACTIONABLE.

8. PAYMENT TERMS AND CONDITIONS

- 8.1 THE PAYMENT SHALL BE MADE BY THE BUYER TO THE SELLER IN THE CURRENCY OF US DOLLARS.
- 8.2 THE BUYER PAYS FOR EACH SHIPMENT WITHIN **10** BANKING DAYS AFTER THE GOODS ARRIVE ON THE DISCHARGE PORT AND HAVING RECEIVED THE PAYMENT DOCUMENTS AGREED ON IN ARTICLE 9 OF THIS CONTRACT, OR AFTER SELLER HAVE DEPOSIT THIS PAYMENT DOCUMENTS AT BUYER'S BANK.
- 8.3 THE PAYMENT IS CARRIED OUT VIA SWIFT WIRE SYSTEM (TT TELEGRAPHIC TRANSFER) BY BUYER'S BANK TO SELLER'S BANK. THE BUYER MAY TRANSFER THE PAYMENTS TO THE BANK ACCOUNT OF THE SELLER MENTIONED IN THIS CONTRACT ONLY. IF PAYMENT IS MADE INTO ANY OTHER ACCOUNT OF SELLER SUCH PAYMENT WILL BE CONSIDERED AS NOT CONTRACTUALLY DONE.
- 8.4 PROOF OF TIMELY PAYMENT IS THE DATE OF RECEIPT OF PAYMENT VIA SWIFT AT THE SELLER'S BANK. EACH PAYMENT HAS TO BE IDENTIFIED WITH THE INVOICE NUMBER OF THE SHIPMENT THE RELEVANT DOCUMENTS HAVING PASSED ON.
- 8.5 THE BUYER HAS TO PAY THE PRICE PER MT AS AGREED IN CLAUSE 5 FOR THE QUANTITY THAT WAS STATED IN THE BILL OF LADING AND CERTIFIED ACCORDING TO ARTICLE 5, 6 AND 7 IN THIS CONTRACT. CUTBACKS, DEDUCTIONS OR PARTIAL PAYMENTS ARE NOT ALLOWED. NO RECONCILIATION WITH ANY OTHER BUSINESS ARRANGEMENTS IS ALLOWED.
- 8.6 IF THE PAYMENT IS NOT COMPLETELY RECEIVED BY THE SELLER'S BANK IN THE ABOVE STIPULATED TIME AGREED ON IN ARTICLE 8.2 THEN THE BUYER IS AUTOMATICALLY IN "DELAY OF PAYMENT". NO FURTHER DEMAND FOR PAYMENT OR A REMINDER IS NEEDED BY THE SELLER.
- 8.7 IF THE BUYER IS IN "DELAY IN PAYMENT", THE SELLER HAS THE RIGHT TO STOP ALL DELIVERIES. ADDITIONALLY THE SELLER HAS THE RIGHT TO DECLARE BREACH OF CONTRACT TO THE BUYER. IT IS THE DECISION OF THE SELLER TO MAKE UNUSUAL DELIVERIES UP THROUGH "DELAY IN PAYMENT" OF THE BUYER OR NOT.
- 8.8 PROVIDING SECURITY FOR ALL DELIVERIES OF THIS CONTRACT AND AS FINANCING INSTRUMENT, BUYER MAKES AVAILABLE TO THE SELLER A CASH BANK DEPOSIT IN THE AMOUNT OF US\$ **XX.XXX.XXX,XX** FROM A TOP 100 BANK WITH DURATION OF **XXX** CALENDAR DAYS, NO LATER THAN **14** CALENDAR DAYS AFTER SIGNING THE HARD COPY OF THIS CONTRACT.
- 8.9 ALL DETAILS AND THE PROCEDURE OF THE CASH BANK DEPOSIT ARE AVAILABLE IN THE 'JOINT VENTURE AND FINANCE AGREEMENT' WHICH FORMS ATTACHMENT 4 OF THIS CONTRACT. THIS JV AGREEMENT WITH ALL ITS INDIVIDUAL POINTS IS AN INTEGRAL PART OF THIS CONTRACT. THIS CONTRACT IS ONLY VALID IN CONNECTION WITH THE JOINT VENTURE AGREEMENT AS PER ATTACHMENT 4 OF THIS CONTRACT.
- 8.10 IN CASE BUYER DECLARES „BREACH OF CONTRACT“ AS PER ARTICLE 8.12 OR 8.13 SELLER HAS TO AGREE WITHIN 10 WORKINGDAYS TO RETURN THE DEPOSIT AMOUNT BACK TO THE MAIN ACCOUNT OF BUYER. THIS AGREEMENT CAN ONLY BE WITHHELD IN CASE BUYER IS IN „DELAY OF PAYMENT“ AS PER ARTICLE 8.7. ABOVE.

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- 8.11 THE SELLER ISSUES AN OPERATIVE PERFORMANCE BOND GUARANTEE IN FAVOUR OF THE BUYER FOR AN AMOUNT EQUAL TO **XXX.XXX,XX** US\$. THIS PERFORMANCE BOND WILL BE ISSUED 21 CALENDAR DAYS FROM THE DAY THE DEPOSITAMOUNT HAS RECEIVED OF THE DEPOSITACCOUNT AND THE DEPOSITBANK HAVE SEND THE CONFIRMATION TO SELLER'S INVESTMENTBANK THAT THE DEPOSITACCOUNT IS BLOCKED FOR **XXX** CALENDAR DAYS.
- 8.12 THE PERFORMANCE BOND SHOULD BE ISSUED BY A BANK WITH EQUAL OR BETTER RATING AS THE BUYER'S BANK. IF THIS IS IMPOSSIBLE, THE PERFORMANCE BOND SHOULD BE CONFIRMED BY A BANK ACCEPTABLE TO BUYER. IN CASE THE SELLER IS BEHIND SCHEDULE WITH THE OPEN THE PERFORMANCE BOND MORE THAN 14 DAYS THE BUYER HAS THE RIGHT TO DECLARE BREACH OF CONTRACT. THE BUYER HAS THE RIGHT TO DEMAND BACK THE CASH BANK DEPOSIT.
- 8.13 IN CASE THE SELLER IS BEHIND SCHEDULE WITH THE DELIVERY OF GOODS MORE THAN 45 DAYS THE BUYER HAS THE RIGHT TO DECLARE BREACH OF CONTRACT THROUGH THE SELLER AND CAN DRAW ON THE PERFORMANCE BOND TO BALANCE HIS COSTS. IN THAT CASE THE BUYER CAN CANCEL THE CONTRACT. AFTER HAVING PAID ALL SELLER'S OUTSTANDING ACCOUNTS FROM THIS CONTRACT. THE BUYER HAS THE RIGHT TO DEMAND BACK THE CASH BANK DEPOSIT.
- 8.14 IN CASE SELLER IS LATE WITH SHIPMENTS, HE HAS TO PAY A PENALTY AMOUNT OF **XX,XX** US\$/MT TO THE BUYER FOR EACH TON OF GOODS BEING DELAYED UNLESS THE CONTRACT HAS BEEN CANCELLED AND UNLESS THE BANK CASH BANK DEPOSIT HAS BEEN RETURNED TO THE BUYER'S BANKACCOUNT.
- 8.15 THE SETTLEMENT OF THIS PENALTY WILL BE DROPPED IF THE BUYER HIMSELF IS DELAYED IN PAYMENT FOR TRANSACTIONS OF SPECIFIC SHIPMENTS. A DELAY OF SHIPMENT EXISTS IN CASE THE SELLER CANNOT PRESENT THE DOCUMENTS IN ACCORDING TO CLAUSE 9 TO THE BUYER WITHIN 60 DAYS AFTER THE AGREED SHIPPING DATE IN APPENDIX 3.
- 8.16 EXCLUDED FROM THE REGULATION IN ARTICLE 8.20 AND 8.21 IS ANY DELAY OF DELIVERY THAT HAS BEEN CAUSED BY THE BUYER OR FOR WHICH THE BUYER IS SOLELY RESPONSIBLE. ALSO EXCLUDED ARE ANY DELAYS OF DELIVERY FOR WHICH NEITHER THE BUYER NOR THE SELLER IS RESPONSIBLE OR THE SELLER STOPS THE DELIVERIES BECAUSE THE BUYER IS IN "DELAY IN PAYMENT" ACCORDING TO CLAUSE 8.6. IN SUCH CASES, A CANCELLATION OR DRAW ON THE PERFORMANCE BOND IS NOT ALLOWED AND PENALTIES DO NOT HAVE TO BE PAID BY THE SELLER.
- 8.17 IN THE EVENT THAT THE BUYER FAILS TO PAY THE CASH BANK DEPOSIT (WITHIN **14** DAYS OF SIGNING THE FINAL CONTRACT, THEN THE BUYER HAS TO PAY A PENALTY FOR BREACH OF CONTRACT TO THE SELLER IN THE AMOUNT OF **XXX.XXX,XX** US\$.
- 8.18 SPELLING AND TYPOGRAPHICAL ERRORS AND DIFFERENCES OF SUCH NATURE BETWEEN BANK ISSUED AND BENEFICIARY ISSUED DOCUMENTS SHALL NOT BE DEEMED DISCREPANCIES PROVIDED THAT THE INTENT OF THE WRITER IS CLEAR FROM THE CONTEXT AND IN SUCH CASE ONLY UCP500 REGULATIONS SHALL APPLY AT ANY TIME.

9. DOCUMENTS REQUIRED FOR PAYMENT

- 9.1 THE ORIGINAL AND 3 COPIES OF SELLER'S INVOICE, CALCULATED IN ACCORDANCE WITH THE CERTIFICATES AS PER CLAUSES 6 AND 7, AND ALLOWING ANY ADJUSTMENTS UNDER CLAUSE 5.
- 9.2 THE ORIGINAL AND 3 COPIES OF THE CERTIFICATE OF WEIGHT AS DETERMINED UNDER CLAUSE 6.
- 9.3 THE ORIGINAL AND 3 COPIES OF THE CERTIFICATE OF ANALYSIS AS DETERMINED UNDER CLAUSE 7.
- 9.4 COMPLETE SET, 1 ORIGINAL AND 3 COPIES OF CLEAN ON-BOARD BILL OF LADING (B/L) SHOWING QUANTITY LOADED, ISSUED AND ENDORSED TO THE ORDER OF BUYER MARKED, "FREIGHT PAID PRIOR TO BREAKING BULK".
- 9.5 CERTIFICATE OF ORIGIN IN ONE (1) ORIGINAL AND THREE (3) COPIES ISSUED BY RELEVANT AUTHORITY.
- 9.6 CERTIFICATE OF VESSEL'S ARRIVAL AT DISCHARGE PORT.

10. DOCUMENTS NOT REQUIRED FOR PAYMENT

- 10.1 MASTERS NOTICE, SHOWING DESCRIPTION OF GOODS, NAME OF VESSEL, B/L NO. GROSS/NET WEIGHTS OF THE GOODS, PIECES OR BUNDLES OF GOODS, TIME OF ARRIVAL, BERTHING, SHIPPING AGENT AT THE DESTINATION IF AVAILABLE, LOADING TIME, RELEASE TIME, SIGNED BY MASTER AND PORT.
- 10.2 ALL OF THE DOCUMENTS INCLUDING THE B/L, INVOICE, PACKING LIST, ORIGIN CERTIFICATE, EXPORT PERMIT, QUALITY & QUANTITY CERTIFICATES, NON-RADIATION AND NON-EXPLOSIVES CERTIFICATE, ETC. HAVE TO BE FAXED OR EMAILED TO THE BUYER WITHIN 7 CALENDAR DAYS AFTER B/L DATE.

11. NOMINATION PROCEDURE

- 11.1 NOMINATION - THE SELLER MUST PROVIDE THE BUYER WITH THE VESSEL'S PARTICULARS IN A TIMELY MANNER PRIOR TO LOADING TO SECURE ACCEPTANCE OF THE VESSEL(S) FROM THE DISPORT(S) AUTHORITIES. SUCH DETAILS ARE REQUIRED FOR ARRANGING ON-TIME STORAGE AT THE DISPORT(S), AND INCLUDE BUT ARE NOT LIMITED TO: VESSEL NAME, FLAG, YEAR OF CONSTRUCTION, ASSIGNED NUMBER AND LOADED ARRIVAL DRAFT AT THE DISPORT, AND THE EXPECTED DATE OF ARRIVAL AT THE DISPORT (ETA).
- 11.2 NOTICE -THE SELLER WILL INSTRUCT THE VESSEL'S MASTER TO SEND TO THE BUYER'S DESIGNATED AGENT ETA NOTICES EVERY 24 (TWENTY FOUR) HOURS, 48/24/12 HOURS PRIOR TO ARRIVAL AT THE DISPORT. NOTICE OF READINESS (NOR) IS TO BE TENDERED ONLY DURING NORMAL WORKING HOURS, I.E. BETWEEN 08.00 AND 16.00 HOURS.
- 11.3 DETAILS OF LOADING ADVICE - WITHIN 4 HOURS AFTER LIFTING OF EACH SHIPMENT THE VESSEL'S MASTER SHALL ADVISE THE BUYER OF ALL RELEVANT DETAILS CONCERNING THE LIFTING SUCH AS GROSS AND NET QUANTITY IN METRIC TONES,

THE FULL SPECIFICATION OF THE GOODS, THE DATE OF THE B/L, AND THE DATE OF SAILING, ETA AT THE DISPORT, THE NAME OF THE VESSEL, FLAG AND ALL OTHER PERTINENT AND CUSTOMARY INFORMATION. SUITABLE ADVANCE NOTICE BY FAX AS MUTUALLY AGREED BETWEEN BUYER AND SELLER WHICH GIVES BUYER TIME TO RECEIVE SAID SHIPMENT.

- 11.4 TITLE AND RISK - TITLE TO AND RISK OF LOSS OR DAMAGE TO THE GOODS SHALL PASS FROM SELLER TO BUYER UPON DISCHARGE AS THE GOODS PASSES THE VESSEL'S PERMANENT FLANGE CONNECTING THE VESSEL TO SHORE UNLOADING FACILITIES.
- 11.5 THE DISCHARGE PORT MUST BE CAPABLE OF UNLOADING THE SHIP AS IN THE LAY TIME SET FORTH.

12. LAY TIME

- 12.1 TIME ALLOWED FOR DISCHARGE - THE TIME ALLOWED FOR DISCHARGE OF THE VESSEL SHALL BE 7.000 MT PER DAY (MINIMUM). LAY TIME SHALL BEGIN TO RUN 6 HOURS NOR OR WHEN THE VESSEL IS FAST AT BERTH, WHICH EVER OCCURS FIRST, AND NOTICE HAS BEEN TENDERED BY THE MASTER OF THE VESSEL. EXCEPT THAT, SUNDAYS AND HOLIDAYS, UNLESS USED, WOULD NOT COUNT NOR WOULD WEATHER PREVENTED LOADING/DISCHARGING DELAYS COUNT AS TIME DURING WHICH DISCHARGE COULD NOT BE EXECUTED OWING TO TECHNICAL AND OTHER CONDITIONS DEPENDING ON THE VESSEL, AND SUCH EVENTS OR OCCURRENCES ARE NOT TO BE INCLUDED IN THE LAY TIME.
- 12.2 BUYER SHALL BE THE IMPORTER OF RECORD AND RESPONSIBLE FOR PAYMENT OF ALL CUSTOMS, TAXES AND FEES APPLICABLE AT THE PORT OF UNLOADING. ALL CUSTOMS, TAXES AND FEES APPLICABLE AT THE LOADING PORT SHALL BE FOR THE SELLER'S ACCOUNT.
- 12.3 BUYER SHALL BE RESPONSIBLE FOR ALL "END USER TAXES" AT UNLOADING PORT AND IF A "PASS THROUGH" CANNOT BE ACCOMPLISHED, WILL BE BILLED FOR THE ACCOUNT OF THE BUYER.
- 12.4 THE BUYER'S OBLIGATION AT THE DISPORT SHALL BE FOR THOSE EXPENSES INCURRED TO FACILITATE AND ACCOMMODATE THE DISCHARGE OF THE GOODS.

13. DEMURRAGE

- 13.1 THE BUYER SHALL BE LIABLE FOR DEMURRAGE COSTS INCURRED AT THE DISPORT DIRECTLY RESULTING FROM ANY DELAYS CAUSED BY THEM. DEMURRAGE, IF ANY, WILL BE CALCULATED AT CHARTER PARTY RATE, OR IN ABSENCE OF CHARTER PARTY, THEN AT THE MARKET RATE FOR THE SIZE OF THE VESSEL USED.
- 13.2 ANY CLAIM FOR DEMURRAGE, TOGETHER WITH SUPPORTING DOCUMENTATION, SHALL BE MADE IN WRITING AND BE SENT WITHIN A MAXIMUM OF 60 HOURS AFTER DISCHARGING, AND SHALL BE SETTLED WITHIN 30 HOURS FROM RECEIPT OF SUCH DOCUMENT.
- 13.3 ANY DELAYS OR DEMURRAGE RESULTING FROM SELLER'S ACTION OR IN-ACTION SHALL BE AT THEIR COST.

13.4 ANY DELAYS OR DEMURRAGE RESULTING FROM BUYER'S ACTION OR IN-ACTION SHALL BE AT THEIR COST.

14. FORCE MAJEURE

14.1 DEFINITION

FORCE MAJEURE AS USED HEREIN SHALL MEAN ANY CAUSE OR CONDITION (WHETHER OR NOT SIMILAR TO THOSE HEREINAFTER ENUMERATED) BEYOND THE CONTROL OF THE PARTY AFFECTED THEREBY WHICH WHOLLY OR PARTIALLY PREVENTS THE PERFORMANCE EXCEPT PAYMENT BY THE SAID PARTY OF ITS OBLIGATIONS HEREUNDER INCLUDING BUT NOT LIMITED TO: ACT OF GOD, ACT OF A PUBLIC ENEMY, WAR (DECLARED OR UNDECLARED), CIVIL WAR, SABOTAGE, REVOLUTION, CIVIL DISTURBANCE, EPIDEMIC, CYCLONE, TIDAL WAVE, LANDSLIDE, EARTHQUAKE, FLOOD, STORM, FIRE, ADVERSE WEATHER CONDITION, EXPROPRIATION, NATIONALIZATION, ACT OF EMINENT DOMAIN, INSURRECTIONS, MOBS, TERRORISM, BREAKDOWN OF OR DAMAGE TO MINE, PLANT, PORT FACILITIES AND BUYER'S FACILITIES (INCLUDING AFFILIATED COMPANIES FACILITIES), LABOUR STOPPAGE, LOCKOUTS, SLOWDOWNS STRIKES OR DISPUTES, INTERRUPTIONS OF TRANSPORTATIONS, ORDER OR ACTS OF CIVIL AUTHORITIES, NECESSARY FOR COMPLIANCE WITH AN APPLICABLE LAW REGULATION ORDINANCE OR RESOLUTION OR ORDER OF COURT OF ADMINISTRATIVE AUTHORITY, EMBARGOES, BLOCKADE, ANY RESTRICTIONS UPON, DELAYS IN RECEIVING OR FAILURES TO RECEIVE ANY PERMITS LICENSES, OR APPROVALS FROM ANY GOVERNMENT AGENCY, EXPLOSIONS, BREAKAGE OR ACCIDENT FOR FACILITIES, AND IMPOSSIBILITY OF OBTAINING OR DELAY IN OBTAINING NECESSARY EQUIPMENT, MATERIALS OR SUPPLIES. NO PARTY SHALL, HOWEVER, BE RELIEVED OF LIABILITY FOR FAILURE OF PERFORMANCE IF SUCH FAILURE IS DUE TO CAUSES ARISING OUT OF ITS OWN NEGLIGENCE OR TO CAUSES WHICH, AT REASONABLE COSTS, IT COULD, BUT FAILS TO REMOVE OR REMEDY WITH REASONABLE DISPATCH. MINOR EQUIPMENT FAILURES WHICH DO NOT SUBSTANTIALLY IMPAIR THE ABILITY TO PERFORM SHALL NOT BE DEEMED A FORCE MAJEURE OCCURRENCE.

14.2 EFFECT

- A. THE PARTY AFFECTED BY FORCE MAJEURE SHALL GIVE PROMPT WRITTEN NOTICE TO THE OTHER, SETTING FOR THE PARTICULARS THEREOF IN REASONABLE DETAILS. THE OBLIGATIONS OF THE PARTY GIVING SUCH NOTICE SHALL BE EXCUSED TO THE EXTENT MADE NECESSARY BY SUCH FORCE MAJEURE AND DURING THE CONTINUANCE OF SUCH FORCE MAJEURE AND SAID PARTY SHALL INCUR NO LIABILITY BY REASON OF ITS FAILURE TO PERFORM THE OBLIGATIONS TO EXCUSED; PROVIDED, HOWEVER THAT THE PARTY GIVING SUCH NOTICE SHALL USE ITS BEST EFFORTS TO ELIMINATE SUCH FORCE MAJEURE AS SOON AS END TO THE EXTENT REASONABLY PRACTICABLE (TALKING INTO ACCOUNT COSTS). THE AFFECTED PARTY SHALL GIVE PROMPT WRITTEN NOTICE OF THE TERMINATION OF SUCH FORCE MAJEURE.
- B. NOTHING HEREIN CONTAINED SHALL CAUSE THE PARTY AFFECTED BY THE FORCE MAJEURE TO SUBMIT TO UNREASONABLE CONDITIONS OR RESTRICTIONS IMPOSED BY GOVERNMENT AUTHORITY, OR TO SUBMIT TO AN UNFAVORABLE LABOUR AGREEMENT, AND IT IS AGREED THAT ANY SETTLEMENT OF LABOUR STRIKES OR DIFFERENCE WITH WORKMEN OR GOVERNMENT AUTHORITY SHALL BE ENTIRELY WITHIN THE DISCRETION OF THE PARTY AFFECTED THEREBY.

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- C. SUBJECT TO ARTICLE 14.2.B DURING ANY PERIOD THAT BUYER IS EXCUSED FROM ACCEPTING AND PAYING FOR GOODS BY REASON OF FORCE MAJEURE, THAT PORTION OF THE QUANTITY WHICH BUYER IS EXCUSED FROM ACCEPTING AND PAYING FOR MAY SOLD BY SELLER TO ANOTHER PARTY WITHOUT LIABILITY TO BUYER,SAVE THAT THIS SHALL NOT REMOVE THE SELLER'S LIABILITY TO PERFORM THE CONTRACT IN FULL ONCE THE PERIOD OF FORCE MAJEURE HAS ENDED OR THE CONTRACT HAS BEEN TERMINATED IN ACCORDANCE HEREWITH.
 - D. IF BUYER IS THE PARTY AFFECTED BY THE FORCE MAJEURE CONDITIONS, BUYER SHALL NEVERTHELESS BE OBLIGATED TO ACCEPT AND PAY FOR ANY COAL WHICH AT THE TIME OF COMMENCEMENT OF FORCE MAJEURE CONDITION IS BEING LOADED OR HAS BEEN LOADED INTO A VESSEL.

14.3 ALLOCATION OF EFFECT

- A. SELLER SHALL HAVE THE OBLIGATION TO ALLOCATE ANY FORCE MAJEURE AFFECTED ON SELLER'S ABILITY TO PRODUCE AND SHIP COAL BY REDUCING SHIPMENTS TO BUYER'S AND OTHER PURCHASER'S ANNUAL QUANTITIES UNDER THE RESPECTIVE SALES AGREEMENT.
- B. SHIPMENT EXCUSED BY A FORCE MAJEURE CONDITION FOR A DURATION OF 60 DAYS OR LESS SHALL BE MADE UP, WHICH SUCH DELIVERIES TO BE MADE UPON A MUTUALLY AGREEABLE SHIPPING SCHEDULE, WITHIN OR BEYOND THE TERMS OF THIS AGREEMENT.
- C. SUCH SCHEDULE SHALL BE AGREED IMMEDIATELY AFTER TERMINATION OF THE FORCE MAJEURE CONDITIONS.

- #### 14.4 WHOLLY EXCUSED FOR CONTINUOUS DURATION OF MORE THAN 60 DAYS, UPON WRITTEN NOTICE TO THE OTHER PARTY GIVEN AT ANY TIME DURING THE PERIOD OF FORCE MAJEURE CONDITION, THE OBLIGATIONS OF THE UNAFFECTED PARTY HERETO SHALL BE DISCHARGED AS TO DELIVERIES (OR ACCEPTANCE) WHICH WOULD OTHERWISE HAVE BEEN MADE DURING SAID PERIOD. IF SUCH FORCE MAJEURE CONDITION CONTINUES FOR A DURATION OF 365 DAYS, EITHER PARTY MAY, BY WRITTEN NOTICE TO THE OTHER, TERMINATE THIS AGREEMENT IN ITS ENTIRE AND BOTH PARTIES SHALL BE RELEASED FROM FURTHER OBLIGATIONS EXCEPT FOR OBLIGATION ACCRUED PRIOR TO SUCH TERMINATION, EFFECTIVE AS OF RECEIPT OF NOTICE OF TERMINATION.

15. GOVERNMENT APPROVAL

15.1 AGREEMENT SUBJECT TO NECESSARY APPROVALS:

THE COMING INTO EFFECT AND THE CONTINUING PERFORMANCE BY EITHER PARTY OF THIS AGREEMENT IS SUBJECT TO ISSUE OF ANY GOVERNMENT APPROVALS, LICENSES OR PERMITS NECESSARY FOR THE SALE AND DELIVERY THE GOODS TO BUYER, UNDER THIS AGREEMENT WHERE APPLICABLE, EITHER PARTY SHALL USE ITS BEST ENDEAVORS TO OBTAIN TO OBTAIN SUCH APPROVALS, LICENSES OR PERMITS PROMPTLY.

16. ARBITRATION

16.1 ANY DISPUTE (OTHER THAN REGARDING THE PRICE) ARISING OUT OF OR IN RELATION TO THIS AGREEMENT WHICH THE PARTIES CANNOT SETTLE BY MUTUAL ACCORD, SHALL BE REFERRED TO ARBITRATION IN ACCORDANCE WITH THE RULES OF CONCILIATION AND ARBITRATION OF THE INTERNATIONAL CHAMBER OF COMMERCE. SUCH ARBITRATION SHALL BE CONDUCTED IN SWITZERLAND. THE LANGUAGE SHALL BE IN ENGLISH.

17. GOVERNING LAW

17.1 THIS AGREEMENT SHALL BE GOVERNED BY CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE ENGLISH LAW.

17.2 SUBMISSION TO JURISDICTIONS

- A. SUBJECT TO THE PROVISIONS OF ARTICLE 16.1, THE PARTIES HEREBY AGREE TO SUBMIT TO THE NONEXCLUSIVE JURISDICTION OF THE STATE COURT OF **SWITZERLAND** ENTITLED TO HEAR APPEALS THERE FROM.
- B. EACH PARTY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MIGHT AT ANYTIME HAVE TO THE COURT BEING NOMINATED AS THE FORUM TO HEAR AND DECIDE ANY ACTION OR PROCEEDING

18. MUTUAL COLLABORATION

18.1 UNFORESEEN CIRCUMSTANCES:

THE PARTIES RECOGNIZE THAT CIRCUMSTANCES MAY ARISE WHICH COULD NOT HAVE BEEN REASONABLY FORESEEN AT THE TIME THIS AGREEMENT WAS ENTERED INTO AND WHICH CIRCUMSTANCES MIGHT AFFECT THE PERFORMANCE OR EXECUTION OR THE ASSUMPTIONS UNDERLYING THIS AGREEMENT. IF ANY SUCH UNFORESEEN CIRCUMSTANCES OCCUR THE PARTIES WILL USE THEIR BEST EFFORTS TO RESOLVE ANY PROBLEMS WHICH MIGHT ARISE FROM SUCH CIRCUMSTANCES IN A SPIRIT OF MUTUAL UNDERSTANDING AND OBLIGATION. USELESS REGULATIONS ARE GOING TO BE REPLACED BY USEFUL REGULATIONS.

19. TAXES AND DUTIES

19.1 RESPONSIBILITIES:

ALL TAXES AND DUTIES IN RELATION TO THE PRODUCTION, TRANSPORTATION, LOADING AND SELLING THE GOODS IMPOSED UNTIL THE GOODS PASSES THE VESSEL RAIL WHEN BEING LOADED ABOARD THE VESSEL AT THE LOADING PORT ARE FOR THE SELLER'S ACCOUNT.

19.2 ALL OTHER TAXES AND DUTIES ARE FOR THE BUYER'S ACCOUNT.

20. NON-CIRCUMVENTION AGREEMENT

- 20.1 THE PARTIES SHALL NOT IN ANY MANNER WHATSOEVER SOLICIT NOR ACCEPT BUSINESS FROM SOURCES OR THEIR AFFILIATES THAT ARE MADE AVAILABLE BY THE OTHER PARTY TO THIS AGREEMENT, AT ANY TIME, WITHOUT THE PRIOR WRITTEN PERMISSION OF THE PARTY WHICH MADE THE SOURCE AVAILABLE.
- 20.2 THE PARTIES SHALL MAINTAIN COMPLETE CONFIDENTIALITY REGARDING EACH OTHERS BUSINESS SOURCES OR THEIR IDENTITIES AND SHALL DISCLOSE SUCH ONLY TO NAMED PARTIES PURSUANT TO EXPRESS WRITTEN PERMISSION OF THE PARTY THAT MADE THE SOURCE AVAILABLE.
- 20.3 THE PARTIES SHALL NOT, IN ANY WAY WHATSOEVER CIRCUMVENT OR ATTEMPT TO CIRCUMVENT EACH OTHER OR ANY PARTY INVOLVED IN ANY OF THE TRANSACTIONS THE PARTIES ARE DESIRING OR ENTERING INTO AND TO THE BEST OF THEIR ABILITY AND ASSURE EACH OTHER THAT THE ORIGINAL TRANSACTION CODES ESTABLISHED WILL NOT BE ALTERED OR CHANGED.
- 20.4 THE PARTIES RECOGNIZE THE CONTRACT TO BE AN EXCLUSIVE AND VALUABLE CONTRACT OF THE RESPECTIVE PARTY AND THEY SHALL NOT ENTER INTO DIRECT NEGOTIATIONS WITH SUCH CONTRACTS REVEALED BY THE OTHER PARTY.
- 20.5 NEITHER PARTY SHALL AVOID PAYMENT OF DUE FEES, COMMISSIONS AND OTHER REMUNERATION IN ANY WAY WHATSOEVER.
- 20.6 IN THE EVENT OF CIRCUMVENTION BY ANY PARTY WHETHER DIRECTLY OR INDIRECTLY, THE CIRCUMVENTED PARTY SHALL BE ENTITLED TO LEGAL MONETARY PENALTY AS DAMAGES, EQUAL TO THE MAXIMUM AMOUNT IS SHOULD MAKE FROM SUCH TRANSACTION AND ANY AND ALL EXPENSES INCLUDING BUT NOT LIMITED TO LEGAL FEES THAT WOULD BE INVOLVED IN THE RECOVERY OF SAID DAMAGES. THE CIRCUMVENTING PARTY RENOUNCES TO ANY RIGHT THAT HE MAY HAVE TO CLAIM A REDUCTION OF THIS AMOUNT.
- 20.7 ALL CONSIDERATIONS, BENEFITS AND COMMISSIONS RECEIVED AS A RESULT OF THE CONTRACTION OF THE PARTIES RELATING TO ANY OF THE TRANSACTIONS WILL BE ALLOCATED AS MUTUALLY AGREED TO.
- 20.8 BUYER IRREVOCABLY BINDS ITSELF TO PROVIDE ANY AND ALL DOCUMENTATION REQUESTED BY SELLER, IMMEDIATELY AND WITHOUT DELAY, IN CONNECTION WITH THE SALE/PURCHASE OF THE AFOREMENTIONED GOODS.
- 20.9 SELLER IRREVOCABLY BINDS ITSELF TO PROVIDE ANY AND ALL DOCUMENTATION REQUESTED BY BUYER, IMMEDIATELY AND WITHOUT DELAY, IN CONNECTION WITH THE SALE/PURCHASE OF THE AFOREMENTIONED GOODS.

21. MISCELLANEOUS

21.1 ENTIRE AGREEMENT

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN PARTIES IN RESPECT OF ITS SUBJECT MATTER AND SUPERSEDES ALL PRIOR AGREEMENTS AND UNDERSTANDING IN THE RESPECT THEREOF. FURTHERMORE THIS AGREEMENT SHALL BE FURNISHED IN EIGHT (8) ORIGINALS WITH EVERY PAGE SIGNED BY BOTH PARTIES AS SEAL OF ORIGINALITY.

21.1 VARIATIONS

A VARIATION OF ANY TERM OF THIS AGREEMENT MUST BE IN WRITING AND SIGNED BY THE PARTIES.

21.2 WAIVER

- A. WAIVER OF BREACH OF THIS AGREEMENT OR OF ANY RIGHTS CREATED OR ARISING UPON DEFAULT UNDER THIS AGREEMENT MUST BE IN WRITING AND SIGNED BY THE PARTIE GRANTING THE WAIVER.
- B. A BREACH OF THIS AGREEMENT IS NOT WAIVED TO A FAILURE TO EXERCISE A DELAY IN EXERCISING OR THE PARTIAL EXERCISE OF ANY RIGHT OR REMEDY AVAILABLE UNDER THIS AGREEMENT OR IN LAW OR EQUITY.
- C. ANY RIGHT TO REMEDY CREATED BY OR ARISING UPON A BREACH OF OR A DEFAULT UNDER THIS AGREEMENT IS NOT WAIVED BY ANY FAILURE TO EXERCISE OR DELAY IN EXERCISE OR PARTIAL EXERCISE OR THAT RIGHT OR REMEDY.

21.3 COOPERATION

THE PARTIES AGREE TO DO ALL SUCH THINGS AND EXECUTE ALL SUCH DOCUMENTS AS MAY BE NECESSARY OR DESIRABLE TO GIVE FULL EFFECT TO THE PROVISIONS OF THIS AGREEMENT AND THE TRANSACTION CONTEMPLATED BY IT.

21.4 LANGUAGE

THE OFFICIAL LANGUAGE OF THIS AGREEMENT SHALL BE ENGLISH. ALONE THE ENGLISH VERSION IS VALID.

22. BANK INFORMATION:

BUYER'S DESIGNATED BANK

BANK NAME : XXXXXXXXXXXX
ADDRESS : XXXXXXXXXXXX
XXXXXXXXXX

ACCOUNT HOLDER : XXXXXXXXXXXX
ACCOUNT NUMBER : XXXXXXXXXXXX
SWIFT CODE : XXXXXXXXXXXX
BANK TELEPHONE : XXXXXXXXXXXX
BANK E-MAIL : XXXXXXXXXXXX
BANK OFFICER : XXXXXXXXXXXX

SELLER'S DESIGNATED BANK

BANK NAME : XXXXXXXXXXXX
ADDRESS : XXXXXXXXXXXX
XXXXXXXXXX

ACCOUNT HOLDER : XXXXXXXXXXXX
ACCOUNT NUMBER : XXXXXXXXXXXX
BANK PHONE : XXXXXXXXXXXX
SWIFT CODE : XXXXXXXXXXXX
BANK OFFICER : XXXXXXXXXXXX

23. AUTHORIZED SIGNATURES

23.1 THIS AGREEMENT SHALL BE BINDING UPON AND ENSURE FOR THE BENEFIT OF THE PERMITTED ASSIGNS OF THE PARTIES. BOTH PARTIES SIGN THIS AGREEMENT IN FULL CONSENT WITHOUT ANY PRESSURE FROM ANYONE OR THIRD PARTY. THIS AGREEMENT IS INVALIDLY, IF IT DOES NOT SIGN WITHIN 14 CALENDER DAYS AFTER THE DATE OF ISSUE FROM BOTH SIDES IN THE ORIGINAL, WAS MARKED AND MUTUALLY EXCHANGED.

THE BUYER : **XXXXXXXXXX**
XXXXXXXXXX
XXXXXXXXXX

DATE : XXXXXXXXXXXX

SIGNATURE : XXXXXXXXXXXX

THE SELLER : **ORGAKOM MILINDO GMBH**
IM ERLISGRUND 20-24
76337 WALDBRONN / GERMANY

DATE : XXXXXXXXXXXX

SIGNATURE : MR. JUERGEN HUBER
HEAD OF THE BOARD ORGAKOM GROUP

APPENDIX NO. 1

PROCEDURE AND TERMS

1. THE BUYER COMPLETES THIS CONTRACT WITH HIS DETAILS, INITIALS, SIGNS AND SEALS THE CONTRACT AND SENDS IT VIA E-MAIL TO THE SELLER. THE BUYER AGREES WITH HIS SIGNATURE ON THE SOFT COPY OF THE CONTRACT WITH THE TERMS AND CONDITIONS STATED HEREIN, AND WILL NOT ASK FOR ANY FURTHER CHANGES IN THE FINAL CONTRACT.
2. BUYER AND SELLER SIGN AND EXCHANGE THE FINAL CONTRACT AT A TABLE-TOP MEETING OR BUYER PRINTS 6 COPIES OF THE CONTRACT, SIGNS AND SEALS THE FINAL HARD COPIES AND SENDS IT TO THE SELLER BY COURIER. THE SELLER SIGNS AND SEALS THE FINAL HARD COPIES AND SENDS 3 COPIES BACK TO THE BUYER BY COURIER
3. AFTER THE FINAL CONTRACT IS SIGNED FROM BOTH PARTYS, THE SELLER SENDS TO BUYER A PROOF OF PRODUCT OR BUYER CAN MAKE A YARD VISIT.
4. BUYER MAKES AVAILABLE THE CASH BANK DEPOSIT IN ACCORDANCE WITH ARTICLE 8 AND THE JOINT VENTURE AGREEMENT IN ACCORDANCE WITH APPENDIX 4 AND THE PROCEDERE IN THE JOINT VENTURE AGREEMENT. THE CASH BANK DEPOSIT SHOULD BE IN THE AMOUNT OF US\$ **XX.XXX.XXX,XX** BY A TOP 100 BANK WITH DURATION OF **XXX** DAYS, NO LATER THAN **14** CALENDAR DAYS AFTER SIGNING THE HARD COPY OF THIS CONTRACT AND RECEIPT THE PROOF OF PRODUCT.
5. THE SELLER ISSUES A FULL OPERATIVE PERFORMANCE BOND GUARANTEE IN FAVOR OF THE BUYER FOR AN AMOUNT EQUAL TO **XXX.XXX,XX** US\$. THIS PERFORMANCE BOND WILL BE ISSUED 21 CALENDAR DAYS FROM THE DAY THE DEPOSITAMOUNT HAS RECEIVED OF THE DEPOSITACCOUNT AND THE DEPOSITBANK HAVE SEND TO THE SELLER'S INVESTMENTBANK THE CONFIRMATION THAT, THE DEPOSITACCOUNT IS BLOCKED FOR **XXX** DAYS.
6. THE FIRST SHIPMENT WILL STARTED NO LATER THAN **60** CALENDAR DAYS FROM THE DAY THE DEPOSITBANK HAVE SEND THE CONFIRMATION TO THE SELLERS INVESTMENTBANK, THAT THE DEPOSITACCOUNT IS FOR **XXX** DAYS BLOCKED.
7. THE REMAINING CONSIGNMENTS WILL BE SHIPPED IN EACH 30 CALENDAR DAYS PERIODS AS DEFINED IN THE APPENDIX 2.

APPENDIX NO. 2

SPECIFICATION FOR GOODS

APPENDIX NO. 3

DELIVERY SCHEDULE

THE SHIPMENTS OF GOODS IN MT WITH +/-10% TOLERANCE, AS PER SPECIFICATION ACCORDING ARTICLE 3 OF THIS CONTRACT, WILL BE MADE FROM EUROPEAN SEAPORT.

THE QUANTITY OF SHIP DELIVERIES SHALL BE AS FOLLOWS:

SHIP TO : _____
ADDRESS : _____
PHONE : _____
FAX : _____
MAIL : _____
GOODS : GOODS

1. THE FIRST SHIPMENTS WITH **XX.XXX** MT OF GOODS SHOULD NOT LATER THAN **60** DAYS FROM THE DAY THE BANK HAS CONFIRMED THE PAYMENT INSTRUMENT IN ACCORDANCE WITH ARTICLE 8. THE FOLLOW SHIPMENTS WITH **XX.XXX** MT PER MONTHS START EVERY **30** DAYS.
2. LOADING TERMS: THE SELLER SHALL ADVISE THE BUYER NOT LESS THAT 30 DAYS BEFORE THE PLANNED DELIVERY OF EACH CONSIGNMENT SO THAT THE BUYER MAY TAKE DELIVERY. THE SELLER SHALL IMMEDIATELY NOTIFY THE BUYER OF ANY CHANGE TO THE DELIVERY DATE THAT HAS BEEN PREVIOUSLY NOTIFIED. THE SELLER'S NOTIFICATION SHALL CONTAIN THE FOLLOWING INFORMATION:
 - A). GOODS TYPE, DESCRIPTION, QUANTITY AND SIZE
 - B). DATE WHEN THE VESSEL SHOULD BE MADE AVAILABLE FOR UNLOADING.
 - C). PORT FROM WHICH DELIVERY SHOULD BE MADE FOR LOADING.
 - D). VESSEL MASTER IS TO ADVISE SELLER'S AGENT AT LOADING WITH THE FOLLOWING DETAILS: VESSEL'S NAME, FLAG, AGE, SIZE, DATE OF ARRIVAL, CAPACITY, NO. OF HATCHES, NO. OF CARGO HOLDS, QUANTITY LOADED BY HOLD AND PARTICULARS OF VESSEL READINESS TO EFFECT CARGO THROUGH ALL OR PART OF THE HATCHES.
 - E). VESSEL MASTER SHALL GIVE 72/36/24 HOURS FINAL NOTICE OF VESSEL'S ETA AT PORT OF UNLOADING TO SELLER'S AGENT AT PORT OF UNLOADING. SUCH NOTICES GIVEN DURING OFFICE HRS., WIBON, WIPPON, WCCON, LAY TIME TO COMMENCE FROM 1:00 PM, IF VESSEL'S NOTICE OF READINESS TO UNLOAD IS GIVEN BEFORE NOON, AND BEFORE FROM 8:00AM NEXT WORKING DAY, IF NOTICE IS GIVEN AFTER NOON.

THE RATE OF UNLOADING IS **X.XXX** MT FOR 24 HRS UNLESS IT IS NOT POSSIBLE AT THE DISCHARGE PORT. TIME FROM 17:00 HRS ON SATURDAY TO 06:00 HRS MONDAY OR FROM 12:00 HOURS ON THURSDAY TO 06:00 HRS ON THE DAY SUCCEEDING SUCH HOLIDAYS

ARE EXCLUDED, EVEN IF USED. SHALL THE VESSEL BE UNLOADED AT LESS THAN AVERAGE RATE; THE BUYER SHALL PAY DEMURRAGE ACCORDING TO OP CONDITIONS, PRO-RATA FOR ANY PART OF THE DAY.

DEMURRAGE OR DISPATCH AT THE PORT OF UNLOADING IS TO BE SETTLED BY THE BUYER WITHIN 5 BANKING DAYS FROM RECEIPT OF VESSEL'S MASTER COMMERCIAL INVOICE.

SHALL THE VESSEL BE REQUIRED TO SHIFT FROM ONE BERTH TO ANOTHER AT PORT OF UNLOADING THE TIME USED IN SHIFTING SHALL NOT COUNT AS LAY TIME. HOWEVER, THE COST OF SHIFTING SHALL BE TO THE BUYERS ACCOUNT.

3. INSURANCE OF GOODS FOR VOYAGE IS THE SELLER'S SOLE RESPONSIBILITY UNLESS THE SHIPMENT IS DONE UNDER OTHER THAN CIF TERMS.
4. THE SELLER SHALL NOT BE LIABLE UNDER CLAUSE 12 PROVISIONS IN THE EXTENT THAT THE BUYER AVOIDABLY DELAYS THE VESSEL AT UNLOADING PORT OR FAIL TO TAKE DELIVERY OR THE SELLER IS OTHERWISE EXCUSED OF A DEFAULT BY THE BUYER OR FORCE MAJEURE.

APPENDIX NO. 4

JOINT VENTURE AND FINANCE AGREEMENT

BETWEEN

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

REPRESENTED BY MR. XXXXXXXXXXXX
HEREINAFTER REFERRED TO AS BUYER

AND

ORGAKOM MILINDO GMBH
IM ERMISGRUND 20-24, 76337 WALDBRONN/ GERMANY,
REPRESENTED BY THE CEO MR. JÜRGEN HUBER
HEREINAFTER REFERRED TO AS ORGAKOM

FOLLOWING AGREEMENT HAS BEEN ESTABLISHED:

A. GENERAL CONDITIONS

- A.1 THE BUYER AND ORGAKOM HAVE SIGNED A PURCHASE AGREEMENT NO. XXXXXXXXXXXX FOR DELIVERY OF 360.000 MT GOODS. THE BUYER AND ORGAKOM AGREE TO – BESIDES THIS PURCHASE AGREEMENT FOR THE SUPPLY OF GOODS – FORM AN ADDITIONAL CO-OPERATION AGREEMENT. THIS AGREEMENT WILL BE CALLED HEREINAFTER 'JOINT VENTURE'.
- A.2 BUYER WILL PROVIDE ORGAKOM WITH A BANK DEPOSIT WITH A VALUE OF 27.000.000,00 US\$ AS A FINANCE INSTRUMENT FOR THIS PROJECT. THIS DEPOSIT WILL BE PROVIDED WITH THE XXXXXXXXXXXX, XXXXXXXXXXXX (HEREINAFTER CALLED DEPOSIT BANK) FOR A PERIOD OF 467 DAYS. THIS DEPOSIT WILL BE BLOCKED FOR THE ABOVE MENTIONED PERIOD OF 467 DAYS. THIS MEANS THAT THIS DEPOSIT MUST NOT BE USED AS COLLATERAL, BE TRANSFERRED OR PUT INTO JEOPARDY IN ANY OTHER CONCEIVABLE WAY. THE DEPOSIT HAS TO REMAIN FREELY AVAILABLE FOR THE TOTAL PERIOD OF ITS BLOCKAGE. AT THE END OF THE BLOCKAGE PERIOD THE DEPOSIT – IN ITS COMPLETE ORIGINAL VALUE – WILL BE AVAILABLE AGAIN TO THE BUYER WITHOUT RESTRICTION.
- A.3 ORGAKOM WILL AS PART OF THIS AGREEMENT SUBSIDISE THE INDIVIDUAL DELIVERIES WITH THE PROFITS ACHIEVED THROUGH AN INVESTMENT PROGRAM.
- A.4 IF THERE IS NO ALTERNATIVE AGREEMENT BOTH PARTIES REPRESENT THIS JOINT VENTURE JOINTLY TOGETHER. IN INDIVIDUAL CASES ONE PARTY CAN ALWAYS ASSIGN THE OTHER PARTY TO ACT FOR THE JOINT VENTURE. BOTH PARTIES CAN ALSO AGREE TO ASSIGN TO A THIRD PARTY THE RIGHT TO REPRESENT THE JOINT VENTURE IN SPECIFIC CASES. THIS ASSIGNMENT AS WELL AS THE AUTHORISATION OF THIS THIRD PARTY HAS TO BE DONE IN WRITING – THE DOCUMENT HAS TO BE SIGNED BY BOTH CONTRACTUAL PARTIES.

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- A.5 IN ADDITION TO ARTICLE A.4 IT IS AGREED THAT ORGAKOM CAN SIGN ALL AGREEMENTS, CONTRACTS AND DECLARATIONS DESIGNED TO SUBSIDISE THE DELIVERIES. IN THIS CONTEXT IT IS ALSO AGREED THAT ORGAKOM CAN ONLY SIGN AGREEMENTS WHICH ARE IMPLEMENTED TO ENSURE THAT THE BANK DEPOSIT AS PROVIDED BY THE BUYER WILL AT NO TIME BE SPENT, TRANSFERRED, USED AS COLLATERAL OR BE JEOPARDISED IN ANY OTHER WAY.
- A.6 THE CASH BANK DEPOSIT AS PROVIDED BY THE BUYER HAS TO BE RETURNED OR TRANSFERRED BACK TO THE BUYER IN ITS FULL VALUE AT THE END OF THIS CONTRACT. ANY REGRESS OF ANY THIRD PARTY TO THIS CASH BANK DEPOSIT IS NOT PLANNED AND IS NOT ALLOWED AT ANY TIME. THE BANK DEPOSIT REMAINS FORMALLY THE PROPERTY OF THE BUYER AND CAN NOT BE USED AS COLLATERAL FOR ANY PAYMENT OBLIGATIONS OF ORGAKOM AS A RESULT OF THIS OR ANY OTHER BUSINESS.
- A.7 BY PROVIDING THE BANK DEPOSIT BUYER UNDERTAKES ONLY TO ENSURE CONTRACTUALLY AGREED PAYMENTS OF THE GOODS AS A RESULT OF THE SALES AND PURCHASE AGREEMENT. ANY FURTHER USE OF THESE FUNDS BY ORGAKOM OR THEIR SUBSIDIARIES FOR OTHER PURPOSES THAN PAYMENT FOR DELIVERIES IS EXPLICITELY PROHIBITED.
- A.8 BUYER HEREBY AGREES THAT THE FUNDS USED FOR THE BANK DEPOSIT ARE LEGALLY CLEAR OF ANY UNLAWFUL ACTIVITIES AND FREE OF CLAIMS FROM THIRD PARTIES AND THAT THE FUNDS ARE RESULTS OF BUSINESS AND ACTIVITIES THAT WERE IN LINE WITH THE LAW AND THE TAX REGULATIONS IN THE ORIGINATING COUNTRY.

B PROCEDURE

- B.1 WITHIN 7 CALENDAR DAYS OF THE SIGNATURE OF THIS AGREEMENT THE LATEST THE BUYER UNDERTAKES TO PROVIDE ORGAKOM WITH PROOF OF THE BASIC AVAILABILITY OF FUNDS (HEREINAFTER CALLED PROOF OF FUNDS). ALTERNATIVELY SUCH POP IS – ON THE REQUEST OF ORGAKOM – TO BE PROVIDED BY SWIFT MESSAGE MT799 FROM A BUYER'S BANK TO THE INVESTMENT BANK.
- B.2 THE BUYER OPENS A BANK ACCOUNT AT THE DEPOSIT BANK TO BE AGREED BETWEEN HIMSELF AND ORGAKOM. THIS BANK ACCOUNT IS TO BE OPENED IN THE NAME OF THE JOINT VENTURE OR IN BUYER'S OWN NAME. THIS ACCOUNT CAN ALSO BE A SUB-ACCOUNT OF A MAIN ACCOUNT OF THE BUYER. THE ACCESSABILITY FOR THIS ACCOUNT IS TO BE ESTABLISHED SUCH THAT BUYER AND ORGAKOM ARE ONLY ALLOWED TO SIGN JOINTLY FOR ANY ACTION REQUIRED FROM THIS ACCOUNT.
- B.3 THE BUYER AGREES WITH THE DEPOSITBANK UPFRONT THAT THIS BANK IS IN AGREEMENT IN PRINCIPLE TO ACCEPT THE FUNDS AND PLACE THEM INTO THE ACCOUNT TO BE ESTABLISHED AS ABOVE. BUYER MAKES SURE UPFRONT ALSO THAT THE BANK AGREES BLOCK THE FUNDS FOR THE AGREED PERIOD AND TO CONFIRM THIS FACT IN A BANK SWIFT MESSAGE MT760 TO A FROM ORGAKOM DESIGNATED BANK (HEREINAFTER CALLED INVESTMENTBANK). THE BUYER WILL – IF AT ALL POSSIBLE – REQUEST A TEMPLATE OF THIS MESSAGE OF THE DEPOSITBANK AS PER ATTACHMENT 4.1.

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- B.4 IMMEDIATELY AFTER THE SIGNATURES UNDER THIS AGREEMENT AND THE AVAILABILITY OF THE PROOF OF FUNDS AS ABOVE ORGAKOM WILL – IN THE NAME OF THE JOINT VENTURE AND IN ACCORDANCE WITH ARTICLE A.5 – ENTER INTO AN AGREEMENT WITH THE INVESTMENTBANK TO ACCEPT THESE FUNDS INTO AN INVESTMENTPROGRAM. ORGAKOM HAS TO SUBSIDISE THE DELIVERIES OF THE SALES AND PURCHASE AGREEMENT FROM THE PROFITS OF THIS INVESTMENTPROGRAM IN SUCH A WAY THAT THE PRICE AS PER PURCHASE AGREEMENT CAN BE ACHIEVED AND SECURED.
- B.5 THE BUYER UNDERTAKES TO TRANSFER HIS FUNDS WITHIN 14 CALENDAR DAYS FROM THE SIGNATURE OF THIS AGREEMENT AND RECEIVED THE PROOF OF PRODUCT IN ACCORDANCE WITH ARTICLE A.2 TO THE ACCOUNT AT THE DEPOSIT BANK ACCORDING TO ARTICLE B.2.
- B.6 AFTER SIGNATURE OF THIS AGREEMENT AND MAKING AVAILABLE OF THE FUNDS AS ARTICLE B.5, BUYER AND ORGAKOM JOINTLY ORDER THE DEPOSITBANK TO BLOCK TESE FUNDS IN THIS ACCOUNT FOR 467 DAYS. AT THE SAME TIME THE REQUEST THE DEPOSITBANK TO CONFIRM THIS BLOCKAGE PER SWIFT MT760 TO THE INVESTMENTBANK (SEE TEMPLATE AS PER ATTACHMENT 4.2) IN ACCORDANCE WITH THE REQUIRMENTS OF THE INVESTMENTBANK.
- B.7 AFTER THE END OF THE BLOCKAGE PERIOD IN THE DEPOSITBANK THE BLOCKAGE WILL BE DISCONTINUED AUTOMATICALLY. THE BUYER CAN FROM THIS POINT ONWARDS FREELY AND AT HIS OWN DECISIONS USE THESE FUNDS FROM THE BANK DEPOSIT AGAIN – GIVEN THAT HE HAS PAID ALL HIS COMITMENTS FROM THE SALES AND PURCHASE AGREEMENT.
- B.8 IN CASES OF EXTRAORDINARY CANCELLATION OF THE SALES AND PURCHASE AGREEMENT BY BUYER IN ACCORDANCE WITH ARTICLES 8.10 AND 8.13 OF THE PURCHASE AGREEMENT THEREOF ORGAKOM UNDERTAKES TO ACCEPT AND AGREE TO THE UNBLOCKING OF THE BLOCKED FUNDS WITHIN 7 CALENDAR DAYS AND THEIR TRANSFER TO A REGULAR ACCOUNT OF BUYER PROVIDED THERE IS NO DELAY OF PAYMENTS ACCORDING TO ARTICLE 8.7 OF THE PURCHASE AGREEMENT.
- B.9 THIS AGREEMENT ENDS WITH THE DISSOLVEMENT OR THE RETURN OF THE BANK DEPOSIT. AFTER THIS DATE NO PARTY HAS GOT ANY COMMITMENT TO THE OTHER PARTY AS A RESULT OF THIS AGREEMENT. ALL PARTIES AGREE TO SETTLE THEIR OWN LEGAL AND TAX AFFAIRS THEMSELVES.
- B.10 ALL AGREEMENTS BETWEEN BUYER AND ORGAKOM ARE TO BE DONE IN WRITING. VERBAL AGREEMENTS ARE NOT ADMISSABLE AND BINDING. ALL AGREEMENTS HAVE TO BE IN WRITING – UNLESS THEY ARE CLEARLY DEFINED IN THIS AGREEMENT.
- B.11 IN CASE THIS AGREEMENT IS IN COMPLETE OR PARTIAL VIOLATION OF EXISTING LAW IT IS AGREED THAT THE PORTIONS WHICH ARE IN VIOLATION OF THIS LAW WILL BE CHANGED AND BROUGHT IN LINE WITH EXISTING LAW IN ORDER TO ENSURE THAT THIS AGREEMENT IN TOTAL REMAINS VALID.

THIS CONTRACT BECOMES VALID ON THE DAY IT IS SIGNED BY BOTH PARTIES.

WALDBRONN / GERMANY
XXXXXXXXXX
XXXXXXXXXX

ORGAKOM MILINDO GMBH

XXXXXXXXXX

JUERGEN HUBER
HEAD OF THE BOARD
ORGAKOM GROUP

XXXXXXXXXX
XXXXXXXXXX

APPENDIX NO. 4.1

SAMPLE OF BANK CONFIRMATION LETTER

SUBJECT : CONFIRMATON OF FUNDS
BANK NAME : XXXXXXXXXXX, XXXXXXXXXXX
BANK OFFICERS : XXXXXXXXXXX
ACCOUNT HOLDER (S) : XXXXXXXXXXX
DATE :

WE XXXXXXXXXXX, XXXXXXXXXXX HEREBY CONFIRM WITH FULL BANK RESPONSIBILITY AND VALUE THE AMOUNT XX.XXX.XXX,XX USD TO BE ON DEPOSIT IN OUR BANK AND THE FUNDS ARE FREE AND CLEAR OF ALL ENCUMBRANCES AND LIENS AND WE GUARANTEE THE ORIGIN OF THESE FUNDS AS GOOD, CLEAN, CLEARED FUNDS.

FURTHERMORE, WE CONFIRM THAT MR. XXXXXXXXXXX HOLDER OF (COUNTRY) PASSPORT NUMBER XXXXXXXXXX IS THE AUTHORIZED REGISTERED BENEFICIARY OF THE ABOVE FUNDS .

WE FURTHER HEREBY CONFIRM, THAT WE WILL ISSUE CONFIRMATION OF THESE FUNDS BY SWIFT MT 760 TO SUCH TRANSACTION COORDINATES AS PER AND UPON FIRST WRITTEN INSTRUCTION(S) FROM THE ABOVE LISTED BENEFICIARY.

WE ALSO CONFIRM THAT THESE FUNDS ARE VERIFIABLE AND CONFIRMABLE ON A BANK-TO-BANK BASIS.

BANK OFFICER
TITLE:
(PRINT NAME)
ID NUMBER
SEAL

BANK OFFICER
TITLE:
(PRINT NAME)
ID NUMBER
SEAL

APPENDIX NO. 4.2

SAMPLE OF BANK CONFIRMATION LETTER BLOCK FUNDS

REFERENCE: CABLE OPERATIVE, FULL CONFIRMED, INSTRUMENT SUBJECT TO THE UNIFORM COMMERCIAL CODE AS IT PERTAINS TO DOCUMENTARY CREDITS.

WE, XXXXXXXXXXX, XXXXXXXXXXX REPRESENTED BY THE UNDERSIGNED OFFICERS, HEREBY CONFIRM WITH FULL BANK RESPONSIBILITY AND LIABILITY THAT WE ACKNOWLEDGE THAT AN AMOUNT OF 27.000.000,00 USD IN CASH FUNDS HAVE BEEN UNILATERALLY AND FIRMLY RESERVED BY OUR CLIENT XXXXXXXXXXX, XXXXXXXXXXX ACCOUNT NUMBERED:*CLIENT / CORPORATION ACCOUNT NUMBER*..... AND RESERVED IN FAVOUR OF AFORE MENTIONED ACCOUNT HOLDER:*FULL NAME ACCOUNT*....., WITH ACCOUNT NUMBERED:*NUMBER OF ACCOUNT*....., FOR A PERIOD OF XXX DAYS FROM THE DATE OF THIS RESERVED FUNDS LETTER FOR HIS/HER FULL USE AND BENEFIT. WE ALSO CONFIRM THAT OUR CLIENT HAS FULL CUSTODY OVER SAID FUNDS IN HIS/HER ACCOUNT AND THESE FUNDS SHALL REMAIN RESERVED AND UNDER HIS/HER EXCLUSIVE INSTRUCTIONS. WE FURTHER CONFIRM THAT THESE FUNDS ARE GOOD CLEAN, CLEARED, UNENCUMBERED LEGITIMATELY EARNED FUNDS OF A NON-CRIMINAL ORIGIN AND ARE FREELY AVAILABLE FOR INVESTMENTS. WE ALSO CONFIRM THAT THIS LETTER HAS BEEN ISSUED WITH FULL BANK RESPONSIBILITY AND THAT THIS LETTER IS FREELY AVAILABLE TO THE NAMED BENEFICIARY HEREIN: XXXXXXXXXXX TO OBTAIN A CREDIT FOR HIS/HER USE AND BENEFIT. THESE FUNDS AND THIS COMMUNICATION MAY BE VERIFIED ONLY ON A BANK TO BANK BASIS.

ALL CHARGES INCURRED HEREBY ACCRUE TO THE ACCOUNT OF THE APPLICANT AND NO HARD COPY WILL FOLLOW.

BANK OFFICER
TITLE:
(PRINT NAME)
ID NUMBER
SEAL

BANK OFFICER
TITLE:
(PRINT NAME)
ID NUMBER
SEAL

APPENDIX NO. 5

SAMPLE OF PERFORMANCE BONDD GUARANTEE

PERFORMANCE BOND GUARANTEE NO. XXXXXXXXXXXX
BANKNAME AND ADRESS XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXX

WE HAVE BEEN INFORMED THAT A CONTRACT, HERINAFTER „PURCHASE AGREEMENT“, HAS BEEN CEEN CONCLUDED BETWEEN XXXXXXXXXXXX, XXXXXXXXXXXX AND ORGAKOM MILINDO GMBH, IM ERM LISGRUND 20-24, D-76337 WALDBRONN / GRMANY, HERINAFTER "SELLER", ON XXXXXXXXXXXX UNDER REF.NO. XXXXXXXXXXXX FOR THE SUPPLY OF XXX.XXX MT GOODS AT A TOTAL PRICE OF USD XXX.XXX.XXX,XX AND THAT UNDERLYING CONTRACT STIPULATES THAT A PERFORMANCE GUARANTEE BE ISSUED IN THE AMOUNT OF USD XXX.XXX,XX.

THIS BEING PREMISED, WE XX BANKNAME XX, HEREBY IRREVOCABLY UNDERTAKE TO PAY YOU WITHOUT DELAY ON YOUR FIRST WRITTEN DEMAND FOR PAYMENT AN AMOUNT UP TO

USD XXX.XXX,XX

PROVIDED YOUR DEMAND FOR PAYMENT IS SIMULTANEOUSLY SUPPORTED BY YOUR WRITTEN STATEMENT (WHETHER IN THE DEMAND ITSELF OR IN A SEPARATE DOCUMENT(S) ACCOMPANYING THE DEMAND AND REFERRED TO INIT) STATING

- A) THAT THE SELLER IS IN BREACH OF HIS OBLIGATION(S) UNDER THE UNDERLYING CONTRACT, AND
- B) THE RESPECT IN WHICH THE PRINCIPAL IS BREACH, AND
- C) THAT THE OBLIGATION(S) IN RESPECT OF WHICH THE PRINCIPAL IS IN BREACHIS/ARE CONVERED BY THE PRESENT GUARANTEE AND THAT YOU ARE THEREFORE ENTITLED TO DEMAND PAYMENT UP TO THE AMOUNT OF THE DEMAND FOR PAYMENT.

THIS GUARANTEE SHALL EXPIRE, EVEN IF THIS DOCUMENT IS NOT RETURNED, ON 467 CALENDAR DAYS FROM DATE OF OPERATIVE ABOVE MENTIONED PAYMENT INSTRUMENT AGREED IN THE PURCHASE AGREEMENT, AND SHALL THEN BE NULL AND VOID, IF AND TO THE EXTENT THAT NO DEMAND UNDER THIS GUARANTEE IN ACCORDANCE WITH ITS CONDITIONS HAS REACHED US BY THE END OF THAT DAY.

THIS GUARANTEE IS TRANSFERABLE WITH OUR WRITTEN CONSENT ONLY. THE ISSUANCE OF THIS GUARANTEE IS PERMITTED ACCORDING TO GERMAN LAW. THIS GUARANTEE IS SUBJECT TO GERMAN LAW.