
POWER PURCHASE AGREEMENT
(SWARTLAND MUNICIPALITY, DARLING GREEN UTILITY)

This power purchase agreement follows the Purchaser's award of tender T42/21/22 to the Seller on 26 July 2022. It relates to a 1MW power plant that will provide energy via At Darling Green Estate (the "Estate") for the Estate's consumption, to Swartland Municipality, who will purchase all excess energy not consumed by the Estate. It is recorded that the Power Plant cabling runs via the Estate and will accordingly first supply in the Estate's Energy needs with the excess being exported to the Purchaser at the Delivery Point. It is therefore the excess Energy generated by the Power Plant and not consumed by the Estate that is the subject matter of this Agreement.

MAIN TERMS

This section (the "Main Terms") sets out the principal terms agreed to between the Parties and, together with the Standard Terms and Conditions and other Annexures hereto, forms the "Agreement" between the Parties:

Seller	Darling Green Utility (Pty) Limited, a private company with limited liability duly registered and incorporated as such in accordance with the applicable Laws of South Africa, under registration number 2019/424879, with registered address at 20 Sir David Baird, Bloubergstrand, Cape Town, Western Cape, 7441
Purchaser	Swartland Municipality, a local municipality duly established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), with registered address at 1 Church Street, Malmesbury
Premises	The property where the Power Plant will be installed, located at Erf 3778 Darling, Western Cape Province
Project Site	The portion(s) of the Premises on which the Power Plant will be constructed (as referred to on the land lease authorisation map)
Power Plant	The 1000 kW (AC) solar photovoltaic plant, as more fully described in clause 2.2.37, the specifications, layout and components of which are as set out in Annexure B hereto
Contracted Capacity	The electricity generation capability of the Power Plant which specific yield shall be 2 153kWh/kWp/per annum, and 2 627 142 kWh (in year 1), during daylight hours, reducing thereafter with (Zero point seven percent) 0.7% per year, which the Purchaser has contracted with the Seller to receive from the Power Plant (and which is the excess of Energy not consumed by the Estate). For the avoidance of doubt, the contracted capacity shall be net of auto-consumption and electrical losses up to the Delivery Point. For the avoidance of doubt the maximum generation capability of the Power Plant will not exceed 1000 kW (AC).
Installed Capacity	The total installed capacity of the Power Plant which is equal to 1000 kW (AC).
Conditions Precedent	The conditions set out in Clause 4 of this Agreement, fulfilment of which is a prerequisite for this Agreement to become of full force and effect
Commercial Operations Date	The date specified in the Power Plant Completion Notice as being the Commercial Operation Date of the Power Plant in terms of clause 6.4 (Commercial Operation Date).

Scheduled Commercial Operation Date	The Seller shall, at its cost, procure that the Power Plant be installed at the Premises and be successfully commissioned in terms of the scheduled installation and commissioning timeline per Annexure E.
Effective Date	Means the date upon which the last of the Conditions Precedent are fulfilled.
Energy Payment	Calculated in accordance with the Tender, Annexure C and as more fully stipulated in clause 2.2.21
Energy Payment Commencement	The first monthly Energy Payment shall be calculated from the first day following the Commercial Operation Date
Payment Date	Payable in arrears within 30 (thirty) Days of the date of the applicable invoice issued for that billing month
Term	This Agreement will endure for a period of 3 years calculated from the first day after Successful Commissioning of the Power Plant or until terminated in terms of this Agreement
Tender	Tender T42/21/22 awarded to the Seller, by the Purchaser, on 26 July 2022
Access to Project Site	The Landlord of the Premises has entered into a separate lease agreement (the " Land Lease Agreement ") with the Seller for the purposes of inter alia, granting the Seller access to the Project Site on the Premises for operation and maintenance purposes for the duration of the Term, a copy of which is attached as Annexure F .
Landlord	The landlord who executes the Land Lease Agreement will be At Darling Green Estate (Pty) Limited , a private company with limited liability duly registered and incorporated as such in accordance with the applicable Laws of South Africa, under registration number 2006/031215/07 with registered address at 20 Sir David Baird Drive, Bloubergstrand, Western Cape.
Terms and Conditions	The Purchaser agrees to comply with all standard terms and conditions specified in Annexure A hereto
Distributor	The Swartland Municipality, South Africa
Maintenance	The operations and maintenance (O&M) services for the Power Plant (including the feeder cable to the Darling Substation) will be monitored and provided by the Seller to ensure that preventative, routine and non-routine maintenance and repairs are carried out at the solar system to provide long-term and reliable operation

Seller:

Attention:	Klaus Göbel
Physical Address:	20 Sir David Baird Drive, Bloubergstrand, Cape Town, Western Cape, 7441
Email:	klaus@darlinggreen.co.za

Purchaser:

Attention:	The Municipal Manager
Physical Address:	1 Church Street, Malmesbury Western Cape, 7300
Postal Address:	Privatebag X52, Malmesbury, Western Cape 7299



Email:	swartlandmun@swartland.org.za
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ANNEXURE A

STANDARD TERMS AND CONDITIONS

1. PARTIES

- 1.1. The Parties to this Agreement are the Seller and the Purchaser.
- 1.2. The Parties agree as set out below.

2. DEFINITIONS AND INTERPRETATION

- 2.1. The headings to the clauses and annexes to this Agreement are for reference purposes only and shall in no way govern or affect the interpretation of, nor modify or amplify the terms of this Agreement, nor any clause or annexure hereof.
- 2.2. Unless inconsistent with the context, the words and expressions set forth below, shall bear the following meanings and cognate expressions shall bear corresponding meanings.
 - 2.2.1. **"Affected Party"** means a party to this Agreement which is rendered unable to perform its contractual obligations due to the occurrence of a Force Majeure Event.
 - 2.2.2. **"Agreement", "this Agreement", "herein", "hereto" and "hereof"** and similar expressions may be used interchangeably and refer to the power purchase agreement as set out in this document, including any annexes and schedules.
 - 2.2.3. **"Approvals"** means all permissions, authorities, permits, licences, certificates, authorisations, registrations, grants, exemptions, acknowledgements, records of decision, consents, sub-divisions, rights of way, accesses, zonings, including any condition of or limitation of such approval, required to be issued by any Responsible Authority in connection with the performance of the construction, operation and maintenance of the Power Plant by the Seller.
 - 2.2.4. **"Attorneys"** means Hamer Attorneys Inc, Durbanville.

2.2.5. **"Billing Period"** means the period measured from the end of the previous Billing Period until the last day of the applicable Month, provided that:

2.2.5.1. the first Billing Period shall commence on the first day following Successful Commissioning and end on the last day of the Month in which the Successful Commissioning occurs; and

2.2.5.2. the final Billing Period shall end on the Termination Date.

2.2.6. **"Business Day"** means any day other than a Saturday, Sunday and officially recognized public holiday in South Africa.

2.2.7. **"Codes"** means, as applicable, any code in respect of electricity generation, distribution or transmission as published by NERSA from time to time.

2.2.8. **"Change in Law"** means:

2.2.8.1. the adoption, promulgation, modification, repeal, application, or reinterpretation after the Signature Date by any Responsible Authority of any Law, save for any of these resulting in an increase in taxes of general application which does not discriminate against any Party or against a Party and other parties undertaking projects like the installation of the Power Plant as contemplated in this Agreement; or

2.2.8.2. market liberalisation in South Africa occurs which commercially justifies a change in the economic and/or financial risk allocation in this Agreement and/or the Land Lease Agreement; or

2.2.8.3. a liberalisation of the policies (including, but not limited to, the policy in respect of the banking of energy) of the network operator occurs which commercially justifies a change in the economic and/or financial risk allocation in this Agreement and/or the Land Lease Agreement; or



- 2.2.8.4. any change to the terms and conditions or to the interpretation or application of any Approvals or addition of new terms and conditions after granting said Approval; or
- 2.2.8.5. the revocation, repeal or cessation of effectiveness of any Approvals prior to the expiration date of such Approval, provided that the relevant Party is in compliance with the material requirements and conditions established therein or if any Approval 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
- 2.2.8.6. the occurrence of the events contemplated above:
 - 2.2.8.6.1. results in a material adverse change in respect of Taxes and duties applicable or passed through to the Seller or the Purchaser; or
 - 2.2.8.6.2. establishes, modifies, or abolishes requirements for, or interferes with, the activities of the Seller or the Purchaser in connection with the Power Plant or the Parties' corporate affairs in connection with the Power Plant, or that affect the obligations or rights of the Seller under this Agreement; or
 - 2.2.8.6.3. renders the performance by the Seller, the Purchaser or any other Person of its obligations under this Agreement according to its terms, unlawful, illegal, or unenforceable; or
 - 2.2.8.6.4. 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; or

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2.2.8.6.5. could not reasonably have been foreseen by any person in the position of any 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.

- 2.2.9. "**Commercial Operation Date**" shall have the meaning ascribed to it in the Main Terms.
- 2.2.10. "**Contracted Capacity**" shall have the meaning ascribed to it in the Main Terms.
- 2.2.11. "**Darling Main Substation**" means the electricity substation located at Erf 551 Darling, 33°22'8.36"S 18°22'36.35"E
- 2.2.12. "**Default Interest Rate**" means the Prime Rate + 2% (two per cent).
- 2.2.13. "**Delivery Point**" means the 11 kV municipal metering point to the Estate inside the Darling Main Substation connected on the higher voltage side of the generator transformer of the Power Plant, where the Power Plant physically connects to the Distribution System (whether such point is situated on or off the Premises), and where the Energy Generated is to be delivered by the Seller to the Purchaser as described in **Annexure B**.
- 2.2.14. "**Direct Loss**" means, in respect of either Party, any losses, liabilities, expenses, damages, costs and claims (including claims) arising directly as a result of the other Party's failure to perform its obligations under this Agreement, and for the avoidance of doubt, includes, in respect of the Seller, any loss of payment which would have been due to it but for the Purchaser's breach of this Agreement.
- 2.2.15. "**Distribution System**" means the distribution network owned and operated by the Purchaser which operates at a nominal voltage of eleven (11) kV or less, as described in the Codes, as that system may be refurbished, modified, extended or developed from time to time during the Term (but not including any private network used by the Power Plant or customers of the Purchaser).



2.2.16. **Distribution Network Failure Event**" means events which cause the Distribution System to be unavailable, interrupted, curtailed or inoperable (which is not caused by any Force Majeure or loadshedding by the National System Operator) such as:

2.2.16.1. annual maintenance of the Distribution System by the Purchaser;

2.2.16.2. National System Operator's annual maintenance of the supply network; and

2.2.16.3. General outages of the Distribution System.

Such events/outages will be confirmed by the Purchaser in terms of the Purchaser's notices to the Seller in terms of clause 12.1, 12.2 and 12.3.

2.2.17. **"Distribution Network Failure Threshold"** means where the Distribution Network Failure Event/s cause an outage or renders the Distribution System unavailable for more than 192 Daylight hours (generating hours 06:00-19:00) of downtime per annum as measured on each anniversary of the date of Successful Commissioning (i.e guaranteed availability of the Distribution System of 95.5% per annum);

2.2.18. **"Electricity Meter(s)"** means the 2 (two) meters and related equipment installed at the Darling Main Substation to measure the energy input and output of the Power Plant owned by the Purchaser and any additional Electrical Meters, installed for the purpose of verifying the energy supplied to the Purchaser by the Power Plant.

2.2.19. **"Energy"** means electrical energy and is measured and expressed in kWh.

2.2.20. **"Energy Generated"** means, for the applicable Billing Period, the Energy generated by the Power Plant and exported to the Purchaser as recorded by the Electricity Meter at the Delivery Point.

It is recorded that the Power Plant cabling runs via the Estate and will accordingly first supply in the Estate's Energy needs with the excess

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being exported to the Purchaser at the Delivery Point. A Single line diagram is included in Annexure B. It is therefore the excess Energy generated by the Power Plant and not consumed by the Estate that is the subject matter of this Agreement.

The Energy Generated billed will be verified on a quarterly basis by an independent metering and verification company to be nominated by the parties and appointed by the Seller and failing agreement by following this process: In the event that the Energy Generated as verified by the independent appointed metering company is disputed within 10 Business Days of the quarterly verification, then the Energy Generated shall be determined by a professional electrical engineer (acting as an expert and not as an arbitrator) of not less than 10 (ten) years standing, appointed by the Parties, and upon the Parties failing to appoint an expert as aforesaid within 3 Business Days of the one requiring the other to so appoint, then appointed by the President, for the time being, of the Engineering Council of South Africa.

2.2.21. **“Energy Consumed”** means for the applicable Billing Period the energy supplied by the Purchaser at the bidirectional meter situated at the Delivery Point inside the Darling Main Substation owned by the Purchaser (the Municipality) to the Seller for consumption and/or use by the Estate to power its own operations.

The energy so supplied will be billed on a monthly basis in line with the municipality’s monthly billing period and in accordance with the specific tariff that the Seller and the Purchaser have agreed to as per a separate supply agreement.

2.2.22. **“Energy Payment”** means the monthly amount payable by the Purchaser to the Seller per Billing Period, for the renewable active energy generated by the Power Plant and supplied to the Purchaser, under and in terms of this Agreement, which amount shall be calculated in accordance with the following formula:

$$A = B \times (C \times (1 - D))$$

Where:



- A =** the Energy Payment; and
- B =** the Energy Generated in respect of the applicable Billing Period as measured by the Electricity Meter at the Delivery Point; and
- C =** Energy Tariff
- D =** Discount
- for year 1: 15%; or
- for year 2: 12.5%; or
- for year 3: 10%; and
- as amplified by the table contained in **Annexure C**.

2.2.23. **"Energy Tariff"** means, at the applicable time, the prevailing National System Operator's Megaflex Local Authority Time of Use Active Energy Tariff components, expressed on a "per kWh" basis (including all levies, fees and charges added thereto on a "per kWh" consumed basis), charged by the National System Operator to the Purchaser, for distribution thereof to the town of Darling.

2.2.24. **"Environmental Credits"** means all financial benefits, credits, rights, entitlements, or interests of an environmental nature that are created or otherwise arise from the use of the Power Plant. Forms of such benefits shall include, but not be limited to, all environmental air quality credits, green credits, renewable energy credits, certificates, carbon, or other base emissions reductions (whether they are verified / certified or not), tags offsets, allowances or similar products or rights, howsoever named:

2.2.24.1. resulting from the avoidance of the emission of any gas, chemical or other substance, including but not limited to mercury, nitrogen oxide, sulphur dioxide, carbon dioxide, carbon monoxide, particular matter or similar pollutants or contaminants of air, water or soil, gas chemical or other substances; or

2.2.24.2. attributable to the generation or use of Energy from or by the Power Plant; or

2.2.24.3. otherwise attributable to the Power Plant during the Term.



Environmental Credits shall include those currently existing or arising during the Term under Law or international law relevant to the avoidance of any emission described in any governmental, regulatory or voluntary programmes, including but not limited to, the United Nations Framework Convention on Climate change and related Kyoto Protocol (including successor regimes) or other programmes, Law or regulations involving or administered by any competent authority in the South Africa or any competent authority in any other country.

2.2.25. **"Estate Substation"** means the electricity substation located at 33°22'43.89"S 18°24'1.15"E;

2.2.26. **"Force Majeure"** means any act, event, or circumstance, or any combination of acts, events or circumstances which:

2.2.26.1. is beyond the reasonable control of the Affected Party; and

2.2.26.2. is without fault or negligence on the part of the Affected Party and is not the direct or indirect result of a breach by the Affected Party of any of its obligations under this Agreement; and

2.2.26.3. could not have been (including by reasonable anticipation) avoided or overcome by the Affected Party, acting in accordance with the standards of a Reasonable and Prudent Operator; and

2.2.26.4. prevents, hinders or delays the Affected Party in its performance of all (or part) of its obligations under this Agreement,

(a **"Force Majeure Event"**).

Without limiting the generality of the foregoing, a Force Majeure Event may include any of the following acts, events or circumstances, but only to the extent that it satisfies the requirements set out in sub-clauses 2.2.26.1 through 2.2.26.4 above:



2.2.26.5. any action or failure to act by a Responsible Authority, including without limitation, any authorisations –

2.2.26.5.1. ceasing to remain in full force and effect other than in accordance with the terms and conditions upon which it was issued or by reason of the failure of the holder thereof to comply with any of its terms or conditions; and/or

2.2.26.5.2. not being issued or renewed upon application having been properly made; and/or

2.2.26.6. lightning, fire, earthquake, tsunami, drought, unusual flood, violent storm, cyclone, typhoon, tornado or any other natural calamity or act of God; and/or

2.2.26.7. pandemic, epidemic or plague (including for the avoidance of doubt any effects of the outbreak of COVID-19 (or any mutations or further strains thereof)); and any instruction, regulation, directive legislation or the like issued by a Responsible Authority in response to such acts, events or circumstances; and/or

2.2.26.8. strikes, lockouts and other industrial action other than by employees of the Affected Party or of any affiliate of the Affected Party or of any contractor or supplier of the Affected Party or of any affiliate of the contractor or supplier; and/or

2.2.26.9. accidents or explosions; and/or

2.2.26.10. acts of war whether declared or not, invasion, armed conflict, act of foreign enemy or blockade in each case occurring within or involving the Republic of South Africa; and/or

2.2.26.11. acts of rebellion, riot, civil commotion, act or campaign of terrorism, or sabotage of a political nature, in each case occurring within the Republic of South Africa, except in

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respect of these acts forming part of or directly caused by strikes, lock outs and other industrial action by the employees of the Affected Party or of any affiliate of the Affected Party or of any contractor or supplier of the Affected Party or of any affiliate of the contractor or supplier; and/or

2.2.26.12. boycott, sanction or embargo; and/or

2.2.26.13. any restriction imposed by a Responsible Authority in respect of the supply of water to the Power Plant and/or any limitation imposed by a Responsible Authority in respect of any water use right pursuant solely to any natural event, disaster or act of God, (which includes but is not limited to cyclone, drought, fire, lightning, earthquake, explosion, tsunami, tempest, unusual flood, violent storm, typhoon, tornado, ionizing, radiation, pandemic, epidemic or plague); and/or

2.2.26.14. any failure or delay by a Responsible Authority to issue any permits, licenses or approvals which a Party is required to provide under this Agreement and for which such Party has duly and timeously applied for and has diligently pursued in accordance with the standards of a Reasonable and Prudent Operator.

2.2.27. **“Land Lease Agreement”** means the written land lease agreement executed on or about 20 July 2020 between the Landlord and the Seller, in terms of which the Seller rents the area of the property where the Power Plant will be installed on the Premises from the Landlord for 25 (twenty-five) years.

2.2.28. **“Invoice”** means an itemized VAT invoice prepared by the Seller for each Billing Period.

2.2.29. **“kWh”** means kilowatt hours.

2.2.30. **“Landlord”** means the entity described as such in the Main Terms.



- 2.2.31. "**Law**" means any law (including common or customary law), statute, constitution, decree, judgment, treaty, regulation, directive, by-law or order, or any other legislature proclaimed or promulgated by any branch of government (including local government) or other statutory, administrative, or regulatory body or court.
- 2.2.32. "**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
- 2.2.32.1. if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and
- 2.2.32.2. if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month,
- and "**Monthly**" shall have a corresponding meaning.
- 2.2.33. "**National System Operator**" means Eskom Holdings SOC Limited.
- 2.2.34. "**NERSA**" means the National Energy Regulator of South Africa as established by section 3 of the National Energy Regulator Act, 4 of 2004.
- 2.2.35. "**Parties**" means collectively the Seller, and the Purchaser and "**Party**" means either of them.
- 2.2.36. "**Person**" means, but is not limited to, any person, firm, company, corporation, government, state or agency of a state or any association, trust, partnership, or joint venture (whether contractual or incorporated and whether having a separate legal personality or not) or two or more of the foregoing.
- 2.2.37. "**Power Plant**" shall have the meaning ascribed to it in the Main Terms, comprising of all machinery and equipment, all associated buildings, structures, roads that are not national, provincial or

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municipal roads, and other appurtenances, together with all required interfaces to be constructed for the operation of that facility, including the Power Plant connection at the Estate Substation (including the 11 Kv cable from the plant to the Darling Main Substation and the termination on to the breaker terminals) and as the case may be, the further specifications, layout and components of which are as set out in **Annexure B** hereto.

2.2.38. **"Premises"** shall have the meaning ascribed to it in the Main Terms.

2.2.39. **"Prime Rate"** means the basic rate of interest per annum publicly quoted by First National Bank, a division of First Rand Bank Limited (or should First National Bank or First Rand Bank Limited cease to exist, any other major commercial bank in South Africa as the rate at which such bank lends on overdraft, compounded Monthly in arrear, and calculated on a 365 day year factor, irrespective of whether or not the year is a leap year, as reflected in a certificate issued by a manager of First National Bank Limited (whose appointment, designation or authority it shall not be necessary to prove), which certificate shall be *prima facie* proof as to the matters stated therein.

2.2.40. **"Project Site"** shall have the meaning ascribed to it in the Main Terms.

2.2.41. **"Purchaser"** shall have the meaning ascribed to it in the Main Terms.

2.2.42. **"Purchaser Default"** means any of the following events or circumstances (in each case, other than where solely due to Force Majeure or a System Event):

2.2.42.1. any delay solely attributable to the Purchaser, in its capacity as Distributor, in the connection of the Power Plant to the Distribution System (**"Distribution Connection Works"**); and/or failure to make payment as contemplated in clause 10.6.

2.2.43. **"R"** means South African Rand, the lawful currency of South Africa.

2.2.44. **"Reasonable and Prudent Operator"** means a person seeking in good faith to perform its contractual obligations and, in so doing and

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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, engaged in the same or a similar type of undertaking, in the same or similar circumstances and conditions, and any references herein to the **“standards of a Reasonable and Prudent Operator”** shall be construed accordingly.

2.2.45. **“Responsible Authority”** means any ministry or department, any minister, any organ of state, any official in the public administration or any other governmental or regulatory department, commission, institution, entity, service utility, board, agency, instrumentality or authority (in each case, whether national, provincial or municipal) or any court, each having jurisdiction over the matter in question.

2.2.46. **“Scheduled Commercial Operation Date”** shall have the meaning ascribed to it in the Main Terms, as extended or amended in accordance with the terms of this Agreement.

2.2.47. **“Signature Date”** means, subject to clause 34, the date upon which this Agreement is signed by the Party signing same last in time, provided that all Parties to the Agreement have then signed and executed this Agreement.

2.2.48. **“South Africa”** means the Republic of South Africa.

2.2.49. **“Seller”** shall have the meaning ascribed to it in the Main Terms.

2.2.50. **“Seller Default”** means any of the following events or circumstances (in each case, other than where solely due to Force Majeure or a System Event):

2.2.50.1. an order being made for the winding-up, liquidation, business rescue or dissolution of the Seller (in any of these cases, where applicable, whether provisional or final and whether voluntary or compulsory); or



2.2.50.2. the Seller has not commenced and continued construction of the Power Plant within 90 days of the Effective Date; or

2.2.50.3. the Seller fails to achieve the Commercial Operation Date on or within 90 days after the Scheduled Commercial Operation Date; or

2.2.50.4. the Seller abandons the construction or operation and maintenance of the Power Plant; or

2.2.50.5. any other breach of any material provision of this Agreement has occurred more than once and:

2.2.50.5.1. the Purchaser has given an initial warning notice to the Seller describing that breach in reasonable detail and stating that if that breach persists or recurs then the Purchaser may take further steps to terminate this Agreement; and

2.2.50.5.2. the Purchaser has issued a second and final warning notice following the persistence or recurrence of that breach in the period of 45 (forty-five) days after the initial warning notice, stating that if that breach persists or recurs within the period of 45 (forty-five) days after the final warning notice then the Purchaser may exercise its rights in terms of the clause below relating to Seller default.

2.2.51. **"Special Loss"** means, in relation to either Party, any loss or damage suffered or incurred by it which does not constitute a Direct Loss, including indirect losses, consequential or special losses and wasted or increased overheads.

2.2.52. **"Successful Commissioning"** means that point in time –

2.2.52.1. as determined by the Seller in its reasonable discretion and notified by it to the Purchaser in writing (in a Power Plant Completion Notice), when the Power Plant has been

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successfully and finally installed, commissioned and tested at the Premises, or

2.2.52.2. if the determination in clause 2.2.52.1 is disputed by the Purchaser within 10 (ten) Business Days of the Seller notifying the Purchaser as aforesaid, as determined by a professional independent electrical engineer (an **"Independent Engineer"**) (acting as an expert and not as an arbitrator) of not less than 10 (ten) years standing,

2.2.52.2.1. appointed and compensated by the Parties jointly in equal shares, or

2.2.52.2.2. upon the Parties failing to appoint the expert as aforesaid within 3 (three) Business Days of the one requiring the other to so appoint, then appointed by the President, for the time being, of the Engineering Council of South Africa.

2.2.53. **"System Event"** means any constraint, unavailability, interruption, curtailment, breakdown, inoperability or failure of or disconnection from, the whole or any part of the Distribution System, that is not caused by any Force Majeure or an act or omission of the Seller or the Purchaser. It is specifically agreed that curtailment by the National System Operator ("load shedding") will constitute a System Event

2.2.54. **"Taxes"** means all or any taxes of whatsoever nature, including without limitation, income tax, capital gains tax, dividend tax (whether levied as a withholding tax or otherwise), Value Added Tax, levies, assessments, imposts, deductions, charges and withholdings whatsoever in terms of any tax legislation and includes all penalties or interest payable because of any failure or delay in paying taxes.

2.2.55. **"Tender"** shall have the meaning ascribed to it in the Main Terms.

2.2.56. **"Term"** means the term for which this Agreement will endure, which will be for a period, starting on the Commercial Operation Date and ending on the date falling the number of years described in the Main



Terms after the Commercial Operation Date or until otherwise terminated in accordance with the terms of this Agreement.

- 2.2.57. **"Termination Date"** means the date of the expiry of the Term or termination in terms of clause 23.
- 2.2.58. **"VAT"** or **"Value Added Tax"** means Value Added Tax or any tax similar or equivalent to Value Added Tax imposed by or in accordance with the Value Added Tax Act 10 of 2000.
- 2.2.59. **"Year"** means a period of 12 consecutive Months, and **"Yearly"** refers to a year commencing on the date on which this Agreement comes into operation or any anniversary of that date.
- 2.3. Unless inconsistent with the context or save where the contrary is expressly indicated:
- 2.3.1. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in this clause 2, effect shall be given to it as if it were a substantive provision of this Agreement; and
- 2.3.2. where any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day.
- 2.4. If the day for performance of any obligation to be performed in terms of this Agreement, should fall on a day which is not a Business Day, the relevant day for performance shall be the subsequent Business Day.
- 2.5. Any reference in this Agreement to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time.
- 2.6. Any reference in this Agreement to this Agreement or any other agreement or document shall be construed as a reference to this Agreement or, as the case may, such other agreement or document as same may have been, or may from time to time be amended, varied, novated or supplemented.



- 2.7. A reference to a Party includes that Party's successors-in-title and permitted assigns.
- 2.8. Unless inconsistent with the contents, an expression which denotes:
- 2.8.1. any one gender includes the other genders; and
 - 2.8.2. a natural Person includes an artificial Person and *vice versa*; and
 - 2.8.3. the singular includes the plural and *vice versa*.
- 2.9. Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that the term is not being defined in this clause 2.
- 2.10. The rule of construction that, in the event of ambiguity, the Agreement shall be interpreted against the Party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement or any part thereof.
- 2.11. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.12. In the event of an incorrect clause reference, the clause number shall be inferred from the context of the referring clause, and in the event of a dispute, shall be determined by the Attorneys (acting as an expert and not as arbitrators) whose determination shall be final and binding on the Parties.
- 2.13. Whenever any Person is required to act "*as an expert and not as an arbitrator*" in terms of this Agreement, then –
- 2.13.1. the determination of the expert shall (in the absence of manifest error) be final and binding; and
 - 2.13.2. subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid in accordance with this determination; and
 - 2.13.3. the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the



circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable; and

2.13.4. the expert shall consult with the relevant Parties (provided that the extent of the expert's consultation shall be in his or its sole discretion) prior to rendering a determination; and

2.13.5. having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any Person considered by him or it to have expert knowledge with reference to the matter in question.

2.14. The words “**include(s)**”, “**including**” and “**in particular**” shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word(s).

2.15. The words “**other**” and “**otherwise**” shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible.

2.16. The words “**shall**”, “**will**” and “**must**” used in the context of any obligation or restriction imposed on a Party have the same meaning.

2.17. The words “**Material**” and “**Materially**” means, when used as an adjective in conjunction with an event, condition, circumstance, effect or other item that there is a substantial likelihood that a reasonable person will in the matter concerned, attach importance to the event, condition, circumstance, effect, or item in evaluating the Party to which it relates and/or the event, condition, circumstance or effect contemplated in this Agreement.

2.18. Where this Agreement requires a Party to use its “**Best Endeavours**” in relation to an action or omission, that Party shall do all such things as are reasonably necessary or desirable so as to achieve that action or omission, and to the extent that the action or omission is frustrated, hindered or otherwise difficult to obtain, the Parties shall, to the extent that it is commercially reasonable to do so, consult and cooperate with each other and continue to take action so as to achieve that action or omission, provided that any actions or omissions required to be undertaken shall not be such as to result in a breach of a judiciary duty or contravention of any Law.

3. INTRODUCTION



The Parties wish to stipulate in this Agreement the terms and conditions upon which the Purchaser agrees to purchase, and the Seller agrees to sell a portion of the renewable energy generated by the Power Plant.

4. **CONDITION PRECEDENT**

4.1. The rights and obligations of the Parties in terms of this Agreement other than those contained in clause 2, this clause 4 and clauses 28 to 34 (both inclusive) all of which shall be of immediate force and effect is subject in their entirety to the fulfilment of the following condition precedent, namely that:

4.1.1. The Seller shall obtain all relevant rights, approvals and licenses to operate the Power Plant and sell Energy to the Purchaser; and the Land Lease Agreement securing access to the Power Plant shall be executed by all the parties thereto and that the same becomes unconditional in accordance with its terms, save for any condition that this Agreement must be executed and become unconditional.

4.1.2. the board of the Purchaser have passed a resolution authorising the Purchaser to enter into this Agreement, and certified copies of such authority or resolution shall have been provided to the Seller; and

4.1.3. the board of the Seller shall have passed a resolution authorising the Seller to enter into this Agreement, and certified copies of such authority or resolution shall have been provided to the Purchaser; and

4.1.4. all Schedules to this agreement shall have been completed in full, signed by the Parties and included into this Agreement.

4.2. If the condition precedent is not fulfilled or waived, subject to 4.3 (as the case may be) within 6 (six) Months of the Signature Date or within such an extended period as the Parties may agree to in writing, this Agreement in its entirety, shall never become effective and to the extent already effective shall cease to be effective and –

4.2.1. no Party shall have any right or claim against the other arising out of this Agreement and the negotiations preceding this Agreement; and



- 4.2.2. to the extent that this Agreement may have been partially implemented, the Parties shall be restored as near as may be reasonably possible to their *status quo ante*.
- 4.3. The Parties acknowledge that the conditions precedent referred to in clause 4.1 above, have been incorporated in this Agreement for the benefit of the Parties and may only be waived by agreement between the Parties in writing, and subject to such conditions as they may stipulate.
- 4.4. The Parties shall each use all reasonable efforts to satisfy the Conditions Precedent for which it is responsible within 6 (six) Months after the Signature Date. The Purchaser shall provide the Seller with such reasonable cooperation as may be necessary to assist the Seller in satisfying the Conditions Precedent listed above.
- 4.5. Each Party shall be responsible at its own expense for satisfying and procuring the satisfaction of those Conditions Precedent for which it is responsible.
- 4.6. The Parties may agree to waive the Conditions Precedent listed in clause 4.1 in writing. Upon agreement to waive any of the Conditions Precedent in writing, the relevant Condition(s) Precedent will be deemed to have been satisfied for the purposes of clause 4.1.

5. DESIGN

- 5.1. The Seller shall at its own costs design and cause for the Power Plant to be commissioned as well as the associated reticulation from the Power Plant to the tie-in point(s), the essential metering equipment, switchgear and protection devices shall be fully completed and commissioned.
- 5.2. The output of the Power Plant will not exceed the Installed Capacity.
- 5.3. It is recorded that the Power Plant's purpose is to achieve energy savings at the Estate and to deliver the excess energy to the Purchaser. The design of the Power Plant is such that it will prevent energy output to the National System Operator's grid. The Power Plant will accordingly operate in terms of the following regime:
- 5.3.1. Firstly, the Power Plant will curtail output through inverter settings which will adjust its output automatically when it senses that the




Distribution Network's consumption reaches a minimum "set point";
or

- 5.3.2. Secondly, the Power Plant will temporarily switch-off inverter output automatically in instances where curtailment (clause 5.3.1) fails or is insufficient to prevent energy being exported into the National System Operator's grid.

6. PROJECT SITE

6.1. Project Site

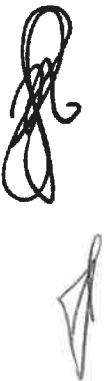
The Seller shall obtain and maintain undisturbed use and possession of the Project Site and such associated rights as may be necessary for the purposes of undertaking and implementing the Tender for the duration of the Term. The Seller shall acquire such other land and/or rights in respect of land as it requires in order to perform its obligations under this Agreement and all such land and rights shall be deemed to form part of the Project Site and shall be at the sole risk of the Seller, subject to applicable Laws. Details of the Project Site, including a scale map that identifies the location of the Project Site, are included in Annexure B and a diagram setting out the distribution lines and substations, interconnection facility, and significant ancillary facilities including the facilities at the Delivery Point, is included in **Annexure B**.

6.2. Risk and liability

Subject to applicable Laws, the Seller shall be fully responsible to the Purchaser for the suitability and condition of the Project Site, including but not limited to its climatic, hydrological, hydro-geological, ecological, environmental, geotechnical, geological, paleontological and archaeological conditions (including the discovery of any heritage resources as defined in the National Heritage Resources Act, 25 of 1999), the adequacy of the road and rail links to the Project Site, the availability of adequate supplies of utilities, and the security of the site.

6.3. Purchaser's inspection rights

The Purchaser shall have the right from time to time, on not less than 48 (forty-eight) hours' written notice, to designate not more than 4 (four) of the Purchaser's representatives who shall be entitled to have access to the Project



Site at reasonable times for the purposes of viewing the Power Plant and verifying the Seller's compliance with its obligations under this Agreement; provided that the Purchaser shall ensure that its representatives shall comply with all Project Site health and safety rules, precautions and standards, and any other reasonable requirements of the Seller and its Contractors, and shall not interfere with the construction or operation of the Power Plant.

6.4. Commercial Operation Date

6.4.1. The Seller shall use its reasonable endeavours to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date as per project timeline in terms of Annexure E.

6.4.2. If the Seller becomes aware that, for any reason, the Commercial Operation Date will not be achieved by the Scheduled Commercial Operation Date, the Seller shall, without any unreasonable delay, notify the Purchaser in writing of that fact and measures that it will take to mitigate such delay and of the impact of such measures on its ability to achieve the Scheduled Commercial Operation Date, upon implementing such measures.

7. TESTING AND COMMISSIONING

7.1. Connection to the Distribution System

7.1.1. The Seller shall give the Purchaser at least 60 (sixty) days' advance written notice of the date on which it anticipates it will require the Power Plant to be connected to the Distribution System.

7.1.2. The Seller shall construct the Power Plant connection to enable the Power Plant to connect to the Distribution System, including the cable into the Darling Main Substation and the switchgear for the Power Plant.

7.2. Power Plant Completion and Commissioning

The Seller shall use all reasonable endeavours to commission the Power Plant, at its own cost and in each case in accordance with this clause, the Codes, and the standards of a Reasonable and Prudent Operator, to cause

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the Commercial Operation Date to fall on or before the Scheduled Commercial Operation Date.

7.3. Commercial Operation Date (COD)

7.3.1. The Seller shall give the Purchaser no less than 60 (sixty) days' prior written notice of its intention to issue the Power Plant Completion Notice

7.3.2. The Seller may not issue the Power Plant Completion Notice:

7.3.2.1. until the Seller has demonstrated that the Power Plant is compliant with the Codes and/or has obtained written confirmation from an Independent Engineer to this effect; and

7.3.2.2. until NERSA, or any person nominated by NERSA for such purpose, has issued to the Seller a notification of the Power Plant's compliance with the Codes; and

7.3.2.3. until the Distributor has provided written confirmation to the Seller certifying that the Power Plant may be connected to the Distribution System for the purposes of delivering Energy.

7.3.3. Following compliance with clause 7.3.1 and upon the confirmation of the Power Plant's Successful Commissioning, the Seller shall issue the Power Plant Completion Notice to the Purchaser within 2 (two) Business Days of Successful Commissioning, which notice shall be in the form of **Annexure D**.

7.3.4. If the Power Plant has achieved Successful Commissioning, then:

7.3.4.1. for the purposes of this Agreement, only Energy Generated and not consumed by the Estate shall be subject to this Agreement; and

7.3.4.2. the Seller shall deliver to the Purchaser a Power Plant Completion Notice and the Commercial Operation Date will be as indicated in this Notice.

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7.4. Coordination with Purchaser regarding connection to the Distribution System

To the extent that the Power Plant is connected to such part of the Distribution System as is owned, operated or administered by the Distributor:

7.4.1. The Seller shall provide the Distributor with such information as may be necessary under Law or the Codes, or usual in terms of the practices of a Reasonable and Prudent Operator; and

7.4.2. The Parties will collectively discuss and coordinate with the relevant Responsible Authority and Distributor, the actions contemplated in this clause and shall additionally comply with such reasonable requests and instructions that are in accordance with the Codes and the practices of a Reasonable and Prudent Operator.

8. PURCHASE OF RENEWABLE ENERGY GENERATED

8.1. Sale of Energy

Subject to the terms and conditions of this Agreement, the Seller shall deliver (at the Delivery Point) and sell the Energy Generated by the Power Plant (and not consumed by the Estate) and the Purchaser shall purchase the Energy Generated, as from the Commercial Operations Date and for the duration of the Term.

8.2. Title and Risk

Title in, and risk of loss of, all Energy Generated sold to the Purchaser in accordance with clause 8.1, shall pass to the Purchaser at the Delivery Point.

8.3. Intangible and/or Tradeable Benefits of Renewable Energy

8.3.1. All renewable energy intangible and/or tradeable benefits including environmental credits, relating to the operation of the Power Plant shall vest in the Seller.

8.3.2. The Seller will be responsible for all costs associated with the accrual and recordal as aforesaid.

9. DURATION




9.1. This Agreement will commence and be effective as from the Commercial Operation Date, and will endure for the duration of the Term, subject to clause 9.2, whereafter it will, terminate (automatically or otherwise depending on the reason for termination).

9.2. The Parties may agree to extend the Term by mutual written agreement.

10. ENERGY PAYMENT AND INVOICING

10.1. The Purchaser shall pay the Seller the Energy Payment (plus VAT, if applicable) for each Billing Period.

10.2. The Energy Payment shall be payable in arrears within 30 (thirty) Days of the date of the applicable Invoice for a particular Billing Period.

10.3. Should any component of the Energy Payment be in dispute then the undisputed portion of the Energy Payment shall remain payable within 30 Business Days of the date of the applicable Invoice for a particular Billing Period.

10.4. Each Invoice provided by the Seller to the Purchaser shall contain at least the following information:

10.4.1. the relevant Billing Period; and

10.4.2. the Energy Payment due; and

10.4.3. the Energy Generated, including a breakdown of the amount of Energy generated during each time of use period at each applicable Energy Tariff.

10.5. The Energy Payment shall be paid free of deduction and without set-off (including, but not limited to any charges by a financial institution due to cash payments made by the Purchaser) into the bank account nominated by the Seller in writing.

10.6. If the Purchaser fails to pay any amount or amounts that are due and payable by the Purchaser under this Agreement, within 30 (thirty) Days of the due date for payment, the Seller may serve notice on the Purchaser of such failure and specifying details thereof. If such failure has not been remedied or rectified

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within 20 (twenty) Business Days of such notice, the Seller may proceed to terminate this Agreement in accordance with the provisions of clause 23.3.

- 10.7. For the avoidance of doubt, the Purchaser may not be invoiced and no Energy Payment shall be calculated by the Seller prior to Successful Commissioning being achieved or prior to the Power Plant Completion Notice being issued.

11. METERING

- 11.1. All metering will be provided for and installed by the Seller.
- 11.2. All metering procedures must comply with the Purchaser's Technical Standards.
- 11.3. All metering procedures must comply with:
- 11.3.1. SANS 473: Automated meter reading for large power users (previously NRS 071); and
- 11.3.2. SANS 474: Electricity metering - Standard requirements (previously NRS 057)
- 11.4. The South African Distribution Code: Network Code (SADCNC) section 8.2(3), requires the installation of bidirectional 4 quadrant metering equipment between the Distributor and the Seller's Power Plant.

Metering circuits shall utilise accuracy Class 0.2 CTs. The existing VT on the Eskom 2 incomer circuit breaker shall be used.

12. DISTRIBUTION NETWORK FAILURE EVENT

Scheduled Distribution Network Failure Events and Unscheduled Distribution Network Failure Events

- 12.1. The Parties agree that the Distribution System may not be unavailable for more than the Distribution Network Failure Threshold annually due to Distribution Network Failure Events. The Purchaser shall at least 2 (two) months after the Commercial Operation Date and on each anniversary thereafter, provide the Seller with a schedule (the "**Annual Maintenance Schedule**") of its proposals for scheduled maintenance work for that year. Such schedule shall include:



- 12.1.1. the number of expected outages; and
- 12.1.2. the estimated dates and duration of the outages.
- 12.2. Without derogating from the Purchaser's obligation to pay Deemed Energy Payments, the Purchaser shall notify the Seller promptly:
 - (a) upon occurrence of any Distribution Network Failure Event (not resulting from loadshedding or Force Majeure) which cause the Distribution System to be unable to operate or effecting system stability; and/or
 - (b) if the Purchaser determines that maintenance of the Distribution System is required prior or later than the scheduled maintenance date per the Annual Maintenance Schedule.
- 12.3. In each case, the Purchaser shall:
 - 12.3.1. give the Seller notice of such Distribution Network Failure Event as soon as reasonably practical after the occurrence of such event or, in the case of unscheduled maintenance work, the Purchaser becoming aware of the need for such outage;
 - 12.3.2. notify the Seller of the expected duration of unscheduled Distribution System outage;
 - 12.3.3. Use its best efforts to minimize the duration and effects on the Distribution System.

Deemed Energy Payment

- 12.4. In the event of Distribution Network Failure Event which, prevents or hinders the Power Plant from delivering the Energy Generated for more than the Distribution Network Failure Threshold (as measured over a 12-month period), the Purchaser shall pay the deemed Energy Payment ("**Deemed Energy Payment**") to the Seller in respect of the aggregate amount of Energy Generated that was deemed to be delivered to the Purchaser and which will be based on the Monthly Generation Forecast(s) (as per clause 20.1). The Deemed Energy Payment shall be calculated in terms of clause 12.2 and as from the date on which the Distribution Network Failure Threshold is breached.

Deemed Energy Payment Calculation



- 12.5. The Deemed Energy Payment shall be calculated as follows:

The Energy Tariff shall be multiplied by the Energy Generated deemed to be delivered during applicable Billing Period(s).

$$A = B \times (C \times (1 - D))$$

Where:

A = the Deemed Energy Payment; and

B = the Energy Generated deemed to have been delivered during the applicable Billing Period as measured by the Electricity Meter at the Delivery Point; and

C = Energy Tariff

D = Discount

for year 1: 15%; or

for year 2: 12.5%; or

for year 3: 10%; and

as amplified by the table contained in **Annexure C**

- 12.6. For the avoidance of doubt, the Purchaser shall only be invoiced for the Deemed Energy Payment when the Distribution Network Failure Threshold is exceeded during a 12-month period (and such outage/unavailability was not due to Force Majeure or loadshedding or a System Event).

- 12.7. Should there be a dispute arising from any portion or calculation of the Deemed Energy Payment, it will be resolved by expert determination in accordance with the provisions of clauses 28.4 to 28.10 below.

13. DELIVERY OF STATEMENTS AND OTHER NOTICES

- 13.1. Any failure by the Seller to render any statement or the late receipt or non-receipt thereof by the Purchaser shall not in any way detract from the Purchaser's obligations to effect payment of all amounts as determinable in terms of this Agreement on the due date for payment thereof.



- 13.2. The Purchaser acknowledges and agrees that all statements, invoices, other supporting documentation, and notices may be transmitted electronically or by post by the Seller or its agent and that all such statements and invoices used for the purposes of claiming input tax, will be accepted as a true reflection of all transactions concluded between the Parties.

14. ELECTRONIC FUNDS TRANSFER

- 14.1. The Purchaser may affect all payments in terms of this Agreement by way of an electronic funds transfer system.
- 14.2. Should any payments due to the Seller in terms of this Agreement be made in any other manner, the Purchaser will be liable for all additional charges by the relevant financial institution relating to such payment.

15. LATE PAYMENTS

If the Purchaser fails to pay the Energy Payment or any other amounts on the due date thereof the Seller shall be entitled, but not obliged, to charge the Purchaser and the Purchaser shall pay on demand, interest on the overdue amount calculated at the Default Interest Rate from the due date of the applicable amount until the date the amount is fully and finally paid (both dates inclusive).

16. TRANSFER OF RIGHTS

The Seller may not cede, assign or encumber its rights under this Agreement, without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld, except where such cession, assignment or encumbrance is in relation to the raising of finance in relation to the Power Plant from a bona fide third-party financier

17. INSURANCE

- 17.1. The Seller shall, at its cost, keep the Power Plant insured against all loss and damages for the full Term with a registered insurer for such value as may be determined by the Seller from time to time. The Purchaser shall be furnished with a copy of such policy and any renewal thereof on request.
- 17.2. For the purposes of the above provisions, the Purchaser shall be entitled to assume that the Power Plant is at all material times insured against such risks,

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on such terms, for such amounts and at such premiums as are for the time being usual in respect of similar Power Plant.

- 17.3. Without prejudice to the other rights of the Purchaser in terms of this clause, the Seller must after each expiry or renewal of an insurance policy provide the Purchaser of proof that the policy has been renewed.

18. MAINTENANCE, REPAIRS AND ENCUMBERING OF THE POWER PLANT

- 18.1. The Seller shall for the duration of the term be responsible for the:

- 18.1.1. maintenance, condition, good order and repair of all damage to the Power Plant, unless such damage arises as a result of the intentional or gross negligent conduct of the Purchaser, in which case the obligation to repair such damage shall rest on the Purchaser; and
- 18.1.2. replacement of any malfunctioning part or component of the Power Plant; and
- 18.1.3. all costs associated with, incurred or payable in respect of the Power Plant, save for such amounts payable by the Purchaser in terms of this Agreement (if any).

19. PURCHASER'S RIGHTS AND OBLIGATIONS

- 19.1. The Purchaser shall for the duration of the Term be entitled to request an inspection of the Power Plant by an Independent Engineer at its cost, if the Power Plant experiences prolonged outages not attributable to a System Event, by giving the Seller 5 (five) Business Days' prior written notice of its intention to do so and written confirmation of the intended day of the inspection, at least 5 (five) Business Days prior to the said inspection taking place.

20. SELLER'S RIGHTS AND OBLIGATIONS

- 20.1. Monthly Generation Forecast

- 20.1.1. The Seller shall provide the Purchaser in writing for each month from the Commercial Operation Date, by no later than 09:00 hours on the 25th of the preceding month, the forecast level of generation of the Energy in the month (the "**Monthly Generation Forecast**").



In addition, Monthly Generation Forecasts for the first 3 (three) months following the Scheduled Commercial Operation Date, shall be provided by the Seller to the Purchaser 1 (one) month prior to the Scheduled Commercial Operation Date.

20.1.2. In the event that the Seller fails to provide the Monthly Generation Forecast for any month, then the last Monthly Generation Forecast provided by the Seller less 10% shall be deemed to be the Monthly Generation Forecast for such month.

21. DAMAGE TO OR DESTRUCTION OF THE POWER PLANT

21.1. If the Power Plant is destroyed or so damaged that it can no longer be beneficially used and there is no prospect of replacing or reinstalling the Power Plant, as determined by the Seller using its reasonable discretion, then this Agreement shall terminate, unless the Parties agree otherwise in writing.

21.2. Subject to the liability of the Purchaser always being limited to damages caused by intentional or gross negligent conduct of the Purchaser, if any damage to the Power Plant or the destruction thereof is caused by an act or omission for which either Party is responsible in terms of this Agreement or in Law, the other Party shall not be precluded by reason of any of the foregoing provisions of this clause from exercising or pursuing any alternative or additional right of action or remedy available to the latter Party under the circumstances (whether in terms of this Agreement or in Law).

22. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

22.1. Each of the Parties hereby warrants to and in favour of the other as on the Signature Date and on each day thereafter during the Term that:

22.1.1. it has the legal capacity and has taken all necessary corporate action required to empower and authorise it to enter into this Agreement; and

22.1.2. this Agreement constitutes an agreement valid and binding on it and enforceable against it in accordance with its terms.

22.2. the Seller hereby warrants to and in favour of the Purchaser as on the Effective Date and on each day thereafter during the Term that:




- 22.2.1. it has good legal title to the Power Plant; and
 - 22.2.2. other than encumbering the Power Plant in favour of the financial institution from which it obtained finance with regard to the Power Plant (if at all and always with the prior consent of the Purchaser), the Power Plant is free of any pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security or granting a mandate for the purpose of conferring security; and
 - 22.2.3. it will carry out its duties and perform its functions with reasonable care and due diligence; and
 - 22.2.4. it has the necessary skill and experience to carry out its duties and functions in terms of this Agreement; and
 - 22.2.5. it will ensure that it always has sufficient capacity to carry out its functions.
- 22.3. the Purchaser hereby warrants to and in favour of the Seller as on the Signature Date and on each day thereafter during the Term that:
- 22.3.1. it is duly established under the laws of South Africa and has the right, power and authority to enter into this Agreement and to perform its obligations hereunder; and
 - 22.3.2. the execution and performance of this Agreement by it has been duly authorised by all necessary internal processes, and its obligations hereunder constitute valid, binding and enforceable obligations.
- 22.4. The Parties undertake, to and in favour of each other, to use their Best Endeavours to actively promote and market the Power Plant and its use to maximise any benefits or goodwill that may accrue to the Premises from being party to a renewable energy project.
- 22.5. the Seller undertakes to and in favour of the Purchaser to provide the Purchaser with Monthly reports on the functioning of the Power Plant.




22.6. Each of the representations, warranties and undertakings given by the Parties in terms of this clause shall:

22.6.1. be a separate representation, warranty or undertaking and will in no way be limited or restricted by inference from the terms of any other representation, warranty or undertaking or by any other words in this Agreement; and

22.6.2. continue and remain in force notwithstanding the completion of any or all the transactions contemplated in this Agreement; and

prima facie be deemed to be material and to be a material representation inducing the other Party to enter into this Agreement.

23. TERMINATION

23.1. No Termination

Neither Party shall have any right, nor shall it exercise or purport to exercise, any right to terminate this Agreement except as expressly set out in this Agreement.

23.2. Termination for Seller Default

23.2.1. The Purchaser shall notify the Seller of the occurrence and details of any Seller Default promptly on the Purchaser becoming aware of its occurrence.

23.2.2. On the occurrence of a Seller Default, or within a reasonable time after the Purchaser becomes aware of the same, the Purchaser may:

23.2.2.1. where the Seller Default is the default detailed in sub-clause 2.2.50.3 of the definition of **Seller Default** (namely failure to achieve the Commercial Operation Date within the specified period), serve a notice on the Seller terminating this Agreement with immediate effect; or

23.2.2.2. where the Seller Default is the default detailed in sub-clause 2.2.50.2 of the definition of Seller Default (namely failure to commence and continue construction of the Power Plant within 90 days of the Effective Date), if the same is continuing, serve notice of default on the Seller

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requiring the Seller to remedy the Seller Default referred to in such notice of default (if the same is continuing) within thirty (30) days of such notice of default being delivered. If the Seller Default is not remedied within such period, the Purchaser may serve a further notice on the Seller terminating this Agreement with immediate effect; or

23.2.2.3. for any other Seller Default, while the same is subsisting, serve notice of default on the Seller requiring the Seller to remedy the Seller Default referred to in such notice of default (if the same is continuing) within sixty (60) days of such notice of default being delivered. If the Seller Default is not remedied within such period, the Purchaser may serve a further notice on the Seller terminating this Agreement with immediate effect.

23.3. Termination for Purchaser Default

Should the Purchaser be in default as provided for in clauses 9.6 or 2.2.42 the Seller shall serve a notice of default on the Purchaser requiring the Purchaser to remedy the Purchaser Default referred to in such notice of default (if the same is continuing) within thirty (30) days of such notice of default being delivered. If the Purchaser Default is not remedied within such period, the Seller may serve a further notice on the Purchaser terminating this Agreement.

24. CONSEQUENCES OF A SYSTEM EVENT

24.1. The Purchaser shall not be entitled to exercise its rights to terminate this Agreement under clause 23.2 for the failure of the Seller to comply with any provision of this Agreement as a result of a System Event.

25. FORCE MAJEURE

25.1. Subject to clause 25.2.2, the Party claiming relief shall be relieved from liability under this Agreement to the extent that, by reason of the Force Majeure event, it is not able to perform all or a material part of its obligations under this Agreement.

25.2. Where a Party is (or claims to be) affected by an event of Force Majeure:

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- 25.2.1. it shall take all reasonable steps to mitigate the consequences of such an event upon the performance of its obligations under this Agreement and to resume performance of its obligations affected by the event of Force Majeure as soon as practicable, and shall use all reasonable endeavours to remedy its failure to perform; and
- 25.2.2. it shall not be relieved from liability under this Agreement to the extent that it is not able to perform, or has not in fact performed, its obligations under this clause.
- 25.3. The Party claiming relief shall serve written notice on the other Party within 5 (five) Business Days of it becoming aware of the relevant event of Force Majeure. Such initial notice shall give sufficient details to identify the particular event claimed to be an event of Force Majeure.
- 25.4. A subsequent written notice shall be served by the Party claiming relief on the other Party within a further 15 (fifteen) Business Days which shall contain such relevant information relating to the failure to perform (or delay in performing) as is available, including (without limitation) the effect of the event of Force Majeure on the ability of the Party to perform, the action being taken in accordance with clause 25.2.1, the date of the occurrence of the event of Force Majeure and an estimate of the period of time required to overcome it (and/or its effects).
- 25.5. If the Force Majeure event occurs prior to the Scheduled COD, the Scheduled COD shall be postponed by such time as shall be reasonable for such a Force Majeure event, taking into account the likely effect of the delay.
- 25.6. The Party claiming relief shall notify the other as soon as the consequences of the event of Force Majeure have ceased and when performance of its affected obligations can be resumed.
- 25.7. If, following the issue of any notice referred to in clause 25.4, the Party claiming relief receives or becomes aware of any further information relating to the event of Force Majeure (and/or any failure to perform), it shall submit such further information to the other Party as soon as reasonably possible.
- 25.8. The Seller's sole right to relief in relation to the occurrence of an event of Force Majeure shall be as provided in this clause.

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25.9. The Seller shall not be entitled to enforce this clause pursuant to any Force Majeure event in respect of which it is entitled to bring a claim under any insurance policy or would have been so entitled had it been in compliance with the clause relating to insurances. If, during any 12 (twelve) month period, the cumulative duration of Force Majeure events or their consequences, each of which event lasts 24 (twenty four) daylight hours (generation hours) or longer, exceeds 60 (sixty) or more days, the Seller shall be entitled to an extension of the Term and/or other relief from the Purchaser which shall place the Seller in the same overall economic position as it would have been in but for such Force Majeure event, provided that any compensation shall not take a monetary form and the total extension of the Term shall not exceed 3 (three) years.

26. LIABILITY

26.1. Direct losses

26.1.1. The Parties' liability to each other in respect of any claim that arises pursuant to this Agreement, whether under delict or contract, shall be as detailed in this Agreement, and no Party shall have any additional liability to the other Party in respect of such claim.

26.1.2. Notwithstanding anything contained to the contrary in this Agreement, neither Party shall be liable to the other Party for any Special Loss suffered by such other Party as a result of any act or omission by the first Party.

26.1.3. Save as expressly provided elsewhere in this Agreement, neither Party shall be liable to the other Party for any losses, liabilities, expenses, damages, costs and claims (including claims) suffered or claimed which arise out of, under or in connection with any alleged breach of any statutory duty or delictual act or omission or otherwise.

26.2. Mitigation

The Parties shall comply with their common law duties to mitigate any losses, liabilities, expenses, damages, costs and claims (including Claims) they may have pursuant to this Agreement.

27. THIRD PARTY INDEMNITY



Each Party (the "**Indemnifying Party**") indemnifies and holds harmless the other Party, its affiliates, and their respective officers, employees, consultants, agents and representatives (the "**Indemnified Parties**") against any and all claims which may be asserted against or suffered by any of the Indemnified Parties, which relate to any death, injury or loss or damage to property suffered by the relevant third party, to the extent resulting from any negligent act or omission of the Indemnifying Party and its respective officers, employees, consultants, agents and representatives, provided that the death, injury, loss or damage suffered by the relevant third party is not attributable to any act or omission of any one or more of the Indemnified Parties or to the failure of one or more of the Indemnified Parties to take reasonable steps to mitigate or avoid the death, injury, loss or damage in question.

28. **DISPUTE RESOLUTION**

General

- 28.1. The terms of this Agreement shall be performed in a spirit of mutual co-operation, trust, and confidence. The Parties undertake to use their Best Endeavours to resolve, through mutual consultation and without involving any third party or parties, any dispute which may arise under, out of, or in connection with or in relation to this Agreement.
- 28.2. If, following the expiry of 7 (seven) Business Days of mutual consultation, the matter remains unresolved, then it shall be referred to such senior representatives of the Parties as may be elected by the Parties, who shall negotiate for a period of up to 7 (seven) Business Days from the date of such referral, in an attempt to resolve such dispute. If following the expiry of such 7 (seven) Business Day period, the dispute is still unresolved, then, save where otherwise provided in this Agreement, the matter shall be referred to either expert determination or arbitration in accordance with the remaining provisions of this clause.
- 28.3. This clause is a separate, divisible agreement from the rest of this Agreement and shall –
- 28.3.1. not be or become void, voidable, or unenforceable by reason only of any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating in substance to



the rest of the Agreement and not to this clause. The Parties intend that any such issue shall be subject to arbitration in terms of this clause; and

28.3.2. remain in effect even if the Agreement terminates or is cancelled.

Expert Determination

28.4. Disputes arising from the following matters shall be resolved by expert determination in accordance with the provisions of clauses 28.4 to 28.10 below as read with the remainder of this clause (Dispute Resolution):

28.4.1. The calculation of the Deemed Energy Payment 12.5;

28.4.2. the calculation of the Energy Generated (clause 2.2.20); and/or

28.4.3. any alleged meter failure, discrepancy, or inaccuracy; and/or

28.4.4. matters relating to the Contracted Capacity or minimum energy consumption; and/or

28.4.5. the determination of the Energy Payment; and/or

28.4.6. disputes arising from a change in Energy Tariff structures; and/or

28.4.7. the entitlement by either Party to Environmental Credits.

28.5. If the dispute is not resolved within the period referred to in clause 28.2, either party may refer the dispute for an expert determination, pursuant to this section.

28.6. The expert shall be a professional electrical engineer (acting as an expert and not as an arbitrator) of not less than 10 (ten) years standing, appointed by the Parties, or upon the Parties failing to appoint the expert as aforesaid within 10 Business Days of the one requiring the other to so appoint, then appointed by the President, for the time being, of the Engineering Council of South Africa.

28.7. The expert will:

28.7.1. act as an expert and not as an arbitrator; and

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- 28.7.2. act independently of, and act fairly and impartially as between the parties, giving each party a reasonable opportunity of presenting its case and countering any arguments of any opposing party, and a reasonable opportunity to make submissions on the procedure or the expert determination; and
 - 28.7.3. proceed in any manner he or she thinks fit; and
 - 28.7.4. conduct any investigation which he or she considers necessary to resolve the dispute; and
 - 28.7.5. examine such documents, and interview such persons, as he or she may require; and
 - 28.7.6. make such directions for the conduct of the expert determination as he or she considers necessary.
- 28.8. The parties shall take all reasonable steps for the expeditious and cost-effective conduct of the expert determination. These steps include but are not limited to complying without delay with any direction or ruling by the expert as to the procedural or evidentiary matters.
- 28.9. The expert shall use his Best Endeavours to make its determination within 20 Business Days of being formally appointed. The determination of the expert:
- 28.9.1. must be in writing, accompanied by reasons; and
 - 28.9.2. will be final and binding.
- 28.10. The costs of conducting the expert determination will be shared equally between the Parties.

Arbitration

- 28.11. Save to the extent to the contrary provided for in this Agreement and specifically subject to clauses 28.4 to 28.10 (both inclusive), relating to matters to be resolved by expert determination, any dispute arising out of or in connection with this Agreement or the subject matter of this Agreement including, without limitation, any dispute concerning –
- 28.11.1. the existence of this Agreement apart from clause; and/or

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28.11.2. the interpretation and effect of this Agreement; and/or

28.11.3. the Parties' respective rights or obligations under this Agreement, or the enforcement thereof; and/or

28.11.4. the rectification of this Agreement; and/or

28.11.5. the breach, termination or cancellation of this Agreement or any matter arising out of such breach, termination or cancellation; and/or

28.11.6. damages in contract, in delict, compensation for unjust enrichment or any other claim, whether or not the rest of this agreement, apart from this clause, is valid and enforceable,

shall be decided by arbitration as set out in this clause.

28.12. The Parties shall agree on the identity of the arbitrator. If agreement is not reached within 7 (seven) Business Days after any Party in writing calls for agreement, the arbitrator shall be –

28.12.1. if the arbitration relates primarily to a financial matter, a practicing-chartered accountant of at least 10 (ten) Years' standing nominated at the request of any Party by the President for the time being of the Institute of Chartered Accountants of South Africa; or

28.12.2. if the arbitration relates primarily to a technical matter (from an engineering perspective), a practicing certified engineer with at least 10 (ten) Years' experience in the field of the technical matter in question, nominated at the request of any Party by the President (or most senior official) for the time being of the Engineering Council of South Africa; or

28.12.3. if the arbitration relates to any other matter, an impartial commercial legal practitioner, whether practicing or non-practicing, or an advocate of not less than 10 (ten) Years' standing, nominated at the request of any Party by the President for the time being of the Law Society of South Africa.

28.13. The request to nominate an arbitrator shall be in writing outlining the claim and any counterclaim of which the Party concerned is aware and, if desired,



suggesting suitable nominees for appointment and a copy shall be furnished to the other Party who may, within 7 (seven) Business Days, submit written comments on the request to the addressor of the request.

- 28.14. The arbitration shall be held in Cape Town and the Parties shall use their Best Endeavours to ensure that it is completed within 120 (one hundred and twenty) Business Days after notice requiring the claim to be referred to arbitration is given.
- 28.15. The proceedings in the arbitration shall as far as practicably take place in private and be kept confidential.
- 28.16. The arbitration shall be governed by the rules of the Arbitration Foundation of South Africa (AFSA) and where such rules are silent on any matter the Rules of the High Court of South Africa shall apply.
- 28.17. An order or award that may be made by the arbitrator shall be carried into effect and shall be final and binding upon the Parties and may be made an order of court of competent jurisdiction.
- 28.18. This clause shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 28.19. Notice of a dispute or pending arbitration proceedings shall not entitle any Party to suspend compliance with any of its obligations in terms of this Agreement or any agreement contemplated in this Agreement.

29. DOMICILIA AND NOTICES

- 29.1. The Parties choose as their *domicilium citandi et executandi* ("domicilium") for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Agreement (collectively "Notice") the following:

29.1.1. **the Seller:** as contained in the Main Terms

29.1.2. **The Purchaser:** as contained in the Main Terms

provided that a Party may from time to time change any address to any other physical address, postal address or telefax address within South Africa by




written notice to the other Party to that effect. Such change of address will be effective 10 Business Days after receipt of notice by the other Party of the change of *domicilium*.

29.2. Any Notice given by either Party to the other (the "**Addressee**") which:

29.2.1. is delivered by hand during the normal business hours of the Addressee to a responsible Person at the address of the Addressee, shall be presumed, until the contrary is proved by the Addressee, to have been received by the Addressee at the time of delivery; and

29.2.2. is delivered by fax or email during the Addressee's business hours on a Business Day of the Addressee shall be deemed to have been received by the Addressee on the date appearing on the transmission sheet that confirms successful transmission.

29.3. Notwithstanding clause 29.1 above, a Notice actually received by the Addressee shall be regarded as adequate notice to it, notwithstanding that it was not sent to or delivered at its *domicilium*.

30. **GOVERNING LAW**

30.1. This Agreement will in all respects be governed by and construed under the Laws of South Africa.

30.2. Subject to the provisions of this Agreement, the Parties hereby consent and submit to the jurisdiction of the High Court of South Africa in any dispute arising from or in connection with this Agreement.

31. **POPIA**

The Parties hereby undertake in favour of the other that it shall always conduct its activities in compliance with the highest ethical standards and will use reasonable commercial endeavours to comply with the requirements and spirit of the South African Protection of Personal Information Act No 4. of 2013 ("**POPIA**") (as amended from time to time). The Parties, accordingly, by signature hereto, consent to the collection, processing, and further processing of certain Personal Information, as defined in POPIA, for the purposes of the conclusion and performance of this Agreement, and all purposes related thereto.




32. COSTS

Each Party shall bear its own costs of or incidental to the drafting, preparation and negotiating of this Agreement.

33. GENERAL

33.1. This Agreement constitutes the whole of the Agreement between the Parties hereto relating to the matters dealt with in this Agreement and save to the extent otherwise provided herein no undertaking, representation, term, or condition relating to the Power Plant not incorporated in this Agreement shall be binding on any of the Parties.

33.2. The Parties acknowledge, accept, and expressly agree to the Attorneys acting for both the Seller and the Purchaser regarding the renting of the Power Plant and all matters related and incidental thereto and hereby expressly, unconditionally and irrevocably waive any conflicts of interest that may arise from the Attorneys acting as aforesaid.

33.3. No variation of, addition to, deletion from, or agreed cancellation of any of the terms or conditions of, or the whole of, this Agreement (including those pertaining to this clause 33.3 will be of any force or effect unless in writing and signed by or on behalf of the Parties hereto.

33.4. No waiver of any of the terms and conditions of this Agreement, including this clause 33.4, will be binding or effectual for any purposes unless in writing and signed by or on behalf of the Party giving the same. Any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of any Party hereto in exercising any right, power or privilege hereunder will constitute or be deemed to be a waiver thereof, nor will any single or partial exercise or any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

33.5. Any consent or approval required to be given by any Party in terms of this Agreement will, unless specifically otherwise stated, not be unreasonably withheld or delayed.

33.6. Each provision in this Agreement is severable, the one from the other, and if at any time any provision is or becomes or is found to be illegal, invalid, defective, or unenforceable for any reason by any competent court, the

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remaining provisions shall be of full force and effect and shall continue to be of full force and effect.


34. SIGNATURE

- 34.1. This Agreement is signed by the Parties on the dates and at the places indicated above their respective names.
- 34.2. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.
- 34.3. Any Person signing this Agreement in a representative capacity warrants their authority to do so.
- 34.4. It shall not be a validity requirement of this Agreement that the Parties should initial every page hereof nor that witnesses should sign same.



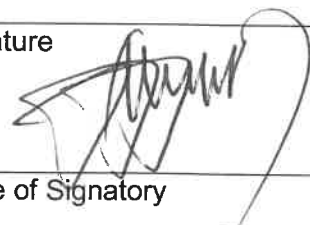

SIGNED at Malmesbury on 1 December 2023.

On behalf of
DARLING GREEN UTILITY (PTY) LIMITED

Signature	
Name of Signatory	<u>Klaus - Gustav Göbel</u>
Designation	DIRECTOR

SIGNED at MALMESBURY on 1 December 2023.

On behalf of **SWARTLAND MUNICIPALITY**

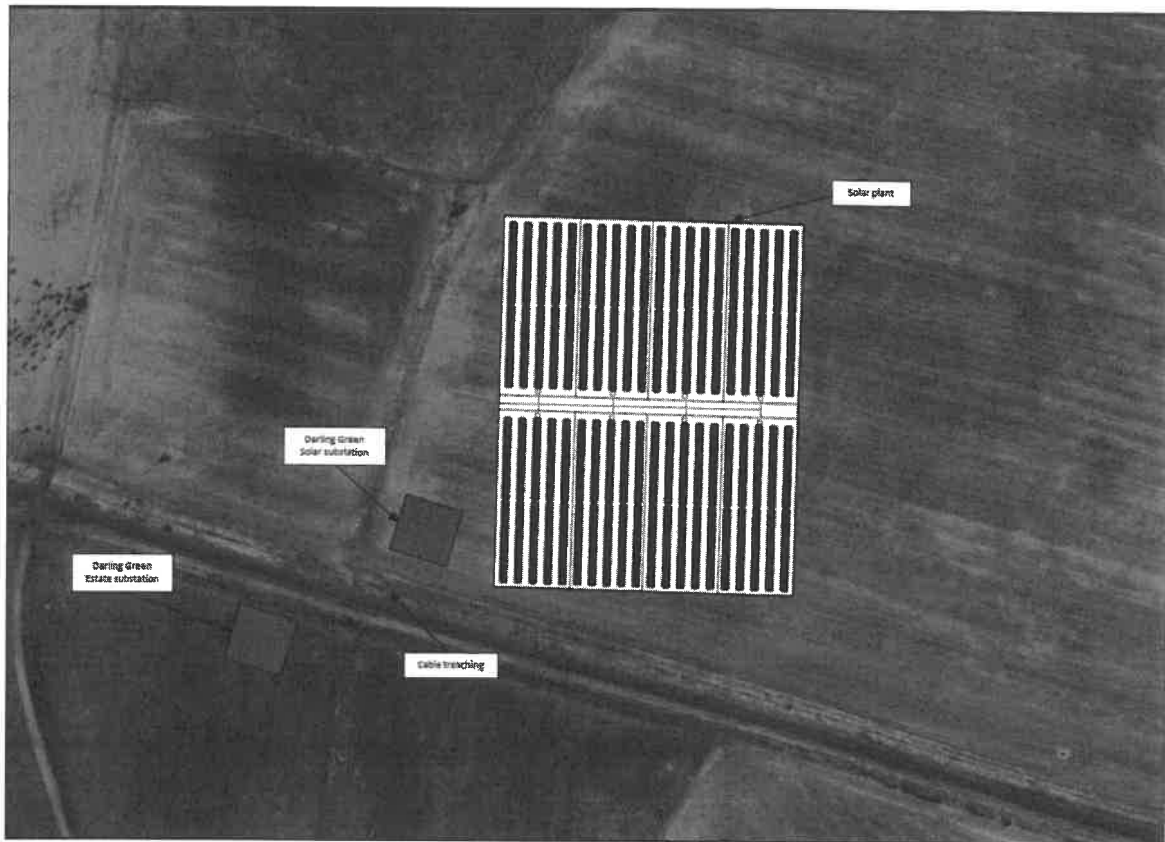
Signature	
Name of Signatory	JOACHIM JACOBUS SCHOLTZ
Designation	MUNICIPAL MANAGER




ANNEXURE B – THE POWER PLANT

Solar plant nominal capacity	1000 kW (AC)
Specific yield	2153 kWh/kWp/p.a.
Annual generation	2 627 142 kWh in year 1
Modules	Tier 1 (JA Solar, Longi, Canadian Solar) Bifacial Crystalline
Inverters	Sungrow SG125CX-P2

Project Site layout



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Single line diagram

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ANNEXURE C – TENDER TARIFF

58

SWARTLAND MUNICIPALITY

Tender: T42/21/22

TENDER: PROPOSALS FOR THE SUPPLY OF RENEWABLE SOLAR ENERGY TO SWARTLAND MUNICIPALITY FOR THE TOWN OF DARLING

Schedule P1: Pricing Schedule

The tenderer shall indicate his proposed % discount on the Eskom Megaflex Local Authority Time of Use Active Energy Charge Tariff (c/kWh rate) that will be applicable for each year of operation.

SEASON	TIME OF USE PERIOD	YEAR 1 OF OPERATION: TENDERER'S PROPOSED % DISCOUNT ON THE APPLICABLE ESKOM MEGAFLEX LOCAL AUTHORITY TIME OF USE ACTIVE ENERGY CHARGE TARIFF		YEAR 2 OF OPERATION: TENDERER'S PROPOSED % DISCOUNT ON THE APPLICABLE ESKOM MEGAFLEX LOCAL AUTHORITY TIME OF USE ACTIVE ENERGY CHARGE TARIFF		YEAR 3 OF OPERATION: TENDERER'S PROPOSED % DISCOUNT ON THE APPLICABLE ESKOM MEGAFLEX LOCAL AUTHORITY TIME OF USE ACTIVE ENERGY CHARGE TARIFF	
		VALUE	UNIT	VALUE	UNIT	VALUE	UNIT
HIGH DEMAND SEASON	PEAK	15	%	12.5	%	10	%
	STANDARD	15	%	12.5	%	10	%
	OFF-PEAK	15	%	12.5	%	10	%
LOW DEMAND SEASON	PEAK	15	%	12.5	%	10	%
	STANDARD	15	%	12.5	%	10	%
	OFF-PEAK	15	%	12.5	%	10	%

Signed on behalf of the Tenderer:

Name: GLYNIS COETZEE

Position: DIRECTOR

Date: 31/05/2022

Signature: 



ANNEXURE D
POWER PLANT COMPLETION NOTICE

[on the letterhead of the Engineer]

[Date]

Swartland Municipality

Attention: [●]

Power Plant Completion Notice

Dear Sirs,

We refer to the Power Purchase Agreement executed between Swartland Municipality and Darling Green Utility (Pty) Ltd on [[●] date] (the "PPA").

All capitalised terms in this notice ("Notice") shall, unless separately defined herein, bear the meaning ascribed to them in the PPA. This Notice is the Power Plant Completion Notice as defined in and required to be issued in accordance with the PPA.

Based on the information provided to us by the Seller, we hereby represent and warrant as at the date hereof the following:

- 1 The Power Plant has passed the relevant acceptance tests, including the Performance Ratio Test, and has been successfully commissioned in accordance with the PPA and Clearances including a certificate of compliance issued in terms of the Electrical Installation Regulations, 2009.
- 2 The Achieved Installed Capacity of the Power Plant is [●] MW.
- 3 The solar irradiation reference cell and the reference temperature sensor have been installed at the locations agreed in the PPA, have been successfully commissioned and can perform their functions as set out in the PPA.
- 4 The Power Plant is ready to commence commercial operation and to deliver Energy to the Purchaser and the Commercial Operation Date is confirmed as [●] DATE.

Yours faithfully,

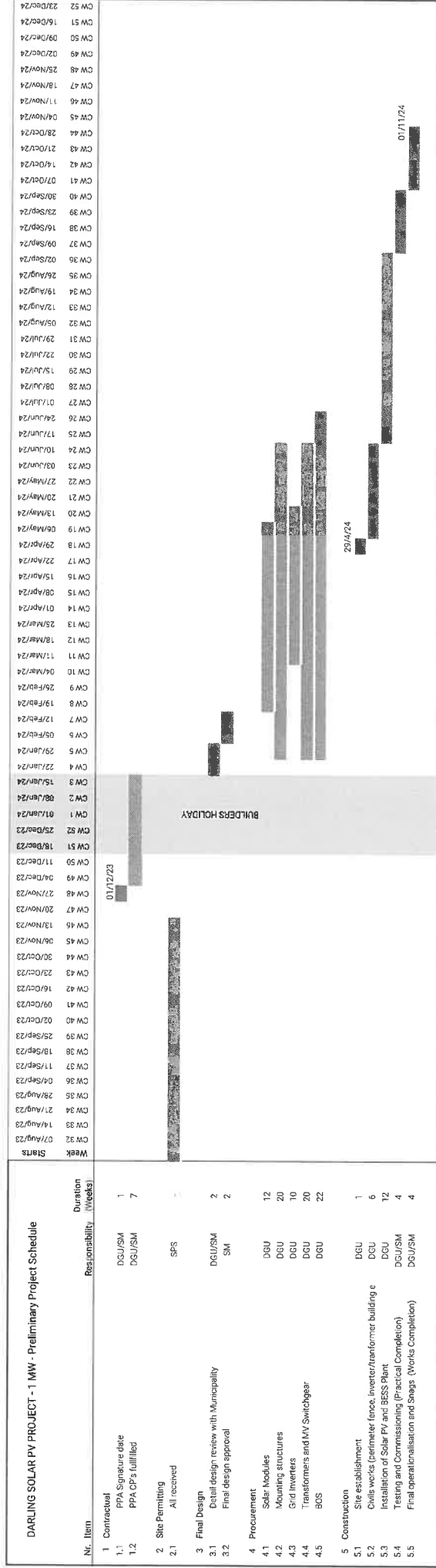
[NAME OF ENGINEER]

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ANNEXURE E

Timeline

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Swartland Municipality (SM)
Darling Green Utility (DGU)
Critical Dates

ANNEXURE F
LAND LEASE AGREEMENT COPY

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OPTION TO LEASE

entered into between

AT DARLING GREEN ESTATE PROPRIETARY LIMITED
REGISTRATION NUMBER 2006/031215/07

(the "Landowner")

and

DARLING GREEN ENERGY PROPRIETARY LIMITED
REGISTRATION NUMBER 2019/424879/07

(the "Developer")



WHEREAS:

- A. The Developer is an energy utility and services company.
- B. The Landowner owns the Property which the Developer believes has the potential to be suitable for a solar energy facility.
- C. The Landowner wishes to grant the Option to the Developer to conclude the Lease on the terms and conditions set out in **Annexure A** to this Agreement.
- D. The Developer needs to complete the Evaluation Work to enable it to determine whether or not it wishes to exercise the Option.
- E. The Landowner is agreeable to granting the Option to the Developer, and the Developer a licence to undertake the Evaluation Work on the Property before deciding whether or not to exercise the Option.



2



NOW IT IS HEREBY AGREED AS FOLLOWS:

1. **INTERPRETATION AND PRELIMINARY**

The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention clearly appears:

1.1. words importing:

1.1.1. any one gender include the other two genders;

1.1.2. the singular include the plural and *vice versa*; and

1.1.3. natural persons include created entities (corporated or unincorporated) and the state and *vice versa*;

1.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:

1.2.1. "Act" means the Subdivision of Agricultural Land Act No. 70 of 1970;

1.2.2. "AFSA" means the Arbitration Foundation of South Africa, or its successors for AFSA administered mediation;

1.2.3. "Agreement" means this agreement, together with all annexures and addenda thereto;

1.2.4. "Business Day" means a day (other than a Saturday, Sunday or public holiday) on which clearing banks are generally open for business in South Africa;

1.2.5. "Confidential Information" means all information, intellectual property as defined in paragraph 10 but not limited thereto, material and documentation, in whatever form and whether verbal or in writing, concerning, emanating from or relating to the Project, including evaluation work as defined in paragraph 1.2.7 but not limited thereto, and including but not limited to:

1.2.5.1. all reports (technical and otherwise), feasibility studies and related information of any nature;

1.2.5.2. information relating to the commercial and/or financial activities (including pricing) of the Developer;

- 1.2.5.3. information regarding current or prospective customers, suppliers, commercial associates, employees and other parties of the Developer;
- 1.2.5.4. proposed, impending or actual commercial transactions, projects, developments, arrangements, ventures, agreements and opportunities, and all details (including pricing) relating thereto;
- 1.2.5.5. know-how, ideas, trade secrets, plans, diagrams, drawings, designs and processes;
- 1.2.5.6. all the proprietary information or data of the Developer, in whatever form contained and in whatever manner disclosed which:
- 1.2.5.6.1. by its very nature should be treated as secret and confidential; and/or
 - 1.2.5.6.2. the Developer desires to be protected against unrestricted disclosure or competitive use; and/or
 - 1.2.5.6.3. is designated as "confidential";
- 1.2.6. **"Developer"** means DARLING GREEN ENERGY PROPRIETARY LIMITED Registration Number 2019/424879/07;
- 1.2.7. **"Evaluation Work"** means undertaking any one or more of the following activities: feasibility studies, environmental impact assessments, permitting and consenting, stakeholder consultation, grid connection, solar analysis, preliminary site investigations and conceptual engineering design, procurement and installation, third-party agreements, project financing, detailed geotechnical investigations, detailed engineering design (including front end engineering (feed) studies), construction contract strategy, operations and maintenance contract strategy, construction and operations and maintenance procurement activities, project management of pre-construction works (including grid connection), procurement (solar panels, balance of plant, grid works) and project insurance;
- 1.2.8. **"Exercise Notice"** means the notice issued by the Developer to the Landowner in order to exercise the Option and enter into the Lease;
- 1.2.9. **"Landowner"** means AT DARLING GREEN ESTATE PROPRIETARY LIMITED, Registration Number 2006/031215/07;



- 1.2.10. **"Landowner Encumbrance"** means any agreement to sell, lease or otherwise divest the Landowner's full legal and equitable title in the Property or any encumbrance, charge, priority or security interest or similar arrangement (of whatever nature) held by a third party over all or part of the Property;
- 1.2.11. **"Lease"** means the lease to be concluded between the Landowner and the Developer in respect of the Property (or any portion thereof) in the event of the Option being exercised by the Developer, which lease will be concluded on the terms and conditions set out in the agreed form of lease attached marked **Annexure A**;
- 1.2.12. **"Lease Direct Agreement"** means the lease direct agreement to be concluded between the Landowner, the Developer and the Financing Parties, providing loans or extending credit or other financing to the Developer for the purposes of the Project;
- 1.2.13. **"Ministerial Consent"** means the consent of the Minister of Agriculture granted in terms of section 4 of the Act;
- 1.2.14. **"Option"** means the unconditional, exclusive and irrevocable option granted to the Developer in terms of this Agreement to conclude the Lease in respect of the Property (or any portion thereof) at any time during the Option Period, on the terms and conditions set out in this Agreement;
- 1.2.15. **"Option Completion"** means fulfilment and/or waiver (to the extent applicable) of the Preconditions to the Developer's satisfaction;
- 1.2.16. **"Option Period"** means the Option Phase 1 Period and (if applicable) the Option Phase 2 Period;
- 1.2.17. **"Option Phase 2 Exercise Notice"** means the notice which may be issued by the Developer to the Landowner at any time within the Option Phase 1 Period in order to extend the Option Period by the Option Phase 2 Period.
- 1.2.18. **"Option Phase 1 Period"** means a - of 5 (five) years, initially granted to the Developer;
- 1.2.19. **"Option Phase 2 Period"** as granted in terms of this Agreement for 3 (three) years, from date of signature;
- 1.2.20. **"Party"** and **"Parties"** shall, unless otherwise stated, be construed as references to a Party or the Parties to this Agreement;
- 1.2.21. **"Power Purchase Agreement"** means a power purchase contract for the purchase of the electricity generated by the Project;

1.2.22. **"Preconditions"** mean the preconditions referred to in clauses 8.1.1 to 8.1.4;

1.2.23. **"Project"** means a scheme for the commercial production of electricity from solar energy;

1.2.24. **"Property"** means that portion of land situated on:

Remaining Extent of Erf 3778, situate in the Swartland Municipality, Malmesbury Division, Western Cape Province, In extent 433,5819 (four hundred and thirty three comma five eight one nine) Hectares, Held by Certificate of Consolidated Title No. T49319/2009

1.2.25. **"Solar Energy Facility"** means the solar facility, or the collective distributed solar facilities, to be established and operated on the Property, to generate electricity and shall include erection operation, maintenance of solar mirrors, solar photovoltaic panels, their power blocks, platform foundations, substations, maintenance and storage facilities and all structures associated therewith.

1.2.26. **"Third Party Consents"** means any planning or regulatory consents, excluding Ministerial Consent, required by the Developer before it will exercise the Option;

1.2.27. **"VAT"** means value-added tax payable in terms of the VAT Act;

1.2.28. **"VAT Act"** means the Value-Added Tax Act, No. 89 of 1991.

1.3. the **"Signature Date"** is the date on which this Agreement is signed by the party signing last in time;

1.4. any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment;

1.5. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in this clause 1 (*Interpretation and Preliminary*), effect must be given to it as if it were a substantive provision in the body of the Agreement;

1.6. when any number of days is prescribed in this Agreement, same must be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day that is not a Business Day, in which case the last day is the next day which is a Business Day;

1.7. where figures are referred to in numerals and in words, if there is any conflict between the two, the words must prevail;

- 1.8. expressions defined in this Agreement bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own conflicting definitions;
- 1.9. where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, must bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this clause 1 (*Interpretation and Preliminary*);
- 1.10. the rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, must not apply;
- 1.11. any reference in this Agreement to a Party includes a reference to that Party's assigns expressly permitted under this Agreement and, if such Party is liquidated or sequestrated, be applicable also to and binding upon that Party's liquidator or trustee, as the case may be;
- 1.12. the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.13. the words "include", "including" and "in particular" must be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s; and
- 1.14. the words "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words where a wider construction is possible.

2. GRANT OF OPTION

The Landowner hereby grants the Option to the Developer for the Option Period subject to the conditions and stipulations agreed in this contract.

3. DEVELOPER'S RIGHTS DURING OPTION PERIOD

The Landowner grants to the Developer, its agents, contractors, directors, employees, guests, invitees, officials and workers, an irrevocable, unconditional and exclusive right during the Option Period to enter into and egress from the Property for the purpose of any or all of the following:

- 3.1. undertaking all or any part of the Evaluation Work in the Developer's exclusive discretion;
- 3.2. ensuring the supply of services consisting of water, electricity, and sewerage services to the Property;



3.3. procuring all consents required to ensure that the Property has access to the existing public road network, which access may in addition traverse adjoining land owned by the Landowner, to ensure the viability of the Project;

3.4. entering into substation, power line and right of way servitude agreements;

3.5. entering into one or more Power Purchase Agreements;

and for any of such purposes to bring such equipment, machinery, plant, tools, materials and vehicles onto the Property as the Developer, in its sole and absolute discretion, may deem necessary or desirable.

4. LANDOWNER'S RIGHTS DURING OPTION PERIOD

4.1. The Landowner, its agents, contractors, directors, employees, guests, invitees, officials, and workers, shall be entitled during the Option Period (subject to clause 4.2) to:

4.1.1. enter and be on the Property;

4.1.2. erect buildings, structures, fences and improvements on the Property with the prior written consent of the Developer, which may not be unreasonably withheld.

4.2. The use of the Property by the Landowner may not in any way interfere with, disrupt or delay the Developer's rights as contained in this Agreement.

4.3. The applicable provisions of the draft Lease as set out in Annexure A pertaining to access to, use of, risk and liability in respect of the Property, shall apply to this Agreement *mutatis mutandis* where appropriate.

5. EXERCISE OF OPTION

5.1. The Developer may at any time during the Option Period, exercise the Option by delivering the Exercise Notice to the Landowner, provided Option Completion has been reached.

5.2. Once the Exercise Notice has been received by the Landowner (or once the Exercise Notice is deemed to have been received by the Landowner), the Exercise Notice shall be irrevocable.

6. LANDOWNER'S WARRANTIES AND UNDERTAKINGS

6.1. The Landowner warrants to the Developer (for itself and, where applicable for the benefit of its nominee) that:

6.1.1. the Landowner is the legal and beneficial owner of the Property;

- 6.1.2. the Landowner will have obtained whatever releases are needed to ensure that the Property is free from any Landowner Encumbrance or other lien, charge, encumbrance or right whatsoever of a third party over the Property, on the date on which the Developer exercises the Option; or
- 6.1.3. the Landowner will obtain the necessary consents from third parties to ensure that the rights of the Developer shall not be prejudiced, if the Property is encumbered.
- 6.2. The Landowner undertakes to the Developer that it will sign all documents and do all things necessary for the execution of the Lease with the Developer forthwith upon request from the Developer.
- 6.3. The Landowner acknowledges and agrees that:
- 6.3.1. the Landowner shall be obliged to conclude the Lease Direct Agreement with the Developer and with the third-party financial institutions which are providing loans or extending credit or other financing to the Developer for the establishment or operation of the Project, including any special purpose security company established and/or nominated by such financial institutions for the purposes of the registration of any mortgage bond or other hypothecations over the Lease (the "Financing Parties"); and
- 6.3.2. the Landowner shall, within 14 (fourteen) days of written request, execute the Lease Direct Agreement in full to the satisfaction of the Developer and the Financing Parties. If the Landowner fails to do so, then the Landowner shall be deemed to have authorised and appointed the Developer irrevocably and *in rem suam* to be the duly authorised agent of the Landowner to execute the Lease Direct Agreement on the Landowner's behalf.
- 6.4. The Landowner acknowledges and agrees that:
- 6.4.1. the Landowner shall, within 14 (fourteen) days of written request, execute a power of attorney authorising the Developer to execute the Lease on its behalf before a Notary Public, to the satisfaction of the Developer and the Financing Parties; and
- 6.4.2. if the Landowner fails to do so, then the Landowner shall be deemed to have authorised and appointed the Developer irrevocably and *in rem suam* to be the duly authorised agent of the Landowner to execute the Lease before a Notary Public on the Landowner's behalf.

Handwritten signatures and initials are present at the bottom of the page. On the right side, there is a large, stylized signature. Below it, there are several smaller initials and marks, including what appears to be 'T.P.' and a vertical line with a small circle at the top. At the bottom left, there is another signature. The page number '9' is visible near the bottom right.

7. **RESTRICTION DURING THE OPTION PERIOD**

The Landowner may not sell, transfer, alienate or otherwise dispose of the Property or any portion thereof, unless:

- 7.1. the Landowner notifies the Developer of its intention to conclude any such agreement, which will result in the Property or a portion thereof being sold, transferred, alienated or otherwise disposed of to a third party; and
- 7.2. the Landowner inserts a suspensive condition in any such agreement referred to in clause 7.1, which makes it a condition of such agreement that such third party shall conclude a new option agreement on the same or substantially similar terms as this Agreement, including any servitude options signed between the parties, to the Developer's satisfaction, within 7 (seven) Business Days of the signature of such agreement, or such extended period as the Developer in its sole and absolute discretion decides, failing which such agreement shall be null and void; and
- 7.3. the third party to such agreement contemplated in 7.1, concludes the said option agreement with the Developer and such agreement becomes valid and binding on the parties thereto.

8. **PRECONDITIONS TO OPTION COMPLETION**

8.1. Notwithstanding any other provision of this Agreement, the Developer shall not exercise the Option until such time as the Developer has:

- 8.1.1. completed the Evaluation Work and is satisfied that the Project is commercially viable;
- 8.1.2. secured and retained all Third-Party Consents reasonably required for the Project on terms which are acceptable to the Developer;
- 8.1.3. obtained Ministerial Consent for the conclusion of the Lease (to the extent that Ministerial Consent is required);
- 8.1.4. obtained all such consents as are required to connect the Project to the existing grid network and to procure that the Property has access to the existing public road network, which access may in addition traverse adjoining land owned by the Landowner, to ensure the commercial viability of the Project.

8.2. The Preconditions referred to in clauses 8.1.1, 8.1.2 and 8.1.4 have been stipulated for the sole benefit of the Developer who may, in its sole discretion, waive any such Preconditions. To the extent that the Precondition referred to in clause 8.1.3 is applicable, such Precondition may not be waived.

9. **INTELLECTUAL PROPERTY**

The Landowner shall not acquire any right, title or interest of any kind in any data, confidential information as defined in paragraph 1.2.5 but not limited thereto, information or other intellectual property collected, created or prepared by the Developer or any of its agents or contractors during the execution of the Evaluation Work ("**Intellectual Property**"). All rights, title or interest of any kind in the Intellectual Property shall at all times remain the sole property of the Developer.

10. **EXTENSION OF THE OPTION PERIOD**

10.1. If the Preconditions referred to in clauses 8.1.1, 8.1.2 and 8.1.4 have neither been fulfilled, nor waived by the Developer, on or before the expiry of the Option Phase 1 Period, the Developer may, in its sole discretion, extend the Option Period by 3 (three) years;

10.2. If the Precondition referred to in clause 8.1.3 has not been fulfilled on or before the expiry of the Option Period (in terms of Paragraph 10.1 above) despite the Parties having made the necessary application for Ministerial Consent prior to the expiry of this Option Period (in terms of Paragraph 10.1 above), it will automatically be extended to a date 30 (thirty) days after the date on which:

10.2.1. Ministerial Consent is obtained unconditionally;

10.2.2. Ministerial Consent is obtained on conditions which are acceptable to the Developer;

10.2.3. the Developer has exhausted all legal remedies in respect of any appeal or review of any decision taken to refuse Ministerial Consent; or

10.2.4. the Developer has exhausted all legal remedies in respect of any appeal or review of any of the conditions which have been imposed in granting Ministerial Consent.

11. **LANDOWNER TO ACT AS NOMINEE**

11.1. Prior to the execution of the Lease, the Landowner shall co-operate in any manner reasonably required by the Developer in respect of the Evaluation Work and/or to procure Option Completion and shall generally act in all respects as the Developer requests in respect of the Property and all rights and interests associated therewith.

11.2. The Landowner irrevocably undertakes in favour of the Developer to sign all such documents and to do all such things as may be requisite upon being requested to do so, which may include signing a Special Power of attorney in favour of the Developer, to enable the Developer to exercise all of its rights in terms of this Agreement, including, but not limited to, lodging all applications and obtaining all consents and approvals required to undertake and complete the Evaluation Work and securing all necessary Third Party Consents.

12. **NOMINEE**

The Developer shall, at any time during the Option Period, be entitled to nominate a third party as the Developer by giving written notice to the Landowner to that effect, whereupon:

- 12.1. "the Developer" shall for purposes of this Agreement be defined as the person who is the nominee;
- 12.2. the nominee shall be obliged to comply with all of the obligations of the Developer and shall be entitled to exercise all of the Developer's rights under this Agreement; and
- 12.3. any waiver of any of the Preconditions shall be binding on the nominee; and
- 12.4. any amounts paid or received by the Developer under this Agreement shall be treated as having been paid or received by the nominee.

13. **VALUE-ADDED TAX**

13.1. Both Parties undertake that they will at all relevant times be:

- 13.1.1. a vendor as that term is defined in section 1 of the VAT Act; and
- 13.1.2. registered as such in terms of section 23 of the VAT Act.

13.2. Both Parties hereby undertake to promptly deliver to each other all documentation required in terms of the VAT Act to permit the other Party to claim a deduction in respect of such VAT pursuant to the provisions of the VAT Act.

13.3. The Parties record that all payments made in terms of this Agreement shall be inclusive of VAT.

14. **GENERAL**

14.1. This agreement shall be binding on the Parties, the Developer's nominee, their personal representatives and successors and assigns but (other than as provided for in this Agreement) neither Party may otherwise transfer, assign or change their rights or obligations under this Agreement. The Developer shall comply specifically with the conditions of the Mine, Health and Safety Act, No. 29 of 1996, the Occupational Health and Safety Act 85 of 1993, as well as any other relevant law in force.

14.2. It is agreed between the parties that should the Developer proceed with the development of the Solar Energy Facility, one or more of the following servitudes may be required to be registered together with the intended Notarial Deed of Lease referred to herein:



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14.2.1. Gridline Servitude

The right to the Developer to register, in general terms, a perpetual Gridline Servitude of electric power transmission thirty one (31) metres wide over a portion of the property which area will be demarcated on a sketch plan, which sketch plan will be substituted by a diagram approved by the Surveyor General prior to registration of the Notarial Deed of Servitude or Notarial Deed of Route Determination, subject to any existing servitude or other real right, to convey electricity across the property by means of an overhead or underground power lines up to and including a 132kV operating voltage consisting of conductors, cables and/or appliances mounted on poles or structures with such structure supporting mechanisms as may be necessary or convenient.

14.2.2. Right of Way Servitude

The right to the Developer to register a perpetual Servitude of Right of Way to construct and maintain a road/s granting access over a portion of Property as demarcated in a sketch plan which sketch plan will be substituted by a diagram approved by the Surveyor General prior to registration of the Notarial Deed of Right of Way Servitude or Notarial Deed of Route Determination.

14.2.3. Substation Servitude

The sole right in perpetuity to the Developer to a portion of the property (maximum extent: approximately 100m x 100m) the exact location thereof to surveyed and depicted on a servitude diagram approved by the office of the Surveyor-General prior to registration of the Notarial Deed of Substation Servitude or Notarial Deed of Route Determination and the right to erect a substation thereon and all the work necessary or ancillary thereto.

14.3. The terms and conditions of the Gridline Servitude, Right of Way Servitude and Substation Servitude shall be the standard terms required by the Developer relating to national renewable energy projects and shall be presented to the Landowner at the appropriate stage. The Landowner undertakes to sign all documentation required to conduct Surveys and Topographical Studies, Special Powers of Attorney to register the said notarial deeds.

14.4. The Developer in its own discretion has the right to determine the routes of the Gridline, Right of Way and Substation servitudes which may require to be re-routed as a consequence of studies conducted, despite a preliminary indication of the initial footprints relating to servitude routes as reflected in the lease area.

- 14.5. The Landowner shall agree, prior to formal registration of any servitudes, to granting to the Developer an irrevocable and unconditional right to enter into and egress from the Property for the purpose of conducting all necessary Surveys and Topographical Studies relating to the project and servitude areas.

15. **BREACH**

If any Party breaches any material provision or term of this Agreement (other than those which contain their own remedies or limit the remedies in the event of a breach thereof) and fails to remedy such breach within 7 (seven) days of receipt of written notice requiring it to do so (or within such further period as may be reasonable in the circumstances) then the aggrieved Party shall be entitled without notice (In addition to any remedy available to it under this agreement) to obtain an interdict or claim specific performance of any obligation only whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved Party's right to claim damages

16. **DOMICILIUM CITANDI ET EXECUTANDI**

- 16.1. The Parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of the Option), the following addresses:

16.1.1. **the Landowner:**

Physical: 57 MOOLMAN STREET BLOUBERGSTRAND

Postal Private Bag X1, Suite 119

Melkbosstrand, 7437

Email: kgg@diamante.za.com

16.1.2. **the Developer:**

Physical: C/O Wilder Lockitch, Unit B10 Century Plaza, Heron Crescent, Century City, Cape Town 8001.

Postal: PO Box 363 Newlands, 7725, Cape Town

Email: glynis.coetsee@touchpointenergy.com

- 16.2. Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing and sent in terms of clauses 16.1 and 16.4.

16.3. Any Party may by notice to any other Party change the physical address chosen as its *domicilium citandi et executandi vis-à-vis* that party to another physical address where postal delivery occurs or its postal address or its telefax number or e-mail address, provided that the change shall become effective *vis-à-vis* that addressee on the 10th (tenth) business day from the receipt of the notice by the addressee.

16.4. Any notice to a Party:

16.4.1. sent by prepaid registered post in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered, shall be deemed to have been received on the 7th (seventh) Business Day after posting (unless the contrary is proved);

16.4.2. sent by courier in a correctly addressed envelope to it at its chosen address shall be deemed to have been received on the 4th (fourth) Business Day after sending (unless the contrary is proved);

16.4.3. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

16.4.4. sent by telefax to its chosen telefax number, shall be deemed to have been received 12 (twelve) hours after the time of despatch (unless the contrary is proved).

16.5. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

17. DISPUTE RESOLUTION

17.1. The law of South Africa shall apply to this Agreement and the Parties agree to submit to the jurisdiction of the South African Courts.

17.2. If any dispute or difference shall arise between the Parties out of or in relation to or in connection with this Agreement, or the interpretation thereof, or any breach thereof, or its termination, both while in force and after its termination, the Party claiming such dispute or difference, shall forthwith advise the other in writing thereof. Within 7 (seven) days of receipt of such notice, the Parties shall meet and negotiate in good faith in order to resolve such dispute or difference.

- 17.3. Should the Parties fail to resolve such dispute or difference within 7 (seven) days of their meeting or such longer period as the Parties may agree, either Party may refer such dispute or difference to mediation to be undertaken by a single mediator.
- 17.4. The Party referring the dispute to mediation shall, within 7 (seven) days of the Parties having failed to resolve the dispute, submit to the other Party in writing the names and occupations of 3 (three) persons proposed by it to act as mediator and request the other Party to agree to the appointment of any one of them in writing within 7 (seven) days of receipt of such notice.
- 17.5. In the event of the Parties being unable to agree on the appointment of a mediator, the Parties shall, within 7 (seven) days, submit the dispute to AFSA upon the terms set by the AFSA secretariat.
- 17.6. Failing such a resolution, the dispute if arbitrable in law, shall be finally resolved in accordance with the Rules of AFSA by an arbitrator or arbitrators appointed by AFSA.
- 17.7. The decision of the Arbitrator appointed by AFSA shall be final and binding on the Parties, and may be made an order of any court of competent jurisdiction, including its award in respect of the costs of arbitration.
- 17.8. Notwithstanding the above, the Parties shall be entitled to approach the High Court of South Africa to apply for an interdict or to request urgent relief.

18. WHOLE AGREEMENT, NO AMENDMENT

- 18.1. This Agreement constitutes the whole agreement between the Parties relating to the subject matter hereof.
- 18.2. No amendment or consensual cancellation of this agreement or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this agreement shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party granting such extension, waiver or relaxation). Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 18.3. No extension of time or waiver or relaxation of any of the provisions or terms of this agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this agreement, shall operate as an estoppel against any Party in

respect of its rights under this agreement, nor shall it operate so as to preclude such Party thereafter from exercising its rights strictly in accordance with this agreement.

- 18.4. To the extent permissible by law no Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

19. **COSTS**

The Parties shall share the costs of and incidental to the preparation of this Agreement.

20. **CONFIDENTIAL INFORMATION**

- 20.1. The Landowner acknowledges that the Developer has and will continue to disclose Confidential Information to the Landowner during the course of its negotiations, discussions and/or interaction with the Landowner.

- 20.2. The Landowner acknowledges that the use or disclosure of the Confidential Information may cause irreparable loss, harm and damage to the Developer.

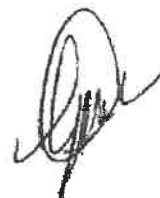
- 20.3. The Landowner agrees that it shall:

20.3.1. keep the Confidential Information confidential;

20.3.2. not use, employ, or exploit the Confidential Information;

20.3.3. not at any time disclose the Confidential Information (or any information derived there from) to any third party for any reason or purpose whatsoever, without the prior written consent of the Developer.

- 20.4. The Landowner indemnifies and holds the Developer harmless against any loss, action, claim, harm or damage, of whatever nature, suffered by the Developer pursuant to a breach by the Landowner of the provisions of this clause.



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AT DARLING GREEN ESTATE PROPRIETARY LIMITED

For:

Signature:

who warrants that he / she is duly authorised thereto

Name:

Date:

Place:

Witness:

Witness:

DARLING GREEN ENERGY PROPRIETARY LIMITED

For:

Signature:

who warrants that he / she is duly authorised thereto

Name:

Date:

Place:

Witness:

Witness:

Annexure A – Agreed form of lease



Handwritten signatures and initials, including the letters 'TS.' and a large stylized 'A'.

Annexure A

PROTOCOL NO.

NOTARIAL DEED OF LEASE

BE IT HEREBY MADE KNOWN

THAT on this the _____ day of _____, in the year TWO THOUSAND AND _____
(20__) at _____, Province of _____, before me:

Notary Public by lawful authority, duly sworn and admitted, practising at Cape Town, and in the presence of
the subscribing competent witnesses, personally came and appeared –

in his capacity as the duly authorised agent of –

AT DARLING GREEN ESTATE PROPRIETARY LIMITED

REGISTRATION NUMBER: 2006/031215/07

(the "Lessor")

by virtue of a power of attorney granted to him at _____ on the _____ day of
_____ 20__ by _____ acting under authority of a resolution of
_____;



and

DARLING GREEN ENERGY PROPRIETARY LIMITED

REGISTRATION NUMBER: 2019/424879/07

(the "Lessee")

by virtue of a power of attorney granted to him at _____ on the _____ day of _____ 20__ by _____ acting under authority of a resolution of the directors of the Lessee;

which powers of attorney and certified copies of which resolutions have this day been exhibited to me, the Notary and now remain filed in my Protocol.

WHEREAS THE SAID APPEARER DECLARED THAT HIS PRINCIPALS AGREED AS FOLLOWS :

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in this notarial deed are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Lease nor any clause hereof. Unless a contrary intention clearly appears –

1.1. words importing –

1.1.1. any one gender include the other two genders;

1.1.2. the singular include the plural and *vice versa*; and

1.1.3. natural persons include created entities (corporate or unincorporate) and the state and *vice versa*;

1.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely –

1.2.1. **"AFSA"** means the Arbitration Foundation of South Africa, or its successors for AFSA administered mediation;

1.2.2. **"Attorneys"** means the Attorneys appointed by the Lessor;

1.2.3. **"Business Day"** means any day excluding a Saturday or Sunday or public holiday within the Republic of South Africa;

- 1.2.4. **"Cable" or "Cables"** means any wire, cable, tube, pipe, conductor or other similar apparatus (including its casing or coating or protective tile) placed on, above or in the ground for transmitting and/or distributing electricity together with marker tape and junction boxes, fibre optic cables and other ancillary equipment;
- 1.2.5. **"Commencement Date"** means the first day of the month following the date on which the Lessee exercises its option to lease, which date of exercise will be the date of execution of this lease by the Notary Public;
- 1.2.6. **"Commercial Operational Date"** means the first day of the month following the date of commencement of commercial operation of the Solar Energy Facility subsequent to completion of the construction, installation and commissioning thereof;
- 1.2.7. **"Conduits"** means each of the following of whatsoever nature: all sewers, drains, pipes, gullies, gutters, ducts, mains, watercourses, channels, subways, wires, cables, fibre optic cables, conduits, flues and other conducting media or conduits of whatsoever nature and kind;
- 1.2.8. **"Connected Person"** means in respect of the Lessor, any spouse or descendant of the Lessor if the Lessor is a natural person or any beneficiary of the Lessor if the Lessor is a trust, as at the date of signature hereof;
- 1.2.9. **"Consumer Price Index"** means the average retail cost of a basket of goods and services during a specific period as issued by the South African Government;
- 1.2.10. **"Date of Financial Year-End"** means the 28 th February of each year;
- 1.2.11. **"EPC And BOP Works"** means engineering, procurement, construction and balance of plant works as specified in clause 6.2;
- 1.2.12. **"Financing Parties"** means the third party financial institutions providing loans or extending credit or other financing to the Lessee for purposes of the Solar Energy Facility;
- 1.2.13. **"Lease"** means this Lease Agreement and all Addenda and Annexures thereto, as such the Agreement may be amended from time to time;
- 1.2.14. **"Lease Direct Agreement"** means the lease direct agreement to be concluded between the Lessor, the Lessee and the Financing Parties;






- 1.2.15. **"Lease Premium"** means the total costs of decommissioning, dismantling and removing the Solar Energy Facility and returning the Property to its condition at the Commencement Date;
- 1.2.16. **"Lessee"** means the Developer or its nominee development company as defined in clause 1.2.6 of the Option to which this Agreement is annexed;
- 1.2.17. **"Lessee's Equipment"** means all plant, equipment and structures used or to be used by the Lessee in connection with the Solar Energy Facility as are at the Date of Signature Hereof or shall during the currency of the Lease be installed on, over, under or through the Property and the Lessor's adjoining property, including, but not limited to, all Cables, Conduits, wind turbines / solar panel installations and other ancillary equipment;
- 1.2.18. **"Lessor"** means the Landowner as defined in clause 1.2.9 of the Option to which this Agreement is annexed;
- 1.2.19. **"Ministerial Consent"** means the consent of the Minister of Agriculture granted in terms of section 4 of the Act;
- 1.2.20. **"Nominee"** means any company or legal entity established by or on behalf of the Lessee for purposes of control, management and ownership of this Project;
- 1.2.21. **"Option to Lease"** means the Option to Lease the Property as recorded in the Option to which this Agreement is annexed;
- 1.2.1. **"Property"** means

A Portion of the Remaining Extent of Erf 3778, situate in the Swartland Municipality, Malmesbury Division, Western Cape Province,

In extent 20 (twenty) Hectares,

As depicted by the figure a1, b1, S, R on Diagram S.G. No. 5945/1999 attached as Annexure A hereto;

- 1.2.2. **"Solar Energy Facility"** means the facility as described in clause 1.2.25 of the Option to which this Agreement is annexed;.
- 1.2.3. **"Right of Way"** means the proposed access road from the existing road network to the entrance to the Property (as contemplated in clause 14, together with any

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further servitudes of right of way as may be required by the Lessee over the Property or the Lessor's adjoining property;

- 1.2.4. "Termination Date" means the date on which this Lease terminates due to effluxion of time, as provided in clause 3 below, (*Duration*);
- 1.2.5. "VAT" means value-added tax, imposed in terms of the Value-Added Tax Act, No. 89 of 1991, as amended;
- 1.3. any reference in this Lease to "Date of Signature Hereof" shall be read as meaning a reference to the date of signature of this Lease;
- 1.4. any reference to an enactment is to that enactment as at the Date of Signature Hereof and as amended or re-enacted from time to time;
- 1.5. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Lease;
- 1.6. when any number of days is prescribed in this Lease, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.7. where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 1.8. expressions defined in this Lease shall bear the same meanings in schedules, Parts or annexures to this Lease which do not themselves contain their own conflicting definitions;
- 1.9. where any term is defined within the context of any particular clause in this Lease, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Lease, notwithstanding that that term has not been defined in this interpretation clause;
- 1.10. the expiration or termination of this Lease shall not affect such of the provisions of this Lease as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;

- 1.11. any reference in this Lease to a Party shall, if such Party is liquidated or sequestrated, be applicable also to and binding upon that party's liquidator or trustee, as the case may be;
- 1.12. Wherever, in this Lease, provision is made for either Party to obtain "prior written consent" from the other Party, such consent or *alternatively*, a written refusal also stating the reasons for such refusal, shall be given within 30 (thirty) days from the date when the request was first made, failing which the consent shall be deemed to be unreasonably withheld.

2. INTRODUCTION

- 2.1. The Lessor is the registered owner of the Property.
- 2.2. The Lessee is desirous to establish and operate a Solar Energy Facility on a portion of the Property.
- 2.3. The Lessor has granted to the Lessee an Option to lease a portion of the Property on the terms and conditions contained in the Option to Lease to which this Agreement is annexed.
- 2.4. The Lessee has exercised the Option within the period allowed.
- 2.5. The Lessor therefore lets to the Lessee, which hires a portion of the Property, subject to the following terms and conditions.

3. DURATION

- 3.1. The lease shall commence on the Commencement Date and subject to clause 16 below, shall endure for a period of 25 (twenty five), terminating on the penultimate day of the period calculated from the Commencement Date.
- 3.2. The Lessee shall have a right of first refusal to renew the lease for a Solar Energy Facility over the Property, subsequent to the termination date of this Lease, which right of first refusal shall endure for a period of 2 (two) years from the Termination Date.
- 3.2.1. Should the Lessor at any time during the 2 (two) year period referred to above wish to conclude a lease for a Solar Energy Facility over the Property, then the Lessee shall have the first right of refusal to conclude such lease upon the same terms and conditions as are offered therefor by any *bona fide* third party, and which the Lessor is prepared to accept, provided that the Lessee exercises such right within a period of 30 (thirty) days, following the date of the Lessor having provided the Lessee with a full and detailed copy of such offer, made by a third



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party to the Lessor with a written notice from the Lessor advising the Lessee of the offer and calling upon the Lessee to exercise its right of first refusal.

3.2.2. Should the Lessee not exercise the right to lease hereby granted to the Lessee, when called upon so to do, then the Lessor shall be entitled to let, dispose of or otherwise alienate the Property to any other person or persons, provided that no lease shall be effected without notice being given to the Lessee of the proposed lease at or on material terms and conditions substantially more favourable to the proposed third party, than those communicated to the Lessee in terms of clause 3.2.1 above. Any variation in those terms and conditions communicated to the Lessee in terms of clause 3.2.1 above shall be communicated to the Lessee and shall be regarded as a new offer to the Lessee, to which the foregoing provisions of this clause shall apply *mutatis mutandis*.

3.3. Notwithstanding the provisions of clause 3.1, the Lessee shall be entitled to cancel the Lease at any time during the period of the Lease by delivering written notice of such cancellation to the Lessor which notice will indicate the date with effect from which the Lease will be cancelled. In such event, this Lease shall be deemed to have been cancelled with effect from the date indicated in such notice of cancellation, provided the Lessee shall:

3.3.1. effect a *pro rata* payment of any rental which is due for the month in which the cancellation takes effect; and

3.3.2. not be entitled to cancel the Lease, unless the prior written consent of the Financing Parties has first been obtained.

4. ANNUAL RENTAL AND PAYMENT

4.1. This is not applicable.

5. USE OF PROPERTY

The Parties record that the Lessee will use the Property specifically and exclusively for purposes of the generation and distribution of electricity, constructing, establishing and operating a Solar Energy Facility, or any other renewable energy facility, as well as purposes ancillary thereto, including without limitation, doing all such things as may be required to obtain all the relevant licences, approvals and consents to establish and operate a Solar Energy Facility or any other renewable energy facility and for sole right for the generation and distribution of electricity on and to the Property and surrounding properties. The sole right to erect or install solar panels on any part of the Property and on any



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buildings erected, or to be erected on the Property, including but not limited to roof tops of such buildings and or structures

6. RIGHTS AND OBLIGATIONS OF THE LESSEE

6.1. The Lessee shall have the right to use the sunlight passing over, the Property as well as over, any adjoining property owned by the Lessor.

6.2. The Lessee shall have the right, for the duration of the Lease and if necessary or desirable, for the construction, establishment or operation of the Solar Energy Facility, and connection thereof to any grid system:

6.2.1. to construct, install, test, commission, repair, maintain, replace and renew the wind turbines, solar panel installations, which shall include, but not be limited to, the construction or solar panel installations and the ancillary equipment, as well as the control building and the sub-station and any other structures as required by the Lessee;

6.2.2. to lay, use, maintain, repair, renew, replace, connect, inspect and remove Cables, transmission lines and Conduits on, over or below the surface of the Property, connect such Cables, transmission lines and Conduits to any grid system and to have the unobstructed passage and running of water, gas, oil, electricity, telecommunications and other services and supplies through such Cables, transmission lines and Conduits;

6.2.3. to construct temporary or permanent storage, pre assembly and hard standing areas;

6.2.4. to construct, repair, replace and remove any temporary or permanent meteorological mast;

6.2.5. to construct, repair, maintain, replace an operations and maintenance building, which building or portions thereof may be sublet by the Lessee to any parties responsible for or contracted to the repair and maintenance of the Solar Energy Facility including surrounding renewable energy facilities or Projects;

6.2.6. to fence-in or otherwise secure the Property and all structures erected thereon, provided that if the Lessor, in its sole and absolute discretion, requires any portion of such fencing or security infrastructure to be removed on termination of the



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Lease, the Lessee shall be obliged to do so, alternatively include the cost thereof in the Lease Premium;

- 6.2.7. to undertake any other works reasonable required for the construction, establishment, or operation of the Solar Energy Facility and the connection of the Solar Energy Facility to any grid system;
- 6.3. The Lessee may undertake all or any of the EPC and BOP Works as is required for the due construction, establishment or operation of the Solar Energy Facility and connection of the Solar Energy Facility to any grid system without the consent of the Lessor having been obtained.
- 6.4. The construction and erection of any building, structure or addition to any existing building or structure not forming a part of the EPC and BOP Works shall be undertaken by the Lessee only after the prior written notice thereof has been provided to the Lessor.
- 6.5. Construction, erection, maintenance and repairs of the Solar Energy Facility as well as buildings, structures or additions constructed and erected in terms of clause 6.4 shall be done at the risk and expense of the Lessee.
- 6.6. The Lessee shall at all times during the lease period be entitled, but not obliged, to:
- 6.6.1. traverse the Property by means of its agents, contractors, directors, employees, guests, invitees, officials, workers, together with such equipment, machinery, plant, tools, materials, and vehicles as it in its sole and absolute discretion may deem necessary or desirable for the exercise of its rights under this Lease or at law;
- 6.6.2. remove from the Property all trees, bushes, rocks and other obstructions as in its sole and absolute discretion may deem necessary or desirable for the exercise of its rights under this Lease or at law;
- 6.6.3. subject to the prior written consent of the Lessor having been obtained, utilise the existing rocks, stones, gravel and sand found on the Property for the construction, maintenance and repairs to the Solar Energy Facility, buildings, structures or additions constructed and erected in terms of clause 6.4 as well as the access roads envisaged in clause 14.

6.7. The Lessee shall -

- 6.7.1. not use the Property for any purposes other than the specific purposes as set out in clause 5 (*Use of Property*) and on the terms and conditions set out in this Lease;
- 6.7.2. not contravene any applicable laws, by-laws, regulations, ordinances, town planning schemes and registered servitudes in exercising its rights in terms of this Lease;
- 6.7.3. not contravene or permit the contravention of any of the conditions of the title deed under which the Lessor owns the Property nor any laws which the Lessor is required to observe by reason of such ownership;
- 6.7.4. not cause or permit any nuisance to emanate from the Property, or cause or permit any disturbance to the occupiers of adjacent property belonging to the Lessor or to any other person, or which causes damage, loss, injury or death to other persons;
- 6.7.5. take all reasonable precautions to at all times keep the Property in a safe, secure, clean, tidy and sanitary condition and in particular be responsible for the provision of sufficient ablution facilities and the disposal of sewage generated on the Property by the Lessee, its agents, contractors or any person contractually acting in its interests as well as not do or permit to be done, anything that is or may or become hazardous to public health, all in compliance with all applicable legislation;
- 6.7.6. be responsible for the due supply of all water and electricity supplied to the Property for purposes of the Solar energy facility and shall bear the costs of such supply and use;
- 6.7.7. be responsible for the pro rata payment of property taxes imposed in respect of the Property by the relevant local authority;
- 6.7.8. be entitled but not obliged on behalf of the Lessor to query, object or take any legal action as may be required to, object to and revise any property taxes imposed in respect of the Property by the relevant local authority:



6.7.9. comply specifically with the conditions of the Mine, Health and Safety Act, Act No. 29 of 1996, the Occupational Health and Safety Act 85 of 1993, as well as any other relevant law in force;

6.8. Notwithstanding the manner and method in which the equipment, machinery, structures and other improvements installed by the Lessee on the Property for the purposes of the Solar Energy Facility, has been affixed to the Property, such equipment, machinery, structures and other improvements shall at all times be regarded as movable and shall not accede to the Property and may be removed by the Lessee on the termination of this Lease.

7. RIGHTS AND OBLIGATIONS OF LESSOR

7.1. The Lessor shall, except in the event of a written objection being forwarded by the Lessee, be entitled to:-

7.1.1. enter the Property in order to exercise its rights under this Lease and in order to access any adjoining land owned by the Lessor;

7.1.2. utilise such portions of the Property not improved or otherwise required for the due construction, operation or maintenance of the Solar Energy Facility for the following purposes:

7.1.2.1 agricultural use of the Property, or any portion thereof;

7.1.3. the free and uninterrupted passage and running of water, electricity and other services to and from the Lessor's adjoining land through and along any Cables and/or Conduits which may be at the Date of Signature Hereof or during the course of the Lease installed in, under or upon the Property, however specifically excluding any Cables or Conduits installed by the Lessee;

7.1.4. the right to enter upon the Property in order to repair or maintain the Cables and/or Conduits referred to in clause 7.1.3;

7.1.5. let his/its rights referred to in clause 7.1.2 above to a third party, subject to the written consent of the Lessee, which consent the Lessee shall not unreasonably withhold.

7.1.6. The Lessor shall comply with the Health and Safety Policy of the Lessee finding application to the Property and as amended from time to time.



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7.2. The Lessor shall not -

- 7.2.1. dump or permit to be dumped any soil, rubbish or other material on the Property;
 - 7.2.2. remove or cause or permit to be removed any soil cover from any portion of the Property;
 - 7.2.3. carry on or cause or permit any quarrying activities on any portion of the Property without the prior written consent of the Lessee;
 - 7.2.4. do or cause or suffer to be done anything which may in any way prejudice or interfere with the rights conferred to the Lessee in this Lease and the general establishment and operation of the Solar Energy Facility, specifically including the obstruction or interruption of the wind / sunlight passing over, through and from the Property as well as over, through and from any adjoining property owned by the Lessor;
 - 7.2.5. do or cause or suffer to be done anything which may in any way prejudice or interfere with the Lessee's Equipment;
- 7.3. The Lessor irrevocably undertakes in favour of the Lessee to sign all such documents and to do all such things as may be requisite, which may include signing a Special Power of Attorney in favour of the Lessee upon request, to enable the Lessee to exercise all of its rights in terms of this Lease, which shall expressly include, but not be limited to allowing the Lessee to procure all rights of access intended as described in clause 14 below.
- 7.4. The Lessor hereby acknowledges and agrees that the Lessee shall be entitled to register a mortgage bond over the Lease in favour of any of the Financing Parties (or their nominees or assigns) and the Lessor undertakes, upon the written request of the Lessee and/or the Financing Parties, to provide all documentation and do all things which may be necessary to procure the registration of such mortgage bond.
- 7.5. The Lessor shall have no right, title or interest in or to any Certified Emission Reductions, whether temporary or long-term; Emission Reduction Units; Verified Emission Reductions; Non-verified Emissions Reductions; Solar Energy Certificates or the like, produced or generated from the Solar Energy Facility operated by or on behalf of the Lessee on the Property.

8. **LIMITATION OF LIABILITY AND INDEMNITY**

8.1. The Lessee:

8.1.1. Shall not under any circumstances have any claim of any nature whatsoever, whether in contract or delict, for loss or damages (direct or indirect) against the Lessor in respect of any loss of damage caused to the Solar Energy Facility and any articles or assets of any nature whatsoever on the Property and/or as a result of personal injury or death caused in connection with the Solar Energy Facility or on the Property, as a result of -

8.1.1.1. rain, water seepage or leakage howsoever occurring, hail, lightning, fire, explosion, gas, spontaneous combustion, electric power or current, theft, war, riot, strikes or civil commotion;

8.1.1.2. the condition or state of repair of the Property or any part thereof, and/or

8.1.1.3. *vis major* or *casus fortuitous*;

except if the Lessor acted wilfully, grossly negligently or recklessly or its omission to act was wilful, grossly negligent or reckless;

8.1.2. Hereby indemnifies the Lessor against all losses, damages or claims directly caused to it or its property by the Lessee's negligence or the negligence of its agents, contractors or any person contractually acting in its interests in the construction, erection, installation, or removal of any alterations, additions or improvements on and/or to the Property or in the running or operation of the Solar Energy Facility. In this regard, the Lessee hereby agrees to promptly compensate the Lessor at market value of the thing damaged or loss suffered to the extent that it is possible and on condition that such value is proven by way of written documentation from an independent supplier or, if required by the Lessee, certification by an expert mutually agreed upon by the Parties;

8.1.3. Hereby indemnifies and holds the Lessor harmless against any claims of whatsoever nature, save and to the extent caused by, or resulting from, the wilful, grossly negligent or reckless conduct or omission by the Lessor, that may be made against the Lessor by any third party for any loss of or damage to Property, or any injury or death caused, in connection with its use of the Property by the Lessee as defined in this Lease.

8.2. Should either Party ("the Innocent Party") suffer loss or damages (direct or indirect) as a result of fire-breaks or fires instituted at the instance of the other Party ("the Guilty Party") the Guilty Party shall be responsible for such loss or damage, and the Guilty Party in addition



hereby indemnifies and holds the Innocent Party harmless against any claims, of whatsoever nature, that may be made against the Innocent Party by any third party for any loss or damage to its property or any injury or death caused to any person as a result of the fire-breaks as described in this clause.

9. RIGHT TO ASSIGN AND TO SUB-LET

9.1. Notwithstanding anything else herein contained, the Lessor acknowledges and agrees that the Lessee shall be entitled subject to the provisions of clause 9.4 below, to cede and assign its rights and obligations hereunder and/or to sublet the Property, or any portion thereof to any Nominee without the consent of the Lessor having been obtained.

9.2. The Lessee shall be entitled at any time to require that a cession or an assignment or sub-lease in terms of clause 9.1 be notarially executed and registered in the relevant deeds office at the cost of the Lessee.

9.3. The Lessor shall not be entitled to cede or assign any of its rights or obligations in terms of this Lease, including without limitation, its right to the payment of any rental, without the prior written consent of the Lessee.

9.4. Notwithstanding the provisions of clauses 9.1 and 9.3 above, the Lessee may:

9.4.1. cede, mortgage or hypothecate all (and not part only) of the Lessee's rights under this Lease to the Financing Parties (or their nominees or assigns);

9.4.2. cede and delegate or transfer all (and not part only) of its rights and obligations under this Lease to a substitute lessee, as provided for in the Lease Direct Agreement;

9.4.3. permit as contemplated in the Lease Direct Agreement, an authorised representative to assume, jointly and severally with the Lessee, all of the Lessee's rights and obligations under this Lease in accordance with the Lease Direct Agreement; and

the Lessor hereby consents to such cession and delegation, mortgaging or hypothecation, or transfer, and the Lessee undertakes to notify the Lessor of any such cession and delegation, mortgaging or hypothecation or transfer as soon as possible thereafter.




10. OCCUPATION, POSSESSION AND RIGHTS ON TERMINATION

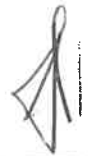

- 10.1. Notwithstanding any other provisions of this Lease, occupation and possession of the Property will be given to the Lessee on the Commencement Date, on and from which date the Property, insofar as the Solar Energy Facility is concerned, shall be at the sole risk and profit of the Lessee.
- 10.2. On termination of this Lease the Lessee will return the Property to the Lessor.
- 10.3. The Lessor acknowledges and agrees that the Lessee shall have the discretion at any time during the Lease period or on termination of this Lease to remove all or any portion of the Solar Energy Facility from the Property.
- 10.4. On termination of the Lease the Lessee shall either:
- 10.4.1. Dismantle and remove the Solar Energy Facility from the Property to the reasonable satisfaction of the Lessor, which removal will include the removal of the wind turbine platform foundations / solar energy panels down to a depth of 1,2 (one comma two) metres;
- Or, alternatively,*
- 10.4.2. The Lessee shall have the election, in its sole and absolute discretion exercised by written notice issued to the Lessor, to surrender the Solar Energy Facility or any portion thereof with the Property as part thereof. Prior to the Termination Date the Lessee shall inform the Lessor of which portions of the Solar Energy Facility are to be so surrendered and the Parties shall agree on a Lease Premium to be paid to the Lessor in respect thereof. Should the Parties not be able to reach agreement on the Lease Premium 3 (three) months prior to the Termination Date the matter shall be dealt with in terms of clause 20 (*Dispute Resolution*).

11. LICENCES

- 11.1. The Lessee (at its cost) is responsible for obtaining (and renewing) all licences, permits, consents or authorities required by it in respect of the use of the Property, which consents shall specifically include all consents required by any environmental legislation applicable during the lease period.
- 11.2. The Lessee shall have no claim against the Lessor should any requirements stated in clause 11.1 be refused, withdrawn or not renewed for any reason whatsoever, however should any licence, permit, consent or authority not be obtained, alternatively renewed during the



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course of the Lease, the Lessee shall be entitled (but not obliged) to cancel this Lease as a result thereof.

- 11.3. Subject to the provisions of this Lease, the Lessee (at its cost) will comply with all terms and conditions under which any such licenses, permits, consents or authorities are issued.

12. **INSURANCE**

The Lessee shall at all times during the currency of the Lease take out and maintain with a reputable insurance company adequate insurance cover at its expense for the Property and the Solar Energy Facility (including all equipment, assets, articles and installations which are connected to the operations of the Solar Energy Facility) at market value, as is commercially viable for the project.

13. **WARRANTIES**

- 13.1. Save as expressly qualified in this Lease, the Lessor does not warrant –

13.1.1. that the Property will be fit for the purposes for which it is let (on the basis that the Property is currently undeveloped and that the Lessor is entitled to develop the Property, the Lessee is entitled, but not obliged, to erect improvements on the Property or on buildings erected or to be erected on the Property on its own initiative and risk);

13.1.2. the suitability, condition or safety of the Property for the Lessee's purposes, and

13.1.3. that the Lessee will be granted any licence or permit in respect of the Property for the conduct of the Lessee's business or that any such licence or permit will be renewed from time to time.

- 13.2. The Lessor warrants that, on Date of Signature Hereof as well as the Commencement Date –

13.2.1. it is the beneficial and registered owner of the Property;

13.2.2. neither the Property nor any portion thereof has been disposed for any purpose whatsoever to any third party except as disclosed to the Lessee in writing;

13.2.3. no agreements have been entered into whereby any restrictive conditions or servitudes or usufructs attach to the Property other than those at present registered in the relevant deeds office and except as disclosed to the Lessee in writing;

- 13.2.4. it has no knowledge of any fact or circumstance likely to unduly delay registration of this Lease beyond the Commencement Date, neither does it contemplate the launch of any proceedings in terms of the Insolvency Act, 24 of 1936 as amended, neither has it committed an act of insolvency in terms of section 8 of the insolvency act prior to Date of Signature Hereof;
- 13.2.5. no person except as disclosed to the Lessee in writing will occupy or have the right to occupy the Property, the buildings thereon or any part thereof;
- 13.2.6. the Property is zoned for Agricultural Use and all necessary permits and registrations have been obtained for this use, if required;
- 13.2.7. without conducting any additional investigations, the Lessor is not aware of any undisclosed facts, matters or circumstances which may give rise to -
- 13.2.7.1. any change in the zoning;
- 13.2.7.2. any expropriation of the Property in terms of any Legislation, or any applications or proceedings in terms of the Minerals and Petroleum Resources Development Amendment Act, 49 of 2008 or any related Act or Legislation;
- 13.2.7.3. any declaration of the Property or any part thereof as a local, provincial or national heritage site, or any other form of protection being applied in relation to the Property or any structure or objects thereon, under the National Heritage Resources Act, 1999;
- 13.2.7.4. any finds of archaeological or other heritage nature on the Property;
- 13.2.7.5. any curtailment of, or restrictions on, development of the Solar Energy Facility on the Property, or on any other use in terms of this Lease, arising from any environmental law including, without limitation, the National Environmental Management Act, 1998; the National Environmental Management Waste Act, 2008; the National Environmental Management Protected Areas Act, 2003; the National Environmental Management Biodiversity Act, 2004; or the National Water Act, 1998;
- 13.2.7.6. any curtailment of, or restrictions on, development of the Solar Energy Facility on the Property, or on any other use in terms of this Lease, arising from any directives, compliance notices, orders, or any other administrative action or



court orders of whatsoever nature in relation to environmental issues associated with the Property;

13.2.7.7. the Property being contaminated or declared an investigation site or remediation site in terms of the National Environmental Management: Waste Act, 2008;

13.2.8. there are no existing informal rights to the Property as provided for in the Interim Protection of Informal Land Rights Act, 1996;

13.2.9. no claim will lie in respect of the Property in terms of the Restitution of Land Rights Act, 1994 or any amendments or re-enactments of this Act or legislation pertaining to restitution of land rights;

13.2.10. there is no resident on the Property who was a labour tenant on 2 June 1995;

13.2.11. there are no proceedings pending in any court as contemplated in the Land Reform (Labour Tenants) Act, 1996;

13.2.12. there are no squatters on the Property;

13.2.13. no claim or potential claim will lie in respect of the Property in terms of the National Environmental Management Act, 1998; the National Water Act, 1998; the National Environmental Management: Waste Act, 2008; or any other environmental law;

13.2.14. there are no proceedings pending in any court or administrative tribunal in relation to any environmental law or environmental issues associated with the Property.

14. ACCESS

14.1. The Lessee shall be entitled, during the currency of the Lease and on notice to the Lessor, to install temporary ground reinforcement and temporary roads on the Property without the consent of the Lessor having been obtained.

14.2. The Lessee shall at all times be entitled, during the currency of the Lease, and on notice to the Lessor, to procure at its cost, that the Property has access to the existing public road network, which access may in addition traverse adjoining property owned by the Lessor and which access road shall be used by both Parties. The Lessor shall co-operate in all respects to provide an access road from the existing public road network to the entrance of the Property

which access road shall be available to the Lessee and those parties, vehicles etc as defined in clause 6.6.1 above.

- 14.3. The access road shall be constructed and maintained during the currency of the Lease at the cost of the Lessee and on such terms and conditions as are recorded in the servitude agreement regulating the Right of Way and to be registered in terms of clause 14.5 below. The Parties however acknowledge and agree that it is intended that the Lessee shall be entitled to:

14.3.1. alter, build, clean, construct, enhance, erect, expand, extend, improve, inspect, install, lay down, maintain, renew, repair, replace, service and upgrade on, over, within and/or beneath the Property and, if required, the Lessor's adjoining property, an access road in such a manner and with such materials as the Lessee may in its sole and absolute discretion determine from time to time to be required for the construction and operation of the Solar Energy Facility, as well as purposes ancillary thereto, and provided that such access road -

14.3.1.1. complies with the provisions of the operative town planning scheme and all applicable legislation;

14.3.1.2. is constructed in a single level on the applicable mean natural ground level of the Property, and does not exceed that height by more than 1 (one) metre; and

14.3.1.3. is at least 5 (five) metres in width and constructed to accommodate heavy vehicles with minimum dimensions of no less than 4,42 (four comma four two) metres in height, 15 (fifteen) metres in length and with a maximum axle weight of 2 (two) tonnes;

- 14.4. No consideration whatsoever shall be payable by either Party in favour of the other in respect of the access road and neither Party shall be entitled to compensation in favour of the other Party in respect of the construction, use or maintenance of the access road.

- 14.5. Registration of the Lease shall occur simultaneously with registration of the servitude agreement regulating the Right of Way in favour of the Lessee, the contents whereof shall be endorsed against the title deed of the Property upon such date of registration.

- 14.6. Any dispute concerning the terms and conditions of the servitude agreement and/or the Right of Way and/or either party's refusal and/or failure to negotiate in good faith or at all, shall be resolved in accordance with clause 20 (*Dispute Resolution*).

- 14.7. The Lessor ~~shall~~ not be entitled to lock any gates thus restricting access to the Lessee as regards any rights of access recorded in this clause 14.

15. **REMEDIES FOR BREACH AND CANCELLATION**

15.1. Should the Lessee:-

- 15.1.1. fail to make any payment of rent or any other amount due in terms of this Lease on or before due date and fail to remedy such breach within 14 (fourteen) business days after receipt of written notice requiring it to do so; or
- 15.1.2. commit or suffer or permit the commission of a breach of any of the other terms of this Lease, whether or not such breach goes to the root of this Lease, and fail to remedy such breach within 21 (twenty one) business days (or within such further period as may be reasonable under the circumstances); or
- 15.1.3. be liquidated or placed under judicial management (whether provisionally or finally and whether voluntary or compulsorily); or
- 15.1.4. effect a general compromise or any other arrangement with its creditors other than a solvent reconstruction; or
- 15.1.5. abandon the Solar Energy Facility and allow the turbines to be inactive for a period exceeding 6 (six) months without attempting to effect any reasonable repairs required;

In such event the Lessor shall be entitled to hold the Lessee to the terms of this Lease, alternatively shall be entitled to cancel this Lease and to recover such damages as it may have suffered from the Lessee provided that:

- 15.1.6. the Lessor has given the Financing Parties notice of the default in question, whether or not the Lessor is obliged to give notice of such default to the Lessee, which notice shall be given to the Financing Parties concurrently with (or as soon

as reasonably possible after) any notice pertaining to such default given by the Lessor to the Lessee; and

15.1.7. a period of time not being less than 30 (thirty) days, has passed subsequent to the date of receipt by the Financing Parties of such notice and the breach has not been remedied.

16.2 Any purported cancellation or termination of the lease which is contrary to the provisions of this clause will be invalid and of no force or effect whatsoever.

16.3 Should the Lessor commit or suffer or permit the commission of a breach of any of the other terms of this Lease, whether or not such breach goes to the root of this Lease, and fail to remedy such breach within 21 (twenty one) business days after receipt of written notice requiring it to do so or within such further period as may be reasonable under the circumstances, the Lessee shall be entitled to hold the Lessor to the terms of this Lease, alternatively shall be entitled to cancel this lease and recover such damages as it may have suffered from the Lessor.

16.4 Notwithstanding the provisions of clauses 16.1 and 16.2 above where such breach is capable of being remedied by the payment of compensation then --

16.4.1 such other party must claim (without prejudice to any other claim for damages which may be available to such other party at law) the payment of compensation;

16.4.2 if such breach is not remedied by payment within 21 (twenty one) days (or within such extended period as may be appropriate in the circumstances) after the award of final judgement (which shall include any revision, review or appeal) in respect thereof, such other party shall be entitled to cancel this Lease;

16.4.3 where such breach is not capable of being remedied by the payment of compensation then, if such breach is not remedied within 21 (twenty one) days (or within such extended period as may be appropriate in the circumstances) after the award of final judgement (which shall include any revision, review or appeal) in respect thereof, such other party shall, without prejudice to any other claim for damages which may be available to such other party at law, only be entitled to cancel this Lease, if such

breach is material and goes to the root of the agreement, subject to the provisions of the Direct Agreement.

16.5 Subject to clause 16.1, where the Lessor is entitled to cancel this Lease, it shall be entitled (subject to the provisions of the Direct Agreement), but not obliged notwithstanding any previous waiver or anything to the contrary herein provided, to either -

16.5.1 cancel this Lease forthwith, eject the Lessee from the Property and recover from the Lessee any damages suffered by the Lessor as well as all amounts which became due for payment by the Lessee hereunder prior to the date of such cancellation; or

16.5.2 cancel this Lease and permit the Lessee to remain in occupation of the Property as a monthly tenant on the basis that the tenancy will be terminable by the Lessor (but not by the Lessee) on 6 (six) months' written notice but subject otherwise to all the terms and conditions, *mutatis mutandis*, of this Lease save as regards renewal;

16.6 Should the Lessor cancel this Lease and the Lessee disputes the Lessor's right to cancel and remain in occupation of the Property -

16.6.1 the Lessee shall, pending the determination of such dispute, continue to pay to the Lessor all amounts payable hereunder on or before the date or dates on which such moneys would have been due but for the cancellation, and the Lessor shall be entitled to accept and recover such payments and the acceptance thereof shall be without prejudice to and shall not in any way whatsoever affect the Lessor's right to cancellation then in dispute;

16.6.2 the provisions of this Lease shall prevail as if there had not been a cancellation;

16.6.3 the Lessor's right to claim damages suffered by him as a result of the Lessee's breach of this Lease, or holding over of this Lease, will not be affected.

16.7 Notwithstanding the provisions of this clause 16, the Lessor shall not be entitled to cancel this Lease for any breach by the Lessee unless the Lessor has given written notice to the Financing Parties (or their nominees or assigns) of the unremedied breach and otherwise complied with the Lease Direct Agreement.

16. COSTS

16.1. Each Party shall bear its own costs of and incidental to the negotiation and preparation of this Lease.

- 16.2. The costs of registration of the Lease and any other addenda, and any cession of the Lessee's rights and obligations in terms hereof shall be borne by the Lessee and paid on demand.

17. **REGISTRATION OF THIS NOTARIAL DEED**

- 17.1. The Lessee shall be entitled to require, on written notice to the Lessor, that this Lease be registered against the title deeds of the Property. Such registration at the relevant deeds office shall be effected by the Attorneys at the cost of the Lessee, which costs shall be payable on demand.
- 17.2. The Lessor and the Lessee, as a mutual undertaking to each other, undertake to sign such documents as may be necessary or incidental to procure the registration referred to in clause 17.1.
- 17.3. Save in respect of a breach of the warranty contained in clause 13.2.4 above, the Lessor shall not be liable for any damages of whatsoever nature and howsoever arising out of any delays that may occur in respect of the registration of this Lease and/or any other addendum and/or Part and/or any cession hereof or any sub-lease or any mortgage bond that the Lessee wishes to have registered against the title deeds of the Property, to the extent that such delay is not within the control of the Lessor.

18. **DOMICILIUM CITANDI ET EXECUTANDI**

The provisions of clause 16 of the Option Agreement find application.

19. **DISPUTE RESOLUTION**

The provisions of clause 17 of the Option Agreement find application.

20. **GENERAL**

20.1. **Whole Agreement, No Amendment**

- 20.1.1. This Lease constitutes the whole agreement between the Parties and no warranties or representations, whether express or implied, not stated herein shall be binding on the Parties.
- 20.1.2. No agreement at variance with the terms and conditions of this Lease and no consensual cancellation hereof or any of the terms hereof shall be binding on the Parties unless reduced to a written notarial deed signed by or on behalf of the Parties.

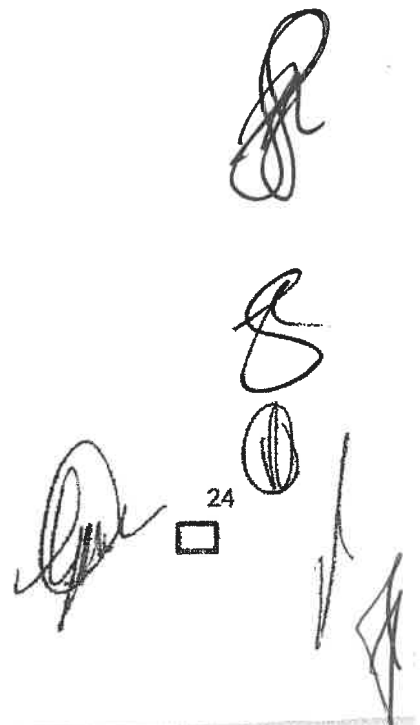
20.1.3. The Lessee shall not be entitled to claim the existence of an extension or renewal of this Lease not specifically provided for in this notarial deed, or of a new Lease to commence upon the expiration of this Lease unless the Lessor shall have bound itself thereto in writing.

20.2. Legal Costs

If either Party breaches the provisions of this Lease, then all reasonable and necessary legal costs reasonably incurred by the other Party, irrespective of whether action has been instituted or not and irrespective of in which court the action is instituted, in successfully enforcing or defending any provisions of this Lease as a result of such breach will be payable by the defaulting party to the other party on demand.

20.3. Lessor

Any reference to the Lessor in terms of this Lease shall include the Lessor's successors-in-title and/or cessionaries or acquirers of rights in terms hereof.



Handwritten signatures and a date stamp. The date stamp is a small square box containing the number 24. There are several handwritten signatures and initials around the date stamp.

20.4. Indulgence

No indulgence, leniency or extension of time which either Party ("Grantor") may grant or show to the other ("Grantee") shall in any way constitute a waiver of any of the rights of the Grantor, who shall not thereby be precluded from exercising any rights against the Grantee which may have arisen in the past or which might arise in the future or constitute a waiver or be grounds for *estoppel*.

20.5. Invalidity & Divisibility

Should any clause or provision of this Lease be found to be invalid or unenforceable in any way, such clause or provision shall be deemed to be separate and divisible from the remaining provisions of this Lease, and the validity and enforceability of the remaining terms and conditions of this Lease shall not be affected.

20.6. Lease only Binding on Signature of Lessor

Subject to the provisions of clause 6.4 of the Option Agreement, this Lease shall only have effect and become binding upon the Lessor if and when the same shall have been executed by it, failing which the Lessee shall have no right to claim the existence of a Lease with the Lessor, whether verbal or otherwise, or by reason of this Lease having been executed by the Lessee only.

20.7. Independent Advice

It is recorded that each Party has obtained independent advice in entering into this Lease and that they have not relied upon any representation or warranty on the part of the other Party in entering into this Lease.

20.8. Authority

By signing this Lease, the signatory for the Parties, confirms that they are duly authorised to enter into this Lease on behalf of the respective Parties.

20.9. No warranties

The Lessee records that it has not entered into this Lease by reason of any warranty or representation made to it by or on behalf of the Lessor, other than as set out in this Lease.

20.10. Governing Law

This Lease shall be construed and the legal relationship between the parties governed in accordance with the laws of the Republic of South Africa.

20.11. Representations and Warranties

The Lessee represents and warrants to the Lessor that –

- 20.11.1. it is a company duly incorporated with limited liability and validly existing under the laws of the Republic of South Africa;
- 20.11.2. it has the corporate power to enter into and to perform, and has taken all necessary corporate action to authorise the entering into, performance and delivery of, this Lease and the transactions contemplated by this Lease;
- 20.11.3. this Lease constitutes its valid, legal and binding obligations enforceable in accordance with its terms.

21. SUSPENSIVE CONDITION

- 21.1. The operation of this Lease, save for the provisions of this clause 22 and clauses 1, 19 and 20 which shall be of immediate force and effect, shall be subject to the fulfilment of the following conditions:

- 21.1.1. The Lessee has obtained Ministerial Consent for the conclusion of this Lease (to the extent that Ministerial Consent is required;
- 21.1.2. the Lessee and a third party purchaser having executed a Power Purchase Agreement; and
- 21.1.3. the Lessor, the Lessee and the Financing Parties (or their nominees or assigns) having executed the Lease Direct Agreement.

- 21.2. The Lessee agrees to promptly notify the Lessor of the date that the Implementation Agreement and the Power Purchase Agreement are executed. In the event that the conditions in clauses 22.1.1 to 22.1.3 are not fulfilled, or their fulfilment is not waived, within 12 (twelve) months of the execution of this Lease or such later date as may be determined by the Lessee, then upon the delivery by any Party of written notice to the other Party declaring that the conditions have failed, this Agreement, save for this clause 22 and clauses 1, 19 and 20 all of which shall continue in force notwithstanding the lapsing of this Lease, shall be of no further

force or effect and the Parties shall be restored to their *status quo ante* and, save for any claim based on the doctrine of fictional fulfilment, no Party shall have any other claim against any other Party arising out of the failure of the conditions or any of them.


21.3. Each Party undertakes to use all commercially reasonable endeavours to ensure that the above conditions are fulfilled by the date for fulfilment thereof.

22. **CONFLICT WITH LEASE DIRECT AGREEMENT**

In the event of any conflict between the provisions contained in this Lease and the provisions contained in the Lease Direct Agreement, the provisions of the Lease Direct Agreement will prevail insofar as the Lease Direct Agreement is still in force and has not lapsed or been cancelled by the parties thereto.

THUS DONE and SIGNED at CAPE TOWN aforesaid, on the day, month and year first aforewritten in the presence of the subscribing competent witnesses.

AS WITNESSES:

1. 

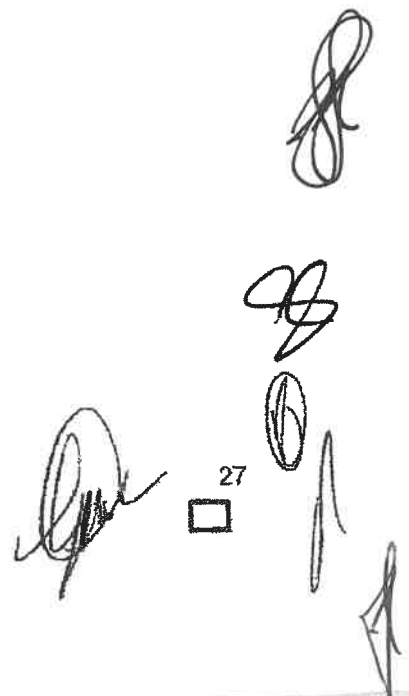
FOR: THE LESSOR

2. _____






FOR: THE LESSEE

QUOD ATTESTOR

NOTARY PUBLIC



Annexure B- Diagram - Land Option Area

TS.     

***GEDEELTE 11 (ged. van Ged. 8) van die plaas OUDE POST No. 577**
Administratiewe Distrik Malmesbury

L.G. No.
5945/1999

Goedgekeur

T. Swan

MR.
LANDMETER-
GENERAAL
1999.11.18

VEL 2 VAN 2
VELLE

~~Opmerkinge~~
Die lyn onder stel voor die middellyn van 'n Elektriese Kraglyn Servituut.
Kaart No. 0483147

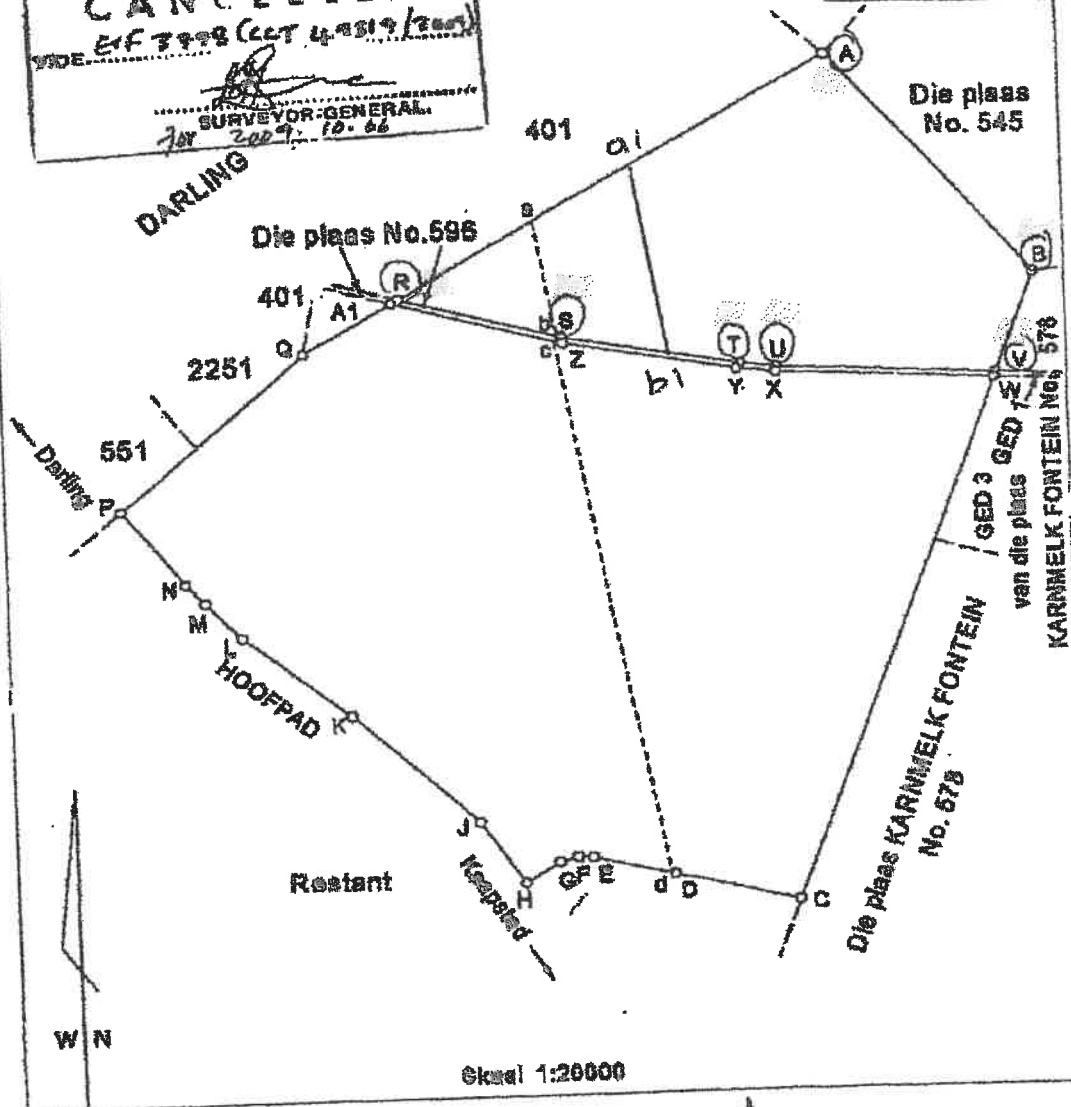
Now
3777 DARLING

CANCELLED
VIDE EF 3998 (LCT 49319/2005)
[Signature]
SURVEYOR-GENERAL
2009.10.06

HIERDIE GEDEELTE W ONDER-
WORPE AAN VOORWAARDES
SOOS VERWYS IN ARTIKEL 11
(8) VAN WET 21/1940.

31124
1999-08-18

1325/77
1999-08-05



Opgemeet in Oktober 1999 deur my

[Signature]
PLS 0761 A.P. Steyl
Pr. Landmeter

57744