

## OTIS SITE-SUBCONTRACT AGREEMENT (AUSTRALIA)

### SCHEDULE OF INFORMATION

#### ***SUBCONTRACTOR***

Name  
ABN  
Address  
  
Contact::  
Telephone:  
Fax:  
Email:

#### ***OTIS***

OTIS ELEVATOR COMPANY PTY LIMITED  
ABN 56 002 873 065  
Address  
  
Contact::  
Telephone:  
Fax:  
Email:

**Subcontract Works:** means the work set out in the Statement of Works and Materials (Attachment B) and/or the materials set out in the Statement of Works and Materials (Attachment B).

**Subcontract Price:** The amount specified in the Payment Schedule (Attachment D) exclusive of GST that is paid in accordance with the schedule set out in Payment Schedule (Attachment D).

**Practical Completion:** means that Otis has certified that the Subcontract Works have been completed in accordance with the Statement of Works and Materials (Attachment B).

**Variation:** means any change to the Subcontract Works, including additions, increases, omissions to or from those set out in the Statement of Work and Materials (Attachment B).

**Otis** means Otis Elevator Company Pty Ltd, or any of its related bodies corporate, including but not limited to, Electra Lift Co Pty Ltd.

This ***Subcontract Agreement*** comprises this Schedule of Information, the General terms and Conditions at attachment A, plus:

1. Statement of Works and Materials, at attachment B;;
2. Program Schedule, at attachment C;
3. Payment Schedule, at attachment D;
4. Environmental Health & Safety Conditions at attachment E.

The parties agree to carry out their respective obligations in accordance with the terms of this *Subcontract Agreement*.

DATED this        day of        20        ("Effective Date")

EXECUTED for and on behalf of  
**Name of Subcontractor**

EXECUTED for and on behalf of  
**Otis Elevator Company Pty Limited**

\_\_\_\_\_  
Signature of duly authorised representative

\_\_\_\_\_  
Signature of duly authorised representative

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Title/Position (print)

\_\_\_\_\_  
Title/Position (print)

**ATTACHMENT A – GENERAL TERMS AND CONDITIONS****1. SUBCONTRACT WORKS**

- 1.1 The Subcontractor shall perform the Subcontract Works in accordance with the Statement of Works and Materials (Attachment B).
- 1.2 The Subcontractor must ensure that any design, program or plan prepared by the Subcontractor will:
  - (i) be fit for its intended purpose;
  - (ii) meet any statutory requirements and the requirements of this Subcontract Agreement; and
  - (iii) not infringe any industrial or intellectual property rights of a third party.
- 1.3 If at any time the Subcontract Works, or any materials or goods used by the Subcontractor in connection with the Subcontract Works are not in accordance with this Subcontract Agreement, Otis may direct the Subcontractor to replace, correct, remove or vary it at no cost to Otis.
- 1.4 The Subcontractor must properly and diligently execute the Subcontract Works with the degree of skill, care and competence expected of a skilled tradesman, technical or professional person experienced in performing the same or similar work.
- 1.5 The Subcontractor must ensure that the Program Schedule (Attachment C) is adhered to at all times and immediately notify Otis, in writing, in the event of the Program Schedule is not being met or has reasonable belief that the Program Schedule will not be met.
- 1.6 All Subcontract Work must be conducted with no or minimal disruption to Otis, its employees, agents and customers.
- 1.7 The Subcontractor must comply with all applicable Environmental, Occupational Health and Safety Legislation, and with all reasonable requirements of Otis' health and safety policies and procedures, whilst performing the Subcontract Works. In performing the Subcontract Works, the Subcontractor shall comply with the Environmental Health and Safety Conditions specified in Attachment E.
- 1.8 During the Subcontract Works, or any rectification work, the Subcontractor must keep the direct and surrounding location of the Subcontract Works clean, safe, and remove all rubbish from the location on a daily basis. The cost of cleaning and rubbish removal shall be borne by the Subcontractor, unless otherwise specified in this Subcontract Agreement.
- 1.9 The Subcontractor shall only, at the sole discretion of Otis, be entitled to a reasonable extension of time for carrying out the Subcontract Works if:
  - (a) The reason for any cause of delay is beyond the reasonable control of the Subcontractor, and this cause will delay the execution or completion of the Subcontract Works.
  - (b) The Subcontractor gives Otis written notice within five (5) days of the Subcontractor becoming aware of an event that will cause delay. Such notice must provide full details of the reason for the delay, the expected duration of the delay, and any actions proposed to be taken by the Subcontractor at its own cost to mitigate the duration of the delay.
- 1.10 Otis shall determine when Practical Completion of the Subcontract Works has been achieved. This determination will be made in accordance with the criteria and provisions set out in the Statement of Works and Materials (Attachment B) and clauses 1.2, 1.3 and 1.4. Otis shall notify the Subcontractor in writing when it has determined that Practical Completion has been achieved.
- 1.11 The parties agree that the determination made by Otis pursuant to the provisions of clause 1.10 shall be final and binding and not subject to review.

- 1.12 The Subcontractor shall not sublet or assign any works or part of the works described in this Subcontract Agreement without prior written approval from the authorised Otis contract coordinator. Approval shall only be given subject to ensuring compliance with all applicable Subcontractor environmental health and safety (EH&S) obligations set out under this Subcontract Agreement and at law.
- 1.13 The parties agree that the Subcontractor shall be an independent contractor to Otis and that nothing contained herein shall be construed as creating any other relationship and that no change shall be construed as creating a joint venture or agency between Otis and the Subcontractor. Further, the Subcontractor shall be exclusively responsible for the control and direction of all those it engages to perform the Work. The Subcontractor shall assume full responsibility for the acts and omissions of such persons. The Subcontractor and its employees shall not at any time represent themselves as being employees of Otis.
- 1.14 Otis shall have the right to instruct the removal from the Works of any of the Subcontractors employees, servants or agents who in the reasonable opinion of Otis do not meet any Environmental Health & Safety Conditions set out in Attachment E, misconduct themselves or whose actions shall breach the terms of this Subcontract Agreement or the Statement of Work.
- 1.15 The Subcontractor acknowledges and agrees that it has been engaged by Otis pursuant to Otis' obligations to perform certain works under contract to Otis' customer ("Head Contract"). The Subcontractor has been given the opportunity to view the Head Contract, is aware of the Head Contract price ("Contract Price") and acknowledges and agrees that Otis may suffer loss or damage under the Head Contract should the Subcontractor fail to comply with its obligations under the Subcontract Agreement.
- 1.16 Otis may issue individual Purchase Orders for specified works pursuant to this Subcontract. The Statement of Work, Program Schedule and Payment Schedule in any Purchase Order shall be taken to be that term specified in the Subcontract.

## **2. PAYMENTS**

- 2.1 Otis shall pay the Subcontractor in arrears, unless otherwise provided for in this Agreement, and in accordance with the payment terms set out in the Schedule of Payments (Attachment D).
- 2.2 The Subcontractor shall only be entitled to issue an invoice upon the dates or the events set out in the Schedule of Payments (Attachment D). The invoice shall be on terms no less than thirty (30) days payment terms after receipt of correctly rendered invoice.
- 2.3 The Subcontractor must only issue invoices that comply with *A New Tax System (Goods and Services Tax) Act 1999* ("Act"). To avoid doubt, Otis shall be under no obligation to make payment of any invoice that is not issued in accordance with the Act.
- 2.4 In the event of a dispute with an invoice provided by the Subcontractor, clause 2.2 shall not apply until the disputed invoice is resolved.
- 2.5 The Subcontractor shall not be entitled to interest on any invoice that is the subject of a dispute under the terms of clause 2.5.
- 2.6 **Rebates:** Where the Subcontractor performs PC Sum works, the Subcontractor shall provide Otis with a quarterly rebate equal to 10% of the value of PC Sum works performed by the Subcontractor.
- 2.7 Otis shall provide notice to the Subcontractor within 14 days of the end of each quarter (March, June, September and December) of the amount of rebate due under clause 2.6. The Subcontractor shall pay the calculated rebate to Otis within 30 days of receipt of this notice under clause 2.7.

### **3. ACCEPTANCE OF THE SUBCONTRACT**

- 3.1 This Subcontract Agreement created a binding legal relationship when signed by both parties.

### **4. VARIATIONS**

- 4.1 The Subcontractor may propose a variation to the Subcontract Works ("Variation"), or Otis may direct a Variation to the Subcontract Works.
- 4.2 The Subcontractor shall not commence any Variation nor be entitled to payment for any Variation until the Variation has been approved in writing by Otis.
- 4.3 Any Variation proposed by the Subcontractor pursuant to clause 4.1 shall include, but not be limited to, the following information:
- (i) description of the variation works;
  - (ii) costs to complete the variation works; and
  - (iii) time to complete the variations works.

### **5. INSURANCES**

- 5.1 The Subcontractor shall effect and maintain during the performance of the Subcontract Works with a reputable insurer the following policies of insurance:
- (a) public and products liability insurance for not less than \$AUD20 million for any single event;
  - (b) (where the Subcontract Works includes the provision of design services): professional indemnity insurance for not less than \$AUD5 million in respect of any single occurrence;
  - (c) workers' compensation and employer's liability insurance in accordance with applicable awards or legislation.
- 5.2 The Subcontractor must upon request by Otis provide Otis with certificates of currency for polices described in clause 5.1.

### **6. LIQUIDATED DAMAGES**

- 6.1 If the Subcontractor fails to bring the Subcontract Works to Practical Completion by the date set out in the Program Schedule (Attachment C), the Subcontractor shall be liable to pay Otis liquidated damages of 1% of the Contract Price for each week or part thereof that the Subcontractor fails to bring the Subcontract Works to Practical Completion after the Date for Practical Completion. The parties acknowledge and agree that liquidated damages payable under this clause 6.1 is a genuine pre-estimate of the loss and damage that Otis will suffer in the event that the Subcontractor fails to bring the Subcontract Works to Practical Completion by the Date for Practical Completion, as set out or otherwise described in the Program Schedule at Attachment C.

### **7. DEFECTS LIABILITY**

- 7.1 The Subcontractor warrants that the Subcontract Works against defects arising from defective design (where the Subcontract Works includes the provision of design services), defective material (except where the material is supplied to the Subcontractor by Otis) or workmanship for a period of twelve (12) months ("Defects Liability Period") from the date of Practical Completion as determined by clause 1.10.
- 7.2 Where parts are replaced, the replacement parts will be covered under the Defects Liability Period and replaced without cost to Otis except those parts that require replacement due to negligence, intentional conduct or mis-use by Otis or its employees.

**8. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY**

- 8.1 The Subcontractor must treat all information or documents provided by Otis under this Subcontract Agreement as confidential where designated by Otis as confidential or where the Subcontractor knows or ought to know that the information is confidential. The Subcontractor may use such information solely for the purpose of performing its obligations under this Subcontract Agreement, and may only disclose such information to persons who are aware and agree that such information must be kept confidential. The Subcontractor's obligations of confidentiality under this Subcontract Agreement do not extend to information that is, or after the date of this Subcontract Agreement becomes, public knowledge (otherwise than as a result of a breach of this Subcontract Agreement), or is required by law to be disclosed.
- 8.2 All intellectual property rights in any material brought into being by the Subcontractor for the purpose of performing the Subcontract Works shall vest on their creation with Otis. Otis grants to the Subcontractor a royalty free, non-exclusive, non-transferable license (with no right to sub license) to use such intellectual property for the purposes of the Subcontractor complying with its obligations under this Subcontract.
- 8.3 The Subcontractor shall, if requested in writing by Otis, procure from any owner of Moral Rights (as that term is defined in Part IX of the *Copyright Act 1968 (C'th)*) in any material brought into being by the Subcontractor for the purpose of complying with its obligations under the Subcontract, an undertaking that that person will not seek to enforce their Moral Rights against Otis or any other third party.

**9. INDEMNITY BY THE SUBCONTRACTOR**

- 9.1 The Subcontractor shall indemnify Otis, its servants and agents and keep them indemnified against all damage, expense, loss or liability of whatsoever nature suffered or incurred by Otis or any third party claim which arises out of, or in connection with a breach by the Subcontractor of its obligations under this Subcontract Agreement or act or omission of the Subcontractor, except to the extent that such damage, expense, loss or liability or third party claim arises from any act or omission, or a breach of this Subcontract Agreement by Otis, its servants and agents.
- 9.2 The parties agree that the indemnity provided in clause 9.1 is a continuing obligation and shall survive the expiration or termination of this Subcontract Agreement.

**10. TERMINATION**

- 10.1 The Subcontract shall terminate three (3) years after the Effective Date, unless terminated earlier in accordance with this clause 10; or extended in writing by Otis.
- 10.2 If the Subcontractor is in breach of any of its obligations under this Subcontract Agreement, then Otis may give notice to the Subcontractor specifying the nature of the breach and giving the Subcontractor no less than five (5) working days to remedy the breach.
- 10.3 If the Subcontractor fails to comply with the terms of the Breach Notice, Otis may immediately terminate this Subcontract Agreement by serving a notice to that effect.
- 10.4 If the Subcontractor breaches a material obligation under the Subcontract, including but not limited to, (i) a breach of clause 13.4 (ii) entering any of the forms of external administration set out in Chapter 5 of the *Corporations Act 2001 (C'th)*, or (iii) becoming a person whom Otis, being a wholly owned subsidiary of a corporation registered in the United States of America, is

prohibited from dealings with under the laws of the United States of America; Otis may:

- a. Terminate the Subcontract and any Purchase Orders issued pursuant to the Subcontract with immediate effect;
  - b. Be relieved of any obligation to make further payments to the Subcontractor; and
  - c. Be entitled to recover damages arising from the breach.
- 10.5 Otis may, at any time, terminate this Subcontract Agreement at its own convenience by giving the Subcontractor no less than thirty (30) calendar days written notice.
- 10.6 The Subcontractor must immediately cease the Subcontract Works upon the receipt of the notice referred to in clause 10.3 or 10.4 or 10.5.
- 10.7 If Otis exercises its rights under clause 10.3, 10.4 or 10.5, subject to other provisions of this Subcontract Agreement, Otis shall pay the Subcontractor a pro-rata amount of the Subcontract Price that represents those parts of the Subcontract Works performed by the Subcontractor up to and including the Subcontractor's receipt of the Termination for Convenience Notice, and the costs of all materials reasonably ordered by the Subcontractor for the performance of the Subcontract Works that were incurred by the Subcontractor prior to the Subcontractor's receipt of the notice referred to in clause 10.3, 10.4 or 10.5.
- 10.8 The Subcontractor shall upon receipt of the money referred to in clause 10.7 deliver to Otis the Subcontract Works performed and the material paid for pursuant to clause 10.7.

## **11. NOTICE**

- 11.1 Unless the contrary intention appears, any notice or communication under this Subcontract Agreement shall be effective if it is in writing, signed and delivered by the parties or their duly appointed representatives (as the case may be), at the addresses or facsimile numbers set out in the Schedule of Information, shown on cover page of this Subcontract Agreement, unless changed in accordance with clause 11.3.
- 11.2 A notice or communication shall be deemed to have been delivered:
- (i) by prepaid post, in 3 Working Days if sent within Australia and in eight (8) working days if sent by air mail from one country to another; or
  - (ii) by facsimile, at the time recorded by the transmitting machine, unless within 1 working day the sender is informed that the transmission was received in incomplete or garbled form; in which case a re-transmitted notice or other communication shall be received when it is effectively delivered.
- 11.3 The parties may change their address details as set out in Schedule of Information by delivering a notice of change of address to the other party in accordance with clause 11.1.

## **12. LAW OF SUBCONTRACT**

- 12.1 The law governing this Subcontract Agreement are the laws of the state or territory in which the Subcontract Works are being conducted.
- 12.2 The parties submit to the exclusive jurisdiction of the state referred to in clause 12.1 above to hear and determine any dispute arising from this Subcontract Agreement.

### **13. COMPLIANCE WITH THE BUILDING CODE**

- 13.1 If the *Code for the Tendering and Performance of Building Work 2016* (Cth) and *Building Code 2013* (Cth) ("Building Code") is applicable to the Subcontract Works, the Subcontractor:
- (a) warrants that it understands the requirements of the Building Code;
  - (b) warrants that it is, and will remain, compliant with the Building Code;
  - (c) will inform Otis and the Australian Building and Construction Commission if there is a breach or suspected breach of the Building Code; and
  - (d) will comply with any Workplace Relations Management Plan that applies at the site.
- 13.2 If Otis is required to comply with the Building Code in relation to the Head Contract, the Subcontractor must comply with any reasonable direction from the Otis to ensure that:
- (a) Otis complies with its obligations under the Building Code; and
  - (b) the Subcontractor complies with any obligations that may apply to it under the Building Code.
- 13.3 The Subcontractor must impose obligations on its subcontractors and consultants equivalent to the obligations under this clause 13.

### **14. PRIVACY**

The provisions of this clause 14 shall apply where the Subcontractor has access to, stores or processes Personal Information (as that term is defined in the *Privacy Act (C'th) 1988*) for or on behalf of Otis.

14.1 Subcontractor shall:

14.1.1 comply with all applicable Data Privacy Laws;

14.1.2 only collect, access, use, or share Otis Personal Information, or transfer Otis Personal Information to authorized third parties, in performance of its obligations under the Agreement and/or Order, in conformance with Otis' instructions, or to comply with legal obligations. Subcontractor will not make any secondary or other use (e.g., for the purpose of data mining) of Otis Personal Information except (i) as expressly authorized in writing by Otis in connection with Otis' use of the Services, or (ii) as required by law;

14.1.3 not share, transfer, disclose or provide access to Otis Personal Information for any third party except to provide services under the Agreement and/or Order or as required by law. If Subcontractor does share, transfer, disclose or provide access to Otis Personal Information to a third party, it shall;

14.1.3.1 be responsible for the acts and omissions of any subcontractor or other third party, that processes (within the meaning of the applicable Data Privacy Laws) Otis Personal Information on Subcontractor's behalf in the same manner and to the same extent as it is responsible for its own acts and omissions with respect to such Otis Personal Information;

14.1.3.2 ensure such third party is bound by a written agreement that contains the same or equivalent obligations and protections as those set forth in this Section; and

14.1.3.3 only share, transfer, disclose or provide access to a third party to the extent that such conduct is compliant with applicable law;

- 14.1.4 take commercially reasonable steps to ensure the reliability of Subcontractor's Personnel who have access to Otis Personal Information and ensure that such access is on a need-to-know basis;
  - 14.1.5 provide such information, assistance and cooperation as Otis or Otis' Affiliates may reasonably require from time to time to establish Subcontractor's compliance with Data Privacy Laws;
  - 14.1.6 provide Otis with commercially reasonable assistance in (i) deleting Otis Personal Information upon request by the individual or legal representative; (ii) providing a privacy notice to individuals; and (iii) enabling individuals to opt-out;
  - 14.1.7 provide Otis with the ability to purge Personal Information older than one year or such other time period agreed upon in writing by the Parties; and
  - 14.1.8 immediately advise Otis in writing if it receives or learns of any: (i) complaint or allegation indicating a violation of Data Privacy Laws regarding Otis Personal Information; (ii) request from one or more individuals seeking to access, correct, or delete Otis Personal Information; (iii) inquiry or complaint from one or more individuals relating to the collection, processing, use, or transfer of Otis Personal Information; and (iv) any regulatory request for, subpoena, search warrant, or other legal, regulatory, administrative, or governmental process seeking Otis Personal Information (collectively, "Data Privacy Matters"). If Subcontractor learns of any such complaint, request, allegation, or inquiry, Subcontractor shall provide assistance to Otis, fully cooperate with Otis in investigating the matter, including but not limited to, providing the relevant information to Otis, preparing a response, implementing a remedy, and/or cooperating in the conduct of and defending against any claim, court or regulatory proceedings. Otis shall be responsible for communicating with individuals regarding their Otis Personal Information in connection with such Data Privacy Matters unless Otis authorizes Subcontractor to do so on its behalf. Subcontractor shall use commercially and legally reasonable efforts to limit the nature and scope of the required disclosure to the minimum amount of Otis Personal Information required to comply with applicable law. Unless prevented by applicable law, Subcontractor shall provide Otis with advance written notice of any such Data Privacy Matters sufficient to allow Otis to contest legal, regulatory, administrative, or other governmental processes.
- 14.2 Subcontractor shall provide written notice to Otis as soon as possible and, in no instance in more than 48 hours of any actual or reasonably suspected incident of accidental or unlawful destruction or accidental loss, alteration, unauthorized or accidental disclosure of or access to Otis Personal Information of which it becomes aware (a "Security Breach"); thereafter shall take all reasonable measures to contain and remedy the Security Breach, wherever possible; provide Otis with information regarding the investigation and remediation of the Security Breach, unless restricted by law; not make any notification, announcement or publish or otherwise authorize any broadcast of any notice or information about a Security Breach (a "Security Breach Notice") without the prior written consent of and prior written approval by Otis of the content, media and timing of the Security Breach Notice (if any), unless required to do so by law or court order; and even where required to do so by law or court order, make all reasonable efforts to coordinate with Otis prior to providing any Security Breach Notice. Where the Security Breach involves data elements that could lead to identity theft and is on the Subcontractor's networks or systems or is the fault of the Subcontractor, Subcontractor will, at the request of Otis pay for the costs of remediation, notification (including, where reasonably necessary, a call center), and provide the affected individuals with credit monitoring or other commercially-reasonable identity theft mitigation service for one year or such longer period as required by law or a government regulator.
  - 14.3 Subcontractor shall obtain the prior written consent of any and all natural persons from whom Subcontractor collects Otis Personal Information when required to do so by



applicable Data Privacy Laws or as instructed by Otis. In the event Subcontractor shall provide to Otis personal information protected by Data Privacy Laws, Subcontractor shall ensure that such personal information is provided consistent with applicable law, including, where required, obtaining consent or providing notice. All Otis Personal Information acquired by Subcontractor shall be returned or destroyed (at the option of the applicable Otis Affiliate), unless and to the extent that: (i) such Otis Personal Information is required by Subcontractor to discharge its obligations hereunder or under applicable law; or (ii) return or destruction is prohibited by applicable law. Absent contrary instructions and except as prohibited by law, Subcontractor shall immediately destroy all Otis Personal Information after termination or completion of the Order after waiting 30 days to allow Otis to request return of Otis Personal Information.

- 14.4 If this Agreement and/or Order involves the provision of Services where the Subcontractor will (i) act as a Controller (as that term is defined in the EU Directive) and (ii) transfer Otis Personal Information from any country in the European Economic Area or Switzerland (collectively, "EEA/CH") to outside the EEA/CH, then Otis and Subcontractor agree that the terms of the Model Contract Clauses (also called the Standard Contractual Clauses) adopted by the European Commission in Decision 2004/915/EC (hereinafter the "Controller Model Clauses" or the "Model Clauses") are incorporated by reference as if set forth herein. If this Agreement and/or Order involves the cross-border transfer of Otis Personal Information from any country in the EEA/CH to outside the EEA/CH but the Subcontractor will not act as a Controller, then Otis and Subcontractor agree that the terms of the Model Contract Clauses (also called the Standard Contractual Clauses) adopted by the European Commission in Decision 2010/87/EU (hereinafter the "Processor Model Clauses" or the "Model Clauses") are incorporated by reference as if set forth herein. Notwithstanding the foregoing, Otis and Subcontractor agree that:
- 14.4.1 The Model Clauses may be reformatted as a stand-alone document with the signatures to this Agreement and/or Order or the parties will execute the Model Clauses as a separate stand-alone document. The stand-alone Model Clauses may be filed with regulators and/or used for any other legally permissible purpose and have the effect as if signed directly.
- 14.4.2 If either party seeks to register the Model Clauses with a regulator and the regulator rejects the registration, the parties shall work together to modify the exhibits to the Model Clauses to address the regulator's requirements.
- 14.4.3 If any of the terms of the Model Clauses conflict with any terms of this Agreement and/or Order, the Model Clauses shall prevail.
- 14.4.4 If Subcontractor engages any subcontractors that will access Otis Personal Information covered by the Model Clauses, the Subcontractor shall ensure that transfers to the subcontractor comply with the Model Clauses.
- 14.5 Subcontractor shall if requested by Otis undergo an IT security and privacy impact assessment which may include without limitation, an assessment of the Subcontractor's information security posture, and of the Subcontractor's security controls with respect to its vendors and subcontractors.
- 14.6 Otis reserves the right to (1) require such additional or different representations, warranties and covenants as it deems appropriate to address any findings resulting from such information technology and privacy impact security assessment; and (2) require that any findings be remediated to Otis' reasonable satisfaction as a condition to any further engagement.

**15. GENERAL**

- 15.1 Without limiting any other right or remedy Otis has under this Subcontract Agreement, any money owing to Otis in connection with any contractual arrangement with the Subcontractor may be deducted from moneys otherwise payable to the Subcontractor under this Subcontract Agreement.
- 15.2 The Subcontractor shall not assign any of its rights or obligations under this Subcontract Agreement, or subcontract or assign the Subcontract Works or any part of the Subcontract Works, without prior written approval of Otis. In the event that all or part of the Subcontract Works are subcontracted or assigned, the Subcontractor shall remain fully responsible in respect of the Subcontract Works carried out by party that the Subcontractor subcontracted or assigned the Subcontract Works to.
- 15.3 This Subcontract Agreement is the entire agreement between the parties and supersedes all previous agreements, proposals, representations, correspondence and discussions in connection with the Subcontract Works.
- 15.4 The Subcontractor acknowledges and agrees that it has been provided with a copy of the Otis Supplier Code of Conduct. The Subcontractor agrees to comply with the requirements of the Otis Supplier Code of Conduct, including:
- i) Complying at all times with applicable law, including laws prohibiting collusion, conflicts of interests, corruption, and unfair competition;
  - ii) Refraining (directly or indirectly) at all times from offering, promising, attempting to provide, or providing:
    - (a) any Corrupt Payment; or
    - (b) any Otis employee or Government Official, any ownership or financial interest in Vendor;
  - iii) Promptly and accurately recording in its Books and Records all transactions and expenses related to its work for Otis
- 15.5 To the full extent permitted by law and other than expressly set out in this Contract, the parties hereby exclude all implied terms.
- 15.6 Failure by either party to enforce a provision of the Contract shall not be construed as in any way affecting the enforceability of that provision or the Contract as a whole.
- 15.7 If any part of the Contract is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the Contract shall not be affected and shall be read as if that part had been severed.
- 15.8 Otis or its nominee may, on reasonable notice to the Subcontractor, conduct an independent audit of, or investigation into, the Subcontractor's operations to verify the Subcontractor's compliance with these terms and conditions, the Otis Supplier Code of Conduct, statutory requirements including the Building Code if applicable and its accounting and business practices in connection with the Subcontract Works.
- 15.8 The Subcontractor shall retain all records related to the Subcontract Works, and shall allow Otis access to its premises for the purpose of auditing such records, for a period of five (5) years from the Date of Practical Completion.
- 15.9 **Modern Slavery:** The Subcontractor:
- (a) warrants that it is, and will for the Term continue to be, compliant with the reporting requirements of the *Modern Slavery Act 2018 (C'th)*; and
  - (b) must assist Otis as required with any information Otis may require to comply with the Modern Slavery Act.

**ATTACHMENT B – Statement of Works and Materials**

*[Insert the WORKS AND MATERIALS DETAILS].*

**ATTACHMENT C – Program Schedule**

*[Insert the PROGRAM SCHEDULE]*

**ATTACHMENT D– Payment Schedule**

*[Insert the payment terms]*

*[Comments may include a description of the timing of when invoices should be raised to coincide with the provision of goods and services. For example, what percentage of progress claims may be made during the course of the service verses the percentage of the balance to be paid upon completion of the service].*

## **ATTACHMENT E – SUBCONTRACTOR SAFETY REQUIREMENTS PROTOCOL**

### **1. EH&S laws and regulations**

1.1 The Subcontractor shall comply with all applicable laws, codes and regulations on environment, health and safety. The Subcontractor shall obtain all licenses and qualifications necessary to carry out the tasks (including where relevant, business license, electrical contractors license, permits for special equipment).

### **2. Otis safety requirements**

2.1 The Subcontractor shall adhere to all Otis safety requirements and instructions, including without limitation:

2.1.1 basic EH&S rules and regulations and Otis global safety standards;

2.1.2 all relevant field methods (e.g., field installation manual, repair manual); and

2.1.3 the Otis relevant fatality prevention and jobsite safety procedures.

2.1.4 Otis Employee and Subcontractor Safety Handbook and the Worldwide Job Safety Standards (WWJSS)

2.2 For the purpose of clause 2.1.1, basic EH&S rules and regulations mean the following EH&S programs and local regulations related to them:

- Otis Cardinal Rules • Stop work authority
- Energy isolation (LOTO) • Hot work permits
- Electrical safety • Compressed gases
- Confined space entry • Powered industrial vehicles
- Fall protection • Machine guarding
- Scaffolding requirements • Local asbestos regulations (if applicable)
- Personal protective equipment (PPE) • Spill and Emergency Response
- Walking & working surfaces (including ladders)
- Local environmental regulations (if applicable) including regulations for hazardous waste, air and water

### **3. Workers training and qualification**

3.1 The Subcontractor shall ensure that the contractor's workers (meaning, for the avoidance of doubt, any person working for the Subcontractor: its employees, any employees of any sub-subcontractor engaged by the Subcontractor, any temporary worker and any person under their instruction and supervision) are fully aware of their responsibilities; and have the required skills and competencies to perform the work. Upon request of Otis, the Subcontractor shall cause its workers to participate in all technical and safety trainings at the Subcontractor's expense.

3.2 The Subcontractor shall provide (and ensure all workers on job sites have received) appropriate and current training on identified site hazards, local regulations and Otis requirements, including a comprehensive site orientation (e.g., emergency plans).

3.3 The Subcontractor shall provide (and ensure all workers have completed) before commencing any work, all trainings on the basic EH&S rules and regulations.

3.4 The following additional training shall be completed by all workers of new equipment/modernization/BEX/major repair Subcontractors:

- Specific training on the applicable field method to be followed (e.g. field installation manual);
- Specific training on fall protection, control of elevator/escalator, electrical and mechanical energy, hoisting & rigging, scaffolding, false cars & running platforms, jumpers & shunts & personal protective equipment.

3.5 The following additional training shall be completed by all workers of service/maintenance/ repair /product upgrade (PUI) Subcontractors:

- Technical training on applicable high-risk activities identified in Otis field standard practice (FSP) documents

3.6 The Subcontractor shall ensure that no worker is permitted to work on any Otis site without safety induction training including training in Otis Employee and Subcontractor Safety Handbook, applicable aspects of the Otis World Wide Job Safety Standard (WWJSSS), Job Hazard Analysis and use of fall protection and any special site requirements.

3.7 The Subcontractor shall take all appropriate measures (e.g., tests or audits without prior notice) to evaluate the level of the Subcontractor's workers understanding of, and familiarity with, the said technical and safety standards.

3.8 The Subcontractor shall collect, store and, upon request, provide to Otis documents verifying the training for all the Subcontractor's workers who are (or will be) on any Otis jobsite.

3.9 Upon Otis's request, at any time during the agreement with Otis, the Subcontractor shall, at its own expense:

3.9.1 organize safety-stand-down days, or participate in those hosted by Otis, and

3.9.2 require its workers to participate in additional training and obtain relevant qualification certificates.

3.10 The Subcontractor shall participate to an annual certification by Otis. The certification will include training and tests. The Subcontractor must be approved in the annual certification in order to continue to work for Otis.

#### **4. Tooling and Equipment**

4.1 Critical tooling and equipment identified in Otis standard process documents shall meet all Otis required specifications.

#### **Critical tooling and equipment used at new equipment/MOD/BEX jobsites**

4.2 The following shall be provided by Otis (or purchased by the contractor in accordance with Otis specifications):

- Fall protection equipment, including lifelines, brackets and harnesses;
- False cars;
- Man-rated hoists;
- Overhead protection for false cars and running platforms (\*); and
- Platforms for which Otis designs and specifications have been approved for distribution to, and use by, contractors. These can also be built by the contractor or the general contractor in accordance with Otis design and specifications

4.3 All lifting equipment, slings and tackles used on site must be adequate and regularly inspected and maintained by a competent person. Inspections should be recorded in an appropriate register in accordance with applicable Regulations and the Otis Employee and Subcontractor Safety Handbook. All lifting appliances must clearly display their maximum safe working load.

4.4 All other equipment provided by Otis to the contractor remains the property of Otis and must be maintained in good condition. Any damaged or defective equipment is to be notified to Otis by the Subcontractor and not used until it is replaced.

4.5 Provide the necessary certified PPEs, in sufficient quantity and frequency, to all workers under contractor's responsibility. In addition, provide instructions on how to use the PPEs and ensure that all workers wear PPE correctly as required.

## 5. Risk Assessment

5.1 The Subcontractor shall comply with the field risk assessment process and maintain controls over its workers to ensure full understanding and compliance. The following pre-work assessments are compulsory:

- New equipment/modernization/BEX/major repair - pre-start approval : Prior approval from the Otis supervisor to begin the work.
- Critical steps approval: Approval from the Otis supervisor at all the critical steps as per Otis risk assessment global standard.
- High risk activities (e.g., hot work, confined space)
- Job pre-approval: Prior approval from the responsible Otis EH&S contact before commencement of the work.

5.2 The Subcontractor shall comply with all hazardous material's local regulations and Otis standards. The Subcontractor shall provide sufficient guidance and instruction to the Subcontractor's workers. In addition, information in the form of a Safety Data Sheet (SDS) must be provided to any other person who may be affected on site.

5.3 The Subcontractor shall ensure that all risks to workers, Otis personnel, customers and environment are identified and effectively controlled. If unsafe / environmentally unsound conditions are identified, immediate action should be taken to address them.

## 6. Oversight

6.1 The Subcontractor shall prevent access by any un-authorized workers or any other person related to them or to the Subcontractor who fail to demonstrate evidence of sufficient understanding of, and familiarity with, the service processes and safety requirements.



6.2 The Subcontractor shall specify the authorized workers in the project/jobsite contract as soon as possible (preferably at the time of agreement signature but no later than the commencement date of the work), and provide Otis with the name of each authorized worker, as well as the documents verifying that such authorized workers have completed training and satisfy the aforesaid conditions.

6.3 The Subcontractor shall only employ workers who:

- have all skills, experience, health and physical conditions and ethics necessary to perform the tasks,
- have all qualifications and permits required by applicable laws and Otis (e.g., qualification certificates of special equipment operators, electrician's permits, welder's permits, operation qualification certificates of professional cranes, installation certificates of scaffolding, safety qualification certificates and quality inspection certificates). Any of the aforesaid qualifications and permits will not expire within the period of performance of services
- have successfully completed all training programs required by government authorities, the Subcontractor and Otis;
- understand, and are proficient in, the safety standards and working methods;

6.4 The Subcontractor shall ensure all its workers are made aware of their responsibilities to meet Otis installation requirements, including but not limited to quality, safety, supervision and on-time installation standards as outlined in the Otis field installation manual.

6.5 The Subcontractor shall provide the following minimum supervision at all new equipment/modernization/BEX jobsites:

- 1 dedicated on-site shift team leader/working foreman at any single jobsite with 6 or more Subcontractor workers.
- 1 dedicated on-site walking foreman at any single jobsite with 30 or more Subcontractor workers. A walking foreman is a person who oversees and coordinates Subcontractor's activities at the jobsite but does not directly install the equipment.

6.6 The Subcontractor shall ensure that all shift team leaders and foremen are fully aware of their supervisory responsibilities and have the requisite skills and competencies to effectively supervise the Subcontractor workers and their work.

6.7 The Subcontractor shall Immediately remove from the job site any worker who commits any unsafe, immoral or destructive act, breaches this Safety Protocol, or demonstrates any potential risk of committing the aforesaid acts.

## **7. Inspections & Audits**

7.1 The Subcontractor shall regularly conduct safety inspections and audits of its workers on jobsites to verify compliance of employees with Otis safe working practices and that suitable site conditions are provided.

7.2 The Subcontractor shall take corrective and preventive actions based on its own investigation process and identified deviations from root causes.

7.3 The Subcontractor shall permit inspection / audit by Otis personnel or authorised representative at any time in respect of criteria advised by Otis. The Subcontractor shall

agree that site can be shut down immediately if unsafe / environmentally unsound conditions are identified.

## **8. Incident Reporting**

8.1 The Subcontractor shall report all fatal and serious injuries, lost time cases, medical treatment cases, potential serious injuries, near misses, environmental leakages, spills to the soil, air or water, involving contractor's workers, to an Otis supervisor, manager or local EH&S officer within 24 hours.

8.2 The Subcontractor shall investigate any fatal or serious injury case within 30 days. The Subcontractor shall submit all findings to, and review the investigation outcome (including root causes and corrective/preventive plan) with local Otis operation's management.

8.3 The Subcontractor shall cooperate with any Otis investigation in all aspects, including but not limited to making its workers available for interviews, producing relevant documentation, and determining root cause and corrective actions.

8.4 The Subcontractor shall provide adequate First Aid facilities and equipment in accordance with the Regulations for workers.