

UPGRADATION OF EXISTING METAL COATING LINE INCLUDING  
DESIGN, ENGINEERING, MANUFACTURE, SUPPLY,  
SUPERVISION OF ERECTION & COMMISSIONING  
OF EQUIPMENT

*(Handwritten initials)*

*(Handwritten initials)*

FOR

ESMECH EQUIPMENT PVT. LTD.

**SMS group**

AND

ALAF LTD.

**ALAF**

BETWEEN

Number: ALAF-EEPL-MCL-01

**CONTRACT**

The following Articles annexed to this Contract shall be deemed to form, to be read and to be construed as part of this Contract.

IT IS HEREBY AGREED and declared by and between the PARTIES hereto as follows.

1. The PURCHASER is desirous of contracting the SELLER to carry out design, engineering, manufacture, supply, supervision of erection and commissioning for the UPGRADATION OF METAL COATING LINE;
2. The SELLER is ready and willing to carry out design, engineering, manufacture, supply, supervision of erection and commissioning for the UPGRADATION OF METAL COATING LINE; and
3. in consideration of the terms and conditions stipulated hereunder, specifically the scope of work defined under Article No.4 of the Contract, the SELLER hereby agrees to design, engineer, manufacture, supply, supervise the erection and commissioning for the UPGRADATION OF METAL COATING LINE for the PURCHASER..

WHEREAS,

Hereinafter collectively referred as the PARTIES.

Of the other part

Esmech Equipment Pvt. Ltd., having its registered office at Plot no. A254-259 & A283, Plot No. 30A, Wagie Industrial Estate, Thane - 400 604, India, hereinafter referred to as "SELLER" (which expression shall, unless repugnant to the context or the meaning thereof, be deemed to include its legal representatives, assignees and successors in title).

AND

Of the one part

ALAF Ltd. having its registered office at Plot No. 18 Nyerere Road, P.O Box 2070, Dar-es-salam, Tanzania, hereinafter referred to as "PURCHASER" (which expression shall, unless repugnant to the context or the meaning thereof, be deemed to include its legal representatives, assignees and successors in title)

BY and BETWEEN

This CONTRACT was entered into on the Twentieth Day of August, of the year Two Thousand and Nineteen.



CONTRACT



UPGRADATION OF EXISTING METAL COATING LINE		
		Contract No.: ALAF-EEPL-MCL-001 Date : 21 <sup>st</sup> August, 2019

*(Handwritten signatures)*

All the articles listed above form the part of this Contract, being taken as mutually acceptable and explanatory to the PARTIES.

Article No.	Description
01.	Definitions
02.	Documents of the Contract
03.	Amendments to the Contract
04.	SELLER'S Scope of Work
05.	Price
06.	Terms of Payment
07.	Performance Bond
08.	Effective Date of the Contract
09.	Time schedule for the execution of the Contract
10.	Testing, Inspection and Packing before dispatch
11.	Site Assembly
12.	Erection
13.	Supervision of Erection and Commissioning
14.	Acceptance Tests
15.	PURCHASER'S Obligations
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17.	Force Majeure
18.	Arbitration & Jurisdiction
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20.	Liabilities
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 <b>ALAF</b>	 <b>SMS group</b>	Contract No.: ALAF-EPL-MCL-001 Date : 21 <sup>st</sup> August, 2019

UPGRADATION OF EXISTING METAL COATING LINE	
 <b>ALAF</b>	 <b>SMS group</b>
Contract No.: ALAF-EEPL-MCL-001 Date : 21 <sup>st</sup> August, 2019	

**ARTICLE 01**

**DEFINITIONS**

The following terms or expressions, as used in these General Conditions of the Contract and as may be used in any of the Contract document shall have the meanings defined hereunder:

1.1 Project

The term "PROJECT" shall mean the UPGRADATION OF METAL COATING LINE.

1.2 PURCHASER

The term "PURCHASER" shall mean ALAF LTD. and shall include its legal representatives, assignees and successors in title.

1.3 SELLER

The term SELLER shall mean ESMEGH EQUIPMENT PVT. LTD. and shall include its legal representatives, assignees and successors in title.

1.4 Sub-Supplier and/or Sub-Contractor

The term Sub-Supplier and/or Sub-Contractor shall mean a person, firm, company or corporation who supply Equipment, materials or services to the SELLER in connection with this Contract.

1.5 Contract

The term Contract shall mean this Contract, along with its annexes herein included, between the PURCHASER and the SELLER and shall supersede all prior documents whether written or oral and Letter of Intent, understanding, memoranda, minutes if any, made between the PARTIES in relation to the Contract.

1.6 Plant and/or Equipment

The term Plant and/or Equipment shall mean all or any part of the Plant, Equipment, structures, materials and other supplies which are to be supplied by the SELLER to the PURCHASER in accordance with the Contract and which are not specifically excluded by the Contract from the supplies which the SELLER is obliged to supply under the Contract, drawings and schedules for the completeness of his supplies duly confirmed by the PARTIES as amendment to Contract.





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The term "Supervision" shall mean the control and directions given by the SELLER and/or the SELLER'S engineers and/or the Sub-Supplier's/Sub-

1.15 Supervision

The term "Commissioning" shall mean start-up and testing of Plant & Equipment under load with all the services (hot run), leading to commercial production of Metal Coated Coils.

1.14 Commissioning

The term "Erection" shall mean the putting up and/or installation of all Equipment, with structures, platforms, piping, cabling, etc. and testing individual Equipments with power under no load and under load but in cold condition (cold run) wherever possible.

1.13 Erection

The term "Site Assembly" shall refer to the assembly and piping jobs carried out at Site by SELLER'S/ Sub-Supplier's and/or Sub-Contractor's personnel.

1.12 Site Assembly

The term "Site" shall mean the place at which the Plant and Equipment supplied under the Contract are to be erected.

1.11 Site

The term "CFR", shall mean Cost and Freight up to Dar-es-salam Port. The denomination CFR (Cost and Freight) is in accordance with INCOTERMS 2000.

1.10 CFR, Dar-es-salam Port Basis

The term "FOB", shall mean Free on Board Indian Port. The denomination FOB (Free on Board) is in accordance with INCOTERMS 2000.



1.9 FOB Indian Port Basis

The term "SUPPLY" shall include Supply, Assembly, Supervision of Erection and Commissioning of EQUIPMENT FOR THE UPGADATION OF METAL COATING LINE.

1.8 Supply

The term "Manufacture" shall include Design, Engineering, Manufacture & Inspection of EQUIPMENT FOR THE UPGADATION OF METAL COATING LINE.

1.7 Manufacture

UPGRADATION OF EXISTING METAL COATING LINE		
 <b>ALAF</b>	 <b>SMS@group</b>	Contract No.: ALAF-EEPL-MCL-001 Date : 21 <sup>st</sup> August, 2019

*(Handwritten signatures)*

Bank: Deutsche Bank AG  
Address: DB House  
Hazariyal Somani Marg  
Fort, Mumbai 400001, India  
Account no.: 0609842-05-0  
Swift Code: DEUTINBXXX  
Beneficiary: ESMECH EQUIPMENT PVT LTD

6.3 Remittance to be advised through the SELLER'S authorized Bank as follows:  
6.2 All payments will be made by direct transfers of the corresponding amounts to the SELLER'S authorised bank as detailed in Article 6.3 below.  
- On fortnightly basis on submission of invoice.  
For Services:  
To facilitate the payment of "pro-rata" payment against proforma invoice, a "Billing Schedule" shall be mutually agreed by the BUYER and the SELLER within 3 months of the Effective Date of the Contract. The "Billing Schedule" will provide a further break-up of prices for all major components of the Equipment.



- (1) 10% of the total Contract Price as an advance payment upon signing of this Contract within one (1) week of receipt of a Commercial Invoice.
- (2) 10% on submission of G.A. drawing by T.T.;
- (3) 10% on submission of Foundation bolt plan of the line by T.T.;
- (4) 10% on placement of orders for major bought out items by T.T.;
- (5) 60% of the total Contract Price for below payments by T.T as under:
  - (i) 50% on pro-rata basis against submission of Proforma Invoice;
  - (ii) 5% of the total Contract Price against Commercial Invoice and the against Commissioning;
  - (iii) 5% of the total Contract Price against Commercial Invoice and the submission of Performance Guarantee valid for 12 months from date of commissioning or 18 months from date of dispatch whichever is earlier.

For Supply:

6.1 The total price USD 1.30 Million (US Dollars One Million Three Hundred Thousand only) for Supplies & USD 250 / Manday for charges towards Supervision of erection & commissioning as defined in Article 5.2 of this Contract shall be paid by the PURCHASER as follows

TERMS OF PAYMENT

ARTICLE 06

UPGRADATION OF EXISTING METAL COATING LINE		
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7.2 The Performance Bond shall be in the form of bank guarantee to be issued by a bank in the SELLER's country acceptable to the PURCHASER. The text of the Performance Bond shall be mutually agreed between the SELLER and the PURCHASER.

In the event the SELLER defaults on its obligations set out in the respective Articles of this Contract especially those for Guarantee and Warranty, the PURCHASER shall be entitled to claim the corresponding amount out of the Performance Bond. The PURCHASER in that case shall be required to issue written notice of the claim to the SELLER allowing reasonable time to initiate remedial action within 30 days and the PURCHASER shall be free to withdraw the amount in case the SELLER has failed to fulfill his obligations according to the conditions of this Contract.

7.1 The SELLER shall establish and provide the Performance Bond, which shall be done at the time of Preliminary Acceptance in favour of the PURCHASER for an amount of USD 65000 (US Dollars Sixty Five Thousand only) which will expire twelve (12) months after the date of the Final Acceptance Certificate.

PERFORMANCE BOND

ARTICLE 07



UPGRADATION OF EXISTING METAL COATING LINE		
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*(Handwritten signatures)*

8.1 The Effective Date of the Contract for the purpose of computation of delivery and all other obligations of both the PARTIES shall be from 21<sup>st</sup> August 2019.

**EFFECTIVE DATE OF THE CONTRACT**

**ARTICLE 08**

<b>UPGRADATION OF EXISTING METAL COATING LINE</b>		
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Completion of erection activity by erection contractor (nominated by the purchaser), as per schedule submitted (manpower & no. of days) by the Seller is responsibility of purchaser. Any delay by the contractor will affect the further dates mentioned above.

Delivery of material on FOB basis except for Uncollers & Recoiler shall be by end of February 2020.

Uncollers & Recoiler shall be dispatched by end of March 2020.

Liquidated damages towards delivery shall be applicable after 30<sup>th</sup> April 2020.

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Effective Date of Contract	: 21 <sup>st</sup> AUG 2019
Submission of GA Drawing	: 30 <sup>th</sup> Sept 2019
Approval of GA Drawing	: 8 <sup>th</sup> Oct 2019
Start Shipment	: 1 <sup>st</sup> Feb 2020 onwards
Finish Shipments	: by end March 2020
Air shipments if any	: by end April 2020
Start Erection	: 2 <sup>nd</sup> May 2020
Finish Erection & Cold Run	: 15 <sup>th</sup> June 2020 ***
Finish Commissioning (Hot Run)	: 30 <sup>th</sup> June 2020
Finish Acceptance Tests	: 31 <sup>st</sup> July 2020

9.1 The time schedule for the execution of this Contract will be as follows:

**TIME SCHEDULE FOR THE EXECUTION OF THE CONTRACT**

**ARTICLE 09**

UPGRADATION OF EXISTING METAL COATING LINE	
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10.2 The PURCHASER's or their authorized representative's inspection and testing of the Equipment does not absolve the SELLER from its ultimate responsibility for the correctness of the design, for the materials specifications, for any manufacturing defects, for its performance guarantees and for any Equipment warranties.

(5) In case the PURCHASER asks for additional inspection/testing beyond the inspection plan of the TECHNICAL SPECIFICATIONS, additional costs if any, shall be borne by the PURCHASER.

(4) The SELLER shall intimate the PURCHASER at least four (4) days in advance their schedule of inspection/testing of Equipment covered under the inspection plan

(3) Ask the SELLER to take reasonable measures to test the accuracy of any instrument and/or test piece used for testing. In case the PURCHASER question the accuracy of any instrument and/or test sample used for testing the SELLER and/or their designated Sub-Supplier/Sub-Contractor shall replace immediately the inaccurate instrument and/or test sample. The SELLER shall be responsible for the cost of such replacement.



(2) Access the SELLER'S and/or their designated Sub-Supplier's/Sub-Contractor's manufacturing Site, at all reasonable times, to inspect and/or test the Equipment during and/or after manufacture. However PURCHASER shall advise at least one week in advance of any planned visit to SELLER'S or designated Sub-Supplier's/Sub-Contractor's manufacturing facilities.

(1) Witness necessary inspections and testing of all the Equipment during the manufacturing phase at SELLER'S/Sub-Supplier's/Sub-Contractor's works, to ensure that their manufacture is in compliance with the specifications mentioned in the Contract. SELLER shall provide PURCHASER with all the necessary facilities such as documents, instruments, electricity, tools, labour and test pieces to render inspection and testing effective. The PURCHASER shall be responsible for all the expenses and the charges of any Third Party Inspection that the PURCHASER requests.

10.1 TESTING- The PURCHASER or their authorized representatives shall have the right to:

TESTING, INSPECTION AND PACKING BEFORE DISPATCH



ARTICLE 10

UPGRADATION OF EXISTING METAL COATING LINE		
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- (1) That SELLER will provide for protection of the Equipment and will pack all of the Equipment in accordance with the best established packaging practices in order to ensure that the Equipment is protected against damage during transit, from the point of manufacturer's place, until it has arrived at the erection Site, under conditions which may involve multiple handling, transport by ship, road and air, storage, exposure to heat, moisture, rain etc. during transportation.
- (2) That heavy machinery will be bolted to skids, which shall be of sufficient strength to support and prevent distortion of the machine while in transit. Wooden covers or plugs shall protect all openings of pipes, large valves and machinery, and caps shall cover all machine threads, so that they are protected against damage while in transit.
- (3) That all sensitive Equipment, all Equipment parts susceptible to corrosion when exposed to moisture, and all electrical Equipment, shall be thoroughly protected against damage during transit and storage. In addition to customarily packaging, all electrical Equipment shall be wrapped in polyethylene or polypropylene plastic sheet, and any openings shall be sealed with waterproof tape.
- (4) That all of the Equipment shipped shall be stuffed into containers prior to shipment.
- (5) SELLER reserves the right to supply certain equipment / items un-packed after obtaining PURCHASER'S approval.

10.3 PACKAGING- Prior to shipping the SELLER shall ensure the following:

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- 11.1 Site Assembly of the equipment with all its components will form a part of the Erection work.
- 11.2 The SELLER/SUB SUPPLIER agrees to supply all special tools, tackles and testing instruments that may be needed for the site assembly.
- 11.3 The SELLER/SUB SUPPLIER also agrees to supervise the above works at site as per approved drawings & specifications, inspect and test the assembled equipment to the satisfaction of the PURCHASER.

SITE ASSEMBLY

ARTICLE 11

UPGRADATION OF EXISTING METAL COATING LINE		
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- 12.1 The SELLER agrees to submit Erection instructions along with all drawings, catalogues, manuals etc. to the PURCHASER within 6 months of the Effective Date of Contract.
- 12.2 The SELLER agrees to provide lists of personnel, consumables, tools, tackles, instruments and other material required for Erection. This information will form a part of the Erection Instructions
- 12.3 The PURCHASER agrees to construct the foundations as per the Project schedule and also provide all personnel, consumables, tools, tackles, instruments and other materials as per the list and time schedule submitted by the SELLER.
- 12.4 The PURCHASER also agrees to carry out the erection as per the written and verbal instructions of the SELLER
- 12.5 The PURCHASER shall ensure that all Equipment delivered is properly handled and stored according to SELLER's instructions and that all working area, Erection area, foundation area, storage area and transportation area are free from any obstructions.
- 12.6 The PURCHASER during the period of Erection, Testing and Commissioning shall provide all of the necessary services, such as electricity, water, compressed air, lifting and transportation facilities, scaffolding, operating aids etc. and materials, as well as PURCHASER's skilled and experienced personnel, needed to erect and commission the Plant

ERECTION

ARTICLE 12


UPGRADATION OF EXISTING METAL COATING LINE		
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*(Handwritten signatures)*

- 13.1 The SELLER agrees:
- (1) That SUPERVISION OF ERECTION & COMMISSIONING by the SELLER shall be carried out in accordance with the time schedule as referred to in Article 09.
  - (2) That the Erection and Commissioning of the EQUIPMENT FOR THE UPGADATION OF THE METAL COATING LINE and the Acceptance Tests shall be completed in a logical sequence.
  - (3) That the Erection of the Equipment shall be considered to be complete after all Equipment and Plant functions (supplied by SELLER) have been checked under load but in cold condition.
  - (4) That Commissioning of the Equipment shall be considered to be complete after Hot Run with specified raw material.
  - (5) That SELLER will depute qualified, healthy, skilled and competent engineers, supervisors and other personnel to carry out the Supervision of Erection by PURCHASER'S personnel.
  - (6) That for the Supervision of Erection and Commissioning and for the Acceptance Tests, the SELLER shall send competent supervisory personnel within fifteen (15) days from the date the PURCHASER informs the SELLER that the Site is ready for starting Erection. In case the notice is out of the time schedule, the deputation of supervisory personnel will be mutually agreed.
- 13.2 The provision of the SELLER, SELLER'S Sub-Suppliers, and its supervisory personnel is based on working 8-hours per day, from Monday to Saturday, excluding holidays.
- 13.3 Daily occurrences shall be recorded in a Site logbook maintained and signed by representatives of the PARTIES.

SUPERVISION OF ERECTION AND COMMISSIONING

ARTICLE 13

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then in any of the above conditions, the Work will be considered complete and the Equipment deemed to be accepted by the BUYER, and the BUYER shall issue to the SELLER a Final Acceptance Certificate. However, if due to reasons attributable to the SELLER, the Acceptance Tests are delayed for the EQUIPMENT, the above mentioned period shall be prolonged by that delay correspondingly.

(b) if the "Equipment" is not commissioned by the BUYER within 12 months of the last major supply of the "Equipment" by the SELLER;

or

(a) the Acceptance Tests under Article 14 are not scheduled by the BUYER or the BUYER does not provide the Facility, materials, manpower and support for the execution of the Acceptance Tests within 2 months of the date for the Acceptance Tests as proposed by the SELLER,

14.6 Deemed Acceptance: If without good reason attributable to the SELLER under this Contract, if

14.6 Within two months after the start of Hot Run the SELLER will carry out the Final Acceptance Tests (FAT) to demonstrate that the Plant is capable of achieving the Performance Parameters as defined in the TECHNICAL SPECIFICATION. Once the FAT is successfully completed, the recorded test data and/or results will be jointly signed by the representatives of the PARTIES within two (2) days. The PURCHASER within a period of two (2) weeks shall issue the Final Acceptance Certificate to the SELLER.

14.5 Once the Cold Run is complete and found satisfactory, the Hot Run will be started with specified raw material leading to commercial production.

14.4 The PURCHASER will not hold the Preliminary Acceptance Certificate if some minor items have not been completed, provided these items do not have any effect on starting the Hot Run and Final Acceptance Test and the SELLER has taken action to complete these items within mutually agreed time frame.

14.3 Once the Cold Run is successfully completed, the recorded test data and/or results will be jointly signed by the representatives of the PARTIES. The PURCHASER will then issue the Preliminary Acceptance Certificate within a period of one (1) week.

14.2 Preliminary Acceptance Tests will include testing individual Equipments with power under no load and under load but in cold condition (cold run) wherever possible.

14.1 Once all the Equipment are installed on foundation, aligned, grouted and all piping and cabling etc. are complete, power to the panels will be switched on and Preliminary Acceptance Tests will be carried out jointly by the SELLER and the PURCHASER.

ACCEPTANCE TESTS

ARTICLE 14

UPGRADATION OF EXISTING METAL COATING LINE		
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- 15.1 The PURCHASER shall be responsible for fulfilling its following obligations:
- (1) **DRAWINGS**- The PURCHASER shall make all efforts to approve within one (1) week of its receipt the drawings submitted by the SELLER/SUB SUPPLIER. In this respect, the SELLER shall submit the drawings requiring approval from the PURCHASER in a phased manner, as per the agreed schedule. However, the SELLER may proceed with the detailed engineering and/or manufacturing of the Equipment, at SELLER'S risk, without having to wait for PURCHASER'S approval of the drawings. In case there is no information from the PURCHASER within the ten (10) days regarding approval of drawings, the same shall be deemed to be approved.
  - (2) **CLEARANCE FROM PORT AND TRANSPORTATION TO SITE**- The PURCHASER shall arrange to clear the consignments from the port of landing and arrange for its transportation to Site. In case it is necessary, the SUPPLIER shall provide technical specifications, catalogues, test certificates etc to assist the PURCHASER in Customs clearance.
  - (3) **RECEIPT & STORAGE**- Based on the SELLER's recommendations and guidance the PURCHASER shall be responsible for the necessary infrastructure to receive and store the Equipment.
  - (4) **DAMAGES & SHORTAGES**- The PURCHASER shall inspect the condition of the consignment / Equipment and its completeness of the same on receipt of consignment / Equipment at PURCHASER'S Site in presence of SELLER'S representative (if available or in absence). In case of damage, shortage of consignment during the transit, the PURCHASER shall inform the SELLER of the damage / shortage within seven (7) days of receipt at Site. Thereafter, the PURCHASER shall lodge the claims with concerned insurance agencies and place the order for repair / replacement with the SELLER.
  - (5) **FIRST FILLS**- The PURCHASER shall be responsible for ensuring the availability of the first fills of all fluids including oils, grease at the time of commencement of trial runs.
  - (6) **UTILITIES**-The PURCHASER shall be responsible for making available to the SELLER the required electrical power, fuel, water, and compressed air for the Erection, Commissioning and running of the plant.
  - (7) **ERECTOR**- The PURCHASER shall be responsible for carrying out the Erection of the Equipment supplied.



**PURCHASER'S OBLIGATIONS**

**ARTICLE 15**

<b>UPGRADATION OF EXISTING METAL COATING LINE</b>		
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- (8) ACCOMMODATION-The PURCHASER shall provide reasonable accommodation to SELLER'S supervisory personnel and SELLER'S/Sub-Supplier's/Sub-Contractor's personnel during the duration of the project herein.
- (9) MEALS. The PURCHASER shall provide suitable meals including filtered water, tea, coffee etc. to the SELLER'S supervisory personnel and SELLER'S Sub-Supplier's/Sub-Contractor's personnel during their stay.
- (10) TRANSPORTATION- The PURCHASER shall provide SELLER'S supervisory personnel and SELLER'S/Sub-Supplier's/Sub-Contractor's personnel with local transportation from their place of accommodation / to the work Site. On non-working days PURCHASER shall provide SELLER'S supervisory personnel with a vehicle with a driver on request for local transport, subject to availability. Airport pick ups and drops shall be provided by the PURCHASER free of charge.
- (11) WORK PERMITS - The PURCHASER at its own cost shall arrange for all the necessary work permits, and other immigration documents that will be required for the SELLER'S and Sub-Supplier's/Sub-Contractor's personnel for their stay in Tanzania. However SELLER / Sub-Supplier's/Sub-Contractor's shall organise Visa for their personnel and all necessary assistance shall be provided by the PURCHASER.
- (12) INSURANCE - The PURCHASER will take necessary Personal Accident Insurance for the SELLER'S and SELLER'S Sub-Supplier's/Sub-Contractor's personnel during their stay.
- (13) MEDICAL - The PURCHASER shall provide First Aid facilities and reasonable medical care for the SELLER'S and SELLER'S Sub-Supplier's/Sub-Contractor's personnel while on site.
- (14) AIR TICKETS - The PURCHASER shall provide Economy class return Air Tickets to the SELLER'S and SELLER'S Sub-Supplier's/Sub-Contractor's personnel.
- (15) END-USER CERTIFICATES - The PURCHASER shall provide End-User Certificate based on the format provided by the SELLER in order for the SELLER to obtain necessary approvals from the concerned-authorities.
- (16) SECURITY - The PURCHASER shall extend the same security measures for the SELLER'S and SELLER'S Sub-Supplier's/Sub-Contractor's personnel as are standard for the PURCHASER's personnel.
- (17) COMMUNICATION FACILITIES - The PURCHASER shall provide free of charge one email facility, fax facility and shared telephone facility for SELLER'S supervisor's official use.



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*(Handwritten initials and signature)*

- 16.1 The SELLER warrants:
- (1) That all the Equipment supplied under the Contract shall be in strict conformity with the Contract and TECHNICAL SPECIFICATIONS.
  - (2) That all the Equipment shall be free from any defects due to faulty design, engineering or specifications.
  - (3) That all the Equipment shall be of first class workmanship and confirm to all specified standards and safety norms specified in the TECHNICAL SPECIFICATIONS.
  - (4) That all the Equipment shall be manufactured using appropriate materials and shall be brand new and that no used or repaired parts shall be used.
- 16.2 The warranty shall be for a period of twelve (12) months from the date of Final Acceptance or eighteen (18) months from the last major shipment plus any delay in the Project schedule which is due to reasons attributable to the SELLER, whichever comes earlier.
- 16.3 The PURCHASER shall operate the Equipment in accordance with the instructions stipulated by the SELLER.
- 16.4 The SELLER shall take action to rectify or replace any Equipment or any part thereof that may show any defect during the warranty period, within 30 days from the date of intimation by the PURCHASER. Also, during the warranty period, on written request from the PURCHASER, the SELLER shall undertake the required rectification or replacement, at its own expense which shall include but not be restricted to all material, freight and Supervision costs, within the above mentioned time.
- 16.5 The PURCHASER shall provide all the necessary and reasonable assistance to repair, rectify or replace any defective parts. If the investigations carried out by the PURCHASER and the SELLER reveal that the claims/defects are not attributable to the SELLER, the PURCHASER shall reimburse the SELLER with reasonable expenses incurred by the SELLER in replacing defective part.
- 16.6 The SELLER'S liability under this warranty clause shall be limited to such repairs and replacements and it shall exclude all other claims for incidental or consequential damages such as but not limited to loss of profit, loss of interest, loss of production, increased production cost, loss of business opportunity, and loss of Contract etc. The SELLER shall not accept any liability when parts which either due to their nature or to the use to which they were put, were prone to premature wear and/or in regard to defects due to wrong or ineffective



WARRANTY

ARTICLE 16

UPGRADATION OF EXISTING METAL COATING LINE	
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*(Handwritten initials and signatures)*

- 16.12 The express warranties in this Contract are the sole and exclusive warranties that the SELLER makes. Any and all implied warranties, such as but not limited to warranties of merchantability or fitness for a particular purpose are excluded.
  - 16.11 During the warranty period, the SELLER will be responsible for all of the transportation costs, and dues that may be derived for the loading and unloading of such parts that resulted defective or were found to be incorrectly designed.
  - 16.10 The SELLER shall ensure the availability of all critical replacement parts for the Equipment for a period of ten (10) years (except PC hardware) and will turn over all of the engineering construction drawings and/or specifications of all spare parts designed by the SELLER.
  - 16.9 At the request of the SELLER any defective parts shall be returned at SELLER's expense. SELLER's request for defective parts shall be within 30 days of the date of replacement.
  - 16.8 The SELLER shall provide specifications and/or drawings of normal fast wearing parts before start-up operation.
  - 16.7 The rectified or replaced parts supplied by the SELLER shall have a new warranty period of twelve (12) months from the date of their Commissioning after being rectified and/or replaced. However, the SELLER's obligation under this clause shall expire latest 48 months from the Effective Date of the Contract. In case the same Equipment or part fails more than once during this period, both SELLER and PURCHASER will jointly investigate and find out the cause and remedy to prevent further failure. Should the investigations reveal that the failure is attributable to either party all direct costs relating to the implementation of the remedy and that of the investigation it-self shall be borne by that party.
- Handling, excessive strain, unsuitable soil, chemical, electro-chemical or electrical influence, atmosphere or other natural causes or inadequate storage. However, the SELLER shall take the shelf life of the chemical in account.



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*(Handwritten signatures and initials)*

- 17.1 If at any time during the execution of the Contract, the fulfillment of the SELLER'S or the PURCHASER'S obligations are impeded, delayed, prevented or hindered due to reasons of *Force Majeure*, such as a strike declared or undeclared, a lockout and/or for any other reasons beyond their controls or reasons of statutes, rules, regulations, orders and acts of government including travel restriction by the Tanzanian government authorities, or war, civil commotion, riots, fire or floods or earthquake or explosion or any other Acts of God beyond their reasonable control at the time of executing the Contract, then their obligations under this Contract shall be extended for a period equivalent to the effect of the occurrence of the event.
- 17.2 The party affected by the *Force Majeure* shall inform the other party, as soon as possible, but not later than 10-days of the occurrence of the *Force Majeure* event, by cable, fax or E-mail of their problem. Within fourteen (14) days of the occurrence of the event of *Force Majeure* the party affected shall send the other party, via registered mail, a certificate issued by a competent authority confirming the *Force Majeure* to the other party.
- 17.3 The affected party shall inform the other party, as soon as possible by cable, fax or E-mail, followed by registered mail of the termination or elimination of the conditions of *Force Majeure*.
- 17.4 If *Force Majeure* conditions shall prevail for a continuous period exceeding 120-days, from the date the *Force Majeure* began, the SELLER and the PURCHASER shall hold discussions with a view to identifying a mutually acceptable course of action.
- 17.5 If at the end of 180-days from the date the *Force Majeure* began and no mutually acceptable course of action has been agreed and if the *Force Majeure* continues, the Contract shall deem to have expired. In this case both sides shall reach an agreement regarding the winding up of the Contract and the financial settlement of the Contract.

FORCE MAJEURE

ARTICLE 17

UPGRADATION OF EXISTING METAL COATING LINE		
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English Law, excluding the rules on conflict of laws, will rule the present Contract, including all of its annexes.

18.3 Jurisdiction

If after the mediation process the PARTIES fail to reach an amicable solution then the PARTIES shall refer the dispute to Arbitration in accordance with the Rules of Arbitration of the Chartered Institute of Arbitrators, London, UK. The arbitration will be conducted in the English Language, in London, UK. The award made in pursuance thereof shall be binding on the PARTIES.

18.2 Arbitration

If any dispute arises in connection with this Contract, the PARTIES will attempt to settle it by mediation in accordance with the Model Mediation Procedure of Centre for Effective Dispute Resolution (CEDR) in Fleet Street, London, UK. Unless otherwise agreed between the PARTIES, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing ("ADR notice") to the other party to the dispute requesting a mediation. A copy of the request should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice. No party may commence any court proceedings or arbitration in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

18.1 Alternative Dispute Resolution

ARBITRATION & JURISDICTION

ARTICLE 18

UPGRADATION OF EXISTING METAL COATING LINE		
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*(Handwritten signatures and initials)*

(2) Eliminating the infringement by replacing or remodeling the part or Equipment which is the cause of patent infringement on condition that the new part does not infringe any more patent rights and does not have any effect on the Guarantee Parameters.

(1) Obtain for the PURCHASER the right to continue using such part or Equipment infringing the right of patent or

(iii) Take steps to ensure that no further infringement occurs by taking the following measures at SELLER's option:  
 (i) Indemnify the PURCHASER against any damages and costs arising out of and in respect of infringement of the right of patent referred herein.  
 (ii) Indemnify the PURCHASER against any damages and costs arising out of own cost shall  
 In case that the right to use a patent was violated by virtue of design of construction, design of process, and/or mechanical design, the SELLER at its

19.7 The SELLER will obtain, at no additional cost for the PURCHASER, all the necessary authorizations for the design of the construction, design of process, and/or the mechanical design, whether they are from local or foreign source, whenever these ones have a patent by other entities, so that the PURCHASER can enjoy the full use of the Equipment for the life of the Equipment.

19.6 After signing of the Contract, any change in specifications, Equipment or scope of supply requested by the PURCHASER shall be made by mutual agreement as to the price and delivery implications and should be approved jointly.

19.5 The PURCHASER agrees not to use drawings or specifications, etc., supplied by the SELLER but for the single installation of the Equipment.

19.4 The PURCHASER agrees not to use drawings or specifications, etc., supplied by the SELLER but for the single installation of the Equipment.  
 The SELLER retains copyright in any drawings or specifications submitted to the PURCHASER. In addition, the SELLER reserves all rights of manufacture deriving thereof. The PURCHASER shall not disclose drawings or specifications supplied by the SELLER, to third PARTIES, without the written consent of the SELLER, except: (1) to the extent to which may be agreed as necessary for the inspection, erection, maintenance and operation of the Equipment, and (2) for the drawings required for procuring spares in future.

19.3 The PURCHASER agrees not to reveal any information received from the other party, whether in full or partially, to third parties without prior written consent of the other party. Both sides will take all the necessary measures so that their personnel and/or Sub-Supplier's personnel do not violate this confidentiality.

19.2 This Contract is entered into between the SELLER and the PURCHASER with the understanding by both sides that they will treat any information received from the other side as confidential.



**COPYRIGHT & CONFIDENTIALITY**

**ARTICLE 19**

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In any event, the SELLER will hold the PURCHASER free of any claim, responsibility, process or action for liability that could be brought from any third party as a consequence of said violation under the condition that PURCHASER informs the SELLER immediately of any claim and the SELLER has full control over any legal proceedings with regards to such claim. The remedies mentioned expressly in this clause 19.7 are PURCHASER'S sole and exclusive remedies for patent infringements.

*Handwritten signatures and initials:*  
 (A) [Signature]  
 [Signature]  
 [Signature]

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*(Handwritten signatures and initials)*

8.3 Exclusion of Other Warranties: The SELLER makes no warranty or guarantee, express or implied, including any warranty as to merchantability or fitness for a particular use or purpose, unless the same is specifically set forth herein, but even in such case such warranty or guarantee shall be deemed and is hereby limited as provided herein.

The SELLER shall not in any event, whether by reason of any breach of warranty be liable for the BUYER'S or any third party's special, incidental or consequential damages, including, but not limited to damages such as loss of use of the Equipment or any associated equipment, cost of capital or cost of substitute equipment, facilities or service.



20.3 Limitation of Liability: During the Defects Liability Period, the SELLER shall have the right upon receipt of notice of defect or nonconformity to inspect any Equipment alleged to be defective or nonconforming. The Seller's liability shall be limited to the cost of repairing, supplying a replacement or modifying any part found to be defective in design, material or workmanship to the extent and for the period as limited in this Article.

20.2 The SELLER has contracted the PURCHASER as an independent contractor.  
20.1 Neither the PURCHASER nor the SELLER shall be entitled to make any claim against each other which is not explicitly defined and provided for in these conditions. Neither party shall be liable to the other party for including but not limited to indirect and / or consequential damages such as loss of production, loss of profits, loss of interest, loss of Contract, loss of use of capital and any direct or indirect loss or damage.

LIABILITIES

ARTICLE 20

UPGRADATION OF EXISTING METAL COATING LINE		
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ARTICLE 21

LEGAL ADDRESS FOR NOTIFICATIONS

21.1 All notices and other communications hereunder shall be deemed to have been duly given when received by the party to which they are addressed at its address given below or at such other address as the respective party hereto may hereafter specify to the other party from time to time. All notifications in relation to this Contract shall be numbered in chronological order (i.e. PURCHASER NOTICE #1, SELLER NOTICE #1).

FOR THE PURCHASER:

ALAF Limited,  
 Plot no. 18, Nyerere Road,  
 PO Box 2070, Dar-es-salam, Tanzania

FOR THE SELLER

Esmech Equipment Pvt. Ltd.,  
 Plot No. 254 – 259 & A 283, Plot No. 30 A,  
 Wagle Industrial Estate,  
 Thane – 400604, India

21.2 The goods supplied under this Contract shall be dispatched to the following address:

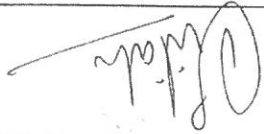
ALAF Limited,  
 Plot no. 18, Nyerere Road,  
 Dar-es-salam, Tanzania

21.3 All Shipping Documents and related correspondence shall also be dispatched to the following address:

ALAF Limited,  
 Plot no. 18, Nyerere Road,  
 PO Box 2070, Dar-es-salam, Tanzania

IN WITNESS WHEREOF the PARTIES hereto have through their duly authorized representatives executed this Contract, on the date herein below mentioned.

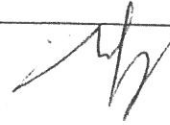
FOR AND ON BEHALF OF  
 ESMECH EQUIPMENT PVT. LTD.



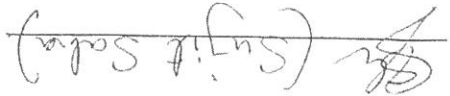
In presence of:



FOR AND ON BEHALF OF  
 ALAF LTD.



In presence of:

 (Sujit Salva)