

DRAFT

**PURCHASE CONTRACT No**

This contract is made on this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 200\_ between \_\_\_\_\_ hereinafter called the BUYER on one side and \_\_\_\_\_ hereinafter called the SELLER on the other side, on the basis of **CONFIRMATION LETTER dated** “\_\_\_\_\_” “\_\_\_”, 200\_ and on the conditions and terms set forth hereunder.

**ARTICLE 1**

**SCOPE OF THE CONTRACT**

The SELLER will supply to the BUYER a complete \_\_\_\_\_ PLANT with the capacity \_\_\_\_\_ on a “TURN KEY” terms, with necessary accessories, spare parts and the required services hereunder mentioned.

The details and the technical specification of the Plant are as per attachment. "A" which is an integral part of this contract.

**ARTICLE 2.**

**NAME OF MACHINERIES**

The BUYER agrees to buy and the SELLER agrees to sell the hereunder mentioned plant subject to the terms and conditions as stipulated hereinafter.

\_\_\_\_\_ PLANT – “TURN KEY” terms, with the capacity of \_\_\_\_\_.

**ARTICLE 3**

**TOTAL VALUE OF THE CONTRACT**

The total value of the contract is:

Euro \_\_\_\_\_ (\_\_\_\_\_)

The price is understood CIF Poti Port, Georgia (INCOTERMS 2000).

**ARTICLE 4**

**PAYMENT TERMS AND CONDITIONS**

- 30 % as advance payment – payable as - 5% immediately after the signature of the contract, 25% - against the following documents: 1. Preliminary lay out with the equipment location and utilities connections; 2. Data necessary to calculations for the executions of civil engineering works related to the installation.
- 65 % by means of an irrevocable at sight letter of credit (payable at the presentation of the shipping documents to the negotiating bank);
- 5 % after successful running test and signature by the parties of the acceptance protocol.

The BUYER will open an irrevocable, confirmed, transferable, at sight Letter of Credit issued by \_\_\_\_\_ (Georgia) in favor of \_\_\_\_\_ and accepted by Credit Suisse, Trade Finance Center, Lugano, Switzerland, for the purchase of the equipment and payable at the presentation of the shipping documents to the negotiating bank;

The SELLER will open through Credit Suisse a not operative irrevocable, revolving, not cumulative at sight buy-back Letter of Credit, in favor of \_\_\_\_\_, as the payment for the products produced on the equipment purchased \_\_\_\_\_

The Purchase and Buy-back Letters of Credits, will come into force and become operative simultaneously upon receipt the confirmation from the appropriate Banks by duly tested swift/telex.

The value of the Letter of Credit for the purchase of the equipment will be:  
Euro \_\_\_\_\_ (\_\_\_\_\_)

The value of the buy-back Letter of Credit for the purchase of the PRODUCT will be:  
Euro \_\_\_\_\_ (\_\_\_\_\_)

## **ARTICLE 5**

### **TIME OF SHIPMENT**

The goods shall be delivered within 180 days from the date of the present Contract comes into forth.

The date of delivery is the date of the Bill of Lading.

Port of shipment: Any Port

Port of destination : Poti Port, Black Sea, Georgia.

Transshipment: Allowed

Partial Shipment: Allowed

## **ARTICLE 6**

### **PACKING**

As the goods have to be dispatched by sea, rail and transshipment will occur while on route, the packing of the goods shall be selected in accordance with the way of transportation and specialties of goods and shall meet the requirements from the place of dispatch to the place of destination in order to ensure the safety and sound conditions of the goods in transshipment and lengthy storage in the course of long distance transportation and multi transit.

Efficient measures shall be taken against humidity and rust according to the specialties of the goods.

## **ARTICLE 7**

### **SHIPPING MARKS**

On each package the following must be clearly indicated in English with non-fading paint: the contract number, the consignee, gross weight, place of destination, the dimension of the case.

Shipping marks:

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According to the specialties of the goods the following warning notes must be clearly stenciled: "RIGHT SIDE UP", "HANDLE WITH CARE", "ANTI HEAT", "ANTI HUMIDITY", "FRAGILE" etc.

## **ARTICLE 8**

### **PASSING OF PROPERTY**

The property of the goods shall pass on delivery of the shipping documents .

## **ARTICLE 9**

### **GUARANTEE OF QUANTITY**

The quantity check up of the received goods shall be performed with the participation of the SELLER's representatives. Protocol of the check up shall be put down in the claim in case of such occurrence and shall be signed by the representatives of the BUYER and the SELLER.

The BUYER shall lodge his claims against the goods quantity, if any, within three (3) weeks after the goods arrived at the BUYER's place of destination, enclosing the irregularity Report to his claim.

## **ARTICLE 10**

### **GUARANTEE OF QUALITY**

The SELLER guarantees that the machines and equipment delivered under this contract will be manufactured according to the up to date technologies and according to the technical requirements, conditions and specifications of this contract described under attachment "A" and, if supplied with good quality of input product, will produce EXPORT QUALITY OF \_\_\_\_\_.

The SELLER shall guarantee the goods delivered for a period of 12 months after it is put into operation, but not more than 18 months after the last shipment.

Should the goods when received by the BUYER or within the period of guarantee be found in damaged conditions due to improper design, inferior quality of materials or poor workmanship or other causes for which the SELLER is liable, the BUYER shall immediately notify the SELLER by writing together with all documentation in relation hereto.

All expenses in connection herewith shall be for the SELLER's account.

If the SELLER fails to take all necessary measures as soon as possible in order to remove the reported defects and to advise the BUYER accordingly, then the BUYER will be entitled to eliminate the defects by himself. All direct expenses connected with the elimination of such defects and reasonably justified will be borne by the SELLER. Guarantee time for the machinery and equipment or defected parts will be prolonged according to the protocol signed by the parties.

The SELLER's guarantee does not cover damages resulting from:

- Incorrect operation, poor maintenance, negligence, mishandling, accidental damages, repairs and modifications not agreed with the SELLER.
- Damage which is attributed to transport conditions.
- The SELLER's guarantee does not cover elements supplied by the BUYER.

After completion of the erection, trial running and putting the line into the operation, the protocol confirming the taking over of the plant by the BUYER and the fulfillment of the SELLER's contractual obligations will be signed by the representatives of the parties. The date of signing the protocol will be considered as the starting date for the guarantee period.

## PERFORMANCE GUARANTEE

The SELLER will provide Performance Guarantee for EURO \_\_\_\_ with a validity of 24 month, immediately after opening of the Letter of Credit by the BUYER and acceptance by the SELLER.

Performance Guarantee will be released after 12 months from the date of erection and commissioning of the machinery of the plant.

## ARTICLE 11

### SHIPPING DOCUMENTS

- 1-FULL SET OF CLEAN ON BOARD MARINE BILLS OF LADING ISSUED OR ENDORSED TO THE BUYER's ORDER MARKED NOTIFY BUYER AND FREIGHT PREPAID;
- 2-SIGNED COMMERCIAL INVOICE IN ONE ORIGINAL AND 6 COPIES FOR 100 PCT VALUE CIF OF GOODS INDICATING NAME OF CARRYING VESSEL AND CERTIFYING THAT GOODS SUPPLIED ACCORDING TO CONTRACT No \_\_\_\_\_, DATED \_\_\_\_\_;
- 3-CERTIFICATE OF ORIGIN IN ONE ORIGINAL AND 4 COPIES ISSUED BY THE SELLER/MANUFACTURERS STATING NAME AND ADDRESS OF FACTORY WHICH PRODUCED THE GOODS AND CERTIFYING THAT THESE GOODS ARE OF SAME ORIGIN COUNTERSIGNED BY CHAMBER OF COMMERCE;.
- 4-PACKING LIST IN ONE ORIGINAL AND 5 COPIES.

## ARTICLE 12

### FORCE MAJEURE

The SELLER and the BUYER shall not be held responsible for any delay in delivery or non-delivery of the machinery and equipment under this contract due to Force Majeure. However, the SELLER shall advise the BUYER immediately of such occurrence and, within twenty-one (21) days thereafter, they shall send by airmail to the BUYER, for his acceptance, a certificate issued by the chamber of commerce in the place where the accident occurs as evidence thereof. Under such circumstance the SELLER and the BUYER, however, are still under obligation to take all necessary measures to hasten the delivery of the machinery and equipment under this contract.

In case the accident last for more than ninety (90) days the matter of further execution of the contract will be settled through friendly negotiation between both parties and an agreement shall be reached as soon as possible.

## ARTICLE 13

### INSTALLATION AND RUNNING TEST

The BUYER will inform the SELLER when the goods arrive in the port of Poti, Black Sea, Georgia in order to organize the departure of the SELLER's technicians (and their visa) leaving to Georgia for installation.

The local custom authority will open the case/containers in presence of both client's officials and supplier's technicians.

The scope of obligations of the SELLER's staff in technical service are according to the specification of Attachment "A" and are hereunder summarized:

- \* Information about construction of the equipment and about its work, checking, supervision and training on the same time of Georgian staff in assembly of the SELLER's equipment.
- \* Obligation for supervision and checking of matching the SELLER's equipment with OTHERS made equipment.
- \* Putting it into mechanical operation without charge, regulation of equipment and training of the Georgian staff.
- \* Supervision and training of Georgian staff, instruction for technological parameters, instruction about all conditions for production control test etc.
- \* Obligation to obtain the guaranteed capacity and quality data.
- The SELLER will provide technicians with return air tickets from EUROPIEN airport to Tbilisi, Georgia airport and bare the living and lodging expenses at the site.

## **ARTICLE 14**

### **TECHNICAL DOCUMENTATION**

#### Buyer Documentation :

The Buyer will supply to the Seller within 15 days from contract signature:

- ◆ main features and quantities of the raw material to be transformed;
- ◆ drawing of the building in which plant will be located;
- ◆ confirmation of the utilities available as per offer specifications and/or agreements, such as: steam, water, electric power, compressed air, fuel (if required);
- ◆ final product packaging specifications.

Any delay in the delivery of this documentation, will cause the same delay in the Seller's documentation delivery.

#### Seller Documentation:

The SELLER will supply to the Buyer within 30 days from Buyer's documentation receipt:

- ◆ preliminary lay out with machine and equipment location.

The SELLER will begin to supply (in 2 copies), within 40 days from contract coming into force and after BUYER's preliminary lay out approval, the following drawings:

- ◆ final technological lay out;
- ◆ all data necessary to calculations for the execution of the civil engineering works related to the installation of the supply;

- ◆ lay out with utilities connection point;
- ◆ instructions for supply erection and start up.

The SELLER will provide the Buyer with the instruction manuals in duplicate in English language.

Instruction manuals for electronic parts will be in English language.

**ARTICLE 15**

ARBITRATION

Should any disagreement occur between the BUYER and the SELLER, they will try to settle it amicably.

If they can not solve the matter, all disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce in London, by one or more arbitrators appointed in accordance with the said rules.

**ARTICLE 16**

OTHERS

Pre shipment Inspection of the machinery will be made by SGS or Lloyds or Bureau Veritas at SELLER's charge.

Each party will be responsible for all taxes, duties and tariffs in connection with the execution of this contract inside their own country.

**ARTICLE 17**

The present Contract will come into force simultaneously with the buy – back Contract upon receipt of the advance payment and coming into force of the Letters of Credit for the purchase of the equipment and buy back of the Product, with confirmation from appropriate Banks by duly tested swift/telex.

This Contract is done in English in three originals on “\_\_\_\_\_” “\_\_”, 200\_.

Any supplement or amendment to this contract shall be made in writing and shall be considered as effective after being signed by all parties.

**ARTICLE 18**

LEGAL ADDRESSES

The BUYER:

The SELLER:

For BUYER

For SELLER

\_\_\_\_\_  
Mr .....  
.....

\_\_\_\_\_  
Mr .....  
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