

**CONTRACT
BETWEEN
THE MINISTRY FOR FOREIGN AFFAIRS OF FINLAND
AND
[Name of the Company in Caps]
ON THE FINANCING OF
[Title of the Project in Caps]**

**FROM THE FUNDS OF THE ENERGY AND ENVIRONMENT PARTNERSHIP
PROGRAMME WITH SOUTHERN AND EAST AFRICA**

I. PARTIES

This Contract is concluded between

the Ministry for Foreign Affairs (hereafter "the Ministry")
Katajanokanlaituri 3
P.O. Box 512
00023 Helsinki
Finland

and

[Name and Address of the Company]

Email: [email address of the Company]

II. PURPOSE OF THE CONTRACT

The purpose of this contract is to regulate the implementation of the [Title of the Project] Project during the period from [Date of signing the project Decision by MFA] to [Date of ending the project].

III. DEFINITIONS

For the purposes of this contract:

- **Company** means Project developer/Project proponent
- **DBSA** means Development Bank of Southern Africa
- **EEP-S&EA** means Energy and Environment Partnership Programme with Southern and East Africa
- **MFA or the Ministry** means Finnish Ministry for Foreign Affairs

- **RCO** or **DBSA/RCO** means Regional Coordination Office of the DBSA
- **NCO** means the EEP National Coordination Office for the country where the project is implemented
- **Reporting period** means the reporting schedule in Annex IV that the DBSA/RCO has agreed together with the Company based on the Full Project proposal
- **Grant Decision** or the **Decision**, refers to the Ministry final approval to provide grant to the company for execution of the project.

IV. AMOUNT OF THE GRANT

The maximum amount of the Grant is, subject to annual parliamentary approval in Finland, [xxx-amount in words] [xxxx-amount in numbers] for carrying out the activities referred to in detail in the Annex I to this Agreement.

V. USE AND MANAGEMENT OF THE GRANT

The Development Bank of Southern Africa operates the Energy and Environment Partnership Programme with Southern and East Africa through the Regional Coordination Office on behalf of the Ministry.

The Company shall use the Grant solely to cover the expenses accrued to the Company during the period between [Date of starting the project] to [Date of ending the project] from the implementation of the Project as defined in the Full Project Proposal, which is attached to this Contract as an Annex I and shall form an integral part of this Contract. The types of acceptable expenses, which can be covered by the Grant are listed in Section III of the Annex III.

The Company shall manage the Grant in accordance with internationally accepted professional bookkeeping rules and practices. The Company shall ensure that no illegal or corrupt practices relate to the use of the Grant or the implementation of the Project.

All procurements shall be made in accordance with the contents of the Finnish legislation on public procurement (Public Procurement Act available at <http://formin.finland.fi/public/default.aspx?contentid=209147>) generally accepted principles and good procurement practices. Invitations to tender as well as procurement contracts shall include a clause on the possibility of the tender being rejected and the contract being cancelled, in case any illegal or corrupt practices have been connected with the award or the execution of the contract.

No offer, gift, payment or benefit of any kind, which would or could be construed as an illegal or corrupt practice, shall be accepted, either directly or indirectly, as an inducement or reward for the award or execution of procurement contracts.

VI. DISBURSEMENT OF THE GRANT

The installments will be made to the Company within the Project period [Date of starting the project] to [Date of ending the project] against written payment requests to the DBSA/RCO in the form and content as shown in Annex II of this Contract. Detailed requirements concerning reporting are stated in the Annex III (Guidelines for Execution), which forms integral part of this Agreement.

a) Conditions precedent for payment of first installment

The first payment shall not exceed 25 % of the total budget. Together with the 1st payment request, the Company shall submit to the DBSA/RCO:

- a copy of the legal registration of the Company showing the registration number and under which law it has been issued;
- an official document stating the names of persons authorized to execute this Contract on behalf of the Company and to sign, on behalf of the Company, any notices, certificates and other documents in relation to this Contract;
- specimen signature of the persons mentioned in paragraph above; and
- copies of all consents, permits and licenses required to implement the Project.

In case of Advance Payment the Company shall submit to the DBSA/RCO in addition to the above mentioned a budget for the first reporting period in a manner described in the Annex III of this Contract.

b) Subsequent installments shall be made in accordance with the approved reporting schedule and actual progress of the Project and on the basis of the financial needs for the coming reporting period, subject to the acceptance of the following documents to be submitted by the Company to the DBSA/RCO, which will keep them on behalf of the Ministry:

- a written payment request in the form and content shown in Annex II of this Contract;
- Progress Report showing actual results of the Project during the foregoing reporting period;

- a financial report showing funds received and costs covered by the Grant during the foregoing reporting period;
 - copies of all receipts and invoices in respect of the costs covered by the Grant during the foregoing reporting period as stated in the Annex III of this Contract; and
 - a cash flow budget and a plan of activities for the remaining period of implementation.
- c) The final installment will be made subject to the acceptance of the following documents to be submitted by the Company to the DBSA/RCO which will keep them on behalf of the Ministry:
- a written payment request in the form and content as shown in Annex II of this Contract;
 - Progress Report showing actual results of the Project during the foregoing reporting period;
 - the Final Report ;
 - a Financial Report showing funds received and costs covered by the Grant during the final reporting period of the Project;
 - copies of all receipts and invoices in respect of the costs covered by the Grant during the final reporting period of the Project as stated in the Annex III of this Contract;
 - copy of maintenance agreement with final beneficiary(ies) or maintenance guarantee if the project involves installation of equipment requiring periodic servicing and maintenance, and
 - an Audit Report, which has been explained in detail in the Annex III of this Agreement.

The last disbursement shall be minimum of 25 % of the total budget.

VII. BANKING DETAILS

The Grant will be disbursed in accordance with this Contract to the following bank account of the Company:

NAME OF BANK:	
NAME OF ACCOUNT	
ACCOUNT NUMBER	
TYPE OF ACCOUNT	
BANK'S BRANCH/ BRANCH CODE:	
IBAN (if applicable)	
SWIFT CODE:	
ADDRESS OF THE BANK	

VIII. REPORTING, AUDITING AND INFORMATION OBLIGATIONS OF THE COMPANY:

The Company shall submit the periodical progress and financial reports as well as the final report and Audit Report to the DBSA/RCO according to the detailed requirements stated above in Article VI and in the Annex III (Execution Guidelines), which forms integral part of this Agreement. Adequate Reporting is a prerequisite for disbursements as stated in the Article VI above.

The Company shall permit representatives of the Ministry, the DBSA/RCO to carry out any inspection or audit in respect of the use of the Grant as well as to conduct site visits to the Project site and the Company's office. The Company shall allow representatives of the Ministry, the DBSA/RCO access to all records, accounts, documents, materials and pertinent personnel related to the Project or the Grant. The final Report of the Project shall include an audit report in a manner stated in the Annex III (Guidelines for Execution).

The Company shall keep all original receipts and invoices of all Project expenses that are to be covered by the Grant.

The Ministry, DBSA/RCO or their representatives may periodically inspect the original receipts and invoices during monitoring visits to the Company.

The Company shall notify the Ministry through DBSA/RCO and within two weeks if any of the following changes in the Company have occurred:

- change of authorized persons mentioned in the paragraph a of Article VI above;
- change in management and organizational structure;
- change in the Company's financial situation (ongoing or pending liquidation, debt recovery, bankruptcy or other action that may cause insolvency or incapacity to carry out the Project);
- change in ownership and/or control; and
- change in nature of business

The Company shall promptly inform the Ministry through the DBSA/RCO and copied to the NCO of any event or situation which might affect the implementation of the Project and which may necessitate a modification or alteration of the scope, implementation, the agreed budget or other aspects of this Contract.

In case any change occurs in the schedule, project site, project site conditions, feedstock, technology or implementation of the Project, the Company shall promptly inform the Ministry through the DBSA/RCO and copied to the NCO.

The Company shall in all its publications and reports concerning the Project, specifically mention that the Ministry has provided financial resources for the implementation of the Project.

Further, the Company shall provide the Ministry and DBSA/RCO with such other information on the Project as may be reasonably requested from time to time for public information, dissemination or other purposes.

IX. CONTACT INFORMATION AND NOTICES

All payment requests, reports, documents and other communication relating to this Contract and/or the implementation of the Project shall be made in writing to the following contact points:

For the Ministry

DBSA/Regional Coordination Office

Regional Director

Mr Yaw Afrane-Okese

Email: yawa@dbsa.org

Cell: +27 (0)78 802 6430

Tel: +27 (0)11 256 3592

Fax: +27 (0)11 206 3551

The Ministry may, however, if it so deems necessary on certain occasions, demand the Company to communicate directly with the Ministry.

For the Company

[Name of the Person Authorized to sign the contract for the Company]

[Address of the Company]

All payment requests shall be signed by person(s) authorized to sign by the Company and sent in either hard copy via registered mail/courier or by email (scanned copy).

X. REPRESENTATION AND WARRANTIES

The Company assures that:

- it is duly incorporated and has power to own its assets and carry on its business;
- it has power to perform its obligations under this Contract; and
- no litigation, debt recovery or bankruptcy procedure is taking place or pending against it.

XI. REPAYMENT, SUSPENSION OF PAYMENTS AND RECOVERY OF THE GRANT

The Company shall promptly return to the Ministry the Grant as a whole or in part if it cannot use it in accordance with this Contract or if the Grant has been granted by the Ministry based on erroneous information provided by the Company.

The Ministry reserves the right to cancel its Grant decision and refuse payment of the Grant in the event that the Conditions set in this Agreement are not met satisfactorily by the Company,

The Ministry reserves the right to:

a) Suspend payments in the event that there is reasonable cause for doubting that the Company ignores the conditions laid down in this Contract or otherwise set by the Ministry for the use of the Grant, or grounds for granting the Grant have essentially changed.

b) Claim for recovery in full or in part if:

- the Company has provided incorrect or misleading information or concealed aspects that might have influenced the decision to grant the Grant or the conditions for the use of the Grant;
- the capacity of the Company to carry out the Project has been essentially reduced because of bankruptcy, a debt recovery procedure or a related cause,
- the Company in any way hinders the execution measures related to the monitoring and verification visits, inspection and/or audit of the Project or the Grant;
- the Grant is found to be misused, not satisfactorily accounted for or the Company otherwise ignores the conditions laid down in this Contract or otherwise set by the Ministry for the use of the Grant,
- or there are other relevant grounds for claiming repayment in accordance with the Finnish legislation related to state subsidies.

XII. SETTLEMENT OF DISPUTES

The Company and the Ministry shall seek to settle amicably any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof. Failing such an amicable solution, the dispute, controversy or claim shall be referred to the District Court of Helsinki (Finland) and settled in accordance with Finnish Law.

XIII. LIABILITY

The Ministry shall not accept any responsibility or liability for any claims, debts, demands, damage or loss as a result of the implementation of this Contract or the Project.

XIV. Other Matters

The Company shall co-operate fully with the Ministry to carry out this agreement and give the Ministry or DBSA/RCO as well as the NCO all the information needed for the payment and follow-up of the use of the Grant.

The Company may not without the consent of the Ministry transfer this Contract or any part of it to a third party.

The Ministry and the DBSA, in its role as the representative of the Ministry, may on the EEP's Web site and in publications disseminate other than confidential information related to the Grant and the project results.

XV. ENTRY INTO FORCE, TERMINATION AND AMENDMENT OF THE CONTRACT

This Contract shall enter into force upon the last date of signature of the Contract by the authorised representatives of the Parties and remain in force until all the obligations have been duly fulfilled by the Ministry and the Company, unless terminated earlier by the Ministry by giving the Company notice in writing three months prior to the termination.

Any amendment or modification to this Contract shall be mutually agreed on in writing between the Ministry and the Company.

By signing below, the Ministry and the Company agree to be legally bound by the terms and conditions set forth in this Contract.

Done in two originals in the English language and duly signed by the authorised representatives of the Ministry and the Company:

ON BEHALF OF
THE MINISTRY FOR
FOREIGN AFFAIRS OF FINLAND

ON BEHALF OF
[Name of the Company]

[Name]

[Name]

[Title]

[Title]

[Signature]

[Signature]

[Place and date]

[Place and date]

[Company seal]

LIST OF ATTACHMENTS:

- Annex I: The Full Project Proposal
- Annex II: Disbursement Request
- Annex III: Guidelines for Execution
- Annex IV: Reporting and Payment Schedule