

Notsi 475MW PV PROJECT in South Africa

南非 475MW 诺希光伏电站项目

Competitive Negotiation Procurement Document of

Construction and Installation Works for PV Area

光伏区建安工程竞争性谈判采购文件

Section 3. Contract Document

第 3 章 合同文件

编号 No.:

CNWE Energy Proprietary Limited

May, 2026

Subcontract No.:

Notsi 475MW PV PROJECT

Subcontract of Construction & Installation for PV areas (Package)

by and between

CNWE Energy Proprietary Limited

and

Dated as of [], 2026

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I. SUBCONTRACT AGREEMENT

This subcontract ("**Subcontract**") is made and entered into on the [] day of [], 2026, by and between:

(1) CNWE Energy Proprietary Limited, a private company registered in accordance with the laws of South Africa under registration number 2025/828008/07, with its registered office at 2 Maude Street, The Forum, Sandton, Gauteng, 2196, South Africa ("**Contractor**" or "**Party A**"), and

(2) ("**Subcontractor**" or "**Party B**").

The Contractor and the Subcontractor are hereinafter referred to individually as a Party and collectively the Parties.

WHEREAS

The Contractor has been awarded the Main Contract by the Employer with respect to the engineering, procurement and construction of the Notsi 475MW PV Project.

- A. The Contractor wishes to engage a subcontractor to carry out certain subcontract works, the scope of which is further defined in the Particular Conditions and Annexs herein.
- B. The Subcontractor warrants that it has financial capacity, technical and business expertise and experience to undertake the Subcontract Works.

NOW, THEREFORE, the Parties agree as follows:

- 1. In this Subcontract Agreement words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions or Particular Conditions of the Subcontract hereinafter referred to.
- 2. Subcontract Documents and Priority.

The following documents shall be deemed to form and be read and construed as part of this Subcontract. In the event of any inconsistency, the priority of the documents shall be as follows:

- a. This Subcontract Agreement
- b. The Particular Conditions
- c. The General Conditions
- d. The Main Contract (inclusive of the annexes thereof) with sensitive information redacted
- e. Appendix A Technical Specifications
- f. Other Appendixes of this Subcontract
- g. Annexes (Performance Security, Subcontract Requirements, Drawings, etc.)
- h. The Contractor's request for proposal/tender document
- i. Subcontractor's Proposal

Any ambiguity or discrepancy found in the Subcontract documents shall be subject to the clarification of the Contractor. In the event that two or more documents comprising the Subcontract contain different standards or requirements, then the higher standard or more onerous requirement shall apply.

The Contractor agrees to engage the Subcontractor and the Subcontractor agrees to be engaged by the Contractor to carry out the Subcontract Works under the terms and conditions set forth in this Subcontract.

3. Subcontract Price.

The Subcontract shall be a **comprehensive** fixed unit prices, and the total price of the signed contract shall be ZAR (In word) which is a provisional total price. The amount of settlement shall be subject to the final design quantities completed by Party B and approved by Party A. The fixed unit price shall cover all taxes and fees which shall be payable by the subcontractor and any other tax and fee appeared or contracted or attached to or in this Contract whatever payable by the subcontractor .

All prices are excluding VAT which, in respect of invoicing, shall be added thereto in accordance with the Value Added Tax Act, 1991.

4. Subcontract Completion Time.

The Subcontractor hereby covenants to complete the Subcontract Works following work schedule set out in Appendix B (Implementation Schedule).

5. Subcontract Effect

Subcontract Effect Date. This Subcontract shall take effect when all of the following conditions are satisfied or otherwise waived in writing by the Contractor:

- a. the Subcontract has been executed and delivered to the other party by the Subcontractor and the Contractor respectively;
- b. the Main Contract has taken effect;
- c. the Contractor has received the performance security and Advance Payment Bond in the form and amount as provided in this Subcontract or waived by the Contractor(as the case may be) ;

6. Copies.

This Subcontract shall be executed by the legal or authorized representatives of the Parties in 3 copies with equal effect, 2 copies will be kept by the Contractor, 1 copy will be kept by the Subcontractor.

7. Communications.

Contractor: CNWE Energy Proprietary Limited,

Address: 2 Maude Street, The Forum, Sandton, Gauteng, 2196, South Africa

Tel:

Fax:

Email:

Subcontractor:

Address:

Tel:

Fax:

Email:

In witness whereof, the Parties have executed this Subcontract as of the date first above written.

Signed by: _____

Name:

Title:

For and on behalf of the Contractor

Signed by: _____

Name:

Title:

For and on behalf of the Subcontractor

II. GENERAL CONDITIONS

1. General Provisions

1.1 Definitions

The definitions used in this Subcontract, except as defined below, shall have the same meanings as are respectively assigned to them in the Main Contract.

1.1.1 "Contractor's Instructions" mean the instructions provided by the Contractor to the Subcontractor.

1.1.2 "Country" means the country where the Subcontract Site (or most of it) is located.

1.1.3 "Day" means a calendar day.

1.1.4 "Defects Liability Period" means the period for defects in accordance with clause 12.1[Defects Liability Period].

1.1.5 "Performance Certificate" means the certificate to be issued by the Owner to the Contractor in respect of the Final Acceptance, defined as "Performance Certificate" which means the certificate issued under Clause 11.9 (Performance Certificate) in the Main contract.

1.1.6 "Owner" shall have the meaning as ascribed to it in the Main Contract.

1.1.7 "Owner's Engineer" shall have the meaning as ascribed to it in the Main Contract.

1.1.8 "Intellectual Property Rights" means any intellectual or industrial property rights, including patents, designs, utility models, copyright, database rights, trade marks, rights in know-how, trade secrets and any other rights of similar or equivalent effect anywhere in the world.

1.1.9 "Laws" means:

i. 1.1.11.1 the Grid Codes, any constitution, statute, ordinance, treaty, decree, proclamation or subordinated legislation or other legislative measure, including all national and provincial statutes and legislation and all municipal by-laws, as well as the common law and customary law and any judgment, decision, order or rule of any court or tribunal with relevant jurisdiction, in each case having the force of law in South Africa; and

ii. 1.1.11.2 in the case of any directive, requirement, instruction, request, order, regulation, condition of or limitation in any necessary approval, permission, permit, approval, consent, licence, authorization, registration, grant, acknowledgement, exemption or agreement, policy or rule of a Government Authority which is legally

binding, for the avoidance of doubt, including any Environmental Laws and Environmental Authorization.

- 1.1.10 "Employer" or "Owner" means Notsi PV Proprietary Limited, the employer under the Main Contract .
- 1.1.11 "Losses" means all claims, liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, government fines, penalties and legal costs and all other professional costs and expenses).
- 1.1.12 "LNTP agreement" means the limited notice to proceed agreement attached herein as Schedule 25 (LNTP Agreement) in the Main contract that has been entered into by the Employer and the consortium comprising of NWEPI, China Energy Engineering South Africa Proprietary Limited and Davha Energy Proprietary Limited prior to the Signature Date for the performance of the Early Works, dated on or about 23 October 2025 and ceded to the Contractor on or about 18 December 2025.
- 1.1.13 "Main Contract" means the contract for the NOTSI PV PROJECT ENGINEERING, PROCUREMENT AND CONSTRUCTION entered into between the Owner and the Contractor in respect of the Main Works.
- 1.1.14 "Main Works" means the Works described in the Main Contract, for which the Contractor is obligated to undertake.
- 1.1.15 "Mechanical Completion" or "MC" means when the Initial Groups and Plant have Passed their Mechanical Completion Tests under the Main Contract relate to Subcontract Works.
- 1.1.16 "Project" shall have the same meaning as ascribed to it in the Main Contract, which refers to the Main Works as a whole.
- 1.1.17 "Take Over" means the acceptance by the Owner of the Projects and the issue of the relevant Take Over Certificate as defined in the Main Contract.
- 1.1.18 "Take Over Date" means the date set out in the Take Over Certificate issued with respect to the Plant by the Owner.
- 1.1.19 "Take Over Certificate" means the certificate issued by the Contractor to the Subcontractor under clause 11.8.2 [Issuance of Take Over Certificate]
- 1.1.20 "Subcontract" means the agreement between the Parties comprising the documents listed in the Subcontract Agreement.
- 1.1.21 "Subcontract Goods" means a) the Subcontractor's Equipment, b) Subcontract Plant and the materials intended to form or forming part of the Subcontract Works and c) the Subcontractor's temporary works, or

any of them as appropriate.

- 1.1.22 "Subcontract Security" shall refer to the security under clause 5 [Subcontract Security].
- 1.1.23 "Subcontract Plant" means the apparatus, machinery and vehicles intended to form or forming part of the permanent works to be executed by the Subcontractor under the Subcontract.
- 1.1.24 "Subcontract Price" means the price referred to in clause 14 [Subcontract Price and Payment].
- 1.1.25 "Subcontract Program" means the program defined in clause 11.3 [Subcontract Program].
- 1.1.26 "Subcontract Requirements" means the document entitled subcontract requirements, as included in the Annex of the Subcontract, and any additions and modifications to such document in accordance with the Subcontract, or without such a document, shall refer to the requirements in the Main Contract as relevant to the Subcontract Works. Such document shall specify the purpose, scope, and/or design and/or other technical criteria, for the Subcontract Works and may include drawings of the Subcontract Works.
- 1.1.27 "Subcontract Site" means the place where the Subcontract Works are to be executed and to which the Subcontract Plant and the materials intended to form or forming part of the Subcontract Works are to be delivered, and any other places as may be specified in the Subcontract as forming part of the Subcontract Site.
- 1.1.28 "Subcontract Time for Completion" means the time for completion of the Subcontract Works under clause 11.2.1 [Subcontract Time for Completion].
- 1.1.29 "Subcontract Works" means the permanent works to be designed (to the extent specified by the Subcontract Requirements), executed and completed by the Subcontractor under the Subcontract, and the Subcontractor's temporary works required for the execution and completion of these permanent works and the remedying of any defects, or either of these permanent works or temporary works as appropriate.
- 1.1.30 "Subcontractor's Documents" means the documents required to satisfy all regulatory approvals applicable to the Subcontract Works, the Subcontract as-built documents, and the Subcontract operation and maintenance manuals. The Subcontractor's Documents shall also cover additional types of documents as specified in the Main Contract which would constitute Contractor's Documents. The Subcontractor's Documents shall become part of the Contractor's Documents.

- 1.1.31 "Subcontractor's Equipment" means all apparatus, machinery, vehicles and other things required for the design (to the extent that the Subcontract Works include design), execution and completion of the Subcontract Works and the remedying of any defects. Subcontractor's Equipment excludes the Subcontractor's temporary works, the Contractor's Equipment (if any), the Owner's Equipment (if any), the Subcontract Plant, materials and any other things intended to form or forming part of the Permanent Works.
- 1.1.32 "Subcontractor's Personnel" shall mean all the personnel the Subcontractor engages for the performance of this Subcontract, which shall include without limitation the Subcontractor's Representative, the management, the project manager, the personnel in key positions, the employees, laborers and other personnel.
- 1.1.33 "Subcontractor's Representative" means the person appointed by the Subcontractor to act as the Subcontractor's Representative for the purposes of the Subcontract, or such other person as appointed from time to time by the Subcontractor under clause 4.3 [Subcontractor's Representative], who acts on behalf of the Subcontractor.
- 1.1.34 "Acceptable Financial Institution" means the acceptable Absa Bank Limited, Investec Bank Limited, FirstRand Bank Limited, Nedbank Limited or the Standard Bank of South Africa Limited (each an "Acceptable Bank"), or any bank, financial institution, corporate or other entity, which is approved in writing by the contractor.
- 1.1.35 Unless the context otherwise requires, capitalized words and expressions not defined in the Conditions of Contract annexed hereto shall have the same meanings where used in this Main Contract.
- 1.2 Interpretation
- 1.2.1 Headings. The headings in the Subcontract are for convenience only and shall not be taken into consideration in the interpretation of this Subcontract.
- 1.2.2 Interpretations. In the Subcontract, except where the context requires otherwise:
- a. words indicating one gender include all genders;
 - b. words indicating the singular also include the plural and vice versa where the context requires;
 - c. words indicating persons or parties shall include corporations and other legal entities;
 - d. provisions including the word 'agree', 'agreed' or 'agreement' require the agreement to be recorded in writing;

e. 'written' or 'in writing' means hand-written, type-written, printed or electronically made, and resulting in or being capable of resulting in a permanent record;

1.2.3 If a Party becomes aware of an error or defect in a document which was prepared for use in executing the Subcontract Works, the Party shall promptly give notice to the other Party of this error or defect.

1.2.4 In the event of different provisions or applicable Laws imposing different standards of performance, the highest standard shall prevail.

1.2.5 Wherever in the Subcontract provision is made for the giving or issuing of any notice, consent, approval, request, certificate, confirmation, decision or determination by any person, unless otherwise specified such notice, consent, approval, request, certificate, confirmation, or decision shall be in writing and the words 'notify', 'consent', 'approve', 'request', 'certify', 'confirm', or 'decide' shall be construed accordingly.

1.3 Language

1.3.1 The language of this Subcontract and all correspondence, communications and submitted documents shall, except to the extent otherwise required under this Subcontract or applicable Law, be English.

1.3.2 If this Subcontract or any other related documents are translated into another language, the language version indicated in clause 1.3.1 shall prevail.

1.4 Amendments

No amendment of this Subcontract shall be effective unless it is in writing and signed by the Parties (or their authorized representatives).

1.5 Waiver

No failure or delay by a Party to exercise any right or remedy provided under this Subcontract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

1.6 Notices

1.6.1 Any notice required or permitted pursuant to this Subcontract shall be given in writing and shall be given either personally or by sending it by courier service, fax, electronic mail or similar means to the address specified in the Contract Agreement or at such other address as such Party may designate by fifteen (15) Days' advance written notice to the other Party given in accordance with this clause.

- 1.6.2 Where a notice is sent by the courier service, service of the notice shall be deemed to be effected by properly addressing, prepaying and sending by next-day or second-day service through an internationally-recognized courier a letter containing the notice, with a confirmation of delivery, and by two (2) Days having passed after the letter containing the same is sent as aforesaid. Where a notice is sent by fax or electronic mail, service of the notice shall be deemed to be effected on the same day on which it is properly addressed and sent through a transmitting system with a confirmation of delivery.

1.7 Severability

If one or more provisions of this Subcontract are held to be unenforceable under applicable law, such provision shall be excluded from this Subcontract and the balance of the Subcontract shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

1.8 Entirety

This Subcontract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

1.9 Confidentiality

- 1.9.1 For the purpose of entering into and performing this Subcontract, a Party may disclose to the other Party certain information with a confidential nature such as data, drawings, technical and commercial documents supplied by the other Party ("**Confidential Information**"). No Party may use the Confidential Information for any purpose other than that intended under this Subcontract nor disclose the Confidential Information to any third parties without the prior written consent of the Party who supplied the Confidential Information.
- 1.9.2 Notwithstanding the foregoing, a Party may disclose the Confidential Information a) to its subcontractors, suppliers, affiliates or advisers ("**Representatives**") on a need-to-know basis provided that it shall ensure that the same degree of care and confidentiality is observed by the recipient of the Confidential Information and that it shall be liable for any breach of this Article by any of its Representatives, or b) as may be required by law, a court of competent jurisdiction, stock exchange, or any governmental or regulatory authority.
- 1.9.3 For the avoidance of doubt, Confidential Information shall exclude information which is: a) or becomes generally available to the public through no breach of the receiving Party; b) within the receiving Party's

lawful possession before the disclosure; c) received from a third party having no obligation of confidentiality; or d) independently developed by the receiving Party.

1.9.4 The above said confidentiality obligation shall survive even after the termination and expiry of this Subcontract.

1.10 Successors, Assigns and Subcontracts

1.10.1 Except as otherwise provided herein, the terms and conditions of this Subcontract shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

1.10.2 The Contractor may, in its sole discretion, assign, charge, novate or otherwise transfer its rights and/or obligations in or under the Subcontract to any person. In the event of any such assignment, charge, novation or transfer the Subcontractor shall, upon request by the Contractor, take all such steps as may be required to give effect to the same.

1.10.3 The Subcontractor shall not assign, charge, novate or otherwise transfer in whole or in part any of its rights or obligations in or under the Subcontract without the prior written consent of the Contractor.

1.10.4 The Subcontractor shall not subcontract the whole Subcontract Works. And the Subcontractor shall not subcontract any part of the Subcontract Works without the prior written approval except the situation stated in Clause 1.10.5.

1.10.5 Permitted Subcontracting

The Subcontractor may subcontract without the Contractor prior written approval:

- iii. for such part of the Works that are set out in Appendix Y (List of Approved Subcontractors), to any subcontractor named in appendix Y (List of Approved Subcontractors), provided that the Works to be subcontracted is listed opposite the name of the subcontractor and subject to any additional restriction, qualification or requirement set out in appendix Y (List of Approved Subcontractors) in respect of such subcontractor; or
- iv. for such part of the Works that are not set out in Appendix Y (List of Approved Subcontractors), to any subcontractor, Works up to a maximum value of Ten Million ZAR (ZAR 10,000,000) (in aggregate across any subcontracts with the same Subcontractor or Affiliates thereof),
- v. and, in the case that (i) or (ii) above does not apply, the Subcontractor shall obtain the Contractor's prior written approval

before subcontracting any part of the Works to that subcontractor, such approval not to be unreasonably withheld or delayed.

1.10.6 Provisions applicable to Subcontracts generally

- (a) Each subcontract shall provide that:
 - i. the rights and obligations of the Subcontractor under such subcontract may be novated to the Contractor, the Owner, its successors and assigns upon the Contract's written request following termination of the subcontract;
 - ii. the Subcontractor may assign the subcontract and any rights thereunder (or any part thereof) (including the benefit of any warranties) to the Contractor, the Owner or to the Lenders or a third party nominated by the Lenders; and
 - iii. the assignment or transfer or further subcontracting of the whole or substantially whole of the scope of work of such subcontract by a subcontractor is prohibited without the consent of the Contractor.
- (b) The Subcontractor shall cause all warranties provided to the Subcontractor by any sub-subcontractor to be assignable
 - i. to the Contractor or its nominee,
 - ii. to the Lenders or a third party nominated by the Lenders, and
 - iii. to the Owner or its nominee, and shall assign to the Contractor, to the Lenders or a third party nominated by the Lenders, to the Client or its nominee as the case may be, the benefit of all unexpired subcontractor warranties upon the expiration of the Defects Liability Period, or earlier, at the Contractor's request.

1.10.7 Subcontractor's obligations not reduced by subcontracting

Any subcontracting by the Subcontractor (and any consent given thereto by the Contractor) shall not relieve the Subcontractor from any liability or obligation under the Subcontract. The Subcontractor shall be solely responsible for the acts, defaults and omissions of its subcontractors, their agents and employees as fully as if they were the acts, defaults or neglects of the Subcontractor, its agents or employees.

1.10.8 The Contractor entitled to pay sub-subcontractors directly

- (a) The Subcontractor shall pay its subcontractors(sub-subcontractors) on time in accordance with the terms and conditions of each subcontract.
- (b) If, in the Contractor's reasonable opinion, the Subcontractor has failed to pay any of its sub-subcontractors on time in accordance with the terms and conditions of the relevant subcontract and for no good reason,

the Contractor is entitled to pay a sub-subcontractor(s) directly upon fourteen (14) Days' written notice to the Subcontractor. The Contractor may only exercise its entitlement under this clause 1.10.8(b) if:

- i. the works performed by the sub-subcontractor have been paid by the Contractor to the Subcontractor under the Subcontract but not yet paid by the Subcontractor to the sub-subcontractor under their subcontract; and
- ii. the works performed or to be performed by a sub-subcontractor(s) are on the critical path; and

(c) the Subcontractor has failed to pay any of its subcontractors any amount that is due and payable to such subcontractor and such amount is not the subject of a dispute (including disputes in relation to which formal proceedings have not commenced) as between the sub-subcontractor and the Subcontractor. If the Contractor pays a sub-subcontractor(s) directly pursuant to clause 1.10.8(b), the Contractor may (in its sole discretion) either:

- i. demand that the Subcontractor repay such amount(s) to the Contractor within five (5) Business Days; or
- ii. set-off such amount(s) against any amounts owed to the Subcontractor pursuant to this Subcontract, including any amounts certified in an Interim Certificate.

(d) Any payments made by the Contractor directly to a sub-subcontractor(s) shall not relieve the Subcontractor from:

- i. any liability or obligation under the Subcontract; or
- ii. responsibility for the acts, defaults and omissions of its subcontractors, their agents and employees, which acts, defaults and omission shall be treated as fully as if they were the acts, defaults or neglects of the Subcontractor, its agents or employees.

(e) If the Contractor pays a sub-subcontractor(s) directly, the Contractor shall provide the Subcontractor with the evidence of such payment.

1.10.9 Nothing in this Subcontract, expressly or implied, is intended to confer upon any party other than the Parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Subcontract, except as expressly provided in this Subcontract.

2. The Main Contract

2.1 Knowledge of the Main Contract

2.1.1 Knowledge of the Main Contract. The Subcontractor acknowledges that

the Contractor has prior to the signing of this Subcontract supplied the Subcontractor with copies of, or relevant extracts from the Main Contract. The Subcontractor acknowledges the receipt and knowledge thereof, which include but not limited to the work scope, standards, and liabilities for violation of the Main Contract.

2.1.2 Notification of Inconsistency. The Subcontractor shall immediately notify the Contractor of any inconsistency, ambiguity or discrepancy which it discovers when reviewing the Subcontract and the Main Contract or executing the Subcontract Works. If an inconsistency, ambiguity or discrepancy is found, the Contractor shall issue any necessary clarification or Contractor's Instruction.

2.1.3 Nothing in this Clause 2.1 shall entitle the Subcontractor to an extension of the Subcontract Time for Completion, reimbursement of additional cost and/or any adjustment to the Subcontract Price either as a result of the Contractor supplying the Subcontractor with copies of, or relevant extracts from, the Main Contract or as a consequence of any clarification or Contractor's Instruction issued pursuant to this Clause 2.1.2.

2.2 Compliance of the Main Contract

2.2.1 The Subcontractor shall perform all the obligations explicitly or implicitly contained in the Main Contract in relation to the Subcontract Works and accordingly, assume all the liabilities arising out thereof, save where the express provisions of the Subcontract otherwise require.

2.2.2 The Subcontractor shall perform its obligations under this Subcontract so as not to cause or contribute to any breach by the Contractor of any of its obligations under the Main Contract or any Losses or reduction of any rights or remedies of the Contractor under the Main Contract.

2.2.3 If the Subcontractor commits any breach of the Subcontract it shall indemnify and hold the Contractor harmless against and from all Losses for which the Contractor becomes liable under the Main Contract as a result of such breach. Without prejudice to any other remedy of the Contractor for such breach, the Contractor may recover these damages from monies otherwise due to the Subcontractor under the Subcontract or call on any of the Subcontract Performance Security provided hereof.

2.3 Instructions under the Main Contract

2.3.1 Compliance with Contractor's Instructions.

The Subcontractor shall, in relation to the Subcontract Works, take instructions only from the Contractor and comply with all instructions and determinations of the Owner or Owner's Representative which are notified to him as Contractor's Instructions, irrespective of whether the instructions and determinations were validly given under the Main

Contract.

2.3.2 No Direct Interaction with the Owner.

If the Subcontractor shall receive any direct instruction from the Owner or the Owner's Representative, it shall immediately inform the Contractor and shall supply it with a copy of the direct instruction if given in writing within 24 hours upon the receipt thereof; and it shall have no obligation to comply with any such direct instruction unless and until it has been confirmed in writing as a Contractor's Instruction, except where the instruction from the Owner or the Owner's Representative is urgent and if non-compliance with such instructions would pose material adverse impact to the implementation of the Project. Without the prior written consent of the Contractor, the Subcontractor shall not independently contact the Owner or the Owner's Engineer or attend any on-site or off-site meetings organized by the Owner or the Owner's Engineer.

2.3.3 Any instruction of the Contractor shall not relieve the Subcontractor of any of its obligations hereunder.

2.4 Equivalent Relief

2.4.1 Notwithstanding anything to the contrary in the Subcontract, if an event occurs which entitles the Subcontractor to an extension of time, a payment of any cost or any other adjustment to the Subcontract Time for Completion, the Subcontract Price, or any other excuse, relief or remedy under the Subcontract, then the relief to be granted to the Subcontractor shall not exceed the corresponding relief awarded to, or received by, the Contractor under the Main Contract in respect of the Subcontractor's portion of the claim under the Main Contract, in respect of such event and insofar as they relate to the Subcontract Works.

2.4.2 If the aggregate relief awarded to the Contractor under the Main Contract is less than the aggregate relief claimed by the Subcontractor; and does not identify separately amounts awarded, extensions of time or other elements of relief granted in respect of:

(i) the Subcontractor's claim under the Subcontract;

(ii) the Contractor's own claim under the Main Contract;

then the Subcontractor shall only be entitled to receive the Relevant Proportion of its claim under the Subcontract.

2.4.3 For the purpose of this clause, the term, "Relevant Proportion", shall mean the percentage of the Contractor's aggregate relief claim under the Main Contract constituted by the Subcontractor's relief claim under the Subcontract.

2.4.4 Pending the determination, agreement or resolution of the Contractor's

entitlements under the Main Contract, the Subcontractor undertakes that it shall take no steps to enforce any rights, benefits or relief under this Subcontract or resolution of any time relief or increased costs or savings or commence any dispute resolution process under this Subcontract provided that in such case such proceedings shall be stayed pending such determination, agreement or resolution of the Contractor's entitlements under the Main Contract, save as may otherwise be agreed between the Parties in writing.

- 2.4.5 If the Contractor is not entitled to claim an extension of time or increased costs pursuant to the Main Contract for a Relief Event, the Subcontractor shall not be entitled to claim for any extension of time or adjustment to the Subcontract Price in accordance with the Subcontract.

3. The Contractor

3.1 Contractor's Project Office.

The Contractor shall set up a project office or appoint an existing one to manage the performance of the Main Contract and the Subcontract. The Contractor will give the project office all authority necessary to act on its behalf. All documentations and communications affixed with the stamp of the project office will be considered signed or accepted by the Contractor.

3.2 Access to the Subcontract Site

- 3.2.1 The Contractor shall provide the Subcontractor right of access to and possession of the Subcontract Site that shall be required to enable the Subcontractor to proceed with execution of the Subcontract Works in accordance herewith, but the Subcontractor's access to the Subcontract Site and the possession thereof shall at no time be greater than those accorded to the Contractor under the Main Contract.

- 3.2.2 In the event that the Subcontractor will, for the purpose of implementing the Subcontract Works, need access to the Subcontract Site and the possession thereof beyond those accorded to the Contractor under the Main Contract, the Subcontractor shall obtain additional access to and possession of the Subcontract Site at its own cost which has been covered in the Subcontract Price.

3.3 Claims

3.3.1 Contractor's Claims under the Subcontract.

If the Contractor considers himself to be entitled to any payment under any clause of this Subcontract or otherwise in connection with the Subcontract, the Contractor shall give notice to the Subcontractor describing the event or circumstance giving rise to the claim. The Contractor shall consult with the Subcontractor in an endeavour to reach

agreement on this amount. If no agreement is reached, the Contractor shall make a fair decision as to the appropriate and applicable amount, taking due account of the Subcontractor's views, the extent to which the claim has been reasonably substantiated, and all other relevant circumstances.

3.3.2 Owner's Claims.

If the Contractor receives from the Owner or the Owner's Representative any notice and particulars of an Owner's claim under the Main Contract which concerns the Subcontractor, the Contractor shall send a copy to the Subcontractor. The Subcontractor shall then provide all reasonable assistance to the Contractor in relation to the Owner's claim. To the extent that the Contractor considers himself entitled to pass on the claim to the Subcontractor, clause 3.3.1 shall apply.

3.3.3 Contractor's Claim under the Main Contract.

In case the Contractor wishes to make claims under the Main Contract relevant to the Subcontract Works, the Subcontractor shall provide necessary documents, proofs and other assistance to support the Contractor in its claims against the Owner under the Main Contract.

3.4 Payment.

The Contractor shall make payment to the Subcontractor in accordance with clause 14[Subcontract Price and Payment], provided that the Subcontractor has performed its obligations in compliance herewith.

3.5 Evaluation.

The Contractor may evaluate the Subcontractor's performance hereunder on a regular basis. The result of such regular evaluation would serve as basis for cooperation with the Subcontractor for and beyond this Project.

4. The Subcontractor

4.1 Representation and Warranties.

4.1.1 Qualification and Eligibility.

The Subcontractor represents and warrants that it is duly organized, validly existing and in good standing under the laws of its country of incorporation. It is qualified and eligible for the performance of this Subcontract. It has obtained all Permits and other permits for the Project which are required to be obtained by the Subcontractor have either been obtained or are in the process of being obtained by the Subcontractor and/or the Subcontractor has no reason to believe that such Permits and other permits will not be obtained in a timely manner such as to enable it to undertake its obligations hereunder.

4.1.2 Power and Authorization.

The Subcontractor represents and warrants that the execution, delivery and performance of the Subcontract have been duly authorized by all necessary corporate action of the Subcontractor, and the Subcontract constitutes the valid, binding and enforceable obligation of the Subcontractor.

4.1.3 No Conflicts.

The Subcontractor represents and warrants that the execution or the performance of this Subcontract will not result in a breach of, conflict with, or give rise to an event of default under, any agreement or arrangement to which it is a party or by which it is bound or result in a breach of any provision of a constitutional document or other organizational documents.

4.1.4 Effectiveness and Binding Force.

The Subcontractor represents and warrants that this Subcontract constitutes legal, effective and binding obligations and is enforceable by law. The authorization, execution, delivery and performance of this Subcontract do not require any special authorization, approval, exemption or consent.

4.1.5 Proceedings.

The Subcontractor represents and warrants that no litigation, arbitration or administrative proceedings of or before any court, arbitrary body or agency has been started or threatened against it which if adversely determined, might reasonably be expected to have a material adverse effect, to the best of its knowledge and belief.

4.1.6 Intellectual Property Rights.

The Subcontractor warrants and represents that it has all rights and licenses necessary to grant the Contractor, which the Contractor will by the Main Contract grant to the Owner the licenses of the Intellectual Property Rights related to the Subcontract Works, and that the Intellectual Property Rights related to the Subcontract Works granted hereby will not infringe the Intellectual Property rights of any third party.

4.1.7 Compliance.

The Subcontractor represents and warrants that it has been and will be abiding by applicable laws and regulations of all countries, international organizations, financial institutions and regulatory organs with respect to fund use, anti-corruption, anti-bribery, economic sanctions, export control, anti-money-laundering, financing of terrorism and other illegal activities. The Subcontractor represents and warrants that its arrangements, actions and performance for the purpose of this Project does not and will not

constitute a violation of any aforementioned laws or regulations.

4.1.8 No Agreement with the Owner.

For the duration of the performance of the Subcontract, the Subcontractor shall not conclude any agreements with the Owner or the Owner's Engineer which would be detrimental to the Project or to the Contractor, such as agreeing on lower the quality standards of the Subcontract Works, or agreeing on the award of other projects, creating competition against the Contractor.

4.1.9 Full Performance.

The Subcontractor shall undertake all the Subcontract Works in good faith according to the Subcontract and shall not engage in other commercial activities which would hinder the performance hereof. In particular, the resources allocated by the Subcontractor shall not be used in other projects or works other than the Subcontract Works unless the Subcontractor obtains the prior consent from the Contractor after providing sufficient proof that such use of the resources would not adversely affect the performance of its obligations hereunder.

4.1.10 No Agency.

The Subcontractor warrants not to engage in any activities, sign any agreements in the name of or on behalf of the Contractor unless prior written consent is obtained therefrom.

4.1.11 No Pledge or Factoring.

The Subcontractor warrants that it will not pledge, transfer or sell its receivables hereunder to any third party without the prior written consent of the Contractor.

4.1.12 The Subcontractor represents and warrants that any information given by the Subcontractor was, at the time given, true, accurate and complete in all material respects and remains true, accurate and complete in all material respects.

4.1.13 The Subcontractor represents and warrants that it has fully investigated the Site and has satisfied itself as to its adequacy and fitness for the purposes of the Subcontract.

4.1.14 Non-interference

The Subcontractors shall perform all of its obligations under the Subcontract in a manner that does not interfere with the normal commercial operation of the Electricity Transmission Facilities.

4.2 Knowledge of the Contract Documents forming this Subcontract

- 4.2.1 The Subcontractor acknowledges that it has understood and accepted the requirements covered by all the documents consisting of the Subcontract, and that it has verified all the information concerning geology, hydrology and environment, for which the Contractor is not responsible for the accuracy, sufficiency and completeness thereof.
- 4.2.2 The Subcontractor shall be deemed to have obtained all necessary information regarding the risks, incidents, price or otherwise that may pose an impact on the Subcontract Works.
- 4.2.3 The Subcontractor confirms that it has made visits to and surveyed the Subcontract Site as well as its surroundings and has full understanding of the Subcontract Site conditions (inclusive of the underground conditions), hydrology, climate conditions, scope and nature of the Subcontract Works, law of the Country, industry practice, requirements regarding the access, accommodation, security, sanitation, facility, personnel, electricity, telecommunication, network, transportation, water and otherwise, based on which the Subcontractor agreed on the Subcontract Price.
- 4.3 Subcontractor's Representative
 - 4.3.1 The Subcontractor shall appoint the Subcontractor's Representative and shall give him all authority necessary to act on the Subcontractor's behalf under the Subcontract, with the said appointment and any subsequent replacement subject to approval by the Contractor.
 - 4.3.2 The whole of the time of the Subcontractor's Representative shall be given to directing the Subcontractor's performance of the Subcontract. If the Subcontractor's Representative is to be temporarily absent from the Subcontract Site during the execution of the Subcontract Works, the Subcontractor shall, subject to the Contractor's prior consent, appoint a suitable replacement person.
 - 4.3.3 The Subcontractor's Representative shall, on behalf of the Subcontractor, receive the Contractor's Instructions.
 - 4.3.4 The Subcontractor's Representative shall be fluent in the Language for communications as defined herein.
- 4.4 General Obligations
 - 4.4.1 The Subcontractor shall execute and complete the Subcontract Works and remedy any defects in accordance with the Subcontract. When completed, the Subcontract Works shall be fit for purposes of which the Subcontract Works demands.
 - 4.4.2 The scope of the Subcontract Works shall be defined in the Particular Conditions or in the specific appendix as the case may be.
 - 4.4.3 The Subcontractor shall be responsible for the adequacy, stability and

safety of all its operations and methods of construction on the Subcontract Site.

- 4.4.4 The Subcontractor shall provide all personnel, Subcontract Goods, Subcontractor's Documents, and all other goods and services, whether of a temporary or permanent nature, required herein and for this execution, completion, and remedying of any defects of the Subcontract Works.

- 4.4.5 Permits.

The Subcontractor shall be responsible for obtaining all permits, license and approvals as required for the performance of the Subcontract or in connection therewith in accordance with the laws of the Country and the Main Contract.

- 4.4.6 Economic Development Obligations and Local Community Requirements

- 4.4.6.1. The Subcontractor shall comply with all of its obligations relating to Economic Development Obligations and Local Community Requirements as set out in appendix C.

- 4.4.6.2. In case the Subcontractor fails to achieve the requirement as set out in appendix C, the Contractor will be entitled to claiming liquidated damages from any bonds submitted by the Subcontractor or deduct relevant amount from the payable interim payment.

- 4.4.7 Coordination.

The Subcontractor shall coordinate with other subcontractors of the Contractor, other contractors or subcontractors of the Owner and other related parties to ensure the successful execution of the Main Works. If the Subcontractor fails to coordinate with other subcontractors of the Contractor, other contractors or subcontractors of the Owner or other related parties, the Contractor shall accordingly be entitled to make a decision in this regard at the Subcontractor's cost.

- 4.4.7.1. Always subject to subclause 4.4.7 (Coordination), the Subcontractor shall cooperate with Buyers, Lenders, the Owner, the Owner's Engineer, Competent Authority and other entities affecting the completion and commercial operation of the Project in accordance with the appendix A (Technical Specifications).

- 4.4.8 Data Submission.

Whenever the Main Contract requires the Contractor to submit any data to the Owner or to maintain concurrent records, the Subcontractor shall send the same and supporting materials in writing to the Contractor relevant to the Subcontract Works or maintain concurrent records, so as to ensure that the Contractor can comply with the submission requirements under the Main Contract.

4.4.9 Subcontractor's Documents.

The Subcontractor shall provide any and all of the Subcontractor's Documents to the Contractor in a timely manner or as instructed by the Contractor so as not to cause any breach of the Contractor under the Main Contract with respect to the submission of the documents. The total number of copies of the Subcontractor's Documents will be specified in the Particular Conditions(if any). The Subcontractor shall provide copies of the Subcontractor's Documents to the Contractor referred to in appendix I (Documents to be delivered by the Subcontractor).

4.4.10 Cost.

The Subcontractor shall bear all the costs incurred during its performance of all the obligations under the Subcontract.

4.4.11 Intellectual Property Rights

4.4.11.1. The Subcontractor hereby grants to the Contractor an irrevocable, non-exclusive, assignable, fully paid-up, perpetual, worldwide and royalty-free licence to copy, reproduce, translate and use the Intellectual Property Rights which are vested in the Subcontractor or for which it has obtained the benefit of a licence in respect of Intellectual Property Rights, including making and using modifications of them (at the Contractor's own risk and cost), for the sole purpose of completing, Operating and Maintaining the Project or any part thereof (the "Licence").The Subcontractor shall also acquire from any third party such rights to any corresponding Intellectual Property Rights as are required by the Subcontractor to perform the Subcontract. The Subcontractor hereby permits the Contractor to grant sub-licence of the Licence on the terms provided in this clause.

4.4.11.2. The Contractor shall be entitled to assign the benefit of such licence to any successor, assignee of any or all of its rights under the Subcontract or to the Owner, but not otherwise for the purpose of carrying out activities directly related to the Project, and any such successor, assignee, purchaser, transferee or Owner shall acquire such licence subject to the same terms and restrictions as set out in this clause.

4.4.11.3. The Subcontractor shall ensure that the licence granted/acquired pursuant to this clause survive for the duration of the Project.

4.4.12 Anti-Corruption Statement

The Subcontractor represents and warrants that a written statement from a director of a Subcontractor shall be delivered to the Contractor and to the Owner stating that the Subcontractor has not, as at the date of its Subcontract, committed any Corrupt Act, in conformity with the samples provided in the appendix D (Letter of Statement of Corrupt Act).

4.4.13 Operation

4.4.13.1. During the testing and commissioning, the Subcontractor shall have full responsibility for the operation and maintenance of Plants in accordance with the Operation Protocol during at its own expense until the Subcontract Works taken over by the Contractor and/or the Owner.

4.4.13.2. During the DLP, the Subcontractor shall comply with the Operation Protocol and the operation of Plant shall be undertaken by personnel of the O&M Contractor acting under the guidance, advice and, as necessary, instructions of the Subcontractor in accordance with the Operation Protocol(if necessary).

4.4.13.3. The Subcontractor shall pay to the Contractor within thirty (30) days from the receipt by the Contractor of a written demand from the Owner, the amount of all Claims, damages, losses, expenses and costs suffered by the Owner due to acts or omissions of the O&M Contractor resulting from the O&M Contractor (a) following the guidance, advice and, as necessary, instructions or directions of the Subcontractor in accordance with the Operation Protocol, or (b) acting in accordance with the Operating & Maintenance Manuals and Procedures provided by the Subcontractor.

If the works under this subclause is an optional item under BOQ (Bill of Quantities), the Subcontractor shall the works under this subclause at the rate of BOQ (Bill of Quantities) on the conditions that the Contractor instructed in written the Subcontractor to undertake the works under this subclause.

4.5 Subcontractor's Claims

4.5.1 In the event of any circumstances which could give rise to the Contractor's right to claim under the Main Contract, the Subcontractor shall make claim proposals to the Contractor and make best efforts in supporting the Contractor's claim against the Owner for extension of time and/or payment of cost. Aside from assisting the Contractor to make claims against the Owner, the Subcontractor shall not make any claims against the Contractor.

4.5.2 The Subcontractor will be given extension of time and/or payment of cost provided that the Contractor has been awarded extension of time and/or payment of cost by the Owner. In the event that the Contractor's claim for extension of time and payment of cost is not fully accepted by the Owner, the Subcontractor agrees that it will only be entitled to extension of time and/or payment of cost on a proportionate basis as determined by the Contractor, subject to clause 2.4 [Equivalent Relief].

4.5.3 If the Subcontractor fails to provide any or adequate support, causing

failure in timely submission of any claim to the Owner by the Contractor or insufficient ground for a claim, it shall compensate the Contractor for its Losses resulted therefrom.

- 4.5.4 All entitlements which the Subcontractor may have against the Contractor under the Subcontract where the Contractor may have corresponding entitlements against any of the counterparties under the Project Documents will be pass through claims ("Pass Through Claims"). The Subcontractor shall have comparable entitlements in respect of Pass Through Claims to that which the Contractor has under the Project Documents. In all events of Pass Through Claims the Subcontractor's entitlement shall be limited to that which the Contractor actually receives payment or relief from the Employer or the third party, and the Subcontractor shall not be entitled to any claim until such receipt.

4.6 Training

- 4.6.1 The Subcontractor undertakes to provide a written report ("Annual Training Programme") specifying in reasonable detail:
- 4.6.2 the procedures implemented or to be implemented by the Subcontractor, as the case may be, to facilitate the transfer of knowledge relating to the Project to the Owner; and
- 4.6.3 a comprehensive training program for which at a minimum shall address the requirements specified in the subcontract, as may be amended from time to time.
- 4.6.4 The Subcontractor shall fully implement any incentives, procedures and training programs specified in the Annual Training Programme as reasonably required by the Contractor or the Owner.
- 4.6.5 The Subcontractor shall train the personnel nominated by the Owner in accordance with the requirements set out in the Main Contract OTS so that such personnel shall be able to safely and environmentally responsibly Operate and Maintain the Initial Group and the Plant (as applicable) without further assistance of the Contractor and that this level of operational competence shall be achieved before Take Over Date or other time the Owner instructs, as the case may be. Training shall be sufficiently completed at the time of Take Over of the Plant to enable the Owner's personnel to Operate and Maintain the Materials and Equipment and Imported Materials included within the Plant.

5. Subcontract Security

5.1 General Principles

- 5.1.1 The Subcontractor shall furnish the Contractor the advance payment bond, the performance security and the warranty bond (collectively the

“Subcontract Performance Security” or “Security”) as set forth herein.

- 5.1.2 Unless otherwise waived by the Contractor, each of the Security shall be an irrevocable, unconditional, demand guarantee issued by Acceptable Financial Institution acceptable to the Contractor. In case the credit rating of the Acceptable Financial Institution has degraded, the Subcontractor shall procure the replacement of the Security by another bank or financial institution that satisfies the requirements of the credit rating herein. The Subcontractor's failure to procure such replacement shall entitle the Contractor to call on any of the Subcontract Performance Security.
- 5.1.3 The content of each of the Security shall be in conformity with the samples provided in the Annexes and approved by the Contractor before issuance.
- 5.1.4 The Security shall be issued in the currency of the Subcontract.
- 5.1.5 All the cost associated with the issuance and renewal of the Security shall be borne by the Subcontractor which was taken account of by the Subcontractor when agreeing on the Subcontract Price.

5.2 Beneficiary.

If not otherwise stated in the Particular Conditions, the Security shall be procured in favor and for the benefit of the Contractor. The Subcontractor undertakes to use reasonable endeavors to procure that the issuer of the Subcontract Performance Security, if and when so requested by the Contractor, acknowledge and agree to the assignment of the benefit of the Contractor under each of the Subcontract Performance Security to the Owner (or the Owner' nominee).

5.3 Amount.

Unless otherwise stated in the Particular Conditions, the amount of each of the Security shall be as follows:

- (a) The amount of the Advance Payment Bond shall be 10% of the Provisional Subcontract total Price in the subcontract.
- (b) The amount of the Performance Security shall be 15% of the Provisional Subcontract total Price in the subcontract.
- (c) The amount of the warranty bond shall be 5% of the Provisional Subcontract total Price in the subcontract which shall be adjusted according to the final settlement.

5.4 Time for Issuance and Release

5.4.1 Advance Payment Bond

The Advance Payment Bond shall be provided by the Subcontractor within

14 days upon the signing of this Subcontract and remain valid until all the advance payment has been repaid to the Contractor. The expired date shall be according to the specific requirement in Particular Condition.

5.4.2 Performance Security

The Performance Bond shall be provided by the Subcontractor within 14 Days upon the signing of this Subcontract and remain valid until the Contractor has issued the Take Over Certificate. The Contractor shall release the Performance Bond within 28 Days after issuing the Take Over Certificate to the Subcontractor provide that there are not any disputes and unpaid liquidated damages which shall be borne by the Subcontractor.

- 5.4.3 In case a specific expiry date is stated in any of the Security, and the release of such Security has not been achieved 28 Days before the expiry date, the Subcontractor shall renew the Security and submit the renewed Security to the Contractor. Failure of the Subcontractor to extend the validity of the Security during the aforesaid period shall amount to fundamental breach of the Subcontract and thus constitute sufficient ground for the Contractor to claim the full amount of all of the Security.

5.5 Modification

- 5.5.1 The amount of the Advance Payment Bond may be deducted in accordance with the amount of the recovered advance payment stated in the interim payment certificate signed by the Contractor or its authorized representative if the Main Contract allows for deduction of Advance Payment Bond.
- 5.5.2 In the event that the Subcontract Price is increased by more than 5%, upon the request of the Contractor, the Subcontractor shall, within 14 Days of receiving the notice from the Contractor, provide the Contractor a replacement Performance Bond for the amount calculated based on the Subcontract Price as revised, or an additional Performance Bond for the amount calculated based on the increased amount of the Subcontract Price.

5.6 Claims

- 5.6.1 The Subcontractor shall use and repay the advance payment strictly in accordance with the Subcontract and shall not use the advance payment for purpose other than that hereof, and that it will fully and timely perform all the obligations of the Subcontract. During the validity period of the Advance Payment Bond, the Contractor is entitled to make claims under the Advance Payment Bond for the Losses incurred arising out of the Subcontractor's failure to use the advance payment as per the Subcontract or due to any breach by the Subcontractor of the Subcontract.
- 5.6.2 During the validity of the Performance Security and the Warranty

Security(or Bond), the Contractor is entitled to call on any of the Security in any amount as it deems fit to remedy its Losses arising out of or in relation to the breach by the Subcontractor of any of its obligations hereunder.

- 5.6.3 After the Contractor has called on any of the Security(or Bond), the Subcontractor shall provide additional Security so the amount of any of the Security hereunder will restore as if no claims was made against it.
- 5.6.4 The Contractor shall give the Subcontractor prior notice before 7 days making claims under any of the Security.

6. Design(Not applicable)

6.1 General Requirement.

The Subcontractor shall carry out and provide or make available to the Contractor all Subcontractor's Documents in such number of copies and in good time prior to the times referred to in appendix A (Technical Specifications), appendix I (Documents to be delivered by the Subcontractor) or, in the absence of such reference, in reasonable time to enable the Contractor and the Owner (through the Contractor) to review and, where required under clause 6.4, raise comments or queries thereon and to facilitate the resolution of such comments or queries under this clause without impeding the performance of the Subcontractor's other obligations under the Subcontract. The Contractor reserves the right to request at any time any missing or additional information required to obtain any Permits or required to Operate and Maintain the Plants and the Access Road (as the case may be). All design documents, drawings expressed on clause 6 shall be construed as part of the Subcontractor's Documents.

6.2 Qualified Professionals.

Design shall be prepared by qualified designers who are engineers or other professionals who comply with the criteria stated in the Subcontract Requirements. The Subcontractor warrants that it and its designers have the experience and capability necessary for the design. The Subcontractor undertakes that the designers shall be available to attend discussions with the Contractor and the Owner's Personnel at all reasonable times, until the expiry date of the Subcontract Defects Notification Period.

6.3 Awareness of the Requirements.

The Subcontractor has scrutinized and confirms its full awareness of the Subcontract Requirements, including but not limited to a) definitions of intended purpose(s) of the Subcontract Works or any parts thereof; b) compatibility of the Subcontract Requirements with the Owner's Requirements under the Main Contract; c) site data, positions, levels,

dimensions and alignment of the Subcontract Works; and d) design criteria, standards and calculations (if any). The Subcontractor shall give notice to the Contractor of any error, fault or other defect found in the Subcontract Requirements.

6.4 Design Plan and Approval.

- 6.4.1 The Subcontractor shall, prior to the commencement of the works, make a reasonable design plan in accordance with this Subcontract, and submit it for approval of the Contractor which will then submit for approval by the Owner, and the Subcontractor shall make amendments in accordance with the comments of the Contractor until the design documents are approved by the Contractor.
- 6.4.2 Construction of the relevant parts shall not be commenced until approval of the design documents has been obtained from the Owner or the Owner's Engineer. The design schedule shall be arranged to take into account the necessary time for approval by the Contractor and the Owner of the design documents.
- 6.4.3 After receiving comments from the Contractor, the Subcontractor shall modify the design documents and re-submit them for approval within [15] working Days or within the time limit stated in the Particular Conditions.
- 6.4.4 Approval by the Owner, the Owner's Engineer or the Contractor does not imply that the Contractor assumes responsibility for the design, nor does it relieve the Subcontractor's design obligations and responsibilities hereunder.

6.5 Adjustment of the Drawings.

- 6.5.1 During the execution of the Subcontract Works, if the Owner or the Owner's Engineer requires, through Contractor's Instruction, adjustment, modification or replacement of some of the construction drawings, the Subcontractor shall immediately suspend the construction of the corresponding parts and take necessary measures and cooperate with the Contractor to confirm such adjustment, modification or replacement.
- 6.5.2 If such adjustment, modification or replacement is confirmed, the Subcontractor shall immediately continue construction in accordance with the adjusted, modified or replaced construction drawings.

6.6 Technical Standards and Regulations. The technical standards and regulations as set forth in the Main Contract shall apply to the Subcontract Works.

6.7 Deliverable.

The design documents submitted by the Subcontractor shall meet the relevant requirements in the Main Contract and shall include all technical

documents relating to the design as specified in the Main Contract, including but not limited to the Bill of Quantities, design drawings, design reports, calculations, special studies, as-built information, etc. The documents shall be submitted in hard copies and in electronic format as specified in the Main Contract, the requirements of the Owner, the Owner's Engineer and as instructed by the Contractor.

6.8 Rectification.

The Subcontractor shall be solely responsible for the correctness and reasonableness of the design documents. If there are errors, omissions, ambiguities, inconsistencies, inappropriateness or other defects in the design documents, the Subcontractor shall, at its own expense, rectify such defects within the time as required by the Contractor and any engineering problems arising therefrom and indemnify the Contractor against any Losses caused thereby.

- 6.9 In addition to the above, the Subcontractor shall also undertake the work related to the design of the Subcontract Works which are within the work scope of the Contractor under the Main Contract.

7. Staff and Labor

- 7.1 General Requirement. The Subcontractor shall provide qualified and experienced personnel to perform the tasks under the Subcontract. The requirements for the Contractor's Personnel under the Main Contract shall apply to the Subcontractor's Personnel. If the content or scope of the services is changed, the Subcontractor shall adjust the structure and number of its personnel deployed accordingly, otherwise the Subcontractor shall bear the costs associated with the idling of personnel.

7.2 Management Staff Plan

- 7.2.1 The Subcontractor shall, within [10] Days after the signing of this Subcontract or such other time as the Contractor may request, provide the Contractor with the staffing of the management required for the implementation of this Subcontract, including:

- a. the organizational chart and the management staff for the Project;
- b. the responsibilities of each position in the organizational chart;
- c. information on the ability, experience and expertise of the management and the proof.

- 7.2.2 The staffing of the Subcontractor's management shall be approved by the Contractor. If the Contractor has any objection to the Subcontractor's management staffing, the Subcontractor shall make corresponding adjustment or replacement as the case may be.

7.2.3 Key Personnel

The Subcontractor shall appoint suitably qualified and experienced persons acceptable to the Contractor to fill the posts listed in Appendix P (Subcontractor's Key Personnel). The Subcontractor shall keep the key personnel referred to in appendix P (Subcontractor's Key Personnel) constantly employed in connection with the Subcontract Works and such personnel shall give substantially the whole of their working time to the supervision and execution of the Subcontract Works, and shall not be removed from their posts without the prior consent of the Contractor to their replacement, such consent not to be unreasonably withheld or delayed.

7.3 Substitution

7.3.1 Before any of the above management or personnel in key positions leaves the Subcontract Site, the Subcontractor shall notify the Contractor in writing 15 Days in advance, indicating the reasons and duration of the temporary departure of the above personnel from the Subcontract Site, as well as the names of suitable replacements for the personnel leaving the Subcontract Site and other information.

7.3.2 The personnel concerned shall be allowed to leave the Subcontract Site only after the Contractor's approval. The authorization of the replacement person appointed by the Subcontractor with Contractor's written consent shall be the same as that of the person leaving the Subcontract Site as described above.

7.3.3 The Subcontractor shall ensure that the departure of personnel shall not affect the performance of this Subcontract. The Subcontractor shall not change the personnel confirmed by the Contractor without the Contractor's approval.

7.3.4 If during the course of the Project the Contractor discovers that any of the Subcontractor's Personnel is not competent in the performance of their duties, the Contractor shall be entitled to require the Subcontractor to replace such personnel and the Subcontractor shall replace such personnel within 14 Days of receipt of such notice from the Contractor and the Subcontractor shall ensure that the performance of this Subcontract is not affected in any way.

7.4 Project manager

7.4.1 The project manager shall supervise all work performed at the Site by the Subcontractor and shall be present at the Site throughout normal working hours (except when absent for reasons connected with the proper performance of the Subcontract in which case the Subcontractor shall nominate a suitable person to act in his place during such absence).

- 7.4.2 The project manager shall not act concurrently as the project manager for another project. If the project manager has to leave the Subcontract Site, the Subcontractor shall notify the Contractor in advance and obtain the written consent of the latter. The said notice shall contain information on the registered practice qualifications and management experience of the person temporarily acting in his place, who shall be qualified and competent to perform the corresponding duties.
- 7.4.3 The project manager and the key personnel shall be interviewed by the Contractor and shall be approval by the Contractor and the Owner.
- 7.5 Labor Management Plan. The Subcontractor shall formulate a reasonable and practical labor management plan and submit it to the Contractor for record.
- 7.6 Labor Law Compliance
 - 7.6.1 The Subcontractor shall comply with labor laws and regulations, provisions hereof and the Main Contract as well as requirements of the lenders (where applicable) on labor management. The Subcontractor shall comply the requirement of appendix C in order to ensure that the Contractor dose not the social compliance obligations on the Main Contract due to the Subcontractor.
 - 7.6.2 The Subcontractor shall ensure that the Subcontractor's Personnel meet the requirements of the Main Contract and the relevant laws and regulations of the Country where the Project is located, including but not limited to the limitation of the number and ratio restriction and education requirements.
 - 7.6.3 The Subcontractor shall sign a contract (employment contract or otherwise) with each of its personnel. The Subcontractor shall make sure that all of its personnel have lawful work permit and visas where necessary. The Subcontractor shall assume all responsibilities in relation to the personnel it employs and shall indemnify and hold the Contractor and the Owner harmless from any disputes brought by or in relation to the Subcontractor's Personnel.
 - 7.6.4 The Subcontractor shall, at its own cost arrange labor training in accordance with the applicable law, the requirements in the Main Contract as well as those of the lenders (where applicable).
 - 7.6.5 The Subcontractor shall provide proof that principles stated in the appendix C have been implemented upon request by the Contractor. The Subcontractor acknowledges that the Employer reserves the right to have an independent accredited body verify that the working conditions in place related to the performance of the Works and satisfy the requirements established in the contract. Such a verification may take the

form of a corporate social responsibility questionnaire or a sustainable development/social responsibility audit.

7.7 Insurance

7.7.1 The Subcontractor shall at its sole cost and expense, obtain, effect, maintain and keep in full force and effect during the term of this Subcontract (inclusive of any extension hereof until the termination hereof) or for such longer term as may be agreed in Appendix N(Insurance) at a minimum, insurance in accordance with and meeting the requirements on the types of insurance, scope of coverage, amount insured, deductible, coverage period and otherwise set forth in the Main Contract applicable to the Contractor.

7.7.2 If the Subcontractor fails to act in accordance with clause 7.7.1, the Contractor shall have the right to deduct the relevant costs from any of the amount to be paid or payable to the Subcontractor or call on any of the Subcontractor Performance Security. The Subcontractor shall also indemnify and hold the Contractor harmless against any Losses incurred by the Contractor as a result of the Subcontractor's said failure.

7.8 No Compete.

The Subcontractor shall not employ or attempt to employ the Contractor's personnel, the personnel of other subcontractors employed by the Contractor or the personnel of the Owner or the Owner's Engineer during the performance of this Subcontract; otherwise the Subcontractor will be liable for breach of this Subcontract.

7.9 Emergency

7.9.1 The Subcontractor shall procure that the Subcontractor's personnel comply with the Contractor's management rules and requirements on security management and emergency management.

7.9.2 In the event of war, terrorist attack, riot, epidemic and other emergency situations, the Subcontractor shall procure that the Subcontractor's Personnel take the required emergency measures in accordance with the Contractor's requirements and implement the emergency management rules and measures formulated by the Contractor.

7.9.3 The Subcontractor shall indemnify the Contractor against all Losses arising out of any breach by the Subcontractor or the Subcontractor's Personnel of the emergency management rules and measures laid down by the Contractor.

7.10 Labor welfare

7.10.1 The Subcontractor shall be responsible for the recruitment, transportation, accommodation, medical care and catering of all of its

employees required for carrying out the Subcontract Works and for all payments in connection therewith and accommodation and amenities as may be reasonably necessary for all of its Subcontractors' employees at the Site, and the standards shall comply with the requirement of the Main Contract.

- 7.10.2 Subject to the application of the Subcontractor and approval by the Contractor, the Contractor may provide the accommodation, first aid and catering services for the Subcontractor at Subcontractor's cost and risk which shall be decided solely by the contractor itself. The amount of above services provided by the Contractor shall be deducted on the Interim Payment or any other sum due to the Subcontractor."

8. Plant, Materials and Workmanship

8.1 General Requirement

- 8.1.1 The materials, equipment and/or other facilities intended for the permanent works provided by the Subcontractor for the performance of its obligations under this Subcontract shall meet the requirements of the Main Contract applicable to the Contractor with respect to the quantities, quality, procedures and responsibilities (including but not limited to export, customs clearance and insurance) thereof.
- 8.1.2 The Subcontractor shall be responsible for the procurement, transportation, customs clearance, insurance, maintenance, exit of equipment and other facilities required for the performance of its obligations under this Subcontract and for the processing of tax return and application of related permits in connection therewith, and shall be subject to supervision, inspection and examination by government departments and regulatory bodies, and shall bear all costs and all liabilities in connection therewith.
- 8.1.3 The materials, equipment and/or other facilities intended for the Works of the Subcontract provided by the Subcontractor shall get approval from the Contractor and the Owner before deliver to the site, in case these materials, equipment and/or other facilities fail to comply with the requirement of this Subcontract or rejected by the Contractor and the Owner, the Contractor has the entitlement to withdraw the payment of this Subcontract or recall the payments which have been paid.

8.2 Transportation

- 8.2.1 The Subcontractor shall organize the transportation of qualified plant, equipment and materials required for the Subcontract Works to the Site and shall give notice to the Contractor in writing 14 Days prior to the packing of each batch of plant, equipment and materials.
- 8.2.2 Any plant, materials, equipment or facilities, which the Subcontractor may

use in the Project and constitute the entirety of the Subcontract Works, shall be approved by the Contractor before entering the Site.

8.2.3 The Subcontractor shall remove from the Site any plant, materials or facilities tested not in accordance with the Subcontract at the Contractor's request, all at the Subcontractor's cost.

8.2.4 The subcontractor shall submit to the Contractor for record each month a sheet of incoming materials, a sheet of collection and write-off, a sheet of incoming construction equipment, and a sheet of usage.

8.3 Test

8.3.1 This paragraph shall apply to all tests specified in this Subcontract(if any). The Subcontractor shall properly perform the tests as are specified in the Main Contract to be carried out by the Contractor with respect to the Subcontract Works, and bear the costs thereof.

8.3.2 If required by the Contractor, the Subcontractor shall submit a detailed test plan and corresponding equipment list to the Contractor for approval during the construction preparation period for the commencement of work.

8.3.3 If required by the Contractor, during the construction process, the Subcontractor shall promptly submit the corresponding test and inspection information, data and results to the Contractor in accordance with the prescribed format, and only after receiving the Contractor's approval shall the next step be carried out.

8.3.4 In respect of the works which the Owner or the Owner's Engineer are entitled to examine, inspect, measure and/or test under the Main Contract, the Subcontractor shall give advance notice to the Contractor within the time limit specified in the Main Contract, whenever any such work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Contractor shall respond to the Subcontractor within 48 hours of obtaining the approval of the Owner or the Owner's Engineer. If the Subcontractor fails to give the notice, it shall, when required by the Contractor, the Owner or the Owner's Engineer, uncover or open the works and thereafter reinstate and make good, all at the Subcontractor's cost.

8.3.5 If, expressly provided for under the Main Contract, or at the request of the Owner or the Owner's Engineer, inspection or testing is required at the place of origin or place of supply of materials, equipment, etc., the Subcontractor shall provide all necessary convenience to carry out the specified test, including providing access, facilities, permissions, personnel, equipment and materials, safety equipment and labor protection equipment required for testing, and bearing all related costs.

- 8.3.6 The Subcontractor shall procure that the Owner, the Owner's Engineer, third party commercial inspectors, the Contractor and their personnel shall at all reasonable times: a) have full access to all parts of the Subcontract Site and to all places from which natural materials are being obtained, and b) during production, manufacture and construction (at the Site or elsewhere), be entitled to examine, inspect, measure or test the materials and workmanship, and to check the progress of manufacture of plant and production and manufacture of materials.
- 8.3.7 The Subcontractor shall at its cost provide the Owner, the Owner's Engineer, third party commercial inspectors, the Contractor and their personnel all necessary convenience to carry out the above activities, including providing access, facilities, permissions, personnel, equipment and materials, labor protection equipment and safety equipment required.
- 8.3.8 No such activities, carried out by the Owner, the Owner's Engineer, third party commercial inspectors, the Contractor or their personnel, shall relieve the Subcontractor from any of its obligation or responsibility.
- 8.4 Storage. The Subcontractor shall construct the appropriate warehouse and ancillary facilities in accordance with the storage plan approved and agreed by the Contractor.
- 8.5 Progress. The supply of the materials, equipment and other facilities supplied by the Subcontractor intended for the Works shall meet the schedule prepared by the Subcontractor and approved by the Contractor.
- 8.6 Construction Equipment. The Subcontractor shall strictly implement plan on the allocation, entry and exit of the major construction equipment developed by the Subcontractor and approved by the Contractor. In the event of delayed entry or insufficient quantity of equipment or facilities or withdrawal without permission, the Subcontractor shall be deemed to be in breach of Subcontract.
- 8.7 The Subcontractor shall be responsible for all Subcontractor's Equipment. When brought on to the Subcontract Site, the Subcontractor's Equipment shall be deemed to be exclusively intended for the execution of the Subcontract Works. The Subcontractor shall not remove from the Subcontract Site any major items of Subcontractor's Equipment without the consent of the Contractor or use such for works not related to the Subcontract Works.
- 8.8 Ownership of Subcontract Plant and Materials. The Subcontract Plant or materials intended to form or forming part of the permanent works shall, to the extent consistent with the laws of the Country, become the property of the Contractor free from liens and other encumbrances when it is delivered to the Subcontract Site.

8.9 Temporary Works. Unless otherwise described in the Particular Condition or the Appendixes, the Subcontractor shall not require the Contractor to provide or retain any temporary works for the Subcontractor other than those required to be provided by the Owner under the Main Contract.

8.10 Soil Extraction Yards and Material Yards

8.10.1 The Subcontractor shall prepare and submit to the Contractor for approval and consent a construction preparation plan (including, but not limited to, deployment of campsites, soil yards, material yards, rock yards, dumping sites) and complete the appropriate site use procedures (if necessary) on its own in order to commence Subcontract Works.

8.10.2 The Subcontractor shall be responsible for obtaining, at its own expense, the soil yards, material yards, rock yards, dumping sites etc., and shall also carry out site surveys and confirmations, sampling and experiments on such sites and yards, at its own expense, and report the results to the Contractor for record.

8.10.3 The Contractor's recommendation or designation of soil yards, material yards, rock yards, dumping sites, etc., shall not relieve the Subcontractor's responsibility on ensuring the availability and suitability of these sites and yards for the Subcontractor's construction needs.

8.10.4 The Subcontractor has taken into account the distance and the associated cost and risk on the transportation from the Subcontract Site to and from the soil yards, material yards, rock yards, dumping sites, etc. and included such cost in the Subcontract Price.

8.10.5 The Subcontractor is responsible for and has considered in the Subcontract Price all costs incurred in connection with the construction and restoration, security, and operation of the soil yards, material yards, rock yards, dumping sites, etc.

8.10.6 Where the Contractor or the Subcontractor is required by applicable law to pay land or mineral or resource royalties for the Subcontract Site, the soil yards, the material yards, the rock yards, or the dumping sites, the Subcontractor shall assume and pay all land, mineral or resource royalties, rent or other payments which has been covered in the Subcontract Price.

9. Subcontract Site and Access

9.1 Provision of Site and Access.

The Contractor shall provide the Subcontractor with such site and access as provided by the Owner for the construction of the Subcontract Works in accordance with the Main Contract, provided that the Subcontractor shall take such measures as are necessary to make such site and access fit for construction and transportation purposes and to ensure the smooth

flow of traffic during construction and shall bear all costs which may be incurred in connection therewith. The Contractor shall not be liable for claims arising out of the use of any access or otherwise.

9.2 Compliance.

In occupying land for temporary occupation, constructing or using temporary facilities and roads for the execution of the Subcontract Works, the Subcontractor shall comply with the Main Contract and laws of the Country and shall bear the costs of use, maintenance, etc. in connection therewith. The Subcontractor shall provide all necessary signs or directional indications for access to and within the Subcontract Site and shall also obtain the necessary permits, licenses or approvals from the relevant authorities for the use of such roads, access,, signs and directional indications.

The temporary facility supplied by Party A, refer to the Appendix G, and if temporary facility provided by Party A is insufficient, Party B shall expand with Party A's consent, and the costs will be borne by Party B.

9.3 Protection of Facility.

The Subcontractor shall protect the buildings, structures and underground pipelines around the corresponding construction Site and shall bear all costs. All Losses attributable to the Subcontractor shall be borne by the Subcontractor.

9.4 Suitability and Availability of the Access.

The Subcontractor shall be deemed to have fully examined and is satisfied with the availability and suitability of the access and passage to the Subcontract Site and to any construction work surfaces, or if not satisfied, have considered technical solutions to improve the suitability thereof. All the costs related to the improvement of the suitability have been included in the Subcontract Price.

The subcontractor shall ensure the suitability and availability of the access for other subcontractor working at site or passing through where the subcontractor conduct the construction work. The subcontractor shall make and maintain a temporary passage as the access way there.

9.5 No Sole Use

9.5.1 Unless otherwise stated in this Subcontract, the Contractor shall not be obliged to make any part of the Subcontract Site available for the exclusive use of Subcontractors.

9.5.2 The Subcontractor shall recognize that the Subcontract Site is not for the exclusive use of the Subcontractor and shall provide such conditions and facilitation as may be necessary for others to carry out various other

works in connection with the Main Contract Works at or near the site of the Subcontract Works as directed by the Contractor.

- 9.5.3 Except as otherwise provided in this Subcontract, costs of the Subcontractor's provision of facilitation for others have been taken into account in the Subcontract Price.

9.6 Authorized Access

- 9.6.1 The Subcontractor shall allow the Owner, the Owner's Engineer, the Contractor and any person authorized by any of them reasonable access during working hours to the Subcontract Site and to any place where materials, equipment or articles for the Subcontract Works are prepared or stored.

- 9.6.2 The Subcontractor shall also allow the Owner, the Owner's Engineer, the Contractor and any person authorized by any of them reasonable access to locations off Site where work is being carried out or prepared by the Subcontractor or others delegated by the Subcontractor in connection with the Subcontract Works, or to obtain access to such locations for such persons.

- 9.6.3 The Subcontractor shall prevent access to the locations under its sole control for other persons not authorized to do so.

9.7 Hazardous Substances

- 9.7.1 The Subcontractor shall not use, nor shall it permit any of its subcontractors (or any person acting by, through, on behalf of, the Subcontractor or its subcontractors) to occupy or use, the Site, Easement Land to handle, use, treat, process, store, dispose of, deposit or discharge Hazardous Substances, or cause Hazardous Substances to be handled, used, treated, processed, stored, disposed of, deposited or, discharged, otherwise than in strict compliance with all Legal Requirements, and Good Utility Practice, except:

(a) where stored in containers and in quantities normally associated with the construction, start-up, operation, maintenance, repair, reconstruction, restoration or, if required, removal of the Plant;

(b) as normally and customarily used or required to be used in connection with the construction, start-up, operation, maintenance, repair, reconstruction, restoration or, if required, removal of the Plant; or

(c) for routine office maintenance and cleaning.

- 9.7.2 The Subcontractor shall promptly report to the Contractor:

(a) details of any leak or emission of any Hazardous Substances by the Subcontractor or any of its subcontractors (or any person acting by,

through, on behalf of, the Subcontractor or its subcontractors) whether on the Site, Easement Land or any surrounding land; and

(b) details of any discharging, leaching or release of any Hazardous Substances caused by a party other than the Subcontractor or any of its subcontractors (or any person acting by, through, on behalf of, the Subcontractor or its subcontractors), which reaches the Site or Easement Land and permit the Contractor and/or the Owner to enter onto the Site, Easement Land in order to undertake prompt and proper remediation of such discharge, leaching or release of Hazardous Substances.

9.8 Site Rules.

The Subcontractor shall obey the instructions of the Contractor and abide by the rules and regulations of the Site of the Main Works of which the Subcontract Site is a part. Unless otherwise specified, the Subcontractor shall observe the Contractor's working hours as specified in the Main Contract and shall comply with the rules of the Owner and the Contractor in respect of the transportation of construction personnel, materials and equipment to and from the Subcontract Site, and the storage of materials and equipment on the Subcontract Site for the Subcontract Works.

9.9 Indemnity

The Subcontractor shall indemnify and hold the Contractor harmless against liability arising from claims, litigation, arbitration or any legal or administrative actions arising out of the use of any access and passage to and within the Subcontract Site or otherwise.

10. Safety, Health, Environment and Quality

10.1 General Principles

10.1.1 The Subcontractor warrants that, in providing the Works, it shall at all times fully comply with the Applicable Law and regulations, including but not limited to the Occupational Health and Safety Act 85 of 1993, the Construction Regulations 2014 promulgated thereunder, the National Environmental Management Act (NEMA) and all specific environmental legislation applicable to the Site and the Works. In particular and not by way of limitation, the Subcontractor shall, and shall ensure that all its employees, agents, subcontractors and any person for whom it is responsible, comply with all health, safety and environmental rules, regulations, specifications and procedures prescribed by the Contractor, the Employer, the Lender's Technical Advisor, the Independent Engineer and any Government Authority applicable to the Site, including the Health and Safety Procedures set out in Appendix Z. The Subcontractor shall ensure that its performance under this Clause fully discharges the Contractor's corresponding obligations to the Employer. The

Subcontractor shall also comply with the requirements of the Contractor on safety, quality, environmental protection and safe and civilized construction standards, the standards of which shall be provided by the Contractor.

- 10.1.2 The Subcontractor shall set up safety, environmental protection and quality departments for the implementation of the Subcontract Works, and provide sufficient safety officers and quality inspectors, who shall be licensed if legally required and have the ability to communicate with the Owner and the Owner's Engineer. The Subcontractor project manager should hold safety qualification certificate (if legally required). The Subcontractors' personnel with special job requirements such as testing, surveying and special operations should hold relevant valid qualification certificates.
- 10.1.3 The Subcontractor shall comply with the regulations and rules of the administrative agencies, the Owner, the Contractor and the lenders (if so required under the Main Contract) regarding the Subcontract Site transportation, noise, environmental protection, safe and civilized production, etc.
- 10.1.4 The Subcontractor shall be fully responsible for providing and maintaining all safety facilities within its construction area at its own cost. Whoever performs the work shall be fully responsible for safety.

10.2 Safety and Security

- 10.2.1 The Subcontractor shall take all necessary measures to safeguard and secure the Subcontract Site and the Subcontractor has fully considered the cost of site security in the Subcontract Price, including all costs of employing military, police or other security personnel and placing security facilities. The Subcontractor shall comply with and shall ensure that all of its employees, agents and Subcontractors comply with the provisions of the Site Regulations developed by the Contractor and shall require all other personnel on the Site to comply with the Site Regulations.
- 10.2.2 The Subcontractor shall develop an on-site emergency plan and equip itself with the appropriate facilities.
- 10.2.3 The Subcontractor shall at its own expense improve the site security facilities or measures, security management, personnel and resource allocation within the shortest possible time if so required by the Contractor, the Owner or local authorities.
- 10.2.4 If the Subcontractor fail to comply with the above requirements, the Contractor shall be entitled to order the Subcontractor to suspend work until the Subcontractor has completed the rectification and complied with the security requirements. The Subcontractor shall not be entitled to any

extension of time or payment of any costs as a result of such suspension. If the Subcontractor does not comply with the requirements after the suspension, the Contractor shall be entitled to terminate this Subcontract with immediate effect and the Subcontractor shall not be entitled to claim any compensation.

10.2.5 If a safety hazard or accident is caused by the Subcontractor or Subcontractor's Personnel, the Subcontractor shall take prompt measures to eliminate the relevant hazard, properly deal with the relevant safety accident, and indemnify the Contractor against any Losses caused thereby.

10.2.6 Immediately after any safety incident, the Subcontractor shall notify the Contractor of the details of the incident. The Subcontractor shall keep such records and write such reports as the Contractor, the Owner, or the Owner's Engineer may reasonably require in respect of the health, safety and welfare of personnel, and damage to property. Report procedure as below:

- (a) The Subcontractor shall report details of any fatality, Lost Time Incident (when a person cannot resume their normal work duties of their next scheduled work) or dangerous occurrence to the Contractor within 3 hours and issue a preliminary report within 12 hours to enable the Contractor to comply with the obligations under Main Contract. A final incident investigation report shall be prepared and provided to the Contractor within 3 Business Days of the incident. The Subcontractor shall take such actions as may be reasonable, necessary and/or advisable to prevent, avoid or mitigate further injury, damage or loss and recurrence of the same.
- (b) The Subcontractor shall (A) report to the Contractor, as soon as possible but no later than within 12 hours after its occurrence (i) any incident of an environmental nature (including an explosion, spill or material environmental contamination), or (ii) an incident of a social nature (including violent labour unrest or a dispute between the employees of the Contractor (or any Subcontractor) and local communities), which has or is reasonably likely to have a Material Adverse Effect on the performance of the Subcontract Works or the environment, health and safety, security or the surrounding community, and (B) inform the Contractor of the remedial action the Subcontractor proposes, and keep the Contractor informed of the progress of such remedial action, as well as update the Contractor on an ongoing basis as to the status of the incident and what is being undertaken or implemented in response to the incident.

10.3 Health

10.3.1 The Subcontractor shall comply with the Main Contract, laws of the

Country with respect to health and hygiene, and strictly implement the health and hygiene requirements proposed by the Contractor or the Owner.

- 10.3.2 The Subcontractor shall at all times take reasonable precautions to maintain the health and safety of the Subcontractor's personnel. The Subcontractor shall co-operate with the local health authorities of the Country and at all times ensure that the Subcontractor's Personnel and the Contractor's, the Owner's and the Owner's Engineer's personnel on the Subcontract Site are provided with medical personnel, first aid facilities, equipment and that appropriate arrangements are made for all necessary welfare and hygiene requirements and for the prevention of infectious diseases.
- 10.3.3 The Subcontractor shall maintain the sanitation of the construction and living areas, remove and transport the rubbish and waste in a timely manner to the designated place for stacking or disposal, and place materials, equipment and articles entering the Subcontract Site in an orderly manner from blocking the passage and affecting environmental sanitation.
- 10.3.4 Immediately after any health incident, the Subcontractor shall notify the Contractor of the details of the incident. The Subcontractor shall keep such records and write such reports as the Contractor or the Owner may reasonably require in respect of the health, safety and welfare of personnel and damage to property.
- 10.3.5 The Subcontractor shall at its own cost promptly make corrections with regard to the sanitary facilities or measures at the Subcontract Site as requested by the Contractor, the Owner and/or the local authorities. If the Subcontractor fails to do so, the Contractor may suspend the Subcontract Works until the Subcontractor has completed the correction to the satisfaction of the Contractor. The Subcontractor shall not be entitled to any additional payment or extension of time as a result of the suspension. If the Subcontractor fails to make corrections in accordance with the requirements during the suspension, the Contractor shall be entitled to terminate the Subcontract with immediate effect without giving rise to any rights of claim of the Subcontractor.

10.4 Environment

- 10.4.1 The Subcontractor shall comply with the applicable laws of the Country and the provisions of the Subcontract and the Main Contract in respect of environmental protection, and shall use all reasonable endeavors to limit damage or nuisance to people or property resulting from pollution, noise or other results of the Subcontractor's operations and activities. In addition, the Subcontractor shall protect the public pathways, water

sources and public facilities against loss, damage or deterioration.

10.4.2 The Subcontractor shall bear all risks and responsibilities resulting from its violation of the above provisions. The Subcontractor shall hold the Contractor harmless against any claims or litigation filed by the Owner, the authorities or other relevant parties, and shall indemnify the Contractor against all Losses arising therefrom.

10.4.3 The Subcontractor shall at its own cost promptly make corrections with regard to the environmental facilities or measures at the Subcontract Site as requested by the Contractor, the Owner and/or the local authorities. If the Subcontractor fails to make such corrections, the Contractor shall be entitled to suspend the execution of the Subcontract Works until such corrections are made in the manner acceptable to the Contractor. The Subcontractor shall not be entitled to any additional payment or extension of time as a result of the suspension. If the Subcontractor fails to make corrections in accordance with the requirements during the suspension, the Contractor shall be entitled to terminate the Subcontract with immediate effect without giving rise to any rights of claim of the Subcontractor.

10.5 Quality

10.5.1 The quality of the Subcontract Works shall meet the requirements and standards set by the Main Contract and the Subcontract. If any part of the Subcontract Works fails to meet the standards and requirements, the Subcontractor shall, repair or demolish and rebuild the relevant part of the Subcontract Works at its own cost without being entitled to any payment or extension of time. The Subcontractor shall indemnify and hold the Contractor harmless against all the Losses that may arise therefrom.

10.5.2 The subcontractor shall abide fully in Appendix X [Quality Control and Assurance].

10.6 QHSE Management System and Action Plan

10.6.1. HSSE Management System and Action Plan

The Subcontractor shall at its cost:

- i. establish an environmental and social management system, which shall include the organizational structure, responsibilities, practices, procedures and resources for developing, implementing and monitoring compliance with the Environmental and Social Requirements as detailed in appendix J (Environmental Requirements and Mitigation Plan);
- ii. develop a Health, Safety and Environmental Management Plan as per appendix Z (Construction Projects HSSE Management Manual) that

sets out actions, budgets responsibilities and time frames to remedy known non-compliance, if any, with the Environmental and Social Requirements in respect of the Subcontractor or the Subcontract Works, and adheres to such plan; and

- iii. develop and implement a corrective action plan to remedy a breach by the Subcontractor (or any sub-subcontractor) of the Environmental and Social Requirements as soon as practicable and within ten (10) days of such breach, unless otherwise agreed to in writing by the Contractor, or being requested to do so by the Contractor.

10.6.2. Quality Assurance Scheme

- a) The Subcontractor undertakes to implement throughout the period of the Subcontract the quality control and quality assurance scheme (the "QA Scheme") consistent with that described in the appendix A (Technical Specifications) and appendix X (Quality Control and Assurance).
- b) The Subcontractor shall present to the Contractor the detailed quality assurance plan and detailed QA Scheme relating to the Subcontract Works by the Subcontractor and its sub-subcontractors, which shall be subject to the Contractor's review, comment and approval so that the quality assurance plan and the QA Scheme can be implemented by the Subcontractor and its sub-subcontractors not later than thirty (30) days following the date of this Subcontract.
- c) Any comments or approval received from the Contractor in respect of any quality assurance plan and QA Scheme shall not relieve the Subcontractor or its sub-subcontractors of any responsibility under the Subcontract.
- d) The Subcontractor undertakes to comply with the quality assurance plan and the QA Scheme at all times and shall procure that its sub-subcontractors comply with such quality assurance plan and QA Scheme.
- e) If the Subcontractor fails to comply with the quality assurance plan and/or the QA Scheme at any time, clause 11.6.4 shall apply and the Contractor shall be entitled, without liability, to reject such portion of the Subcontract Works that do not comply and the Subcontractor shall be responsible for remedying such failure to the satisfaction of the Contractor and shall not be entitled to claim any time or cost relief as a result of such rejection and/or remediation.

11. Commencement, Completion, Suspension and Takeover

11.1 Commencement

11.1.1 Subcontract Commencement Date.

The date upon which the Subcontract comes into effect (**Subcontract Commencement Date**). The Subcontractor shall commence the execution of the Subcontract Works immediately after the Subcontract Commencement Date and shall proceed with the Subcontract Works with due expedition and without delay in accordance with the Subcontract Program approved by the Contractor.

11.2 Completion

11.2.1 Subcontract Time for Completion. The Subcontract Time for Completion shall be specified in the Programme and the Implementation Schedule.

11.2.2 The Subcontractor shall complete the entire Subcontract Works, including the passing of the Subcontract Tests on Completion and all other works required for completion of the Subcontract Works as stipulated in the Main Contract and the Subcontract, within the Subcontract Time for Completion and in accordance with the schedule specified in the Subcontract and the Main Contract.

11.2.3 Without the written consent of the Contractor, the Subcontract Time for Completion shall not be adjusted. If the Time for Completion under the Main Contract is adjusted, the Subcontract Time for Completion may be, with the Contractor's written consent, adjusted accordingly. If the Time for Completion or the milestones of the Main Contract is adjusted, the Subcontractor shall comply with the adjusted schedule and complete the corresponding Works.

11.3 Subcontract Program. The Subcontractor shall submit a detailed program for the execution of the Subcontract Works to the Contractor for approval within One weeks after signature of this Subcontract.

11.3.1 The Subcontract Program shall include

- a. the commencement date and completion date of the Subcontract Works and the milestones; and
- b. the order and schedule that the Subcontractor intends to carry out the Subcontract Works, covering design (if any), procurement, manufacture and delivery of the Subcontract Plant, construction, erection and testing; and
- c. the critical paths for all activities in relation to the Subcontract Works; and
- d. the dates of arrival of major equipment and/or materials; and
- e. Photographs reflecting the progress on site; and
- f. Specific information on the number of various types of personnel and

equipment on site; and

- g. Copies of quality assurance documents, test results and certificates of compliance for materials; and
- h. Safety statistics;
- i. Site weather conditions, including daily temperature and rainfall;
- j. Problems encountered by Subcontractors during construction;
- k. Subcontractor cash flow(where applicable); and
- l. Comparison of actual progress with planned progress
- m. the sequence and timing of inspections and tests specified in the Subcontract.

11.3.2 The Contractor may require the Subcontractor to submit detailed supporting materials regarding the program above, including:

- a. a general description of the main stages in the execution of the Subcontract Works and the methods which the Subcontractor intends to adopt;
- b. the deployment of the equipment, materials and personnel in each major stage or process;
- c. a quality assurance program;
- d. a health, safety and environment program, and
- e. any other documents required by the Contractor.

11.3.3 Revision. The Contractor may provide revision suggestions after receiving the Subcontract Program, and the Subcontractor shall revise and submit the revised Program to the Contractor within [3] Days after receiving the Contractor's suggestions. Such procedure shall repeat until the Subcontract Program meets the Contractor's requirements. The Contractor's approval of the Subcontract Program shall not relieve the Subcontractor from its obligation of completing (any part of) the Subcontract Works within the agreed period under the Subcontract.

11.3.4 Remedy by the Subcontractor. Provided that if, at any time: a) actual progress is too slow to complete within the Subcontract Time for Completion, and/or b) progress has fallen (or will fall) behind the Subcontract Program, then the Contractor may issue a Contractor's Instruction requiring the Subcontractor to submit an updated program and supporting report describing the revised methods which the Subcontractor proposes to adopt in order to expedite progress and complete the Subcontract Works within the Subcontract Time for Completion.

- 11.3.5 The methods mentioned above may include a) addition of equipment owned or rented by the Subcontractor; b) increase of procurement and storage of the materials; c) replacement or addition of site management personnel and laborers; d) improvement of the organization of the construction; e) cash flow plan which can accelerate the progress of the Subcontract Works; and f) other methods.
- 11.3.6 Unless the Contractor notifies otherwise, the Subcontractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Subcontractor's Personnel and/or Subcontract Goods, at the risk and cost of the Subcontractor.
- 11.3.7 Remedy by the Contractor. If the Works carried out by the Subcontractor are unduly delayed and not remedied within reasonable time required by the Contractor, the Contractor shall be entitled to take actions to accelerate the Subcontract Works at the Subcontractor's cost. The Contractor may deduct such cost from any payments due to the Subcontractor or call on the Performance Security submitted by the Subcontractor.
- 11.3.8 Reliance on the Subcontract Program. The Contractor shall be entitled to rely upon the current Subcontract Program when coordinating the Main Works and/or planning its activities and those of other subcontractors employed by the Contractor in respect of the Main Works.
- 11.3.9 Progress Report. The Subcontractor shall prepare and submit progress reports to the Contractor. Each report shall be submitted no later than [5] Days before the due date for submission of the Contractor's progress report under the Main Contract. Each Subcontractor's progress report shall include the details as set out in the Main Contract or as otherwise instructed by the Contractor. The Subcontractor shall make revisions within [2] Days upon receiving the written notice from the Contractor until the progress report is satisfactory thereto, should the Owner or the Contractor has any opinions regarding the monthly progress report.
- 11.4 Suspension
- 11.4.1 No Suspension. The Subcontractor shall not suspend progress of part or all of the Subcontract Works unless and until required to do so by a Contractor's Instruction.
- 11.4.2 Contractor's Suspension. The Contractor may at any time issue a Contractor's Instruction requiring the Subcontractor to suspend progress of part or all of the Subcontract Works.
- 11.4.3 During the suspension, the Subcontractor shall protect, guard and hold (any part of) the Subcontract Works harmless against and from any damage. In the event of any damage, the Subcontractor shall repair and

make good the damage.

- 11.4.4 When the conditions of proceeding with the suspended Subcontract Works have been achieved, the Contractor shall immediately issue a notice of proceeding to the Subcontractor. The Subcontractor shall proceed with the Subcontract Works in accordance with the time specified by the Contractor after receiving the notice. If the Subcontractor fails or refuses to proceed with the Subcontract Works without reasonable grounds, the Subcontractor shall be liable for the expense and the delay liability that arise therefrom. The Contractor shall be entitled to terminate the Subcontract if the Subcontractor fails to proceed within 10 Days after receiving the notice of proceeding.

11.5 Variation

The Contractor shall have the right, by issuing instructions to the Subcontractor, to require a variation to the Subcontract or require the Subcontractor to provide a variation proposal. The variation rules of the Main Contract shall apply to this Subcontract. The Subcontractor shall support the Contractor so that the Contractor would be able to abide by the Main Contract. If the Contractor is bound under the Main Contract to perform any variations relevant to the Subcontract Works, the Subcontractor shall be bound hereunder to perform its relevant part as instructed by the Contractor. The cost for variation shall be subject to the equivalent relief rules as set forth in clause 2.4 [Equivalent Relief]. The Subcontractor shall nevertheless proceed with the variation decision of the Contractor in the case of any disputes it may have over the variation cost or adjustment of Subcontract Price.

11.6 Subcontractor Replacement

In the event that the Contractor is entitled to terminate this Subcontract due to the Subcontractor's default and chooses not to do so, the Contractor may, at its own discretion, by giving a notice to the Subcontractor, subcontract a part of the Subcontracted Works to a third party, for the purpose of avoiding default under the Main Contract. The Subcontractor shall be liable for any extra cost that the Contractor have paid to complete the said part of the Subcontracted Works.

11.7 Tests

- 11.7.1 The Subcontractor shall carry out the tests on completion and tests after completion in accordance with the requirements as set forth in the Main Contract with respect to the standards, procedure etc (if any).
- 11.7.2 The Subcontractor shall give reasonable notice to the Contractor of the date after which it shall be ready to carry out each of these tests. The Subcontractor shall carry out these tests after it has provided the as-built

documents in accordance with the Subcontract and the Subcontract operation and maintenance manuals, as required by the Main Contract.

- 11.7.3 If the Subcontract Works fail to pass the tests, the Subcontractor shall as soon as practicable make good the defect in the Subcontract Works and repeat the tests under the same terms and conditions as specified in the Subcontract until the tests are passed. If the failed works lead to the failure of any other works, the Subcontractor shall take measures to make good the other works and remedy the failure at its own cost without extension of time.
- 11.7.4 If the Subcontract Works fail to pass the rearranged tests on completion and no other remedies are available which are acceptable by the Contractor, the Contractor shall be entitled to reject the Subcontract Works. In case a rejection occurs, the Subcontractor shall return the price already paid by the Contractor for the rejected part within seven Days without further right to receive any unpaid portion therefor. The Subcontractor shall dismantle the rejected part at its own cost if so required by the Contractor. The Contractor shall be entitled to claim against the Subcontractor for any extra cost occurred by repair or redo the rejected part by itself or by a third party.
- 11.7.5 The Subcontractor shall cooperate with the Contractor to complete tests under the Main Contract.
- 11.7.6 The passing any of the tests hereunder shall be subject to the opinion of the Owner.
- 11.8 Takeover
- 11.8.1 Preconditions for takeover. Takeover of the Subcontract Works shall be achieved when:
- (a) the Subcontract Works have been completed in accordance with the Subcontract (except for any minor outstanding work and defects which will not substantially affect the use of the Subcontract Works for their intended purpose) and accepted by the Contractor and the Owner;
 - (b) these works have passed the tests on completion;
 - (c) the 'as-built' documents and operation and maintenance manuals (if required under the Main Contract) as well as other Subcontractor's Documents in respect of the Subcontract Works have been supplied by the Subcontractor in accordance herewith and been accepted by the Contractor and the Owner.
 - (d) The Contractor has obtained Taking-Over certificate from the Owner.

Before issuance of Take Over Certificate, the subcontractor shall repair ,maintenance and care for the constructions,plants and the facilities

which is the work scope of this subcontract at the subcontractor's costs.

11.8.2 Issuance of Take Over Certificate.

Not earlier than [7] working Days before the Subcontract Works will be completed, , the Subcontractor shall notify the Contractor to conduct the tests on completion. Where applicable, the Contractor shall notify the Subcontractor of its opinion that completion of the Subcontract Works has not been achieved, giving reasons and specifying the work required to be done by the Subcontractor to achieve completion. The Subcontractor shall then complete this work before issuing a further notice under this clause. The Contractor shall, upon the take-over of the Main Works or a part of the Main Works that contains the Subcontract Works by the Owner, issue a Take Over Certificate to the Subcontractor provided that the Contractor received Take Over Certificate from the Owner, the Take Over Certificate certifying that the completion of the Subcontract Works has been achieved, and stating the date of completion.

12. Defects Liability

12.1 Defects Liability Period (“DLP”)

The Subcontractor shall remedy all the defects of the Subcontract Works in accordance of this Subcontract during the Subcontract Defects Liability Period. The Subcontract Defects Liability Period shall be a period of twenty four (24) months after issue of the Take Over Certificate.

12.2 Outstanding Work.

The Subcontractor shall complete all the minor outstanding works and defects which will not substantially affect the use of the Subcontract Works for their intended purpose within the Subcontract DLP or within the time period specified on the Initial Acceptance Certificate and/or Take Over Certificate. No modification or repair which requires a reduction in or shutdown of operations of the Plants or any part thereof shall be undertaken by the Subcontractor except with the prior written approval of the Contractor and the Owner.

If the Subcontractor fails to do so, the Contractor may arrange for the outstanding Punch List Items to be executed and the cost thereof (including the direct cost in arranging for those Punch List Items to be executed by a third party) shall be certified by the Contractor and deducted from the Subcontract Performance Security and Retention Bond or any sum due to the Subcontractor.

12.3 Extension of Subcontract DLP.

In the event that a defect or damage in the Subcontract Works attributable to the Subcontractor gives rise to an extension of any defects notification

period under the Main Contract, the Subcontract DLP shall be extended as according to the Contractor's instruction. If this extension causes the Contractor to incur any additional cost, the Contractor shall be entitled to deduct this cost from any payment due to the Subcontractor or call upon any of the Subcontractor Performance Security.

To avoid any doubt, if the any Defect of the Subcontract Works be repaired, replaced or renewed by the Subcontractor or the Contractor, the Subcontract DLP for those Subcontract Works so repaired, replaced or renewed shall be extended twenty-four (24) months, from the date of such repair, replacement or renewal, provided that, the Subcontract DLP shall not be greater than 48 months from the original commencement date of DLP.

12.4 Assumption of Costs.

12.4.1 All the costs related to the remedy of the Subcontract Works shall be assumed by the Subcontractor, unless otherwise provided herein.

12.4.2 In the event that the defects are attributable to the Owner, and that the Owner shall assume the cost for defects remedy under the Main Contract, the Subcontractor, with the Contractor's confirmation, shall make remedy to the defects and assist the Contractor to claim for such costs against the Owner. Subject to receiving the said costs from the Owner, the Contractor shall pay to the Subcontractor a fair amount for the remedy.

12.4.3 Insofar as a defect or damage in the Subcontract Works which is the responsibility of the Subcontractor causes the Contractor to incur any additional cost in complying with the Main Contract, the Contractor shall be entitled to deduct this cost from any payment due to the Subcontractor or call upon any of the Subcontract Performance Security.

12.5 Failure of Remedy

12.5.1 If the Subcontractor fails to remedy a defect within the time as notified by the Contractor, the Contractor may send a notice to extend the deadline. If the Subcontractor fails to remedy the defect or damage within the deadline stated in this notice, the Contractor may carry out the work or have the work carried out by others, at the Subcontractor's cost and risk.

12.5.2 The Contractor shall be entitled to deduct a corresponding sum from any of the Subcontract Performance Security or any due payment for remedy of the defects by itself or a third party.

12.5.3 If the defect or damage deprives the Contractor and/or the Owner of substantially the whole benefit of (any part of) the Works, the Contractor may terminate the Subcontract as a whole with immediate effect. Without prejudice to any other rights hereunder, the Contractor shall then be entitled to recover all sums paid for the Works or for such part (as the

case may be), plus financing costs and the cost of dismantling the same, clearing the Subcontract Site and returning the Plant and Materials to the Subcontractor.

12.6 Offsite Repair.

If the Subcontractor considers that any defect or damage in any Plant or Facilities which including in the work scope of this subcontract cannot be remedied expeditiously on the Subcontract Site, the Subcontractor may, with the Owner's consent, have such items of Plant as are defective or damaged removed from the Subcontract Site to be repaired by the Subcontractor or a third party. The expenses and damages incurred by the Contractor therefrom shall be borne by the Subcontractor. The Contractor may require the Subcontractor to increase the amount of the Subcontract Performance Security by the full replacement cost of the defective or damaged Works, materials, equipment or goods, or submit other guarantees that the Contractor deems necessary.

12.7 Further Test.

If a defect or damage has an adverse effect on the safety, performance, and effectiveness of the Subcontract Works or any part of a main equipment, the Contractor may notify the Subcontractor to make retest after the defect or damage is repaired, including test on and after completion (if any). The Subcontractor shall carry out relevant tests and bear the corresponding expenses.

12.8 Other Responsibility.

In addition to the provisions above, if defect liability or warranty liability is stipulated by the Laws of the Country, other applicable laws or the Main Contract, the Subcontractor shall bear the liability and risks in relation to the Subcontract Works accordingly, and shall protect and hold the Contractor harmless against and from all Losses that may arise therefrom.

12.9 Surface Clean-up and Restoration.

The Subcontractor shall clean up and restore (except for improvements) any land (including land and water), reclaiming yard, spoil yard, Permanent Roads, temporary construction facilities, Temporary Works, abandoned works, etc., and clean up the site, remove related abandoned works, waste, any temporary facilities or works, construction equipment, materials, etc. that are not needed by the Contractor.

12.10 Clearance of Site

12.10.1 Upon receiving the Take Over Certificate, the Subcontractor shall remove any remaining Subcontractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

12.10.2 If all these items have not been removed within 28 Days after Take Over Certificate, the Contractor may sell or otherwise dispose of any remaining items. The Contractor shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

12.10.3 Any balance of the moneys from the sale shall be paid to the Subcontractor. If these moneys are less than the Contractor's costs, the Subcontractor shall pay the outstanding balance to the Contractor.

13. Insurance

13.1 Types and Scope of Insurances.

The Subcontractor shall, at its expense, take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Subcontract, those insurances required by Laws, this clause 13 (Insurance) and as specified in Part I of appendix N (Insurances) of the Main Contract to which requires the Subcontractor to effect, in the sums and with the deductibles and other conditions therein specified. The Contractor shall be listed as the beneficiary.

13.2 Payment Proof

The Subcontractor shall produce the insurance policies which the Subcontractor is required to effect hereunder. As each premium is paid, the Subcontractor shall promptly submit to the Contractor either a copy of each receipt of payment, or confirmation from the insurers that the premium has been paid.

13.3 Assistance.

The Parties shall provide reasonable assistance to each other as may be appropriate in connection with any claims that may be made under the policies of insurance effected pursuant hereto. The Subcontractor shall not give any release or make any compromise with any insurer without the prior consent of the Contractor provided that the Contractor has an insured interest therein. Furthermore, the Subcontractor shall fully cooperate with, and support, the Contractor and/or the Owner in settling any insurance claims.

13.4 Remedy.

If the Subcontractor fails to effect and keep in force any of the insurances required hereunder, and in any such case, the Contractor may effect and keep in force such insurances and pay any premium as may be necessary and the Contractor may recover the same from the Subcontractor from time to time by deducting the amount(s) to be paid by the Contractor from any moneys due to the Subcontractor or otherwise recover the same as a

debt from the Subcontractor.

13.5 Indemnity

If the Subcontractor fails to comply with any condition of the insurances effected under the Subcontract, it shall indemnify the Contractor against all Losses arising from such failure. In the event of rejection of claims by the insurer for reasons attributable to the Subcontractor such as fraud, misrepresentation, or violation of commitments and obligations set forth in the insurance policy, the Subcontractor shall assume the Losses resulting therefrom and indemnify and hold the Contractor and the Owner harmless against any loss.

13.6 Deductibles.

For the avoidance of doubt, the deductibles not covered by the insurer should a claim arises shall be assumed by the Subcontractor. The Subcontractor has taken account of all the insurance requirements in agreeing the Subcontract Price.

13.7 Insurance Proceeds

All proceeds paid under any physical damage insurance in respect of a single event or a series of related events shall be subject to the Main Contract.

14. Subcontract Price and Payment

14.1 Subcontract Price

14.1.1 The Subcontract Price shall be a fixed unit price. The Subcontract Price shall be calculated based on the fixed price in the priced BOQ which has got confirmation by both parties in the contract and the actual quantity which has been measured and confirmed by both parties during construction stage.

14.1.2 The Subcontract Price have taken account of all risks, responsibilities and obligations of the Subcontractor related to the Subcontract Works as provided or implied in the Subcontract. In particular, the Subcontractor acknowledges that the Subcontract Price is determined on the basis of its thorough inspection of the Subcontract Site and full understanding of the Main Contract and the Subcontract, and acknowledges the accuracy and adequacy of the Subcontract Price. Moreover, the subcontractor fully understand that it shall care, repair and maintenance of the Plant and facilities which including in the work scope of this subcontract before Take Over by the Owner at it's own costs.

14.1.3 The Subcontract Price has included all the Subcontractor's taxes, profits, and direct and indirect costs and expenses relating to the licenses, temporary works and facilities, equipment, machinery, materials, spare

parts, utilities, personnel, quality tests, construction, installment, defect remedy, maintenance, management, operation, insurance, finance, security, safe production, protective and other measures and otherwise for the full and timely performance of this Subcontract. If the Subcontractor is required to submit any Security in the Contractor's name, the relevant costs shall be deemed to have been included in the Subcontract Price.

- 14.1.4 Unless otherwise provided in the Subcontract, the Subcontract unit Price shall not be subject to any adjustments for any reasons whatsoever including without limitation to the changes in price of labor, materials or equipment, inflation, fluctuation of currency exchange rates, changes in taxes, infectious diseases or otherwise. If any quantities are set out in appendices, they shall not be taken as the actual and correct quantities of the Subcontract Works which the Subcontractor is required to execute, and they shall be used only for the purposes stated in the appendices and for not other purposes.

14.2 Measurement and Evaluation.

If all or any part of the Subcontract Price is based on unit price multiplying the quantity supplied or work done by the Subcontractor, this clause shall apply.

- 14.2.1 In case of unit price, for each item of work, the appropriate rate or price for the item shall be that specified in the priced Bill of Quantities or that of similar work if no such item is listed thereon. If no similar items are listed, the price shall be proposed by the Subcontractor and determined by the Contractor.
- 14.2.2 The value of the work shall be calculated based on the quantity supplied or work done and such parts shall be measured, and valued for payment.
- 14.2.3 When the Contractor requires measurement of any part of the project, the Subcontractor shall promptly provide assistance to the Contractor in the measurement and provide any specific information required by the Contractor.
- 14.2.4 If the Subcontractor fails to be present at site to assist the Contractor in the measurement, the Subcontractor shall be deemed to agree to the measurement results.
- 14.2.5 Except as otherwise provided, the price of all or a part of the Subcontract shall be calculated in accordance with the measurement results confirmed by the Contractor and the unit price agreed in the Subcontract.

14.3 Provisional Sum

- 14.3.1 The provisional sum may be set according to the requirement of the

contractor. The Contractor shall determine the use and payment of the provisional sums if it is applicable to the Subcontract. The Contractor may fix the price of the provisional sums with reference to the cost that may be incurred by the Subcontractor for the execution of works or in the procurement of services or goods.

14.3.2 When applying for payment out of the provisional sums, the Subcontractor shall, according to the requirements of the Contractor, provide proposals, invoices, Contractor's notice to use, receipts and other proofs to substantiate the actual costs as requested by the Contractor.

14.3.3 The provisional sums paid by the Contractor to the Subcontractor shall include only such amounts of the actual costs incurred by the Subcontractor and shall not include any additional charges, overheads or profits.

14.4 Advance Payment

Unless otherwise provided in the Particular Conditions, the Contractor shall make the advance payment of 10% of the provisional total Subcontract Price to the Subcontractor within 28 Days after the Contractor has received:

- i. the Advance Payment Bond provided by the Subcontractor in accordance herewith;
- ii. the necessary documents from the Subcontractor as required by the Main Contract relating to the Subcontract Works.

The conditions that advance payment release shall be stipulated in the Particular Condition.

14.5 Interim Payment

14.5.1 The Subcontractor shall prepare and submit interim payment applications (Statement) to the Contractor and approved by the Contractor showing in detail the amounts to which the Subcontractor considers himself to be entitled, together with supporting documents which shall include the relevant report on progress.

14.5.2 The subcontractor shall submit the relating monthly application(statement) for settlement enclosed with all of the support documents required by the contractor. Before the 20th of each month, the subcontractor shall submit the application for settlement for the work completed between the 21st of last month and the 19th of this month. This clause may have other condition in the Particular Condition.

14.5.3 The Contractor shall make payment to the Subcontractor within 28 calendar days after the application for settlement submitted by the Subcontractor in accordance with the Subcontract has been approved by

the Contractor, and the relevant documents thereof are in accordance with requirements for the project as-built documents.

14.5.4 If the Subcontractor is under obligation to provide a Subcontract Security under the Subcontract, no amount shall become due and payable to the Subcontractor until the security in accordance herewith has been delivered to the Contractor.

14.5.5 If the subcontractor does not receive payment of an undisputed amount in accordance with Clause 14.5.3 (Timing of Payments), the subcontractor shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay.

14.5.6 These finance charges shall be calculated at the annual rate of 2 percentage points above the Prime Interest Rate in respect of payments in ZAR which defined in the Main Contract.

14.6 Final Settlement

14.6.1 The Subcontractor shall submit an application no later than [15] Days after Take Over Certificate from the Owner, showing in detail the value of all work done in accordance with the Subcontract, and any further sums which the Subcontractor considers to be due to him, together with supporting documents which shall include materials required under this Subcontract and the Main Contract.

14.6.2 The Contractor shall make the final payment of the Subcontract Works to the Subcontractor, provided that the settlement of the Subcontract Works has been completed and that the Contractor has completed the final settlement and received Take Over Certificate from the Owner in accordance with the Main Contract.

14.7 Warranty Bond

14.7.1 After obtained Take Over Certificate, the Subcontractor shall submitted to the Contractor a corporate Warranty bond in the form acceptable to the Contractor as one condition to release the Performance Bond. This Corporate Warranty bond is intended to serve as the defect liability for the works of this Subcontract.

14.7.2 The Contractor shall release the warranty bond mentioned in subclause 14.7.1 above when all of the following conditions have been met:

- a) the Contractor has completed the final settlement process;
- b) This subcontract does not have any remaining disputes issue or the subcontractor has waived its claim rights;
- c) all contracts entered into by the Subcontractor in the name of the Contractor (if any) have been fully performed or terminated; and

- d) the Subcontractor has duly performed all its obligations under the Subcontract without any disputes or potential disputes.
- e) Upon the expiry date of DLP, there is no any outstanding works subject to the subclause 12 of this Subcontract, and the Contractor received the Performance Certificate from the Owner.

14.7.3 If the Subcontractor fails to pay in full all salaries, compensations, taxes, duties, surcharge and/or social insurance costs due to the Subcontractor's personnel, the Contractor shall be entitled to deduct the corresponding amount from the security bonds.

14.7.4 The Contractor shall in its sole and absolute discretion apply the security bonds against any amount owed to the Contractor by the Subcontractor under the Subcontract.

14.8 Offset.

The Contractor is entitled to set off any amounts due and payable to the Subcontractor against monies due and payable to the Subcontractor under any clause of the Subcontract. Such amount may, without limiting the Contractor's other rights to recover amounts due to it from the Subcontractor (including by having recourse to the Subcontract Performance Security or any Retention Bond), be included as a deduction in the payments to be made pursuant hereto.

14.9 Currency

14.9.1 The Currency for payment shall be Rand (ZAR), the lawful currency of South Africa.

14.9.2 The Subcontractor shall bear all bank fees incurred during the process of settlement and payment for the Subcontract Works under the Main Contract and the Subcontract and assume risks related to currency exchange and foreign exchange control.

14.10 Financial Receipt and Tax Clearance Certificate.

Before obtaining any payment from the Contractor in respect of this Subcontract, the Subcontractor shall provide financial receipts and where applicable the tax clearance certificate approved by the local tax authorities in respect of this Subcontract Works, in accordance with the requirements of the Contractor and provisions of the Main Contract and this Subcontract. The final cumulative amount on the various types of financial receipts, and tax clearance certificate shall not be less than the final settlement amount of this Subcontract.

14.11 Account information of both Parties

Contractor

Subcontractor

Account Name/

Account Name/

Bank Account/

Bank Account/

Account number/

Account number/

IBAN number/

IBAN number/

Swift code:

Swift code:

15. Tax

15.1 Price Inclusive of Tax.

Unless otherwise stated in the Particular Conditions, all the taxes and charges, borne by the Subcontractor in accordance with the applicable Laws in relation to this Subcontract shall be included in the Subcontractor price, including but not limited to stamp duty, customs duty, corporate income tax, withholding tax, additional taxes, etc.

15.2 Deduction.

The Contractor shall be entitled to deduct from the amount to be paid or payable to the Subcontractor the taxes and charges which shall be borne by the Subcontractor and withheld by the Contractor in accordance with the Laws of the People's Republic of China(if any) and the Country (region) where the works are located, and shall issue a receipt for the taxes and charges so deducted.

15.3 Tax Clearance.

The Subcontractor shall assist the Contractor to complete the tax clearance work under the Main Contract in accordance with the Contractor's requirements. The Subcontractor shall provide all financial and other documents necessary for tax clearance during the execution of the Subcontract Works, in accordance with the applicable Laws and the requirements of the Contractor.

15.4 Tax Certificate.

The Subcontractor shall submit tax clearance certificates and tax clearance declarations to the Contractor annually and provide a final tax clearance certificate from the tax authorities upon completion of the Subcontract Works. Otherwise, the Subcontractor shall indemnify the Contractor from and against all additional taxes or Losses incurred by the Contractor as a result thereof, including penalties, late payment fees, etc. The Contractor shall be entitled to deduct the relevant costs directly from the amount to be paid or payable to the Subcontractor or call on any of the Subcontract Performance Security submitted by the Subcontractor.

15.5 Audit.

The Subcontractor shall maintain adequate internal controls and accurate books and records on invoicing, payments, claims for costs, reimbursements and any other charges relevant to the Subcontract. Upon the notice from the Contractor and the Owner, the Subcontractor shall promptly afford the Contractor access and a right to audit to such books and records.

15.6 Value Added Tax

15.6.1. Subject to the subclause 15.1, the Subcontract Price excludes the Value Added Tax ("VAT") within the Country, assumed that VAT is calculated and list separately in the priced BOQ and the invoice .

15.6.2. The Subcontractor shall include its VAT registration number on all invoices submitted to the Contractor. The Subcontractor shall, in a timely manner, provide to the Contractor valid and proper invoices (including VAT or tax invoices) or other documentation evidencing VAT chargeable or otherwise related to VAT.

15.6.3. The Contractor shall have no responsibility or liability for any non-payment or delay of payment by the Subcontractor to the Government for any of the Contractor's VAT obligations and the Subcontractor indemnifies the Contractor for any such non-payment or delay or payment."

16. Risk and Indemnities

16.1 Unforeseeable Difficulties

Except as otherwise expressly stated in this Subcontract, the Subcontractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may adversely affect its execution of the Subcontract Works. By signing this Subcontract, the Subcontractor acknowledges that it has foreseen all difficulties and considered all costs for the completion of the Subcontract Works within the timeline set out herein and that the Subcontract Price and the Subcontract Time for Completion shall not be adjusted for reasons of any unforeseen difficulties.

16.2 Duty of Care

The Subcontractor shall have full responsibility for the care of the Subcontract Works, Subcontract Goods and Subcontractor's Documents at its own expense from the Subcontract Commencement Date until Take Over Date (Take Over Date), at which point the responsibility for the Subcontract Works shall pass to the Contractor. Provided that, after responsibility has so passed to the Contractor, the Subcontractor shall: a) take responsibility for the care of any work which is outstanding on the

date of taking-over until this outstanding work has been completed and accepted by the Contractor; b) be liable for any loss or damage caused by any actions performed by the Subcontractor; and c) be liable for any loss or damage which occurs and which arise from a previous event for which the Subcontractor was liable.

16.3 Indemnities

The Subcontractor shall indemnify the Contractor, the Owner and their personnel against Losses suffered or incurred by the Contractor, the Owner or their personnel arising out of or in connection with:

- a. any claim made against the Contractor or the Owner for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Subcontractor's performance hereof;
- b. any claim made against the Contractor or the Owner for death, personal injury, disease, sickness, or damage to property arising out of or in connection with the Subcontractor's performance hereof;
- c. the Subcontractor's violation of tax law of the Country or the People's Republic of China, of the environmental law, or any other applicable law in the Country;
- d. the Subcontractor's acts which are in violation of the laws and regulations governing anti-corruption, economic sanctions, export control, anti-money-laundering, and financing of terrorism;
- e. the Subcontractor's violation of clause 4.1.10 on agency;
- f. the Subcontractor's violation of clause 7.6 on labor law compliance, clause 7.7 on insurance; and clause 7.9 on emergency.

16.4 The Subcontractor party shall at its cost deal with the disputes, litigation or arbitration arising out of the circumstances listed in clause 16.3 [Indemnities]. The Subcontractor may at its own cost request the indemnified party to provide necessary assistance. If the Subcontractor fails to respond to and take appropriate actions within 28 Days or other time as specified by the indemnified party from the receipt of the notice of the indemnified party, the indemnified party can take actions by itself with the cost and liability assumed by the Subcontractor.

16.5 The Contractor may recover Losses arising from clause 16.3 [Indemnities] and 16.4 from monies otherwise due to the Subcontractor under the Subcontract or call on any of the Subcontract Performance Security.

17. Default Liability

17.1 Notice to Correct under the Subcontract.

If the Subcontractor fails to carry out any obligation under the

Subcontract, the Contractor may by notice require the Subcontractor to make good the failure and to remedy it within a reasonable time specified by the Contractor. In the event that the Subcontractor fails to make any, adequate or satisfactory remedy, the Contractor is entitled to engage a third party to make corrections at the expenses of the Subcontractor.

17.2 Delay Remedy

In the event of a delay in the Subcontractor's progress—whether due to insufficient material supply or construction delays—and if the recovery schedule provided by the Subcontractor fails to meet the Contractual Programme, the Contractor shall have the right to carve out the delayed portions of the Work and engage a third party to execute. The Subcontractor shall remain obligated to complete the Work already executed in accordance with the original schedule.

17.3 Delay Liquid Damages.

If the Subcontractor fails to comply with Subcontract Time for Completion, the Contractor shall be entitled to delay liquid damages payable by the Subcontractor or at its discretion deduct delay liquid damages from payment of the Subcontract Price or call on any of the Subcontract Performance Security for this default. If the Subcontractor shall pay to the Contractor the sum specified in appendix E (Liquidated Damages for Delay and Performance) for each day of such delay for the period commencing on the day after the relevant Guaranteed Completion Date and expiring on the actual date to attain relevant Take Over Certificate.

The total amount of delayed liquidated damages payable shall not exceed [Fifteen percent (15%)] of the Subcontract Price.

17.4 Performance Damages.

If the Contractor fails to pass the performance test and thus assumed default liability under the Main Contract for reasons attributable to the Subcontractor, the Subcontractor shall compensate the Contractor for 120% of its Losses under the Main Contract. The Contractor's claim and receipt of damages shall not be deemed to indicate its acceptance of the Subcontract Works.

17.5 Other Damages.

Damages for violation of other provisions of the Subcontract shall be as below:

17.5.1 If the Subcontractor fails to comply with the clause 7 [Staff and Labor], it will be subject to paying damages as follows.

a. Project manager. If the Subcontractor fails to deploy or replace the project manager according to this Subcontract or as requested by the

Contractor, the Subcontractor shall pay damages to the Contractor at [100,000 ZAR] per month for the period of the said failure.

b.If the project manager left without the approval of the Contractor or failed to return to the Subcontract Site within the approved time period, the Subcontractor shall pay damages to the Contractor at [5,000 ZAR] per day until the day of the project manager's return.

c.The management and other key personnel. If the Subcontractor fails to deploy or replace any of the management (excluding the project manager) or key personnel according to this Subcontract or as requested by the Contractor, the Subcontractor shall pay damages to the Contractor at [2,000 ZAR] per day per person until such failure is corrected.

d.If any key personnel left without the approval of the Contractor or failed to return to the Subcontract Site within the approved time period, the Subcontractor shall pay damages to the Contractor at [2,000 ZAR] per day per person until their return.

e.Other personnel. If the Subcontractor fails to deploy adequate personnel according to the Subcontract, causing adverse impact to its performance hereunder, the Subcontractor shall pay damages to the Contractor at [1,500 ZAR] per day per person until such inadequacy is corrected. If any of the personnel left without the approval of the Contractor or failed to return to the Subcontract Site within the approved time period, the Subcontractor shall pay damages to the Contractor at [1,500 ZAR] per day per person until their return.

17.5.2 Non-compliance with the Project Management

a.If the Subcontractor fails to comply with the appendix I (Documents to be delivered by the Subcontractor), appendix J (Environmental Requirements and Mitigation Plan), appendix W (Project Management Specifications)(if any), appendix Z (Construction Project HSSE Management Agreement), or if any non-compliance with the requirement of project management by the Subcontractor described on the appendix F(Penalty Provision for Non-compliance with the Project Management) happened, it will be subject to paying liquidated damages to the Contractor of the amount calculated in accordance with the appendix F(Penalty Provision for Non-compliance with the Project Management) .

b.If the liquidated damages for non-compliance with the are specified on the other part of the Subcontract and if there is any discrepancy, ambiguity or divergence between the aforementioned liquidated damage and those on appendix F(Penalty Provision for Non-compliance with the Project Management) , the the most stringent standard shall apply.

17.6 Rights Cumulative. Each and all of the various rights, powers and

remedies of a Party will be considered to be cumulative with and in addition to any other rights, powers and remedies which such Party may have at law or in equity in the event of the breach of any of the terms of this Subcontract. The exercise or partial exercise of any right, power or remedy will neither constitute the exclusive election thereof nor the waiver of any other right, power or remedy available to such Party.

- 17.7 The Contractor may recover damages from claiming payment from the Subcontractor, deducting monies otherwise due to the Subcontractor under the Subcontract or calling on any of the Subcontract Performance Security.

17.8 Maximum Amount of Liquidated Damages

The maximum amount of liquidated damages payable under clause 17.3 (Delay Damages), clause 17.4 (Performance Damages) and clause 17.5 (Other Damages) shall not exceed [Twenty five percent (25%)] of the Subcontract Price.

17.9 Limitation of the Subcontractor's aggregate liability

The aggregate liability of the Subcontractor to the Contractor under or in connection with the Subcontract from any and all causes shall not exceed the Subcontract Price and such liability will not be reduced by any insurance amounts received by the Contractor, or any insurance amounts which the Contractor would have received but did not as a result of any act or omission of the Subcontractor which renders the relevant insurance policy void or unenforceable, except that this clause shall not apply to the liability of the Subcontractor:

- (a) in respect of the indemnities given in clauses 16.3[Indemnities]; or
- (b) in cases of fraud, wilful misconduct, gross negligence, or illegal acts; or
- (c) any liability of the Subcontractor for liquidated damages pursuant to clause 17.2 (Delay Liquid Damages), clause 17.3 (Performance Damages) and clause 17.4 (Other Damages);

Notwithstanding the above, the Subcontractor shall be liable for any amount payable by the Contractor following rejection in accordance with clause 11.6.4 within the limit of one hundred and twenty percent (120%) of the total amount of the Subcontract Price, except that such limitation of liability shall not apply to the liability of the Subcontractor in respect of the matters set out in clauses 17.8.

17.10 Indirect and consequential losses

Neither Party shall be liable to the other by any reason, including by way of indemnity or by reason of any breach of the Subcontract or by reason of tort (including negligence or otherwise), equity, for any special,

consequential, indirect or punitive damages or indirect costs or expenses or loss of contracts, data, or commission payments. The exclusion of liability set out in clause 17.10 [Indirect and consequential losses] shall not apply to:

(a) in respect of the indemnities given in clause 16.3 [Indemnities]; or

(b) in cases of fraud, wilful misconduct, gross negligence, or illegal acts; or

(c) any liability of the Subcontractor for liquidated damages pursuant to clause 17.2 (Delay Liquid Damages), clause 17.3 (Performance Damages) and clause 17.4 (Other Damages) and any other liability of either Party to effect payments that are specifically enumerated in the Contract;

18. Termination

18.1 Termination of the Main Contract.

18.1.1 The Contractor may terminate this Subcontract with immediate effect by giving written notice to the Subcontractor in the event that the Main Contract is terminated.

18.1.2 The payment due to the Subcontractor at the time of termination as a result of the termination of the Main Contract shall be decided by the Contractor and subject to settlement of payment due to the Contractor under the Main Contract on a pro rata basis. The Subcontractor shall assist and provide full support in the Contractor's claim for the compensation under the Main Contract.

18.1.3 If the termination of the Main Contract is attributable to the Subcontractor, then clause 18.1.2 shall not apply and the Subcontractor shall assume liability as set forth in clause 18.2.

18.2 Termination due to the Breach of the Subcontract by the Subcontractor.

18.2.1 The Contractor may terminate this Subcontract with immediate effect by giving written notice to the Subcontractor if the latter:

a. subcontracts, assigns or transfers (or purports to do the same) the whole or a portion of the Subcontract Works, assigns this Subcontract or any right or interest therein in violation of clause 1.10 [Successors, Assigns and Subcontracts];

b. is in material breach of any representation set forth in clause 4.1 [Representation and Warranties];

c. fails to comply with its obligations hereunder related to Subcontract Performance Security as set forth in clause 5 [Subcontract Performance Security];

d. triggers the termination clauses as provided in clause 10.2 regarding safety requirements, clause 10.3 regarding health requirements, clause 10.4 regarding environmental requirements, clause 11.4.4 regarding

failure to resume work after suspension, or clause 12.5.3 regarding defects.

- e. fails to obtain and maintain any insurance policies for which the Subcontractor is responsible hereunder as set forth in clause 13 [Insurance];
- f. reaches the limitation on default liability for delay liquid damages as set forth in clause 17.2 Delay Liquid Damages;
- g. reaches the limitation of liability for Performance Liquidated Damages (if any) as set forth in clause 17.3 [Performance Damages];
- h. is in breach of applicable Law which would adversely affect its performance of its obligations hereunder;
- i. engages in willful misconduct, abandons the Subcontract Works or otherwise plainly demonstrates the intention not to continue performance of its obligations hereunder;
- j. uses the advance payment and/or other payments for purposes other than for the performance of this Subcontract;
- k. is in material breach of any other obligations under this Contract;
- l. having received notice to correct from the Contractor and/or Owner for two or more times, fails to remedy or fix the matter specified in the notice to correct;
- m. is found, based on reasonable evidence, to have engaged in corrupt, fraudulent, collusive or coercive practice at any time in relation to the Subcontract Works or to the Subcontract.
- n. is unable to pay its debts or is liable to be wound up by a court of competent jurisdiction, enters into a composition or arrangement with its creditors, goes into liquidation or is subject to an administration order or if an administrator, administrative receiver or receiver is appointed over the whole or a substantial part of the property, assets or undertaking of the Subcontractor, or any equivalent or analogous event occurs.

18.2.2 The Contractor shall be entitled to the followings rights in the event of termination due to the Subcontractor's default.

- a. Dispose of all materials, equipment and temporary works at Site.
- b. Suspend all payments due to the Subcontractor.
- c. Call on any of the Security.
- d. Claim for damages for all the Losses it incurred as a result of the Subcontractor's default leading to the termination of the Subcontract.

18.2.3 Valuation at Date of Subcontract Termination

- (i) As soon as practicable and in any case no more than 14 Days after a notice of termination has taken effect, the Subcontractor shall provide its evaluation of the Subcontract Works, Subcontract Goods, and any other sums due to the Subcontractor for work executed in accordance with the Subcontract and submit to the Contractor an self-evaluation report as well

as supporting particulars.

- (ii) The Contractor shall evaluate the Subcontractor's self-evaluation report and supporting particulars, and decide the settlement amount due to the Subcontractor and/or the amount due to the Contractor. Should the Subcontractor fail to provide the self-evaluation report within the time required by the Contractor, the Contractor may conduct the evaluation by itself.
- (iii) The Contractor shall be entitled to deduct the amount due to the Contractor for any Losses incurred by the Contractor as a result of termination include without limitation damages claimed by the Owner against the Contractor under the Main Contract, extra cost in completing the Subcontract Works and legal costs and expenses.
- (iv) If the Subcontractor disputes with the Contractor's decision, it can resort to the dispute resolution as set forth in clause 20 [Applicable Law and Dispute Resolution].

18.3 Termination for Convenience. The Contractor is entitled to terminate this Subcontract for its convenience.

18.4 Termination by Force Majeure. If the Force Majeure Event prevents, hinders or delays the Subcontractor's performance of its obligations, the Contractor may terminate this Subcontract by giving a written notice to the Subcontractor.

18.5 Leaving the Site. After the Subcontract is terminated hereunder, the Subcontractor shall at its own cost and expense promptly:

18.5.1 Cease all further Subcontract Works, except for such Works as the Contractor may specify in the notice of termination for the sole purpose of protecting that part of the Works already executed or any works required in order to leave the Subcontract Site in a clean and safe condition and, promptly upon completing such specified works, forthwith cause the Subcontract Site to be vacated by itself;

18.5.2 Deliver to the Contractor or as instructed by the Contractor to the Owner the parts of the Works executed by the Subcontractor up to the effective date of termination;

18.5.3 Deliver to the Contractor all drawings, specifications and documents prepared by the Subcontractor in connection with the Works as at the effective date of termination whether completed or work in progress and in hard copy and electronic and editable format; and

18.5.4 Remove all other Goods of the Subcontractor from the Subcontract Site, except as necessary for safety, and leave the Subcontract Site.

18.6 If the Subcontractor fails to vacating itself from the Site within the time or

manner as instructed by the Contractor, the Contractor shall be entitled to engage a third party to clean up the Site and dispose the materials, equipment or temporary works at the cost of the Subcontractor.

- 18.7 If the Contractor so requires, the Subcontractor shall transfer its rights under certain supply, procurement contracts relevant to the Subcontract Works it signed with third parties to the Contractor or the Owner.
- 18.8 Termination of the Subcontract under this clause shall not prejudice any other rights of the Contractor hereunder or otherwise.

19. Force majeure

- 19.1 Definition. Unless otherwise provided in the Particular Conditions, Force majeure events shall mean exceptional events or circumstances as provided in the Main Contract. However, the flood and the thunder shall not be recognized and acknowledged as Force majeure unless otherwise confirmed by the Owner, in this case, the relating clause on Pass through and Equivalent Relief principle shall be applicable.
- 19.2 Obligations. In the event of a Force Majeure event, the Subcontractor shall:
 - 19.2.1 Notify the Contractor in writing of the Force Majeure event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure event on its ability to perform any of its obligations under the Subcontract ("**Force Majeure Report**") within 7 days it is aware or should be aware thereof. The Subcontractor shall, within 14 Days of the date of a notice issued pursuant to clause 19.2.1, provide a report concerning the Force Majeure Event and its effects, including particulars of the circumstance, event or condition, a general description of the obligations likely to be affected, an estimate of its likely duration and a statement of the actions to be taken in order to comply with its obligations under this clause 19 (Force Majeure); and
 - 19.2.2 Use all reasonable endeavors to mitigate the effect of the Force Majeure event on the performance of its obligations.
 - 19.2.3 Update the Force Majeure Report regularly and if not otherwise instructed by the Contractor, on a weekly basis until the effect of the Force Majeure event is eliminated.
 - 19.2.4 The Subcontractor shall ensure resumption of normal performance of this Subcontract after the cessation of any Force Majeure Event or its effects as soon as possible and shall otherwise perform its obligations as herein agreed to the maximum of its ability to the extent not excused under this clause 19 (Force Majeure).
 - 19.2.5 The Subcontractor shall within 14 Day following the cessation of any Force Majeure, submit to the Contractor reasonable proof of the nature of

such delay and its effect upon the performance of its obligations under this Subcontract.

19.2.6 If the Subcontractor does not deliver such notice in accordance with the clause 19 (Force Majeure), the Subcontractor shall not be entitled to make claims to the Contractor.

19.2.7 The Party affected by the Force Majeure Event (hereinafter the “ Affected Party”) shall not be liable for any delay or failure in performing its obligations under this Subcontract due to a Force Majeure Event, provided that, no relief shall be granted to the the Affected Party to the extent that such failure or delay:

19.2.7.1. [a]would have nevertheless been experienced by the Affected Party had the Force Majeure Event not occurred; or

19.2.7.2. [b]was caused by the failure of the Affected Party to comply with its obligations under subclause 19.2.2.

20. Applicable Law and Dispute Resolution

20.1 Governing Law. Unless otherwise specified in the Particular Conditions, this subcontract shall be governed by and construed in accordance with the laws of South Africa and the parties hereby irrevocably submit to the exclusive jurisdiction of the South African High Court where appropriate.

20.2 Dispute Resolution. Unless otherwise specified in the Particular Conditions, any dispute arising out of or in connection with this Subcontract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the International Chamber of Commerce (“ICC”) in accordance with its arbitration rules in force which rules are deemed to be incorporated by reference in this clause.

20.2.1 The seat of the arbitration shall be Beijing, People Republic of China.

20.2.2 The tribunal shall consist of three arbitrators.

20.2.3 The language of the arbitration shall be English.

20.2.4 The losing party shall bear all the legal costs, attorney’s fees, travel expenses and other costs incurred by the winning party for the purpose of dispute resolution.

20.2.5 The Parties shall continue performance of the undisputed part of the Subcontract during the dispute resolution process.

[End of the General Conditions]

III. PARTICULAR CONDITIONS

The Clauses in the General Conditions shall be modified in this Particular Conditions hereinafter.

5.4.1 Advance Payment Bond

Add: The subcontractor shall provide an advance Payment Bond equivalent to 10% of the total contract value in the form acceptable to the contractor. The subcontractor shall provide certification by relating authority upon requested by the contractor or the owner if they consider it is necessary.

5.4.2 Performance Bond

Add: The subcontractor shall provide a Corporate performance Bond equivalent to 15% of the total contract value in the form acceptable to the contractor. The subcontractor shall provide certification by relating authority upon requested by the contractor or the owner if they consider it is necessary.

6. Design

Not applicable

7.10 Labor welfare

Add: 7.10.3 No living quarters including the accommodation, the kitchen and the temporary toilets shall be erected within the construction site or on any land leased by the Employer. The temporary toilets service is recommended to purchase from the local community.

8.10.2 Modified as: The contractor shall provide the site within the Project site for the Subcontractor to build the soil yards, material yards, rock yards. The Subcontractor shall be responsible for building the soil yards, material yards, rock yards and obtaining dumping sites at its own expense and shall also carry out site surveys and confirmations, sampling and experiments on such sites and yards, at its own expense, and report the results to the Contractor for record. The contractor shall provide the connection point for Construction water supply at the site.

9.1 Provision of Site and Access.

Add: The subcontractor shall fill up the information templates provided by the contractor; the contractor is responsible for purchasing and making access cards or biometric scan for site entrance (where necessary). The contractor shall deduct the relating costs if the cards are lost or damaged by the subcontractor through the interim payment settlement. The subcontractor shall return all of the access cards to the contractor after works completion and site-cleaning.

10 Safety, Health, Environment and Quality

Add: 10.1.5 The Subcontractor and their sub-subcontractors shall appoint in writing First Aider(s). The appointed First Aider(s) are to be sent for accredited first aid training. Valid certificates are to be kept on site. All Contractors with more than 5 employees shall supply their own first aid box. Subcontractor with more than 10 employees shall have trained, certified first aider on site at all times & First aid Box adequately stocked always. Subcontractor shall maintain a fully fitted site ambulance with paramedics for the duration of construction works including a dedicated first aid room.

12.1 Defects Liability Period ("DLP")

The Subcontractor shall remedy all the defects of the Subcontract Works in accordance of this Subcontract during the Subcontract Defects Liability Period. The Subcontract Defects Liability Period shall be a period of twenty four (24) months after issue Take Over Certificate.

14.3 Provisional Sum

Not Applicable

14.4 Advance Payment

Add: The Advance Payment Bond shall expire upon the payment by the Contractor to the Subcontractor, of cumulative amounts (expressed in South African Rand) equal to 3 times the amount of the Advance Payment, following which the Contractor will return the Advance Payment Bond to the Subcontractor, and at which stage the Advance Payment shall be deemed to have been repaid to the Contractor.

14.5.1 Replaced as "The Subcontractor shall prepare and submit interim payment applications to the Contractor no more than twice for each section every 30 days and approved by the Contractor showing in detail the amounts to which the Subcontractor considers himself to be entitled, together with supporting documents which shall include the relevant report on progress."

[End of the Particular Conditions]

IV. ANNEXES

1. Performance Security

Note: Samples of the bank bond is hereby provided as follows and should be replaced by the official bank bond after issuance thereof.

1.1 Advance Payment Bond

Advance Payment Bond

Advance Payment Bond No _____

To:CNWE Energy Proprietary Limited

We, [name and address of first class bank] (the Guarantor), refer to the subcontract agreement dated [Date of the Subcontract] (the Subcontract) that you, Party A, have concluded with our client [Subcontractors name and address] (the Subcontractor) for the Construction of PV area required as part of the Notsi 475MW PV Project in South Africa (the Project).

In accordance with this Subcontract, Party A shall pay to Party B an advance payment of [amount of the advance payment] against submission of an advance payment bond (this Guarantee) for the same amount (the Guaranteed Amount).

We, the Guarantor, hereby irrevocably and unconditionally undertake, as a primary obligation and without whatsoever right of objection on our part, to pay Party A, upon receipt at our counters of Party As first written demand, any amount or amounts not exceeding in aggregate the Guaranteed Amount, without any further proof or conditions or document and notwithstanding any objection by Party B or by any other party, and without being able to enquire whether or not such payment is lawfully due and payable by Party B.

Any payment made hereunder shall be made free of, and without deductions for on account of, any present or future taxes, duties, fees, charges, deductions or withholding of any nature whatsoever.

This Guarantee shall remain valid and in full force and effect until the earlier to occur of (i) xxx and (ii) the date the value of advance payment bond has been deducted in full (the Expiry Date).

Any demand under this Guarantee shall be received by us on or before the Expiry Date and beyond such date, this guarantee will be null and void whether this Guarantee is returned or not to us.

For the avoidance of doubt, where any claim is made under this Guarantee prior to the Expiry Date, then such claim shall be paid regardless of such Expiry Date.

This Guarantee is interpreted in accordance with South Africa' law and, is subject

to the Uniform Rules for Demand Guarantees published as number 758 by the International Court of Commerce, with the exception of Article 15(a) thereof which shall not apply.

If any dispute of any kind whatsoever shall arise in connection with, or arising out of, this Guarantee, the dispute shall finally be settled under the Rules of Arbitration of China International Economic and Trade Arbitration Commission by three (3) arbitrators appointed in accordance with the said rules. The place of arbitration shall be Beijing, China. The language of arbitration shall be English.

Name of the bank _____

Signature _____

Date _____

Schedule 1 - Form of Payment Request and Certificate

[*Date*]

[*Address of Issuer*]

Advance Payment Bond No. [*]

Reference is made to the above-referenced Advance Payment Bond. Capitalised terms used herein shall have the respective meanings given to such terms in the Advance Payment Bond.

Demand is hereby made for payment of the amount of ZAR [] in immediately available funds to the following account:

[*account information*]

[*Contractor's Authorized Signatory*]

1.2 Form of Performance Bond

Performance Bond

Performance Bond No _____

To: CNWE Energy Proprietary Limited

We, [name and address of first class bank] (the Guarantor), refer to the subcontract agreement dated [Date of the Subcontract] (the Subcontract) that you, Party A, have concluded with our client [Subcontractors name and address] (the Subcontractor) for the Construction of PV area required as part of Notsi 475MW PV Project in South Africa(the Project).

Whereas it is stipulated in the Subcontract that Party B shall provide, in favour of Party A, a performance bond (this Guarantee) for the amount of [ZAR..] (the Guaranteed Amount).

We, the Guarantor, hereby irrevocably and unconditionally undertake, as a primary obligation and without whatsoever right of objection on our part, to pay Party A, upon receipt at our counters of Party As first written demand, any amount or amounts not exceeding in aggregate the Guaranteed Amount, without any further proof or conditions or document and notwithstanding any objection by Party B or by any other party, and without being able to enquire whether or not such payment is lawfully due and payable by Party B.

Any payment made hereunder shall be made free of, and without deductions for on account of, any present or future taxes, duties, fees, charges, deductions or withholding of any nature whatsoever.

This Guarantee shall remain valid and in full force and effect until the earlier to occur of (i) xxx and (ii) the date of issue of the Subcontract Works last Initial Hand Over Certificate under the Subcontract (the Expiry Date).

Any demand under this Guarantee shall be received by us on or before the Expiry Date and beyond such date, this guarantee will be null and void whether this Guarantee is returned or not to us.

For the avoidance of doubt, where any claim is made under this Guarantee prior to the Expiry Date, then such claim shall be paid regardless of such Expiry Date.

This Guarantee is interpreted in accordance with South Africa's law and is subject to the Uniforms Rules for Demand Guarantees published as number 758 by the International Court of Commerce, with the exception of Article 15(a) thereof which shall not apply.

If any dispute of any kind whatsoever shall arise in connection with, or arising out of, this guarantee, the dispute shall finally be settled under the Rules of Arbitration of China International Economic and Trade Arbitration Commission by three (3) arbitrators appointed in accordance with the said rules. The place of arbitration shall be in Beijing, People Republic of China. The language of arbitration shall be English.

Name of the bank _____

Signature _____

Date _____

Schedule 1 - Form of Payment Request and Certificate

[*Date*]

[*Address of Issuer*]

Performance Bond No. [*]

Reference is made to the above-referenced Performance Bond. Capitalised terms used herein shall have the respective meanings given such terms in the Performance Bond.

Demand is hereby made for payment of the amount of ZAR [] in immediately available funds to the following account:

[account information]

[*Contractor's Authorized Signatory*]

1.3 lien waiver

To: CNWE Energy Proprietary Limited

This lien waiver and release is with respect to the subcontract agreement (the Subcontract) dated [Date of the Subcontract] for the Construction of PV area required as part of Notsi 475MW PV Project in South Africa (the Project). Capitalised terms used in this lien waiver and release have the meanings given to those terms in the Subcontract.

In consideration of the [ZAR] payment under the Subcontract requested by [invoice number and date] for Subcontract Works performed by Party B until [relevant date], Party B, upon receipt of such payment, unconditionally waives, releases and forever discharges Party A and Party As premises and property from all materials, mechanics, construction and other type of liens, mortgages, pledges, charges, security interests and encumbrances of every nature arising out of or in connection with such Subcontract Works and all other Subcontract Works by Party B under the Subcontract for which payment has previously been made.

The foregoing shall not relieve Party B of its obligations under the provisions of the Subcontract that by their nature survive completion of the Subcontract Works, including, without limitation, warranties, guarantees and indemnities.

Date_____Signature(s)_____

2. Appendixes

Appendix A (Technical Specifications);
Appendix B (Implementation Schedule);
Appendix C (Economic Development Obligations and Local Community Requirements)
Appendix D (Letter of Statement of Corrupt Act)
Appendix E (Liquidated Damages);
Appendix F (Penalty Provision for Non-compliance with the Project Management);
Appendix G (Interfaces);
Appendix I (Documents to be delivered by the Subcontractor);
Appendix J (Environmental Requirements and Mitigation Plan);
Appendix M (Form of Invoice);
Appendix N (Insurances);
Appendix P (Subcontractor's Key Personnel);
Appendix U (Drawings and Study);
Appendix W (Subcontractor Side Agreement);
Appendix X (Quality Control and Assurance);
Appendix Y (List of Approved Subcontractors);
Appendix Z (Construction Project HSSE Management Manual);

This Subcontract may be executed in any numbers of appendixes, each of which when executed and delivered shall constitute a duplicate original, and all such counterparts shall together constitute this Subcontract. Transmission of an executed counterpart of this Subcontract by e-mail or U disk in PDF shall take effect as delivery of an executed counterpart of this Subcontract.

3. Estimated BOQ

This shall be replaced by Priced BOQ at the contract signature date

V. MAIN CONTRACT

VI. THE CONTRACTOR'S REQUEST FOR PROPOSAL/TENDER DOCUMENT

VII. SUBCONTRACTOR'S PROPOSAL