

MEMORANDUM OF AGREEMENT

Between

LIMPOPO ECONOMIC DEVELOPMENT AGENCY

AND

SOUTH AFRICAN ENERGY METALLURGICAL BASE (PTY) LTD

AND

POWERCHINA INTERNATIONAL GROUP LIMITED

THE JOINT DEVELOPMENT OF

3000MW COAL FIRED POWER PROJECT WITHIN THE SOUTH
AFRICAN ENERGY AND METALLURGICAL ZONE OF THE
MUSINA-MAKHADO SPECIAL ECONOMIC ZONE



1

Memorandum of Agreement

This Memorandum of Agreement ("MOA") is entered into on the _____ day of _____ 2018 (the "Effective Date")

BETWEEN:

LIMPOPO ECONOMIC DEVELOPMENT AGENCY, a Provincial Government Business Enterprise constituted in terms of the Limpopo Economic Development Agency Act, 5 of 2016 (hereinafter referred to as "**LEDA**"); and

SOUTH AFRICAN ENERGY METALLURGICAL BASE (PTY) LTD, a company organised _____, with its registered address at First Floor, Block 5, Bedford Office Park, 3 Riley Road, Bedfordview Gauteng, 2007, South Africa, having its registration no. 2014/097453/30 (hereinafter referred to as "**SAEMBL**"); and

PowerChina International Group Limited, a company organised and existing under the laws of People's Republic of China with its registered address at Building 23,NO 17,Xicui Road, Haidian District, Beijing 100036, P. R. China, having its registration no. 91110108MA0052EU47 (hereinafter referred to as "**POWERCHINA**").

LEDA, SAEMBL and POWERCHINA hereinafter referred to collectively as the "**Parties**" and individually as a "**Party**".

WHEREAS

- (A) The Parties signed an MOU for the Joint Development of the South African Energy and Metallurgical Zone of the Musina-Makhado Special Economic Zone (hereinafter referred to as "**SAEMSEZ**") on 25th, May 2018;
- (B) And POWERCHINA visited the **SAEMSEZ** site during 21st to 29th, May 2018 and completed a pre-feasibility study for the Phase I of the **Coal Fired Power Plant Project** (hereinafter referred to as "**the Project**") within the **SAEMSEZ**;
- (C) And **POWERCHINA** had discussions with potential local investors such as the Industrial Development Corporation (IDC) and BEE companies of South Africa, who expressed their desire in investing in **the Project**;
- (D) And the parties are desirous to work together further and deeper in the development of the Coal Power Plant within the **SAEMSEZ**.

NOWHEREFORE IT IS AGREED AS FOLLOWS:

1. WORK SCOPE

POWERCHINA will invest and construct a 3000MW coal-fired power plant of ultra super quality and its associated facilities within the **SAEMSEZ** in phases, providing electricity to the metallurgical clusters within the **SAEMSEZ** and the national power grid of South Africa. The total estimated investment value of the 3000mw coal-fired power plant is around 4.5billion USD.



The size of the coal fired power plant for Phase I of the Project will be 2X660MW, with the total investment amounting to approximately 1.9 billion USD. Please refer to indicative road map for Phase I attached hereto.

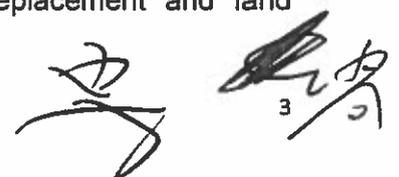
2. COOPERATION PRINCIPLE

2.1 POWERCHINA will:

- a. play a leadership role in investing and development of **Coal Fired Power Plant** within the **SAEMSEZ**, and will be the EPC and O&M contractor of the **Project**;
- b. complete the Technical Feasibility Study and Bankable Feasibility Study of the Phase I of the **Coal Fired Power Plant** within the **SAEMSEZ**, in cooperation with other investment partners, before September of 2018;
- c. facilitate for the signing a Joint Development Agreement with other investors of the **Project**;
- d. facilitate the signing of cooperation agreements for the Joint Development between all investors who desire to invest in the development of **SAEMSEZ** metallurgical cluster.
- e. also propose other cooperation options including Built Operate and Transfer (BOT), Public and Private Partnership (PPP) for the development of this **Coal-fired Power Plant** within **SAEMSEZ**.

2.2 LEDA, and SAEMBL will:

- a. provide **POWERCHINA** with relevant documents necessary for the implementation of the Power Plant.
- b. assist **POWERCHINA** in getting the necessary EIA approvals from the relevant authorities.
- c. facilitate for the signing of Power Purchase Agreement (PPA), and will endeavour to solicit ESKOM to become standby off-taker of surplus electricity.
- d. Assist **POWERCHINA** on the compliance with the necessary legislations, including the Broad Based Black Economic Empowerment (BBBEE) legislation.
- e. coordinate the interfaces with or interactions with all the relevant agencies of Government ;
- f. obtain and/or facilitate the grant of all requisite licenses and approvals/ permits from Government;
- g. coordinate with local communities for all necessary issues;
- h. coordinate residents' resettlement, infrastructure replacement and land acquisition.



3

3. EXCLUSIVITY

All the Parties shall make exclusive cooperation for the development and implementation of the **Project** within the valid period of this **MOA**.

4. INTELLECTUAL PROPERTY RIGHTS

All intellectual property rights of the Feasibility Study conducted by **POWERCHINA**, whether technical, financial, legal or other, including agreements or similar, shall belong to **POWERCHINA**.

5. COSTS AND EXPENSES

Unless otherwise agreed in writing by the Parties, each Party shall be responsible for its own costs and expenses (including but not limited to travel costs) incurred in connection with the **MOA**. If any costs for services or activities directly related to the promotion of the **Project** which does not fall within any single Party's roles or responsibilities and benefit all Parties, all such services or activities shall require prior authorization of all the Parties.

6. DURATION OF THIS MOA

This **MOA** shall come into force upon signature and shall remain in force for a period of **two (2) years**. The validity period of this **MOA** may be extended upon agreement by giving request to do so at least thirty (30) days before the expiration of the said term.

7. ENTIRE AGREEMENT AND TERMINATION

This **MOA** contains the entire understanding and agreement of the Parties regarding the subject matter hereof. All previous understandings, promises, consents, or agreements concerning the subject matter hereof, whether written or oral, shall be superseded by this **MOA**.

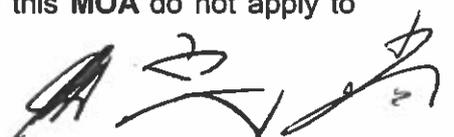
This **MOA** shall remain in force from the date of signing and shall terminate upon the first occurrence of the following events:

- (1) The expiry date of this **MOA** as provided in Article 6; or
- (2) Agreement on termination by the Parties; or
- (3) other terms agreed by all the parties in writing.

8. CONFIDENTIALITY

8.1 The Parties agree that by entering into this **MOA** it will be necessary to provide each other with certain confidential information relating to the **Project** provided that no Party, acting reasonably, shall be obliged to disclose to any other third party, documentation relating to The **Project** not intended for release outside such Party's organization (other than its own advisors, consultants, agents, bankers and/or government agencies).

8.2 The confidentiality obligations and undertakings set out in this **MOA** do not apply to information which is:



8.2.1 At the time of disclosure to the other Party, in the public domain or subsequently comes into the public domain other than by reason of a breach of this **MOA**; or

8.2.2 Already lawfully in the other Party's possession on a non-confidential basis prior to its disclosure or which is known to the other Party before the date the information is disclosed.

8.3 The Parties acknowledge and agree that their confidentiality obligations and undertakings under this **MOA** shall be continuing and in particular shall survive for a period of two (2) years after the termination of this **MOA**.

9. ASSIGNMENT

The Parties may not assign any of their rights or obligations under this **MOA** other than to affiliates without prior written approval of the others.

10. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of South Africa.

11. DISPUTE SETTLEMENT

The Parties shall resolve any dispute or contraventions from or in connection with this through amicable consultation and negotiation between the Parties. Should the parties be unable to resolve any dispute as contemplated herein, then such dispute shall be resolved by way of arbitration as contained in clause 12 below.

12. ARBITRATION

12.1 Any Dispute shall be referred and finally resolved by arbitration under South African Laws.

12.2 The arbitral tribunal shall consist of 1 arbitrator selected in accordance with the latest Arbitration rules of South Africa.

12.3 The seat of the arbitration shall be South Africa, all hearings shall take place in South Africa, and the language of arbitration shall be English.

12.4 The Parties agree that the arbitral tribunal shall have the power to order on a provisional basis any relief which it would have power to grant in a final award.

13. NOTICES

Any communication of documents given to the other Party shall be in writing and shall be deemed to have been duly delivered to the Party to which it is addressed as follows respectively:

Mr. MB Mphahlele

CEO: LEDA

Street Address: Enterprise house, main road Lebowakgomo, 0737

Tel: 015 633 4700

Email: mb.mphahlele@lieda.co.za



Mr. Ning Yat Hoi

Chairman: SAEMBL

Street Address: First Floor, Block 5, Bedford Office Park, 3 Riley Road, Bedfordview
Gauteng, 2007, South Africa

Tel: 0086-18011958020

Email: songwenjun@emsez.com

Mr. Liu Kai

Vice President: POWERCHINA

Street Address: No. 17, Xicui, Haidian District, Beijing, P. R. China

Tel.: 0086-13911783356

Email: liukai@powerchina-intl.com

IN WITNESS WHEREOF, the Parties have caused this **MOA** to be executed in three (3) originals by their duly authorized representatives as of the date first written above.

Signed by

Name:

AUTHORISED REPRESENTATIVE

For and on behalf of

Limpopo Economic Development Agency

Signed by

Name:

AUTHORISED REPRESENTATIVE

For and on behalf of

South African Energy Metallurgical Base (Pty) Ltd

Signed by

Name:

AUTHORISED REPRESENTATIVE

For and on behalf of

PowerChina International Group Limited