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ANNEXURE 1

PPA Term Sheet Offsite Wheeled

CONFIDENTIAL

CUSTOMER POWER PURCHASE AGREEMENT TERM SHEET

Between

FOSKOR PROPRIETARY LIMITED

(as the Buyer)

and

[insert name] PROPRIETARY LIMITED

(as the Seller)

1. BACKGROUND

1.1. This Term Sheet is provided by [insert name] to [insert name] and is strictly confidential.

1.2. This Term Sheet outlines the intended commercial and contractual relationship between the Seller and the Buyer (Parties), in relation to entering into a power purchase agreement (PPA) for the sale and purchase of energy from various generation facilities.

1.3. The Buyer [insert business description] for which it would like to procure renewable energy.

1.4. This Term Sheet is not exhaustive and does not contain all matters upon which agreement must be reached in order for the transaction and PPA to be completed and / or concluded. However, the indicative terms provided herein are intended to form the basis of the rights and obligations of the Parties that will be included in the PPA to be negotiated by the Parties.

2. STATUS AND EFFECT OF THIS TERM SHEET

2.1. This term sheet is entered into on a non-binding basis, with the exception of the clauses relating to Good Faith Negotiations, Governing Law, Confidentiality, and Notices, which shall be legally binding on the Parties. Neither Party is under any legal obligation to the other unless and until the PPA is executed.

2.2. This term sheet will automatically terminate upon the earliest of:(i) [3] months after the date hereof; (ii) execution of the definitive PPA by both Parties; or (iii) mutual written agreement of the Parties to terminate it.

2.3. The Parties will endeavour to execute the PPA on or before [insert target date].

3. PROJECT

3.1. Wheeling power to be provided from [project name once confirmed] for Foskor Mining Phalaborwa.

4. GOOD FAITH NEGOTIATIONS

4.1. The principles set forth the intention and agreement of the Parties as to the key commercial principles to be incorporated in the PPA.

4.2. Having regard, and giving effect, to the key commercial principles, the Parties agree to negotiate the terms of the PPA in good faith in an attempt to promptly reach a mutually satisfactory agreement.

4.3. The Parties will endeavour to execute the PPA for the Project on or before [●insert date].

5. PARTIES

5.1. Buyer: [Insert full legal name] Proprietary Limited, Registration No. [●], a company incorporated in South Africa

5.2. Seller: [Insert full legal name] Proprietary Limited (or its duly appointed nominee), Registration No. [●], a company incorporated in South Africa.

5.3. The PPA will be entered into by and between the Seller and the Buyer. The Seller and the Buyer are together referred to as the “Parties” or individually a “Party”.

5.4. The PPA will be the entire agreement between the Parties. No representations, terms, conditions or warranties not contained in the PPA are binding, and no agreement or attachment varying, adding to, deleting or terminating the PPA is effective unless reduced to writing and signed by both Parties.

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6. DEFINITIONS

6.1. "Acceptable Financial Institution" means:

6.1.1. any of Absa Bank Limited, **FirstRand Bank Limited, Investec Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited, Development Bank of Southern Africa and International Finance Corporation;**

6.1.2. **a South African bank or financial institution which has an international rating for its long-term unsecured and non-credit enhanced debt obligations of A+ or higher by S&P Global Ratings or Fitch Ratings Inc or A1- or higher by Moody's Investor Services Limited, or a comparable rating from an internationally recognised credit rating agency; or**

6.1.3. **any other bank or financial institution** approved by the Buyer;

6.2. "**Access Rights**" means a right of access to and egress from the Property for the purposes and in the manner prescribed under the PPA.

6.3. "**Act of Insolvency**" means, in respect of either Party, the occurrence of any one or more of the following events:

6.3.1. it is, or is deemed for the purposes of any applicable law to be, unable to pay its debts as they fall due or insolvent, or admits its inability to do so

6.3.2. by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the suspension of payment or rescheduling of any of its indebtedness;

6.3.3. a moratorium is declared in respect of any of its indebtedness, or any step is taken with a view to a moratorium, composition, assignment or similar arrangement with any of its creditors generally;

6.3.4. a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for, to petition for or file documents with a court or any registrar for its winding-up, administration or dissolution, or any such resolution is passed (other than in connection with a solvent reorganisation);

6.3.5. any person presents a petition, or files documents with a court or any registrar, for its winding-up, administration or dissolution, unless it is a petition presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within 30 Days;

6.3.6. an order for its winding-up, administration or dissolution is made (other than in connection with a solvent reorganisation);

6.3.7. any liquidator, business rescue practitioner, trustee in bankruptcy, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets, or its directors, shareholders or other officers request or give notice of their intention to make such an appointment;

6.3.8. it commences business rescue proceedings aimed at facilitating the rehabilitation of a financially distressed company, in accordance with the Companies Act;

6.3.9. it becomes insolvent in accordance with the Insolvency Act No. 24 of 1936; or

6.3.10. any other analogous step or procedure is taken in any jurisdiction.

6.4. "Affiliates" with respect to a Party, (a) any entity Controlled, directly or indirectly, by that Party, (b) any entity that Controls, directly or indirectly that Party or (c) any entity directly or indirectly under the common Control of a Party

6.5. "Allowed Buyer Unavailability Threshold" means the minimum amount of kWh that the Buyer is not required to purchase to mitigate against unplanned maintenance events.

6.6. "Applicable Law" means all applicable laws of a Government Authority, including:

6.6.1. legislation, regulations, judgments, injunctions, writs and orders or like actions, judgment, decision, order or rule of any court or tribunal with relevant jurisdiction, in each case having the force of law in South Africa

6.6.2. rules and regulations, determinations, decisions, policies, procedures of any regional, provincial, municipal or other similar authority.

6.6.3. the Grid Codes, any constitution, statute, ordinance, treaty, decree, proclamation or subordinated legislation or other legislative measure, including all national and provincial statutes and legislation and all municipal by-laws, as well as the common law and customary law

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

6.7. "Applicable Programme" means a domestic renewable energy program, scheme or organisation, adopted by a governmental authority or otherwise, or other similar program with respect to which a market, registry or reporting protocol exists for particular RECs generated by the Facility and under which the Buyer has duly accepted receipt of RECs. An Applicable Programme includes any legislation or regulation concerned with renewable energy for generation by a renewable energy facility and shall, for the avoidance of doubt, include the Domain Protocol

6.8. "Authorisation" any approval, consent, licence, permit, authorisation, resolution, certificate. or other permission granted or to be granted by a Government Authority as required under applicable Law for the enforcement of rights or the performance of obligations under the PPA (including any environmental authorisations and registration of the Facility with NERSA under the Electricity Regulation Act 4, 2006)

6.9. "Auxiliary Consumption" means such part of the Energy as is consumed by a Facility itself in the process of generating Energy, including consumption in respect of the provision of related services and operating auxiliary equipment.

6.10. "Broad Based Black Economic Empowerment" means broad based black economic empowerment, as contemplated in the Broad Based Black Economic Empowerment Act, 2003; and the B-BBEE Codes

6.11. "Business Day" means any Day other than a Saturday or a Sunday or an official public holiday in South Africa;

6.12. "Buyer" means the contracting party named as the Buyer.

6.13. "Buyer Curtailment" means a decision or request made by the Buyer to limit the power output of the Facility resulting in a reduction of Net Energy Output, whether Early Operating Energy or Commercial Energy, of the Facility;

6.14. "Buyer Event of Default" Has the meaning given to it in the relevant default clause of the PPA

6.15. "Buyer Risk Event" means:

6.15.1. any delay or default by the Buyer in performing any of its obligations under the PPA

6.15.1.1. which is not also a Buyer Event of Default, and

6.15.1.2. only if and to the extent that such delay or default is not remedied within 60 days;

6.15.2. Buyer Curtailment; but in each case, only if and to the extent that such act, event or circumstance is not the direct or indirect result of:

6.15.2.1. a breach by the Seller of any of its obligations under the PPA or any other Project agreement;

6.15.2.2. a negligent act or omission by the Seller

6.15.2.3. a Force Majeure Event affecting the Seller; or

6.15.2.4. the Seller has used all reasonable efforts to reduce or procure the reduction to a minimum.

6.16. "Buyer System" means the electric power system owned and/or used by the Buyer, including all distribution lines and equipment, transformers and associated equipment, relay and switching equipment and protective devices and safety and communications equipment on the Buyer's side of the Delivery Point, owned, used and/or operated by the Buyer and required for the performance by the Buyer of its obligations under the PPA

6.17. "Change in Control" means, in relation to the Seller, when an entity or person (directly or indirectly):

6.17.1. ceases (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

6.17.1.1. cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of that person; or

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6.17.1.2. appoint or remove all, or the majority, of the directors or other equivalent officers of that person; or

6.17.1.3. give directions with respect to the operating and financial policies of that person with which the directors or other equivalent officers of that person are obliged to comply; or

6.17.2. ceases to hold beneficially and legally more than 50% of the issued share capital of that person (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

6.18. "Change in Eskom Tariff Structure" means a change in the Eskom Tariff Structure from that in place at the Signature Date where material basic principles underpinning the formulation of the Tariff Structure are changed, including but not limited to:

6.18.1. a change or changes to the Energy user Tariff Structure;

6.18.2. the Network Operator's concentric-pricing approach to the determination of the cost of use of the transmission and distribution system and system losses changes;

6.18.3. sellers or buyers of non-dispatchable electricity are directly charged with a contribution to, or the obligation to provide, a certain quantity of dispatchable electricity for purposes of balancing the Network; or

6.18.4. the Facility changes the calculation of its cost of generation resulting in a change to the credit the Buyer receives.

6.19. "Change in Law" *is the occurrence of any of the following events after the signature date:*

(a) the introduction, adoption, enactment or promulgation of any new applicable law by any government authority or any change in the interpretation or application of any applicable law, save for: (i) any of the aforementioned resulting in an increase in taxes of general application which does not discriminate against the any party or against the party and other parties undertaking projects similar to the Project; and (ii) any law which, at the signature date, has been published in a bill or draft statutory instrument and is available for public scrutiny, to the extent such law is enacted in the form so published, save that this exclusion shall not apply to the Electricity Regulation Act Amendment Bill;

(b) the change or repeal of any applicable law;

(c) the introduction, adoption, or change of any authorisation or any material condition in connection with the issuance, renewal or modification of any authorisation;

(d) any change to the terms and conditions or to the interpretation or application of any authorisation or addition of new terms and conditions after granting said authorisation; or

(e) the revocation, repeal or cessation of effectiveness of any authorisation prior to the expiration date of such authorisation, provided that the relevant party is in compliance with the material requirements and conditions established therein or if any authorisation was granted for a limited period its non-renewal (or its renewal in terms or subject to conditions less favourable to the relevant party), provided that such party has observed all the requirements applicable to the grant of that renewal and provided that the occurrence of the event:

(i) renders it unlawful to give effect to the PPA;

(ii) has a material adverse financial impact on the Project or materially and adversely affects the Commercial Intent or overall balance of liability and risk agreed to by the Parties in the PPA;

(iii) is an event in respect of which any Party is not entitled to any other relief in respect of the impact on the Services pursuant to any other provisions of the PPA or any other agreement concluded with the other Party;

(iv) was not reasonably foreseen by any Party on or before the Signature Date or if it was foreseen, the impact on the Project was not reasonably foreseen; and

(v) could not reasonably have been foreseen by any person in the position of any affected Party on or before the Signature Date or if it could reasonably have been foreseen, the impact on the Project could not reasonably have been foreseen.

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6.20. "Commercial Energy" means the Net Energy Output delivered to the Delivery Point by the Seller to the Buyer in accordance with the terms of the PPA, during the Operating Period, which shall not exceed the Net Energy Output produced by the Contracted Capacity. This energy is measured and paid on a Time of Use basis as per the current Eskom Retail Tariff plan.

6.21. "Commercial Energy Payments" means, in relation to each billing period of a month, the total amount (excluding VAT) that shall be due and payable by the Buyer to the Seller for the Commercial Energy delivered in that billing period, which shall be the product of the Commercial Energy delivered during that billing period and the Commercial Energy Rate, as negotiated and agreed between the Parties in the PPA.

6.22. "Commercial Operation Date" means the date on which the Seller has demonstrated, and the Buyer is satisfied, that the Facility was successfully connected to the Buyer System or the Network (as applicable), and that the Minimum Acceptance Capacity has been achieved in accordance with a prescribed procedure to be negotiated and agreed between the Parties in the PPA

6.23. "Companies Act" means the Companies Act No. 71 of 2008

6.24. "Confidential Information" means all information and materials disclosed, provided or otherwise made accessible to the other Party in the course of the PPA of a confidential nature but excludes information that the receiving Party can prove (A) subsequent to the date of the PPA, became part of the public domain otherwise than as a result of disclosure by the receiving Party, (B) was in the public domain at the date of the PPA or (C) was lawfully in its possession at the time of disclosure by the other Party.

6.25. Contract Year" means each 12-month period, commencing at 00:00 hours on the Commercial Operation Date;

6.26. Day" means a period of 24 hours beginning at 00:00 hours on a day and ending at 24:00 hours on that day.

6.27. "Deemed Energy" means the Commercial Energy that would otherwise be available to the Buyer if a Buyer Risk Event had not occurred.

6.28. "Deemed Energy Payment" means an amount (excluding VAT) payable by the Buyer to the Seller for the Deemed Energy upon the occurrence of a Buyer Risk Event, subject to certain exclusions, where the Seller demonstrates to the reasonable satisfaction of the Buyer that: (a) the Seller could not have avoided such occurrence or consequence by steps which it might reasonably be expected to have taken, without incurring material expenditure; (b) the Facility would otherwise have been available and able to generate and deliver the Energy Output but for the Buyer Risk Event; (c) the Deemed Energy Payment and/or relief claimed could not reasonably be expected to be mitigated or recovered by the Seller acting in accordance with the standards of a Reasonable and Prudent Operator; and (d) the Seller is using reasonable endeavours to perform its obligations under the PPA.

6.29. "Domain Protocol" means the RECS Domain Protocol for the Republic of South Africa issued by RECSA (as amended from time to time) which outlines national specifics for various renewable energy resources converted to electricity (both grid and off-grid), which provides a system of governance, the rules by which trade of certificates proceeds and the overall institutional context within which the REC system is established, as supplemented by the Protocol and by the zaRECs standard terms and conditions as contained on the zaRECs website: www.zarecs.co.za.

6.30. "Effective Date" means the date of fulfilment of the last of the Suspensive Conditions to be fulfilled.

6.31. "Electrical Energy" means electrical energy (measured in kWh) supplied to the Buyer from the Facility pursuant to the terms of the PPA.

6.32. "Electricity Supply Agreement" means the electricity supply agreement(s) in force from time to time between Eskom and the Buyer or its Affiliates, governing the supply of electrical energy and related services to the Site, including all schedules, tariffs, amendments, supplements, renewals, replacements or novations thereto.

6.33. "Environmental Attribute" means any tradable instrument, certificate, allowance, entitlement, permit, economic or financial cost or benefit, tax or tax credit now or in the future which is associated with (in whole or in part) any emissions at the Facility (excluding any and all costs and expenses associated with applicable consents or regulations) including greenhouse gases (including CO_2), NO_x or SO_2 and including the cost or benefit of any and all authorisations and allocations under international treaties or domestic laws to produce or to offset any emissions in any period and including any rights or interests recognised under Article 6, 12 or 17 of the Kyoto Protocol or any successor international agreement.

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6.34. "Eskom WEPS Tariff" means Eskom Wholesale Energy Price System tariff applicable to local authorities for active energy (measured in kWh) under the Network Operator's Schedule of Standard Prices from time to time.

6.35. "Estimated Electrical Energy" means a number stated in the RFP, being the estimated, but non- binding, AC energy (kWh) expected supply to the Buyer by the Seller.

6.36. "Excess Energy" means any Energy which on a monthly basis exceeds the Net Energy Output and on an annual basis would exceed the Committed Energy.

6.37. "Extreme Weather Events" means unusual, severe, or statistically rare meteorological conditions (1 in 10-year occurrence) that deviate significantly from normal operating climate ranges and can adversely affect the plant's energy production, availability, reliability, or physical integrity.

6.38. "Facility" means the solar photovoltaic / wind power / biomass, or other commercially available renewable energy technology generation plant and any ancillary or related facilities described in the PPA that is designed to be capable of delivering the Contracted Capacity, to be constructed, owned, operated, maintained and managed by the Seller on the Generation Site. [insert site details of preferred bidder], including all equipment, machinery, structures, System Metering Installation and the Interconnection Facilities and systems necessary for the generation, transformation, and delivery of electrical energy to the Delivery Point, owned or controlled by the Seller.

6.39. "Facility Metering Installation" means the back-up metering equipment (including an electronic check meter) conforming with the requirements of and standards set out in the Grid Codes, installed by the Seller in accordance with the PPA.

6.40. "Force Majeure Event" means an event caused by Force Majeure that affects a Party's ability to perform its obligations or exercise its rights, where the Affected Party

6.40.1. could not reasonably have anticipated the event as of the date hereof;

6.40.2. having arisen, could not reasonably have avoided or overcome the event;

6.40.3. does not have such event within its reasonable control;

6.40.4. is not caused by such Party's negligence or failure to act and is not the direct or indirect result of a breach by the Affected Party of any of its obligations under the PPA; and

6.40.5. is not substantially attributable to the other Party. Force Majeure includes (subject to criteria above): natural disasters; riot and civil commotion; blockade or embargo; cyber-attack; pandemic, epidemic or plague; general strikes or labour disputes affecting the construction and energy industry; war or civil war; nuclear, chemical or biological contamination; major transportation failures; additional shading of the Facility caused by third party actions; any act or omission by a Government Authority adversely affecting either Party's rights or obligations under the PPA (not a Change in Law); unlawful community action posing imminent threat to life or property

6.41. Force Majeure excludes: economic hardship; ability to sell or buy Energy at more advantageous prices; Unscheduled Outages; late performance by equipment suppliers or contractors; strikes by the Affected Party's own employees, Affiliates or contractors (unless part of wider national industrial action); normal wear and tear; a Party's failure to act in accordance with applicable Authorisations and Laws

6.42. "Government Authority" means any South African ministry or department, any South African minister, any South African organ of state, any South African official in the public administration or any other South African governmental or regulatory department, commission, institution, entity, service utility (e.g. Eskom and any successor thereof), board, agency, instrumentality or authority (in each case whether national, provincial, or municipal) or any South African court, each having jurisdiction over the matter in question.

6.43. Grid Codes" means, as applicable, any code in respect of electricity generation, distribution or transmission as published by NERSA or its equivalent or any Government Authority from time to time.

6.44. "Issuing Body" means the entity appointed by RECSA (currently zaRECs) to:

6.44.1. verify the compliance of the generation and measurement of the RECs issued and sold in terms of the PPA;

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6.44.2. issue RECs to the Seller in terms of the Domain Protocol, the Protocol and the zaRECs standard terms and conditions; and

6.44.3. transfer RECs from the Seller to the Buyer in terms of the Domain Protocol, the Protocol, the zaRECs standard terms and conditions and the Seller's express instructions.

6.45. "kW" means a unit of electrical power in kilowatt.

6.46. "kWh" means a unit of electrical energy in kilowatt hour alternating current (ac).

6.47. "Market Participant" means either the Seller or the Buyer, as applicable, and 'Market Participants' refers to the Seller and Buyer collectively.

6.48. "Maximum Capacity" means the maximum capacity that is capable of being delivered to the Delivery Point, to be defined in the PPA.

6.49. "Minimum Acceptance Capacity" means the minimum acceptable capacity of each of the Facility and the Interconnection Facility at the Delivery Point, which is equal to 95% of the Contracted Capacity of the Facility at the Delivery Point.

6.50. "Month / Monthly Capacity" 'Month' means a calendar month. 'Monthly Payment' means the total monthly payments for Electrical Energy.

6.51. "Monthly Payment" means the total monthly payments for the Electrical Energy.

6.52. "NERSA" means the National Energy Regulator of South Africa.

6.53. "Net Energy Output" means the amount of Energy generated by the Facility, measured in MWh, and delivered to the Delivery Point, as recorded by the Facility Metering Installation and the System Metering Installation.

6.54. "Network" or "Grid" means the interconnected system of transmission and distribution facilities, including all lines, substations, transformers, switching equipment, and related infrastructure owned, operated, or controlled by the Transmission System Operator and/or Distribution Network Operator, that is used for the transmission and distribution of electrical energy and to which the Facility is connected at the Delivery Point. means the Eskom distribution and/or national transmission system of the Network Operator, consisting of all lines and substation equipment which operate at a nominal voltage of above, equal to or below 132 kV, as well as the connection equipment up to the Network Operator side of the point of connection to the Buyer System and the connection equipment up to the Seller side of the point of connection, as that system may be refurbished, modified, extended or developed from time to time during the Term (but, for the avoidance of doubt, not including any private network used by the Facility or customers of the Network Operator).

6.55. "Network Event" means any event, including but not limited to any interruption, disconnection, failure, outage, voltage surge or curtailment of the Utility's electrical grid that affects the Seller's ability to deliver Electrical Energy to the Buyer or the Buyer's ability to consume the Electrical Energy will constitute a Force Majeure Event, including:

6.55.1. any constraint, unavailability, interruption, breakdown, inoperability, failure of the Network to which the Facility is connected, or disconnection of the whole or part of the Buyer, the Buyer System, or the Facility from the Network as a direct or indirect result of an act or omission by the Network Operator;

6.55.2. a Force Majeure Event affecting the Network Operator; or

6.55.3. any action or instruction from the Network Operator or any other Government Authority that results in the Buyer limiting its power consumption or the Seller reducing the Net Energy Output. A Network Event excludes a Buyer Risk Event.

6.56. "Network Operator" means Eskom, as applicable, and its successors or assigns.

6.57. "Outage" means a Scheduled Outage or Unscheduled Outage where there is a partial or a full interruption of the Facility's generating or delivery capacity.

6.58. "Parties" means the Buyer and the Seller, and 'Party' shall mean any of the Buyer or the Seller as the context may require.

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6.59. "Payment Guarantee" means the irrevocable and unconditional on-demand guarantee obtained by the Buyer in favour of the Seller from an Acceptable Financial Institution in terms of the Payment Security clause.

6.60. "Preferred Bidder Performance Guarantee" means an irrevocable and unconditional on-demand payment guarantee to be procured by the Seller in favour of the Buyer to be issued by an Acceptable Financial Institution or corporate entity accepted in writing by the Buyer, in a form and content set out in Schedule 3 Form of Preferred Bidder Guarantee (or such other form acceptable to the Buyer);

6.61. "Private Distribution Network" means the Buyer owned system of electric lines used internally for distribution of electricity at the Property

6.62. "Property" means the property at which the Buyer will consume the Electrical Energy.

6.63. "Seller" means the contracting party defined in the PPA, and any future parties to which the PPA may be assigned.

6.64. "Specific Conditions" has defined in the PPA

6.65. "R" or "Rands" or "ZAR" means the South African Rand or the equivalent of the lawfully prevailing currency of the Republic of South Africa.

6.66. "Reasonable and Prudent Operator" means a person seeking in good faith to perform its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence, responsibility and foresight which would reasonably and ordinarily be expected from a skilled and appropriately experienced developer, contractor, owner or operator internationally, who is complying with all applicable Laws and Authorisations, engaged in the same or a similar type of undertaking in the same or similar circumstances.

6.67. "REC" means the renewable energy certificate issued by RECSA in accordance with the Domain Protocol, or a certificate, allowance, green tag, or other transferable indicator, howsoever entitled, created by an Applicable Programme or Issuing Body, indicating generation of a particular quantity of energy, or Product associated with the generation of a specified quantity of energy from the Project.

6.68. "RECSA" means the Renewable Energy Certificate Association of South Africa, which implements RECS and provides for the administration, monitoring and verification of any renewable energy production-based support mechanism and of the 'greening' of events and products.

6.69. "Scheduled Outage" means an advanced planned interruption in generation at the Facility for planned and regular maintenance where there is a partial or a full interruption of the Facility's generating or delivery capacity

6.70. "Seller Event of Default" means any of the Seller events of default set out in the relevant clause of the PPA.

6.71. "Site" means the site as described in the PPA, to be negotiated and agreed between the Parties.

6.72. "System Metering Installation" means metering equipment (including an electronic main meter) conforming with the requirements of, and standards set out in, the Grid Codes, installed by the Network Operator on the instructions of the Seller in accordance with the PPA.

6.73. "Tariff" means an initial tariff of R[●]/kWh escalating annually at [CPI], inclusive of generator use of system charges and RECs. [Figures to be confirmed and schedule to be attached.].

6.74. "Scheduled Commercial Operation Date" or "SCOD" means the date specified in this Agreement by which the Seller is required to achieve the Commercial Operation Date of the Facility, as such date may be extended from time to time in accordance with the terms of this PPA.

6.75. "Tariff Structure" means the combination of different electricity charges and their relationship to each other.

6.76. "Suspensive Conditions" means the conditions precedent to the coming into force and effect of the PPA, referred to in clause 8.1.

6.77. "Term" means a period starting at the end of the first month in which the Effective Date occurs and ending after the period indicated in the either 10-years or 20-years.

6.78. "Termination Date" means the expiry of the Term or the date of the earlier termination of the PPA in accordance with its terms.

6.79. "Termination Payment" means the payment due from the Buyer or the Seller in the event the PPA has been terminated in accordance with its terms.

6.80. "Underperformance Cap" means the total cumulative Underperformance Liquidated Damages amount, limited to [●].

6.81. "Underperformance Withholding" means the withholding amount that the Buyer applies to recover the difference between the Guaranteed Minimum Energy and the Net Energy Output received by the Buyer, at a rate set out in the relevant clause of this Term Sheet.

6.82. "Unscheduled Outage" means an unplanned interruption in generation at the Facility and is not a Scheduled Outage and or / or that is not caused by a Force Majeure or Buyer Risk Event where there is a partial or a full interruption of the Facility's generating or delivery capacity

6.83. "Use of System Agreement" means agreement(s) entered into between the Seller and the Network Operator for the use of electrical transmission and distribution infrastructure owned or under the control of the Network Operator and conditions under which the Seller may supply energy to the Buyer across such transmission and distribution infrastructure and such rules and charges under which such supply may be carried out.

6.84. "Utility Tariff" means the rate(s) prescribed by the Utility for the supply of electricity to the relevant consumer type applicable to the Buyer, in accordance with the Applicable Law.

6.85. "VAT" means Value Added Tax (where applicable) as levied under the Law.

6.86. "WEPS" Means Eskom Wholesale Energy Price System.

6.87. "zaRECS" Means zaRECs Proprietary Limited, which presently is the Issuing Body.

7. INTERPRETATION

7.1. In the PPA, referring to the singular includes the plural and vice versa. The number of days refers to calendar days, unless specifically stated otherwise.

7.2. Titles of clauses and schedules of the PPA are inserted for the sake of convenience only and are not to be used to affect the interpretation of any provision.

7.3. A reference to any person shall be a reference to such person's permitted successor, transferee, cessionary and/or delegate.

7.4. If any provision of the PPA or any specific application becomes invalid or unenforceable, the remainder of the PPA, or the application of the provision in other circumstances, shall not be affected, and each provision of the PPA shall be valid and enforceable to the fullest extent permitted by Applicable Law.

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8. SUSPENSIVE CONDITIONS

8.1. The PPA is subject to the fulfilment of the following Suspensive Conditions:

8.1.1. The Seller obtaining and maintaining all required regulatory approvals, including:

8.1.1.1. the grant or amendment of an electricity trading licence by NERSA to permit supply of Electrical Energy to the Buyer; and

8.1.1.2. the licensing or registration of the relevant generation facility or facilities by NERSA.

8.1.2. Seller entering into all required third-party agreements necessary to perform its obligations under the PPA, including:

8.1.2.1. a Use of System Agreement with the Utility; and

8.1.2.2. one or more power purchase agreements with generator(s) of sufficient capacity to supply the Buyer, and in each case such agreements becoming unconditional in accordance with their terms, save for any provision requiring the PPA to become unconditional.

8.1.3. The Seller procuring all required Authorisations, insurances (including those required for commencement of construction), and the Performance Bond.

Insert Bowman's recommended additions as per the comment. In 8.2

8.1.4. The Seller meeting all applicable requirements to ensure that the Buyer is entitled to and can own RECs, including compliance with design and registration requirements under the applicable programme.

8.1.5. The Buyer entering into and/or amending all required agreements with the relevant Network Operator, including:

8.1.5.1. agreements required for interconnection of the Facility to the Delivery Point;

8.1.5.2. any amendment to the Electricity Supply Agreement (including for wheeling arrangements, where applicable).

8.1.6. The Buyer confirming that:

8.1.6.1. it has obtained the necessary internal approvals (including Investment Committee approval), or has waived such requirement in its sole discretion; and

8.1.6.2. it meets the Seller's minimum credit criteria.

8.2. The Suspensive Conditions listed in clause 8.1 are inserted for the benefit of the Buyer other than the Suspensive Conditions in Clauses 8.1.1 to 8.1.4 which is entitled to waive any or all of them at its sole discretion within four (4) months referred to in clause 8.1 upon written notice to this effect to the Buyer.

8.2.1. Should the Suspensive Conditions not be fulfilled or waiver by the date for fulfilment thereof referred to in clause 8.1, then this Agreement will lapse, and be of no further force or effect, provided that each party shall use its reasonable endeavours to procure the fulfilment of its respective Suspensive Conditions.

8.2.2. Upon the fulfilment or waiver of the last of the Suspensive Conditions, this Agreement shall enter into effect, such date, the "Effective Date".

8.2.3. The Seller shall notify the Buyer on the date on which the Suspensive Conditions have been fulfilled and the Effective Date.

9. DATA MESSAGES

9.1. Data messages as defined in the Electronic Communications and Transactions Act 25 of 2002, sent by either Party to the other shall be deemed to be received by the receiving Party only when the receiving Party responds thereto, and for the purpose of this clause an auto- response shall not be a response by the receiving Party including:

9.1.1. an email

9.1.2. SMS and

9.1.3. recorded voice message.

10. CONSUMER PROTECTION ACT NO. 68 OF 2008

10.1. If the provisions of the CPA apply in respect of any of the supply provided or services rendered, in terms of the PPA, the provisions of the CPA will prevail over any provision contained in the PPA that may be contrary to such provisions.

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11. NO INDULGENCE

11.1. No indulgence which a Party may grant to the other shall constitute a waiver of any of the rights of the other Party, who shall not thereby be precluded from exercising any rights against the other Party which might have arisen in the past or which might arise in the future.

12. CESSION

12.1. The Seller may not sell, transfer, cede and/or assign its rights and obligations under this Agreement without the consent of the Buyer. Any assignment of the Seller's rights and/or obligations under this Agreement shall not result in any change to the Buyer's rights and obligations under this Agreement.

12.2. The Buyer may, at any time, without the consent of the Seller, cede, assign, or transfer any or all of its rights and/or obligations under this Agreement.

13. RIGHT OF ACCESS

13.1. The Buyer shall grant the Seller and its employees, agents and contractors Access Rights for the purposes of reading the Meter and otherwise performing our obligations or enforcing our rights under this Agreement.

13.2. Save as otherwise provided for in this Agreement, the Access Rights will continue for ninety (90) days after this Agreement is terminated.

13.3. In supplying the Electrical Energy, The Seller will attempt to minimize any disruption to activities occurring on the Property. The Seller will give reasonable notice before any entry to the Property. The Buyer agrees to permit access to the Property twenty-four (24) hours a day, seven (7) days a week for emergency purposes, as reasonably determined by the Buyer.

13.4. To the extent applicable, this clause 13 shall survive termination of this Agreement to enable the Seller to perform its obligations.

14. CONTRACTED CAPACITY TERM

14.1. The Seller shall deliver, in relation to:

14.1.1. Foskor Mining Phalaborwa no less than the required kWh per year at the Delivery Point.

14.1.2. The minimum generation per month shall be agreed by the Parties, based on the Bidders optimization

15. GUARANTEED MINIMUM ENERGY

15.1. The guaranteed minimum Net Energy Output delivered at the Delivery Point shall be as set out in Schedule [Insert number] Guaranteed Energy Supply Profile The measurement period shall be over 2 consecutive years (Measurement Period).

15.2. The Seller's Guaranteed Minimum Energy shall be measured in each Season as defined by Eskom which shall be recorded monthly and measured and reconciled at the end of a Measurement Period against the actual Net Energy Output delivered by the Facility during each season over such Measurement Period.

15.3. If, at the end of any Measurement Period, the Net Energy Output delivered is less than the Guaranteed Minimum Energy (an "Energy Shortfall"), then the Seller shall be liable to the Buyer for liquidated damages calculated at a rate of the difference, if positive, between: (i) the weighted average Network Operator Energy Tariff for the Buyer Load Forecast in the Contract Year, and; (ii) the Tariff for the Contract Year in question (ZAR[X]/MWh); plus replacement RECs for each MWh shortfall below the Annual Guaranteed Seller Energy (the "Underperformance Liquidated Damages").

15.4. The Buyer shall have the right to terminate the PPA for a Seller Event of Default if:

15.4.1. the Net Energy Output delivered is less than 85% of the aggregate Guaranteed Minimum Energy in 2 high Seasons or 2 low Seasons over 2 consecutive Measurement Periods, or

15.4.2. the Underperformance Cap is exhausted over 2 consecutive Measurement Periods.

15.5. See clause 20 (Seller's Default Termination) for the calculation of the termination payment.

15.6. Extreme Weather Events shall be taken into account in determining the amount of Energy capable of being delivered during the Measurement Period for purposes of determining if a Seller Event of Default has occurred.

15.7. If at any time during the Term, the Network Operator defines any Season as a period less than 3 months, the Seller shall have the right to propose a revised Guaranteed Minimum Energy per Season that shall apply for the remainder of the Term for the approval of the Buyer.

16. ENVIRONMENTAL ATTRIBUTES

16.1. The Seller shall, at the cost of the Seller:

16.1.1. procure the registration of the Facility with the Issuing Body as a 'Production Device' as defined under the Domain Protocol,

16.1.2. register and maintain the registration of the Facility as an electricity generating facility on the Applicable Programme for REC registry, and

16.1.3. apply for and obtain Environmental Attributes for the Facility.

16.2. The Environmental Attributes are to be delivered under the Applicable Programme governed by RECSA or such other Applicable Programme or Applicable Programmes, from time to time, as may be directed by the Buyer in writing.

16.3. In instances where the Applicable Programme is changed, the Buyer shall carry the costs, and the Buyer shall exclusively be entitled to all the benefits, of such change.

16.4. Provided that the Energy to which the Environmental Attributes relate has been paid for, the Environmental Attributes shall be transferred to the Buyer at no cost on a monthly basis in proportion to the Buyer, with full title guarantee, free from all charges, liens, other encumbrances and third-party claims.

16.5. The Environmental Attributes shall be for the exclusive benefit of the Buyer.

16.6. Any and all environmental air quality credits, benefits, emissions reductions, off-sets, allowances, or other benefits as may be created under any existing or future statutory, or regulatory or voluntary scheme by virtue of or due to the Project's actual energy production or the Project's energy production capability associated with its environmental or renewable characteristics or attributes shall be for the sole benefit of the Buyer. The Buyer shall bear all costs related to the same (including legal fees, if any) and any properly evidenced and reasonably incurred costs associated with registering any environmental attributes, environmental credits and/or offsets. Registration with RECSA is required for the PPA period.

16.7. All Environmental Attributes will be included in the value of the Tariff. It is therefore recorded that the Tariff includes a fixed rate of ZAR [0.02] per kWh as the agreed consideration payable by the Buyer for the Environmental Attributes.

16.8. If a Change in Law results in the Buyer being unable to benefit from the Environmental Attributes and or from any other environmental air quality credits, benefits, emissions reductions, off-sets, allowances, or other benefits credits, as envisaged in the PPA, then the Buyer and the Seller shall use their best endeavours to procure an alternative mechanism for quantifying the decarbonisation impact of the purchase of the Net Energy Output by the Buyer from the Seller on the understanding that the Buyer shall compensate the Seller for any increased costs to implement such alternative mechanism in accordance with the principles set out for a Change in Law.

17. PAYMENT SECURITY

17.1. As security for the Buyer's payment obligations under the PPA, the Buyer shall be required to obtain an irrevocable and unconditional on-demand guarantee from an Acceptable Financial Institution issued in favour of the Seller (Payment Security).

17.2. The Payment Security amount shall be equal to [1 months] forecasted energy payments. The amount will be escalated at the same rate as the Tariff. The Seller may claim under the Payment Security when and if:

17.2.1. an amount is due and payable by the Buyer and has not been paid in full by the Buyer on the due date for payment;

17.2.2. the applicable payment amount is not in dispute; and

17.2.3. the Seller has delivered a demand for payment of the amounts to the Buyer in accordance with the provisions of the PPA, and despite such demands such amount is not paid within 30 days of receipt of the aforementioned demand; or

17.2.4. the PPA is terminated due to a Buyer Event of Default.

17.3. If the Buyer fails to replace the Payment Security, the Seller shall be entitled to make a claim under the Payment Security for the full amount of the relevant Payment Security and retain the proceeds as cash security (Payment Security Proceeds) subject to the following:

17.3.1. the Seller shall keep the Payment Security Proceeds in a separate interest bearing account, in trust, for and on behalf of the Buyer;

17.3.2. the Buyer shall be entitled to any interest earned on the Payment Security Proceeds;

17.3.3. the Buyer shall be entitled to audit the Seller's compliance with item (17.3.1) above; and

17.3.4. the Seller shall return the Payment Security Proceeds to the Buyer together with any interest earned thereon, less such amounts which the Seller is entitled to deduct.

18. PURCHASE OBLIGATION

18.1. The Buyer will take, or pay for, the Committed Energy, in accordance with and subject to the provisions of the PPA.

18.2. The Buyer shall purchase all Net Energy Output delivered by the Seller at a price equivalent to 100% of the full Tariff for the Energy generated after Commercial Operation Date.

18.3. As soon as the Seller becomes aware in any month that it has Excess Energy available, it will notify the Buyer accordingly. The Buyer will, within [24hours] of receiving the notification from the seller, advise the Seller whether it will or will not take the Excess Energy. If the Buyer advises the Seller that it will take the Excess Energy, then the Buyer will pay for the excess Energy consumed by the Buyer at the tariff. If the Buyer advises the Seller that it will not take the Excess Energy, then the Seller shall be entitled to sell the Excess Energy to a Third-Party Buyer. The Excess Energy will be sold to a Third-Party Buyer at the Tariff, or on more favourable terms than those in the PPA and the Buyer shall split the profits thereof equally.

18.4. If at any time the Seller does not notify the Buyer that it has Excess Energy available but delivers the Excess Energy to the Buyer and the Buyer consumes such Excess Energy, the Buyer will pay for the Excess Energy that it consumed at the Tariff.

18.5. If the Buyer is unable to consume the Committed Energy or a portion thereof. it will immediately notify the Seller. The Buyer and the Seller will together and/or separately use their reasonable endeavours to secure a Third-Party Buyer to purchase the Energy that the Buyer will not be able to consumer on the same terms as those in the PPA, or on more favourable terms.

19. COMMERCIAL OPERATION DATE OR COD

19.1. The Seller has an obligation to reach the commercial operation date (COD) by the scheduled commercial operation date (SCOD) failing which the Seller is liable for delay liquidated damages (unless non-performance is excused by Force Majeure, Change in Law, or Grid Interruption.

19.2. The achievement of the Commercial Operation Date shall occur once the Independent Engineer has provided to the Seller the notice indicating that the Facility is ready to commence commercial operation and to deliver energy to the Buyer.

19.3. The above shall not apply where the Seller has a sufficient energy that is already in commercial operation.

20. EXTENDED COMMERCIAL OPERATION DATE

20.1. Extended Commercial Operation Date is [180] days after the Scheduled COD.

20.2. If the Commercial Operation Date is not achieved on or before the Extended Commercial Operation Date, the Buyer shall be entitled to terminate the PPA for a Seller Event of Default with associated consequences or elect to continue to claim Delay Liquidated Damages until such time as the Commercial Operation Date has been achieved.

21. UNDERPERFORMANCE LIQUIDATED DELAY DAMAGES

21.1. Delays in achieving the Commercial Operation Date by the Scheduled COD will entitle the Buyer to claim Delay Liquidated Damages from the Seller and the Seller shall be liable to the Buyer for liquidated damages calculated at a rate of the difference, if positive, between: (i) the weighted average Network Operator Energy Tariff for the Buyer Load Forecast in the Contract Year, and; (ii) the Tariff for the Contract Year in question (ZAR[X]/MWh); plus replacement RECs for each MWh, subject to a maximum of 6 months.

22. MINIMUM ACCEPTANCE CAPACITY

22.1. The Minimum Acceptance Capacity shall be equal to 95% for Solar PV and 85% for Wind of the Contracted Capacity of the Facility at the Delivery Point.

22.2. The Seller shall ensure that the Facility achieves the Minimum Acceptance Capacity

23. MAINTENANCE, PLANNED AND UNPLANNED OUTAGES

23.1. The Seller will notify the Buyer at least [60 days] in advance of all planned outages, maintenance outages, and non-emergency maintenance for the Project (or any part of it) (Planned Outages). In accordance with prudent industry practices, the Seller will coordinate with the Buyer on the scheduling of all Planned Outages to minimise the downtime and maximise the performance of the Project.

23.2. In addition, the Seller will notify the Buyer (by contacting Buyer's Facility operations centre) of all outages for the Project (or any part of it) other than Planned Outages (Unplanned Outages) as soon as reasonably practicable after they occur.

24. Socio-economic and BBBEE Requirements

24.1. B_BBEE Reporting: Reports in relation to the Seller's compliance with BBBEE related requirements shall be submitted to the Buyer in accordance with the timelines and in the prescribed form to be negotiated and agreed between the Parties in the PPA.

24.2. BBBEE requirements: For the duration of the PPA, the Seller shall maintain a BBBEE Rating that is equal to, or better than, the commitments made in the RFP response. If the Seller fails to maintain the commitments, the Buyer shall be entitled to terminate the PPA for a Seller Event of Default, subject to a remedy period that is to be negotiated and agreed between the Parties.

25. THE SELLER'S OBLIGATIONS

25.1. The Seller agrees to supply Electrical Energy to the Buyer from the Commercial Operation Date onwards, subject to the terms and conditions of the PPA.

25.2. Should the Seller fail to commence supply of Electrical Energy on the SCOD or to meet the Performance Guarantee in a Contract Year, the Seller shall be liable to pay liquidated damages to the Buyer.

25.3. The rate and method of calculation of such liquidated damages shall be specified in Schedule [●] of the PPA and shall represent a genuine pre-estimate of the loss or damages the Buyer would suffer as a result of such delay or underperformance.

26. BUYER OBLIGATIONS

26.1. Buyer hereby agrees:

26.1.1. to pay for the Electrical Energy accordance with Clause 28 of this Agreement and invoiced in accordance with Clause 28, Electrical Energy invoiced ("Invoice") 28;

26.1.2. to grant access to and use of the Property to the Seller or its consultants in accordance with the PPA

26.1.3. to obtain the Seller's prior consent if there is a change proposed by the Buyer to the location of the Meter;

26.1.4. not to tamper with, remove labelling or mark the Meter in any manner and notify the Seller immediately if there are any signs of damage, theft or vandalism to the Meter;

26.1.5. not to modify or make alterations to the Meter; and,

26.1.6. not to allow or conduct activities on or near the Meter that have a reasonable likelihood of causing damage or impairment to the Meter.

26.2. The Buyer acknowledges and agrees that the Buyer is responsible for obtaining all electricity needs in excess of the Electrical Energy supplied to the Buyer by the Seller and to pay for such Electrical Energy and services provided by the other Utility (Eskom).

27. CANCELLATION AND EXTENSION OF TERM

27.1. During the Term the Buyer may elect to cancel the PPA in accordance with clause 27.2 or may elect to extend the PPA in accordance with clause 27.3.

27.2. Buyer shall have the right to cancel the PPA by providing the Seller with not less than Twelve (12) months written notice of its intention to do so. Such notice shall specify the effective date of termination.

27.3. Upon expiry of the initial Term, the Buyer shall have the right, but not the obligation, to extend this Agreement for an additional period of [X] years (the Extended Term) on the same terms and conditions contained herein, unless otherwise agreed in writing between the Parties.

27.4. The Buyer shall provide the Seller with written notice of its intention to exercise the extension right not less than six (6) months prior to the expiry of the Initial Term.

27.5. If the Buyer does not exercise its right of extension within the required notice period, this Agreement shall terminate upon expiry of the initial Term, unless otherwise agreed in writing by the Parties.

27.6. The Parties may, prior to the commencement of the Extended Term, negotiate in good faith any amendments to commercial terms (including tariff, performance parameters or capacity) required to give effect to the extension.

28. PAYMENT

28.1. The Buyer agrees to pay the Seller the Monthly Payment for supply of the Electrical Energy, to be invoiced at the end of each month as set out in clause 28.3, subject to such other conditions as agreed in the Specific Conditions.

28.2. The Buyer agrees to be responsible for all costs, fees or charges for connecting with the relevant Utility Grid and for payment of its utility bill directly to the Utility.

28.3. The Seller will provide an Invoice by email on or about the first day of each month (each, an “Invoice Date”), commencing on the first Invoice Date to occur after the Effective Date, for the Monthly Payment in respect of the immediately preceding month.

28.4. The Buyer agrees to make payment by no later than thirty (30) days after the date of receipt of the Invoice by the sole means of electronic bank transfer,

28.5. All payments made hereunder shall be non-refundable (except in the case of billing errors), be made free and clear of any VAT, tax, levy, assessment, duties or other charges and not subject to reduction, withholding, set-off, or adjustment of any kind.

28.6. In respect of disputed amounts, the Buyer shall pay such amount as is agreed or determined payable in respect of the disputed sum on the Payment Date for the original Invoice if the dispute is resolved before the Payment Date, or, if later, within thirty (30) Business Days following:

28.6.1. the date on which the Parties resolve the disputed sum; or

28.6.2. the date of determination by an expert or arbitrator if the Dispute has been referred for expert determination or arbitration

28.7. The Seller reserves the right to charge interest at the prime rate plus 3% for all late payments.

28.8. All readings required for the supply of Electrical Energy under this Agreement will be recorded by the Meter.

28.9. An estimate of the Monthly Payment may be used for any month where there is a disruption in obtaining data needed to determine the Monthly Payment. The estimate shall be based on the average of the three (3) preceding Monthly Payments and appropriate adjustments made in the Month following any Month where an estimated charge is used.

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29. PERFORMANCE BOND

29.1. The Performance Bond amount shall be [5%] of the total EPC costs.

29.2. The Buyer may make demands under the Performance Bond in the following instances:

29.2.1. delays in achieving COD by SCOD and subsequent failure by the Seller to pay delay liquidated damages in relation to the achievement of COD by SCOD;

29.2.2. damages for failing to achieve a capacity equal to [95%] of the contracted capacity;

29.2.3. failure by the Seller to extend the validity of the performance bond; or

29.2.4. termination of the PPA by the Buyer.

30. FORCE MAJEURE

30.1. The Parties agree these provisions shall apply if a Force Majeure Event occurs.

30.2. A "Force Majeure Event" means an exceptional event or circumstance that: (a) is not foreseeable and if foreseeable could not be mitigated, avoided or prevented by the affected party; (b) is not within the reasonable control of the Party affected by the event; (c) is not the result of such Party's negligence or failure to act and is not the direct or indirect result of a breach by the affected Party of any of its obligations under the PPA; (d) could not be avoided or overcome by the affected Party's use of due diligence in the circumstances; (e) prevents, hinders or delays the affected Party in its performance of all (or part) of its obligations under the PPA; and (f) is not substantially attributable to the other Party. Force Majeure includes, but is not limited to, the following events (but only to the extent that such an event, in consideration of the circumstances, satisfies (a) to (g) above)::

30.2.1. acts of God, flood, drought, earthquake, class 3 and 4 cyclones or other natural disaster;

30.2.2. epidemic or pandemic;

30.2.3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

30.2.4. nuclear, chemical or biological contamination or sonic boom;

30.2.5. inability to supply Electrical Energy as a result of a Grid Interruption;

30.2.6. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary license or consent;

30.2.7. collapse of buildings, fire, explosion or accident;

30.2.8. any labour or trade dispute, strikes, industrial action or lockouts by labour not employed by the Affected Party; and,

30.2.9. interruption or failure of any Utility service, including any services that are necessary for the supply of the Electrical Energy.

30.3. Notwithstanding the foregoing, none of the following constitute Force Majeure i) the Seller's ability to sell, or Buyer's ability to purchase, energy at a more advantageous price than is provided in the PPA; ii) late performance by either party, caused by such party's equipment Sellers, Sellers or contractors (at any tier), where such delay was not caused by an event of Force Majeure; iii) strikes, lockouts and other industrial action by the employees of the affected party, any of its affiliates or any contractor of the affected party or of any affiliate, unless such action is part of any wider industrial action involving a significant section of the construction industry or the electricity supply sector; iv) the availability or unavailability of the resource, as applicable, to operate the Facility.

30.4. Provided a Party has complied with clause 28.6, if a Party is prevented, hindered or delayed in or from performing any of its obligations under the PPA by a Force Majeure Event (the "Affected Party"), the Affected Party shall not be in breach of the PPA or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly and the Seller shall have the right to request an extension of the Term on a day-for-day basis equal to the period of time that the Force Majeure prevents the Seller from delivering Electrical Energy provided that any extension of term shall not exceed a period of [5] years.

30.5. Any delays in or failure of performance by a Party, other than the obligations to pay monies hereunder, shall not constitute a default hereunder if and to the extent a Force Majeure Event causes such delays or failures in performance. Notwithstanding the foregoing, if a Force Majeure Event prevents the Buyer from consuming Electrical Energy, the Buyer shall only be required to pay for the Electrical Energy actually consumed during the period of the Force Majeure Event and the term shall be extended on a day-for-day basis equal to the period of time that the Buyer does not make payment for Electrical Energy that it is unable to consume.

30.6. In case of a delay in achieving COD due to the occurrence of a Force Majeure Event, the Seller will be entitled to an extension of the SCOD and an extension of the operating term to place the Seller in the same overall economic position.

30.7. The Affected Party shall, as soon as reasonably possible after the start of the Force Majeure Event, but no later than five (5) days from its start, notify the other Parties in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the PPA; and use all reasonable endeavors to mitigate the effect of the Force Majeure Event on the performance of its obligations.

30.8. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than one hundred and eighty (180) days, the Parties shall meet with a view to agree on mitigating the effects thereof provided that if at the end of thirty (30) days, no further solution is found between the Parties, any one of the Parties may terminate the PPA by providing written notice and the contract shall forthwith terminate.

30.9. If the Buyer is the affected Party and the Seller notifies the Buyer that it wishes to exercise its right to terminate the PPA, the Buyer shall have the right to suspend the Seller's termination right for a period of 150 Business Days provided the Buyer pays the Seller 20% of the Tariff during this period of time.

31. LONG TERM FORCED MAJEURE

31.1. If the Force Majeure event continues for a prolonged period of: (i) [120] consecutive Days in relation to a long term Force Majeure event that affects the Buyer; or (ii) [180] consecutive Days in relation to a long term Force Majeure event that affects the Seller (Long Term Force Majeure), then, after the lapsing of this period, the affected Party may propose a feasible remedy plan to overcome the Force Majeure Event and during the period within which the affected party is executing the remedy plan, then the other party's right to terminate for Long Term Force Majeure shall be suspended.

31.2. If the Force Majeure Event has not ceased following implementation of the remedy plan, then either Party may terminate the PPA, save that the Seller shall not be entitled to terminate the PPA if the Buyer elects to continue paying the Seller for the Energy that could be delivered by the Seller to the Buyer (based on the P50 forecast) but for the Force Majeure Event affecting the Buyer. If the affected party fails to execute the remedy plan within the agreed time period, then the other party may then terminate the PPA.

31.3. Termination Payments

31.3.1. No obligation by either party for Termination as a result of Force Majeure.

32. BUYER RISK EVENT

32.1. If a Buyer Risk Event causes a Buyer's inability to consume Net Energy Output, then Deemed Energy Payments shall be paid to the Seller in accordance with and subject to the terms of the PPA.

32.2. Subject to the above, if and to the extent that:

32.2.1. A Buyer Risk Event affects the ability of the Seller to receive payment of the Tariff, and provided that the Allowed Buyer Unavailability Threshold has been reached, the Seller shall be entitled to Deemed Energy Payments from the Buyer; and

32.2.2. The Deemed Energy Payment (if any) payable by the Buyer to the Seller shall be the only relief available to the Seller for Buyer Risk Events.

33. EVENTS OF DEFAULT

33.1. Buyer Default:

33.1.1. The Buyer will be in default under the PPA if any one of the following occurs ("Buyer Default"):

33.1.1.1. the Buyer fails to pay the Seller the Monthly Payment on the due date thereof and such failure continues for 30 (thirty) days from receipt of written notice from the Seller that such amount is due; and

33.1.1.2. the Buyer becomes Insolvent or similar proceedings, which in the case of such proceedings have not been terminated, stayed or dismissed within sixty (60) days after it was commenced.

33.1.1.3. the Buyer breaches any agreement with a Government Authority or third party which impacts the Seller's ability to perform its obligations or exercise its rights under the PPA, and/ or

33.1.1.4. any other material breach by the Buyer not provided for elsewhere which, if capable of remedy is not remedied within 60 days after receipt of notice from the Seller

33.1.2. Upon a Buyer Default, the Seller may in its sole and absolute discretion subject to the provisions of any legislation which may be applicable to this transaction, and without prejudice to any rights it may have under Applicable Law, take any of the following actions:

33.1.2.1. suspend requirements to perform its obligations under the PPA;

33.1.2.2. proceed with action to enforce performance of the PPA and to recover damages due to the Buyer's breach; or

33.1.2.3. cancel the PPA forthwith and claim damages from in addition to all arrear Monthly Payments and other amounts due in terms of the PPA.

33.1.3. Buyer's Default Termination

33.1.3.1. The Seller has the right to terminate the PPA as a result of Buyer Event of Default

33.1.3.2. Termination amount: Buyer shall be liable to the Seller for liquidated damages in the amount equal to the product of (i) 6 months' Committed Energy applicable as at the date of termination and (ii) the weighted average Tariff paid by the Buyer during the 12 (twelve) Month period preceding the date of termination of the Agreement (the "Termination Amount"); which amount shall be payable by the Buyer to the Seller on the Termination Date; provided that the Seller shall use its reasonable endeavours to secure a Replacement Buyer and if a Replacement Buyer has been secured by the Seller at a price no less favourable than that contained in this Agreement at any time prior to the date falling 6 (six) Months after the Termination Date, the Seller shall reimburse the Buyer an amount equal to the average daily Termination Amount, for each Day between the date that a Replacement Buyer has been secured and the date falling 6 (six) Months after the Termination Date

33.2. Seller Default:

33.2.1. The occurrence of any of the events set forth below shall constitute a default by the Seller (a "Seller Default)" under the PPA:

33.2.1.1. a Change in Control, a cession and/or delegation by the Seller of any of its rights or obligations without the approval of the Buyer.

33.2.1.2. failure by the Seller to comply with the Broad Based Black Economic Empowerment Commitments, Black Ownership commitments or socio-economic commitments as detailed in the PPA and more fully described in clause 24

33.2.1.3. the Seller becomes Insolvent,

33.2.1.4. the Seller fails to cure any material breach of its obligations arising out of the PPA within thirty (30) days after written notice was given by the Buyer.

33.2.1.5. failure by the Seller to commence and continue construction within [x] days (Longstop Date) after the effective date of the Effective Date of the PPA;

33.2.1.6. the Seller reaches the Underperformance Cap,

33.2.1.7. breach of anti-corruption laws and failure to remedy the circumstances of the breach,

33.2.1.8. failure to procure or maintain the effectiveness of project Authorisations, or

33.2.1.9. any other breach by the Seller not provided for elsewhere which, if capable of remedy is not remedied within 60 days after receipt of notice from the Buyer.

33.2.1.10. failure to achieve SCOD or by the last by the agreed amended SCOD;

33.2.1.11. the Performance bond lapses and is not replaced;

33.2.1.12. 15.3.6. persistent failure by the Seller to meet performance obligations (guaranteed availability or performance ratio);

33.2.1.13. breach of anti-corruption laws and failure to remedy the circumstances of the breach; and

33.2.1.14. failure to procure or maintain the effectiveness of project authorisations.

33.2.1.15. The Seller shall notify the Buyer promptly upon becoming aware of the occurrence and details of any Seller Default.

33.2.2. Subject to applicable law, and provided that the Seller Default is continuing, the Buyer may, within a reasonable period of time after becoming aware of such Seller Default:

33.2.2.1. where the Seller Default is of a nature materially impacting the Buyer's ability to receive the Services, or constitutes a breach of Clauses 33.2.1.1, and 33.2.1.13, the Buyer may serve a notice on the Seller terminating the PPA with immediate effect; or

33.2.2.2. for any other Seller Default, while the same is subsisting, serve a notice of default on the Seller requiring the Seller to remedy the Seller Default referred to in such notice within thirty (30) days of delivery. If the Seller Default is not remedied within such period, the Buyer may serve a further notice on the Seller terminating the PPA with immediate effect.

33.2.3. If the PPA is terminated by the Buyer due to a Seller Default, the Seller shall be liable to the Buyer for all costs and any direct loss or damages incurred by the Buyer as a consequence of the termination of the PPA due to a Seller Default not exceeding an amount equal to [six Months' Forecast Commercial Energy Payments].

33.2.3.1. Seller's Default Termination (replace above with)

33.2.3.2. The Buyer has the right to terminate the PPA for a Seller Event of Default.

33.2.3.3. Termination amount:

33.2.3.4. Seller shall be liable to the Buyer for an amount equal to the product of (a) 6 months' Committed Energy applicable as at the date of termination and (b) the difference, if positive, between (i) the weighted average Network Operator Energy Tariff paid by the Buyer during the 12 (twelve) Month period preceding the date of termination of the Agreement and (ii) the weighted average Tariff paid by the Buyer during the 12 (twelve) Month period preceding the date of termination of the Agreement; which amount shall be payable by the Seller to the Buyer on the Termination Date and shall be set off against all amounts that become due to the Seller by the Buyer on and after the Termination Date; provided that if a Replacement Seller has been secured by the Buyer at a price no less favourable than that contained in this Agreement at any time prior to the date falling 6 (six) Months after the Termination Date, the Buyer shall reimburse the Seller an amount equal to the average daily Termination Amount, for each Day between the date that a Replacement Seller has been secured and the date falling 6 (six) Months after the Termination Date.

34. LIMIT OF LIABILITY

34.1. Actual damages only: Subject to clause 25.2, the liability of either Party arising out of or in connection with a default under the PPA shall be limited to direct, actual damages as proven only. Neither party, nor their respective officers, trustees, directors, agents, employees, parent entity, lenders, subsidiaries, or affiliates shall be liable or responsible to the other party or its parent entities, subsidiaries, affiliates, officers, directors, trustees, agents, employees, successors or assigns, or their respective insurers, for incidental, exemplary, punitive, indirect or consequential damages of any nature, connected with or resulting from performance or non- performance of obligations of the PPA, including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under the PPA including delay liquidated damages and performance damages payable by the Seller).

34.2. The limit of liability referred to in clause 34.1shall not apply to

34.2.1. breach of indemnities

34.2.2. any breach of an Anti-Corruption Law;

34.2.3. the fraud, willful misconduct or gross negligence; and

34.2.4. breach of any applicable Law.

35. REPRESENTATIONS AND WARRANTIES

35.1. The Seller warrants that it:

35.1.1. has the right to legally occupy and use the Property;

35.1.2. it has not committed or suffered an insolvency event; and

35.1.3. is in compliance, and shall comply with all applicable laws, statutes and regulations relating to Money Laundering, facilitation of tax evasion, and anti-bribery and corruption including but not limited to the South African Prevention and Combating of Corrupt Activities Act of 2004, UK Bribery Act of 2010, U.S. Foreign Corrupt Practices Act (as amended), Division 70 of the Schedule to the Criminal Code Act (Cth) (Bribery of Foreign Public Officials) of Australia (as amended), relevant to the PPA, and that it maintains adequate policies and procedures to ensure compliance with such laws.

35.2. Each Party represents and warrants to the other that:

35.2.1. It is a legal entity or person duly incorporated, established or organized, validly existing, and in good standing under the laws of the jurisdiction in which it is incorporated or organized and has the corporate power or authority to own its assets and transact the businesses in which it is currently engaged. The Buyer is duly qualified to do business and is in good standing in each country in which such qualification is required.

35.2.2. There is no claim, or any litigation, proceeding, arbitration, investigation, or material controversy pending, to which it is a party, which, if adversely decided, could have an adverse effect on any Agreement.

35.2.3. It has all requisite power and authority to make, execute, deliver, and perform the PPA and to perform all of the transactions contemplated to be performed by it hereunder and has taken all necessary corporate action or such other action as required to authorise the execution, delivery, and performance of this Agreement. the PPA constitutes, and each of the other documents contemplated hereunder, upon execution and delivery of, will constitute the legal, valid, and binding obligation, enforceable in accordance with its terms.

35.3. The Buyer warrants that it has disclosed to the Seller all facts and circumstances within its knowledge, which are material or would be likely to be material to the Seller.

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36. DISPUTE RESOLUTION

36.1. The Parties agree that, in the first instance, they shall attempt to resolve any Dispute through good faith negotiations between senior representatives of each Party. If the Dispute remains unresolved within a reasonable period (not exceeding 20 Business Days), the Parties shall refer the matter to arbitration (as set out below) or to an independent expert for determination (as specified in the PPA).

36.2. Any dispute claim or disagreement between the Parties (a "Dispute") shall be resolved by arbitration.

36.3. Arbitration shall be held subject to the provisions of this clause at Johannesburg; informally, in the English language and otherwise in accordance with the rules of the Arbitration Foundation of Southern Africa or any successor or replacement body (if any) ("AFSA"), it being the intention that, if possible, it shall be held and concluded within 45 (forty-five) business days after it has been demanded.

36.4. The arbitrator shall be, if the question in issue is:

36.4.1. Primarily an accounting matter, an independent accountant agreed upon between the Parties;

36.4.2. Primarily a legal matter, a practicing attorney or Senior Counsel with no less than 10 (ten) years standing or retired High Court judge agreed upon between the Parties,

36.4.3. Any other matter, an independent expert agreed upon between the Parties.

36.5. If the Parties cannot agree upon a particular arbitrator, within 7 (seven) business days after the arbitration has been demanded, the nomination shall be made by AFSA at the request of either Party to such Dispute.

36.6. The decision of the arbitrator shall be final and binding on the Parties to the arbitration. A decision, which becomes final and binding, may be made an order of court at the instance of any Party to the arbitration.

36.7. Nothing herein contained shall prevent or prohibit any Party from applying to the appropriate court for interim relief.

36.8. The provisions of this clause 36(Dispute Resolution) shall be severable from every other part of the PPA and shall survive the termination or cancellation for whatever reason of the PPA or these General Conditions, notwithstanding that the rest of these General Conditions may be void or voidable.

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37. DISCLOSURE OF INFORMATION

37.1. The Parties agree to keep confidential and not disclose to any person (except to trustees, employees, officers, partners, directors, funders or advisers or consultants who are engaged for the PPA) all Confidential Information, that the Parties may receive from the other contracting Party or from any other source, relating to the PPA and matters which are subject to the terms of the PPA and will use, or cause to be used, such information solely for the purposes of the performance of the Parties obligations under the terms of the PPA.

37.2. The Parties acknowledge that either may wish to issue public statements or display information publicly about the conclusion of the PPA. Unless otherwise agreed in the Specific Conditions, the Parties may each make independent press releases about entering into the PPA, the identity of the other Party and other standard technical information, other than that described above as constituting Confidential Information.

38. CHANGE IN LAW

38.1. In the event of a Change in Law having occurred that materially affects a Party's obligations under the PPA, the affected Party shall notify the other Party in writing as soon as reasonably possible and, in any event, no later than fifteen (15) days after becoming aware of the Change in Law. Such notice shall include the::

38.1.1. date of such Change in Law;

38.1.2. nature and expected effect of such Change in Law; and

38.1.3. actions to be taken in order to comply with the requirements of this clause 20.

38.2. The affected Party shall use all reasonable endeavors to prevent, reduce and mitigate the effect of any delay occasioned by a Change in Law and ensure normal performance of the PPA despite the Change in Law. However, neither Party shall not be liable for any inability to perform any of its obligations under the PPA to the extent that such inability is caused by such Change in Law and shall not be in default as a result of such non-performance.

38.3. If a Change in Law requires the Seller to incur additional costs in relation to its capex or opex of more than 10% or materially affects either Party's obligations, the Parties shall negotiate in good faith alternative contractual terms which reasonably allow for the consequences of the Change in Law. The Parties agree to use all reasonable efforts to negotiate and settle, in good faith, amendments to this Agreement in order that the overall balance of rights, obligations, risks and rewards between the Parties shall remain the same in all material respects and the Parties are in no better or worse position than they were before such Change in Law ("Replacement Arrangements").

38.4. If the Parties are unable to agree upon Replacement Arrangements within [45] days (or such longer period as agreed in writing), either Party may terminate the PPA on 30 days prior notice to the other without liability for termination payments or any other compensation.

38.5. Neither Party shall be liable to other Party as a result of such termination save that the termination of the PPA shall be without prejudice to any claims, rights or obligations of the Parties that accrued prior to the date of termination.

39. CHANGE IN TARIFF STRUCTURE

39.1. The Seller shall produce a 12 month, a 6 month and a monthly forecast of the Net energy Output. A Market Participant may, from time to time, require that the forecasting provisions of the PPA be amended to allow it to comply with applicable Law.

39.2. A Change in Tariff Structure and/or a change to the Forecasting requirements of a Market Participant as a result of the requirements of an applicable Law shall be at the risk of the Market Participant, unless the Market Participant can demonstrate will materially impact its ability to perform its obligations under the PPA.

40. SANCTIONS AND ANTI- CORRUPTION RELATED OBLIGATIONS

40.1. If either Party breaches the provisions of the PPA that regulate the anti-corruption, anti-competitive, Sanctions and data protection related obligations of such Party, then the non-breaching Party shall be entitled to terminate the PPA for a breaching Party Event of Default in accordance with the timelines and processes to be negotiated and agreed between the Parties.

41. INSURANCE

41.1. In addition to the Insurance/s, the Seller shall (and shall procure that each Contractor shall) at its sole cost and expense, and on reasonable commercial terms in the South African insurance market, obtain and maintain insurances in accordance with the requirements (i) under any applicable Law,

42. EXCLUSION OF CONSEQUENTIAL LOSS

42.1. Neither Party shall be liable to the other Party for any indirect, consequential, incidental or punitive damages or losses of the other Party, save to the extent that this liability arises as a result of breach of indemnities; any breach of Anti-Corruption Law, the fraud, wilful misconduct or gross negligence of such Party and breach of any applicable Law.

43. REPORTING REQUIREMENTS

43.1. The Seller shall provide monthly reporting on at least the following:

43.1.1. renewable energy levels,

43.1.2. performance ratio and/or availability, as applicable,

43.1.3. actual energy delivered at the Delivery Point,

43.1.4. energy consumed by the Buyer, if different from c above,

43.1.5. Deemed energy and Deemed Energy Payment calculations,

43.1.6. all maintenance work performed, and

43.1.7. independent reports on annual calibration of the meters or weather station.

43.2. The Seller shall annually provide evidence that the registration of the RECs remains valid and effective.

44. CHANGE IN CONTROL

44.1. For the duration of the PPA, the Seller shall procure that there is no Change in Control in the Seller without the prior written approval of the Buyer, which approval shall not be unreasonably withheld.

44.2. The Buyer shall be permitted to undergo a change in its share capital or the holding of its share capital.

44.3. The Seller shall not undertake or permit a change in its Equity (or in any subsidiary or company of which the Seller is a subsidiary) until 36 months after the Commercial Operation Date, unless:

44.3.1. such disposal of Equity has been approved by the Buyer in terms of the PPA;

44.3.2. such disposal of Equity does not undermine the experience, capability, creditworthiness or solvency of the Seller and its ability to perform its obligations under the PPA; or

44.3.3. such disposal of Equity is to a Permitted Transferee.

44.4. The Seller shall not be entitled to request or undertake a reduction in the Minimum Black Equity (to be defined in the PPA) ownership percentage, which must be maintained for the duration of the PPA.

45. BUYER'S ANNUAL SAVINGS AND CHANGE IN UTILITY TARIFF

45.1. If Buyer's annual savings fall below 7.5% of the projected savings for any Contract Year, the Seller will compensate Buyer for all its lost savings.

45.2. Where there is a change in the structure or rates of the utility tariff (through Eskom submissions, NERSA approvals, change in the municipal published tariff or another Change in Law) that either (i) results in the Buyer's annual savings falling below the specified threshold (without prejudice to the above); and/or (ii) results in the Tariff for the Facility exceeding the prevailing NERSA and/or municipal approved utility tariff (excluding any special or incentivised tariffs that may be agreed by Buyer individually or on an industry specific basis), then Buyer may:

45.2.1. request a meeting with the Seller to discuss the impact of this change, in which case the Parties will use their reasonable endeavours to determine the lost savings and agree amendments to the PPA (including, where appropriate, a change to the Tariff or an extension of Term) to put Buyer in the same economic position it had been had the relevant change not occurred, provided that the Tariff shall never exceed the prevailing utility tariff; or

45.2.2. terminate the PPA, subject to the Buyer paying the Seller a Termination Payment as set out below.

46. GOVERNING LAW AND DISPUTES

46.1. All matters relating to or arising out of this Term Sheet will be governed by and construed and interpreted under the Laws of South Africa.

46.2. In the event of any dispute arising out of this Term Sheet (excluding in relation the Key Terms to this Term Sheet), the Parties will attempt to reach an amicable settlement of their differences. Failing such settlement, such dispute shall be referred to arbitration and settled by arbitration according to the rules then in effect of the Arbitration Foundation of Southern Africa. Such arbitration shall be held in Johannesburg and conducted in the English language before 1 arbitrator appointed in accordance with the said rules. The arbitrator shall apply the laws of South Africa to the merits of the dispute.

47. CONFIDENTIALITY

47.1. Each Party agrees to keep strictly confidential both the contents and existence of this Term Sheet and the fact that the Parties are in discussions in relation thereto and agrees not to disclose any such matters without the prior written approval of the other Party, acting reasonably, provided, however, that the Parties may disclose these terms to their representatives, directors, shareholders and legal or financial advisors with a need to know and subject thereto that equal confidentiality restrictions be imposed on such representatives, directors, shareholders and legal or financial advisors.

48. NOTICES

48.1. The Seller chooses the following addresses for the services of any written notice or legal proceedings in connection with this Term Sheet:

48.1.1. the Seller: [insert name] (Pty) Limited

[Insert physical address]

email: [insert e-mail address}

and marked for the attention of [insert name]

48.1.2. the Buyer: [insert name] (Pty) Limited

[Insert physical address]

email: [insert e-mail address}

and marked for the attention of [insert name]

48.2. The notice shall be deemed to have been duly given:

48.2.1. on delivery, if delivered to the Seller's physical address in terms of Paragraph 6.1 before 16h30 on a Business Day, or if delivered on a Business Day but after 17h00 on that Business Day or on any Day other than a Business Day, it will be deemed to have been given at 08h30 on the first Business Day after it was delivered; and

48.2.2. on despatch, if sent to the Party's e-mail address before 17h00 on a Business Day or if sent on a Business Day but after 17h00 on that Business Day, or on any Day other than a Business Day, it will be deemed to have been given at 08h30 on the first Business Day after it was sent, unless the addressor is aware, at the time the notice would otherwise be deemed to have been given, that the notice is unlikely to have been received by the addressee through no act or omission of the addressee.

48.3. The Seller may change its address which is not a post office box or poste restante or e-mail address for this purpose by notice in writing to the Buyer, such change to be effective only on and with effect from the 7th Business Day after the giving of such notice.

48.4. Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by the Seller shall be an adequate written notice or communication to the Seller notwithstanding that it was not sent to or delivered at the Seller's chosen address in Clause 48.1.1