



Consultants for Resources Evaluation

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March 12, 2009

Mr. Siseho Simasiku
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Electricity Control Board of Namibia
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cc: Mr. Gerrit Clarke: ECB Project Manager for the USTDA Grant

REFERENCE: Task 7 Report
Task 7: Implementation Plan for the IPPs
IPP Investment Market Framework and Technical Assistance Phase II

Dear Mr. Simasiku:

We are pleased to enclose our Task 7 Report as required under our contract with the Electricity Control Board.

On behalf of CORE International and the CORE Team I would like to express our very sincere appreciation to you and other ECB officials for supporting us as we progress on this study. We are especially grateful for the support that Mr. Clarke has provided us in getting the project off the ground.

On behalf of our Team, we wish to assure ECB of our continuing commitment to providing excellent services under this Project in a timely and efficient manner. Please do not hesitate to contact me if you need any additional information.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Vinod K. Shrivastava". The signature is fluid and cursive.

Vinod K. Shrivastava
Corporate Project Director

Enclosure: Task 7 Report



**NAMIBIA IPP AND INVESTMENT FRAMEWORK
TECHNICAL ASSISTANCE
UNDER A GRANT BY THE U.S. TRADE AND
DEVELOPMENT AGENCY**

TASK 7: Implementation Plan for IPPs

**PREPARED FOR
ELECTRICITY CONTROL BOARD, NAMIBIA
(INTERIM CONTRACTUAL MILESTONE REPORT)**

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1. INTRODUCTION AND OBJECTIVES OF TASK 7

1.1 INTRODUCTION

In November 2007, the Government of Namibia passed Electricity Act 2007, which permits and encourages private sector investment in the country's power sector. The Electricity Control Board (ECB), the regulator in Namibia has been given the responsibility under the Act to implement the Independent Power Producer (IPP) regime in Namibia in accordance with the provisions of the Act and its own regulatory procedures approved by the ECB Board. Accordingly, ECB developed and posted a vast amount of information on its web site that would be of interest to prospective IPPs interested in Namibia's power sector.

In addition, ECB has developed a detailed procedure for the documentation and evaluation of the IPP applications. This procedure is currently being refined based on the experience ECB has had as a result of a number of application it has received for licenses for generation of power.

The U.S. Trade and Development Agency (USTDA) has provided a grant to the ECB as a follow-up to a previous grant that focused on developing various framework models for planning for an IPP regime in Namibia. The first USTDA grant completed by CORE International, Inc. supported the following key activities:

- Identification of barriers to IPP development in Namibia
- Market Model Recommendations
- Regulatory Recommendations
- Model document preparation for small and medium IPPs
- Policy Recommendations
- Barrier Mitigation

Since the completion of the first USTDA grant, Namibia has been forced to take concrete steps to address its power supply future. Key challenges facing the country include (i) the reduction in surplus electricity supply from South Africa; (ii) soaring prices for liquid and gas fuels; (iii) continuing increases in demand for mining products, and with that the electricity to process minerals; (iv) the long lead times involved in building new power plants; and (v) the desire to develop a secure power supply independently of South Africa.

Consequently, Namibia, through the ECB and NamPower, has taken several concrete steps to begin to tackle the electricity supply-side challenges facing the country. These steps include the following key ones:

- Construction of the Caprivi Link with Zambia
- Investment in rehabilitation of coal-fired station in Zimbabwe
- Encouragement of new IPP generators in Namibia

In the interim and prior to the current grant, ECB began receiving a number of IPP applications for licenses. The current project under the USTDA grant focuses on the provision of consulting services to ECB in the evaluation of IPP applications and providing capacity building to ECB officials in the implementation of the IPP framework. ECB selected CORE International, Inc.,

an international management consulting company based in Washington, D.C., to provide technical advisory services in order for ECB to evaluate the various IPP applications in accordance with both the Government's policy and best international practices to ensure that the review process is transparent, fair, and accountable.

The Terms of Reference (TORs) for the USTDA Phase II Grant to ECB includes several tasks. Task 2 of the TOR focuses on providing assistance to the ECB in two key areas – (i) development of IPP framework implementation instruments for large and medium sized IPPs and (ii) capacity building and skills development support to ECB. This report is a contractually required interim milestone report for the activities conducted under Task 2.

1.2 TASK 7 OBJECTIVES

The Contractor shall draft a Model IPP Project Implementation Plan that the Grantee will include in all tender documents for IPP projects. It also will be used by the Grantee as a fact sheet for all unsolicited IPP proposals.\

This Model IPP Project Implementation Plan shall include the following:

- Project Financing Details – the type and timing of financing that will be available for project construction and start-up;
- Formalized Agreement for Fuel Supply – including prices and terms and conditions for fuel delivery;
- Project Implementation Schedule – a timeline and a completion date for the project, and
- Institutional Agreements – including a model PPA with the buyer of electricity.

The Contractor shall prepare the Model Implementation Plan in close coordination with the Grantee. The Grantee shall review this plan to better ascertain the level of detail required in future Implementation Plans.

While the ECB has issued some licenses to specific IPP projects none of the projects have so far reached financial closures. The IPP developers have been informed by the ECB of specific conditions to licenses with a time limit for responses. The IPP developers are working on developing the projects further and meeting the conditions required by ECB.

2. KEY TASK 7 ACTIVITIES AND PRODUCTS

This section summarizes the activities conducted by CORE International as part of Task 7. It should be noted that a key component of Task 7 Scope of Work was to develop an IPP Implementation Plan. The IPP implementation issues were discussed between the ECB officials and CORE experts through the project starting from the very beginning. Given that NamPower will obviously be an important player in any IPP decisions in Namibia and will, in some cases, may propose IPP projects to ECB, the CORE Team facilitated a number of work sessions between the ECB and NamPower officials on a variety of IPP implementation issues and processes including the following key areas:

- IPP Application Submission Process and Requirements – Roles of various Parties
- Post Application Documentation and Review Process
- IPP Due Diligence Process and the Roles of Various Parties
- IPP Risk Identification and Allocation and the Roles of Various Parties
- IPP Project Implementation Issues

Throughout the project, the CORE Team conducted analyses, developed various documents, and facilitated work sessions among all key parties. The specific deliverables are included as part Task 1 to Task 4 reports and memoranda. Key aspects of IPP implementation issues are summarized in this report.

2.1 KEY IPP IMPLEMENTATION ISSUES

As Namibia moves to the implementation phase of its IPP program, several matters will need to be addressed in an operational manner. These issues, many of which were identified in Phase 1 of this activity, will establish an overall environment for IPPs that can be attractive or repelling, depending on the specific decisions that are taken.

As the downturn in world markets continues to impair the ability of the Southern African countries to finance power sector expansion out of current earnings, IPPs, based on some sort of debt structure, will be increasingly proposed. In addition, the wide swings in primary commodity prices have once again made clear the risks that are posed by responding to short term economics in power sector investment plans.

The IPP approval procedure that has been developed by CORE with ECB is characterized by sufficient flexibility such that it is applicable to both large and small projects, with a wide variety of fuels and prime mover technologies. Of paramount importance to the success of Namibia's IPP program is the ability of the two key institutions, ECB and NamPower, to work together constructively. For in addition to the normal risks and obstacles facing IPP programs, it is sometimes possible, if unfortunate, for parties to work at cross-purposes.

Promoting institutional coherence and unity of purpose was the first major issue that was broached by CORE. Early in the project CORE's Project Director suggested a set of joint operating principles that would enable worthy projects to receive approvals and permits in a time and appropriate manner. Annex I includes the agenda used for facilitating discussions between the ECB and NamPower. Annex II includes a memorandum prepared by NamPower that was used for discussions facilitated by CORE International between the ECB and

NamPower on the IPP Due Diligence Process. During the IPP discussion process between the NamPower submitted two papers to the ECB on (i) Guide for Independent Power Producers in Namibia and (ii) Incorporating IPPs into the Namibian ESI. The CORE Team reviewed these documents and provided specific comments that were discussed in workshops with ECB and NamPower officials. Annex III includes a copy of comments provided by the CORE Team to facilitate the IPP due diligence and implementation process.

IN addition, in order to formalize the process of discussions between the ECB and NamPower on all IPP issues, CORE proposed that a joint ECB-NamPower Working Group should be established under the authorities of the CEOs of the two organizations and charged with working collaboratively on IPP issues. CORE also prepared the Terms of Reference for the proposed Working Group. Annex IV includes a copy of the document submitted by CORE to the ECB.

The joint ECB-NamPower working group was established to ensure that the following cooperative activities would be implemented by the country's IPP program:

- Development of an IPP License Application Information Document
- Development of an IPP Licensing Application Review and Decision Process
- Development of an NIRP
- Development of a Transmission Grid Code
- Development of a Position Paper on the Optimum Market Model in Namibia
- Development of a Position Paper on both the Solicited and Unsolicited IPP Project Proposals

Of these six activities, CORE completed its tasks as included in the Terms of reference. The License Application Information Document, the License Application Review and Decision Process, a detailed outline of the NIRP, and the Transmission Grid Code have all been submitted to the RCB as deliverables under other tasks. Position papers on a market model for the country as well as the relative roles of solicited and unsolicited IPP projects have yet to be completed jointly by the ECB and NamPower based on information developed under this Phase II program.

Other issues that have received considerable attention include standardization of the economic and financial data, standardization of technical and environmental documentation and implementation of appropriate distinctions between and among different projects on the basis of size, fuel and other technical matters.

With the uncertainty that has been created by the current international financial and economic environment, it is entirely appropriate that ECB be able to document and replicate the financial claims of applicants. In the past it was common for project developers to use complex, opaque and non-standard financial and economic modeling to promote a particular project. This approach made it impossible to compare one project with another or even to assess what impact a project might have on tariffs.

The solution was the development of a standardized methodology and data format for economic and financial analysis, as undertaken in Tasks 1 and 4 of this project. CORE worked with the ECB to develop an evaluation methodology that could be adapted to a variety of potential projects and technologies, making each proposed project comparable with the others. The

resulting economic and financial analysis model, transferred to ECB staff during Task 4,¹ enables the regulator to understand both the implicit and explicit assumptions of an applicant. This methodology was employed in the due diligence of several proposed IPPs, including coal, oil, gas and wind power plants. In addition to the results provided through use of the model, the ECB was also able to develop a standard data template for economic and financial data, thereby improving the transparency and comparability of competing projects.

An important issue that has yet to be resolved is the ultimate market model under which IPPs will be developed in Namibia. Given the size of the country and its limited ability to absorb large projects, it is vital to get the market model “right.” With South Africa facing its own supply and financing difficulties in the power sector it is a given for Namibia that internal sources or trading arrangements with others will continue to provide bulk power to the country. To this end there has been increased interest in a market model that brings large customers, mostly from the mining sector, directly into the project offtake purchase agreements. Current attention is focused on whether and to what extent large electricity users can enhance the credit worthiness of a power purchase agreement. CORE has made specific recommendations on this matter in its earlier work, and there remains a need for a focused follow-up and decision memorandum.

The role of the ECB staff in IPP approvals is the remaining major issue that was resolved during this consultancy. In the past NamPower and ECB would carry on negotiations and applications in parallel tracks. A project developer could, in effect, shop for a sympathetic forum, the one more likely to approve his application. This project has sharply reduced the ability of project developers to shop their projects to different parties within Namibia, improving the reputation of the country as a business-like and business-friendly destination for investment.

2.2 KEY IPP IMPLEMENTATION REQUIREMENTS

In a generic sense an IPP program can work if the commercial requirements of the developers and lenders are congruent with the procedural elements of the regulatory and offtake purchase entities. The regulator and offtake purchase (NamPower) can operate in a manner that is consistent with reasonable business and finance practices if they understand the work that needs to be done and design application, approval, negotiation and contracting systems that are capable of achieving each objective.

The important elements of an IPP project that must be included in the regulatory approval process can assist in the identification and quantification of risk, thereby making mitigation of that risk easier and more transparent. In work product submitted to the ECB for this phase of the IPP work, CORE has provided the ECB with a number of general descriptions of the risk identification process for IPPs. These descriptions carry with them an implicit requirement to then fill in data sheets and project descriptions so as to further the due diligence activities of the regulator. CORE has provided the ECB with data templates as well as a general description of the risk identification, mitigation and allocation processes. The materials provided to the ECB include detailed memoranda² on the relationships of the various project agreements and the risks they are intended to mitigate, detailed descriptions of the contents of power purchase

¹ And described in the report, “Task 4 Report - Namibia IPP Project II 2008,” September 2008.

² See the Project Memorandum, “DH Negotiation Guidelines Task 1,” October 2008

agreements, fuel supply agreements and other key project documents, and a training session on specific regulatory risks that must be accommodated by Namibia's IPP program.³

Since the CORE project is designed to work through the regulator, the ECB, our efforts are reflected primarily in what is done by that body. At the same time, NamPower is the offtake purchaser, particularly for the larger IPP projects, and it will bear most of the risk. Consequently, the IPP procedures designed by CORE for the ECB were created within an overall context of the project cycle and risk allocation.

In the initial TDA-funded project, Phase I of the current study, CORE concluded that key risks external to the ECB came from the following sources:

1. Pass-throughs of high generation costs by IPPs;
2. Low power prices in South Africa;
3. Difficulty in selling excess electrical energy to South Africa due to that country's low prices
4. Implicit risk for the Government of Namibia due to NamPower's status as the sole offtake purchaser of electricity; and
5. Continuing uncertainty regarding the structure of the domestic market arrangements in Namibia.

In the past 12-18 months there has been a resolution, of sorts, for each of the issues listed in the earlier report: (i) the pass-through issue has been resolved by instituting specific requirements for pricing methodology by IPP applicants; (ii) Eskom has raised prices significantly; (iii) South Africa is moving toward a more decentralized marketing structure for its power sector; (iv) NamPower is considering participation in the offtake purchase agreement by some large users; and (v) Some form of modified Single Buyer model will remain in force for Namibia indefinitely.

By promoting improved ECB/NamPower coordination on IPPs, CORE International has been involved with an ongoing effort to allocate the functions and tasks that must be completed in order to have an operational IPP program. NamPower has constructed an elaborate risk evaluation methodology⁴ and CORE believes generally that this methodology captures the important and essential risks of an IPP program. CORE has also weighed in on the subject of risk allocation with training modules and presentations on the allocation of risk between and among various parties for project proposals that are specific to Namibia.

Having addressed the allocation of risk and having agreed to general parameters of pricing, it is then the duty of the consultants to recommend specific steps in an IPP approval process that can be implemented and institutionalized at ECB and at NamPower. The specific activities will be described in the following section. However, the general requirements for ECB are as follows. ECB should:

1. Follow a consistent application process

³ See the project documents, "ECB IPP Risk Allocation," and "ECB NIRP Module 4 Reg Risk," October 2008.

⁴ See NamPower, Due Diligence and Risk Assessment Framework, August 2008.

2. Provide model documentation for applicants
3. Specify the format, content and timeliness of technical, environmental, financial and economic information used in the application evaluation
4. Make clear to applicants that pricing adjustments will follow general pricing adjustment timing and format of ECB's regulation of NamPower
5. Have at its disposal a tool for conducting financial and economic due diligence on applications.

The application format (point 3), developed iteratively by ECB and the CORE Team, resulted in specific requirements for bidders with regard to the types of information that they furnish to the ECB. This information is detailed in a series of documents and reports published by this project and by the ECB. For example, technical, financial and economic information is specified in a CORE memorandum to the ECB that has been published as a "Technical Review Information Request" (May 2008). This publication lists the specific information that each applicant must furnish – capacity and output in standard international units, description of fuel and fuel supply characteristics, key cost and pricing parameters, again with the units and format circumscribed. More detailed data requirements are then set forth in the application sections on the plant, technology, fuel supply, costs and pricing. In this way the ECB can assess the readiness of each applicant to quantify the project risks to the greatest extent feasible. Such a complete identification and quantification of project risks goes far toward constructive resolution and mitigation efforts for key project risks.

By specifying the nature and method of pricing adjustments (i.e., consistent with standard adjustment intervals for other regulated entities, including NamPower) the ECB has reduced the previous practice of ornamenting a financial analysis with exotic pricing escalations. Indeed, one of the original due diligence tasks for which the economic and financial analysis model was used was to "reverse engineer" the pricing, output and financial assumptions in various applications.

2.3 SPECIFIC ACTIVITIES FOR THE ECB

As part of the IPP Implementation Plan two major activities need to be completed by the ECB. These include the following:

1. **Development of an NIRP:** Namibia currently does not have an NIRP. As part of Task 3 under this project, the CORE Team developed and submitted a detailed Terms of Reference to the ECB for an NIRP. CORE also recommended that the NIRP should be developed by an independent party and not by utilities or any potential participants in the power market.
2. **Decision on a Power Market Model:** The Government of Namibia needs to adopt a formal power market model, as it is necessary for the market participants and IPP developers to understand the Government's policy with respect to the market model in order for them to submit proposals consistent with the market rules. In addition, as Namibia is a trader in the Southern African Power Pool, an established market model will be very effective in strengthening Namibia as a power trading partner in the region.

In addition to these two major activities, it is also recommended that the ECB and NamPower

formalize a Working Group along the lines of the Terms of Reference developed by CORE and discussed with both parties.

Also, while the ECB has instituted a public consultation process on IPP applications, it may be useful to formalize this process further. One of the best examples of the process for stakeholder participation in the IPP process widely used by many countries was developed by the California Energy Commission (CEC) to guide its IPP industry for past two decades. Annex V includes a document that could be very useful to the ECB as it formalizes its stakeholder participation process in the development and licensing of IPP projects.

3. MODEL IPP PROJECT IMPLEMENTATION PLAN

This section addresses the main issue under Task 7 – a Model IPP Implementation Plan. CORE conducted extensive research on the model IPP implementations used in other countries in order to define the most applicable model for Namibia. An example of the process used by many countries for industry participation is provided in Annex VI. It should be noted that one of the key functions of the governments is to ensure that the proposed IPP will have positive impacts on national and regional economic development in the country. Annex VI includes many key activities that have been discussed with the ECB on the need for evaluating IPP proposals with respect to their overall economic impact on Namibia.

3.1 IPP IMPLEMENTATION PLAN

This section provides the IPP Implementation Plan that has been jointly developed between the ECB officials and the CORE Team with input from NamPower at strategic points throughout the activities carried out under this project. Exhibit I provides an IPP Project Implementation Plan that has been developed jointly by the ECB and the CORE Team. In the last column of the exhibit, references are made to specific documents prepared and submitted to the ECB separately throughout the project. It should be noted that given the details required for the IPP implementation process well beyond the Terms of Reference for this project, ECB issued a separate and parallel contract to CORE for developing details on the IPP Review Process. CORE submitted a detailed document to the ECB under this parallel contract and the references in the last column are from that report.

3.2 MODEL TENDER DOCUMENT AND PPA FOR SMALL IPP PROJECTS

The guidelines for tenders for small-scale IPPs have been developed by the ECB as part of its process for IPP applications. What these guidelines do not include are specific instructions for a power purchase agreement (PPA) to be submitted by the IPP applicant. ECB has already seen that there considerable interest from the IPP community in developing wind power projects in Namibia. In addition, recently, NamPower has begun discussions with a wind IPP developer to submit a more formal application to the ECB. In this regard, it may be useful for the ECB to publish detailed standard guidelines for PPAs to be submitted as part of the applications.

This area was extensively discussed during the Phase I project with the ECB. The best example for a model PPA for small IPPs is the recent wind-based IPP projects in Sri Lanka. Currently, Sri Lanka has issued licenses for three wind IPPs totaling 34 MW. All three project developers submitted PPAs in accordance with the PPA guidelines and format provided by the Electricity Regulatory Board of Sri Lanka. A copy of these guidelines and format is enclosed as Annex VII even though this was submitted as an Annex as part of the Final Report under the Phase I effort. It is recommended that ECB and NamPower jointly review this PPA format and standardize the format for all future small-scale IPP proposals. Recent discussions with the Sri Lankan Government confirm that the issuance of the standard PPA guidelines as part of the tender was most useful to the Sri Lankan regulator in comparing various project proposals on a common set of PPA criteria. This also assisted the regulator in its negotiations with the IPPs as part of the licensing decision process.

**EXHIBIT I: IPP PROJECT IMPLEMENTATION PLAN AND ROLES OF KEY PARTIES
ELECTRICITY CONTROL BOARD, NAMIBIA**

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
Phase I: IPP Pre-Application Requirements and Process			
IPP Project Phases	IPP Applicant	ECB	Other Entities
1. Publish Application Requirements and Periodically Update them	ECB has received many applications from IPP developers who have generally followed the requirements. However, many of the applications were incomplete. ECB has received some unsolicited proposals.	ECB has published and updated the Applications Requirements (Annex III) on its web site consistent with the Electricity Act (Annex I) and ECB Administrative Regulations (Annex II).	NamPower and the members of the broader stakeholder community have provided comments on the application requirements which have been considered by the ECB.
2. Public Notice of Potential IPP Project	ECB has received some unsolicited proposals.	It is ECB's function to issue a Public Notice for any new IPP project while accepted unsolicited proposals as well.	NamPower has also received some unsolicited proposals which should be diverted to the ECB at the appropriate time for decision making.
3. Documentation of the Application	ECB plans to post the documentation format on its web site so that applicants can offer any comments.	Annex IV provides ECB's format for the documentation of the applications.	Third parties may offer comments to the ECB through the normal public comment process.
4. Security of Application Data and Chain of Custody to Protect Proprietary Information		ECB also uses a proper "chain of custody" for the applications that are kept under lock and key.	

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
5. Communications Between the ECB and the Applicant on Clarifications and/or Additional Information	The applicant may submit any follow-up supplementary information or any questions to ECB.	ECB typically sets time limits and deadlines beyond which new information may not be accepted. ECB may, at its sole discretion, approach any IPP applicant for any additional information or clarification. ECB uses a third party as a custodian of the applications for review by the public. This information is posted on ECB's web site.	
6. Allowing Public Review of the Application		Annex V provides a format for a public objection to an IPP application, which is made available for public review after taking out proprietary and sensitive information.	
7. Public Comment/Objection Period		ECB's procedures allow for ECB to take into consideration any public comments and responses from the applicant at any time during the closing date of comments.	
8. Opportunity to the Applicant to Respond to Public Comments	An applicant may respond to any comments or objection from the public and submit such responses to the ECB,		
9. Recording of the Completion of the Application and Notification to the Applicant		ECB has a standard format it uses to conduct an initial documentation and screening of the applications and send a letter to the applicant to notify the applicant of the receipt of the application and any obvious omissions in the application by the applicant.	

IPP PROJECT PHASES	IMPLEMENTATION ACTIVITIES
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Phase II: IPP Project Application Review and Decision-Making Process

	IPP Applicant	ECB	Other Entities
1. Formation of an IPP Application Review Committee and Terms of Reference for the Committee	Once the application process is closed, the applicant should not contact the ECB or submit additional information as it may disrupt the review process.	Annex VI a template for the preliminary review of the IPP applications. ECB has posted this template on its web site to inform the applicants of the review process. Annex VII provides a template for the ECB to seek further clarification from the applicant if the Review Committee deems it appropriate to do so.	
2. Review of the Description of the Project	The applicant must submit a detailed description of the project.	Annex VIII provides a template for the Technical Review Summary that was developed as part of this project under Task 1 and refined under Task 4.	ECB may involve outside parties including NamPower for the technical review if it determines that there would be no conflict of interest in doing so.
3. Technical Analysis of the Project	The applicant must submit all technical parameters for the proposed project.	This part of the review is focused on assessing the technical feasibility of the proposed IPP project as submitted by the applicant	ECB may involve outside parties including NamPower for the technical review if it determines that there would be no conflict of interest in doing so.

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
4. Economic & Financial Analysis of the Project	The applicant must furnish accurate & complete information as specified in license application –provide own economic & financial analysis.	The review Committee of ECB performs economic (national) & financial (project) analysis including an assessment of the quality of data and provide judgment as to the quality of results, and soundness of the results.	ECB to share analysis results with NamPower for projects where utility is involved; fiscal aspects of project examined by Ministry of Finance (if appropriate)
5. Tariff & Price Analysis	The applicant must submit expectations with regard to tariffs in financial analysis model	Assess tariff requirements for adequate return; determine whether project is “reasonable” with regard to tariff impacts; discuss adjustment mechanisms with applicant for PPA; ECB can reject project if tariff impacts determined to be unacceptable	NamPower to weigh in on tariff impacts and transmission agreement
6. Status of Power Purchase Agreement (PPA)	In order for the project to receive serious consideration, the applicant should submit at least a preliminary PPA.	ECB should review the PPA design and the assumptions for clarity, accuracy, and reasonableness. Specific deficiencies in the PPA should be documented for later communication to the applicant.	NamPower may be asked by ECB to provide advice on the PPA on IPPs that it not involved in as an applicant. On IPP projects where NamPower is involved as an applicant, ECB may ask clarifications as it would for any other IPP applicant.

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
<p>7. Status of Various Other Project Agreements</p> <ul style="list-style-type: none"> - Fuel Supply Agreement - O&M Agreement - Land-use Agreements/Permits - Other State and Local Permits - Import Licenses - Any Special Agreements 	<p>In accordance with the application requirements, the applicant must provide the required information. However, the applicant may want to provide additional agreements as listed in this section in order to demonstrate the seriousness and soundness of the proposed project.</p>	<p>ECB may take into consideration any additional information provided by the applicant beyond that required as part of the application requirements guidelines.</p>	<p>NamPower may be consulted by the ECB on a case-by-case basis for comments and suggestions.</p>
<p>8. Environmental Assessment of the Project</p>	<p>The applicant must abide by the application requirements guidelines,</p>	<p>ECB should conduct a technical review of the information submitted.</p> <p>CORE has provided typical requirements in this area as part of its Task 5 and task 6 combined report under this project.</p>	<p>ECB may use external parties to advise in this area.</p>
<p>9. Development Impact Assessment of the Proposed Project</p>	<p>The applicant must include at least a preliminary assessment of the development impacts such as jobs, market reform, economic growth, etc.</p>	<p>ECB should conduct a technical review of the information submitted.</p> <p>CORE has provided typical requirements in this area as part of its Task 5 and task 6 combined report under this project.</p>	<p>ECB may use external parties to advise in this area.</p>

IMPLEMENTATION ACTIVITIES	
IPP PROJECT PHASES	IMPLEMENTATION ACTIVITIES
10. Financial Information on the Applicant	<p>The applicant must submit Financial Statements, Tax Returns, Financial Declaration, Certificate of Good Standing, and any Other Financial Information</p> <p>ECB should review this information in order to assess the financial capacity and soundness of the applicant.</p> <p>ECB may contact outside parties to gather additional information to assess the financial soundness of the applicant. Any information received from outside sources should be documented.</p>
11. Project Cost Estimate – Methodology and Soundness of the Cost Estimates	<p>The applicant must submit project cost estimates consistent with the technical parameters of the project and define the methodology used for developing the cost estimates</p> <p>ECB should review this information in order to assess the financial viability of the project, specifically the FIRR proposed by the applicant.</p>
12. Project Financing Plan	<p>The applicant should present a preliminary project financing plan including any LOIs from prospective investors and banks.</p> <p>ECB should review this information in order to assess the likely of the project being financed if the applicant is issued a license.</p>
13. Project Risks and Potential Liabilities	<p>The applicant should identify and discuss all risks of the project and how the risks will be allocated.</p> <p>ECB should evaluate these risks and their magnitude and assess whether the risks are allocated fairly and are consistent with internationally accepted principles.</p> <p>On projects where NamPower is not a direct party, ECB may wish to consult NamPower in this area.</p>
14. Local Partner(s) Involvement	<p>The applicant should list any local partners who may be involved in the project with their proposed role.</p> <p>ECB should check the local partners' background to see if they will really be involved.</p> <p>On projects where NamPower is not a direct party, ECB may wish to consult NamPower in this area.</p>
15. Project Implementation Schedule	<p>The applicant should submit a preliminary project implementation schedule.</p> <p>ECB should evaluate the schedule in terms of reasonableness and the national priorities in Namibia.</p> <p>On projects where NamPower is not a direct party, ECB may wish to consult NamPower in this area.</p>

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
16. Conditions of Performance Required of the Government of Namibia	The applicant should clearly state any requirements of the Government of Namibia.	ECB should evaluate these requirements and conditions to ensure that they are consistent with Namibian law and they are conditions that the GoN can meet.	On projects where NamPower is not a direct party, ECB may wish to consult NamPower in this area.
17. Contingency Plans	The applicant should propose any project contingencies and plans.	ECB should evaluate these contingencies to ensure that they are reasonable and can be allowed.	On projects where NamPower is not a direct party, ECB may wish to consult NamPower in this area.
18. Final Decision on the IPP Application		Based on the evaluation, ECB should make the most appropriate decision on the disposition of the application. ECB's decision may be <ul style="list-style-type: none"> - Rejection of Application - Award of a Conditional License - Award of a Free and Clear License with Specific Project Implementation Milestones 	
Note: The entire review should be recorded in the format provided in Annex VIII, developed for the ECB under Task 1 of this project.			
19. Notification to the ECB Board		ECB should submit its recommendation to the ECB Board (See Annex IX) for the format)	
20. Notification to the Minister of Mines and Energy		ECB should first notify the decision to the Minister, Ministry of Mines and Energy. (See Annex X for the format).	

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
21. Notification to the Applicant		<p>Next ECB should advise the applicant of the Government's decision on the application.</p> <p>If the application is approved, the applicant should be notified of the award of a license (See Annex XI for the template).</p>	
22. Managing the Process of Any Disputes by the Applicant of the ECB Decisions	<p>The applicant may dispute the decision of the ECB on its application. The applicant should so notify ECB of its objections.</p>	<p>Annex XII includes the template for the objection.</p> <p>ECB should address the objections based on the type of objection or dispute in accordance with the Namibian laws.</p>	
Phase III: Post-License Decision Project Implementation Process			
	IPP Applicant	ECB	Other Entities
1. Project Implementation Schedule	<p>Once a license is issued, it is the applicant's responsibility to abide by all requirements of the license including the project implementation schedule.</p>	<p>ECB should require the applicant to periodically report on the project implementation progress, especially the project schedule.</p>	
2. Construction Schedule	<p>It is the applicant legal responsibility under the license.</p>	<p>ECB may require the applicant to provide periodic reports on the construction schedule.</p>	

IPP PROJECT PHASES		IMPLEMENTATION ACTIVITIES	
3. Any Changes in the Project Design and Technology	<p>If the applicant wishes to make any changes in the project it should submit a written request to the ECB for approval.</p> <p>The applicant should discuss the impacts of the proposed changes.</p>	<p>ECB may determine that the changes are not substantive and, therefore, can be approved under the same license.</p> <p>Alternatively, ECB may determine that the proposed changes require the cancellation of the existing license and consideration of a new license.</p> <p>ECB should conduct a periodic review of the project.</p>	<p>On projects where NamPower is not a direct party, ECB may wish to consult NamPower in this area.</p> <p>ECB may use external support for this review.</p> <p>ECB may use external support for this review.</p>
4. Periodic Review of the Progress of Project Implementation			ECB may use external support for this review.
5. Review of Compliance by the Applicant with All Conditions of License		<p>It is the ECB's obligation to ensure that the licensee complies with all conditions of the license.</p>	ECB may use external support for this review.
6. Final Investment Decision and Stages of Investments	<p>It is the applicant's responsibility to ensure that sufficient funding is available for the project throughout the project construction phase.</p>	<p>It is the ECB's obligation to ensure that the licensee complies with all conditions of the license.</p>	
7. Schedule of Permit Issuance for All Required Permits	<p>It is the applicant's responsibility to ensure that all required permits are obtained expeditiously without unduly impacting the project schedule.</p>	<p>It is the ECB's obligation to ensure that the licensee complies with all conditions of the license.</p>	
8. Any Changes or Renegotiations of the Approved PPA	<p>The applicant may propose changes to the PPA at any time.</p>	<p>ECB should review the changes to determine their impact on the project and the consumers. ECB may allow such changes or may reject them.</p>	

4. RECOMMENDATIONS

Detailed recommendations regarding the entire IPP project implementation will be included in our Final Report to be submitted during the next week. Our recommendations under this report are restricted to the most important IPP project implementation issues. Specifically CORE will make the following recommendations to ECB for putting the IPP project implementation on a more sound footing:

1. Based on the IPP Process Document developed by CORE under a parallel contract with ECB, it is recommended that ECB should review the applications requirements posted on its web site and make any necessary revisions.
2. In addition, templates for all aspects of the IPP application review and decision making should be posted on the ECB web site in order to enhance transparency of the review process.
3. The procedure for public review and comment should be revised to provide public prompt access to any IPP applications and this procedure, when finalized, should also be posted on the ECB web site.
4. ECB and NamPower should formalize the process of establishing the proposed ECB-NamPower IPP Working Group. This Group should be charged with a specific mandate in the IPP implementation process in accordance with the Terms of Reference developed by CORE and included in this report.
5. ECB and NamPower should aim to reach agreements on standard formats, procedures, and roles in the following areas:
 - Risk Identification and Risk Allocation Principles and Approaches
 - A Standardized Tender Document for Small Scale IPPs
 - A Standardized PPA Process and a Generic PPA for Large Projects
 - A Standardized PPA for Small Scale IPPs
6. Namibia currently does not have an NIRP. As part of Task 3 under this project, the CORE Team developed and submitted a detailed Terms of Reference to the ECB for an NIRP. CORE also recommended that the NIRP should be developed by an independent party and not by utilities or any potential participants in the power market.
7. The Government of Namibia needs to adopt a formal power market model, as it is necessary for the market participants and IPP developers to understand the Government's policy with respect to the market model in order for them to submit proposals consistent with the market rules. In addition, as Namibia is a trader in the Southern African Power Pool, an established market model will be very effective in strengthening Namibia as a power trading partner in the region.

In addition to these two major activities, it is also recommended that the ECB and NamPower formalize a Working Group along the lines of the Terms of Reference developed by CORE and discussed with both parties.

Also, while the ECB has instituted a public consultation process on IPP applications, it may be useful to formalize this process further. One of the best examples of the process for stakeholder participation in the IPP process widely used by many countries was developed by the California Energy Commission (CEC) to guide its IPP industry for past two decades. Annex IV includes a document that could be very useful to the ECB as it formalizes its stakeholder participation process in the development and licensing of IPP projects.

**ANNEX I: MEMORANDUM BETWEEN THE ECB AND
NAMPOWER**

MEETING BETWEEN SENIOR OFFICERS OF ECB AND NAMPOWER

MONDAY, JULY 21, 2008

TIME: 8:00 AM

VENUE: ECB BOARD ROOM

DISCUSSION POINTS

1. GENERAL COMMENTS ON THE NAMPOWER PAPER ON 'INCORPORATING IPPs INTO THE NAMIBIAN ESI
2. DISCUSSION ON WHAT WE ARE TRYING TO ACHIEVE IN THE AREA OF IPP APPLICATION SUBMISSION AND REQUIREMENTS
 - a. A Single and Clear Message to the Prospective IPPs on the Entire IPP Process for Submission of Applications and Requirements
 - b. Consistency of the Process for IPP Application Submission Process and Requirements with the Prevailing Laws and Regulations
 - c. Consistency of the Process with International Norms for Creating an Enabling Environment for the Development of an IPP Industry
3. QUICK DISCUSSION AND AGREEMENT ON WHAT WE MUST AVOID
 - a. NP and ECB going their separate ways without coordination
 - b. NP and ECB Putting Different Information on the IPP Issues on their Respective Web Sites – mixed signals to prospective IPPs
 - c. Working at Cross Purposes and Delaying Quick Resolution of Differences between the Parties
4. DISCUSSION ON THE DUE DILIGENCE PROCESS – PRE APPLICATION AND POST APPLICATION AND THE ROLES OF NAMPOWER AND ECB
 - a. Who does what and when
 - b. Mode of collaboration between the ECB and NamPower -- maintaining a clear distinction between the charters, responsibilities, and authorities of the two bodies as provided for in the Laws and regulations.
5. DISCUSSION ON KEY TECHNICAL ISSUES
 - a. Solicited and Unsolicited IPPs

- b. PPAs – Generic PPAs
- c. Single Buyer Model and NP as the Single Buyer
- d. Risk Assessment
- e. Late Stage of the review and License Issuance Process

ANNEX II: COMMENTS ON THE NAMPOWER PAPERS ON THE IPP PROCESS

COMMENTS ON NAMPOWER'S PAPERS ON IPP PROCESS

August 17, 2008

1. Context

NamPower had developed and submitted two papers on the issues related to integrating IPPs into Namibia's Electricity Supply Industry (ESI). These papers are as follows:

1. Guide for Independent Power Producers in Namibia
2. Incorporating IPPs into the Namibian ESI

NamPower shared these papers with the Electricity Control Board (ECB) for their views and comments. ECB, in addition to its own review, requested CORE International, its current Consultant in IPP issues in Namibia, to review these papers and provide any comments that may be useful both the ECB and others in Namibia as the country moves forward with promoting the deployment of IPPs in Namibia's electricity market. Specifically, ECB requested CORE to review these documents from an external perspective and from the perspective of a prospective IPP project developer. This is because ECB wants to make sure that the information developed and made available to prospective IPP developers and the stakeholder community is consistent with Namibia's not only consistent with the prevailing Laws and Regulations but is also clear, consistent, user-friendly, and comprehensive.

In order to further facilitate the process of this review, ECB and NamPower convened a meeting on July 21 to discuss the entire IPP process in detail. CORE International participated in this meeting and ECB has developed and forwarded the minutes of this meeting to NamPower for review and comment.

In addition, both ECB and NamPower have agreed to establish an ECB-NamPower IPP Working Group (The Working group) with the express objectives to (i) develop and finalize a comprehensive IPP Process Document and (ii) develop a collaborative process between the two entities to work together to encourage the development of IPPs in Namibia while preserving their independent statutory mandates, responsibilities, and authorities. CORE International has drafted the Terms of Reference (TORs) for the Working Group and submitted them to the ECB for consultations with NamPower and for the parties to finalize the TORs and for the Working group to begin the important work of developing and single IPP Process for Namibia

Furthermore, during the meeting, the ECB and NamPower agree to address other key issues that include (i) development of an NIRP, (ii) development and finalization of a Grid Code, and (iii) resolution of NamPower's request for NamPower to be officially established as a Single Buyer.

Some of the comments provided here are also included in the Minutes of the Meeting prepared by the ECB on the ECB-NamPower meeting held on July 21, 2008.

2. CORE International's Comments on the IPP Papers Prepared by NamPower

CORE International has reviewed the two papers developed by NamPower on issues surrounding the IPP process in Namibia. CORE's general comments on these two papers are as follows:

- Both of the papers are quite useful for discussion and debate among Namibian officials with background in the energy sector and demonstrate consider thinking and basis for the ideas and recommendations proposed therein. They both need considerable work to take them to the next stage so that they can (i) serve as operating documents for the ECB and NamPower and (ii) be used to develop a detailed "IPP Process Information Package" for the prospective IPP community and the public. This is the centerpiece of the Terms of Reference developed for the ECB-NamPower IPP Working Group.
- The paper entitled "Guide for Independent Power Producers in Namibia" provides information for prospective IPPs who may be interested in building new power stations in Namibia. It addresses issues such as (i) statement of opportunities, (ii) connection agreement, (iii) power purchase agreements (PPAs), (iv) generation license, (v) grid code, and other details. It should be noted that ECB has also developed considerable information for IPPs related to application and licensing requirements and posted it on its web site. In this regard, several issues need to be considered and agreed to between the ECB and NamPower. At a minimum, these include the following:
 - The need for a single piece of information (not two or three different pieces from the ECB, NamPower, or the Ministry of Mines and Energy) needs to be developed with input from all parties. This is crucial as the IPP industry and the public should be provided a single message in order to avoid confusion and streamline the process of promoting IPP development in the country.
 - The Ministry of Mines and Energy and the government policies have vested the responsibility and authority for managing this function related to the development of IPPs with the ECB. Therefore, the ECB should take the lead to finalize and publish the "IPP Information and Guidelines" on its website regardless of the parties involved in the development of this document. Clearly, NamPower will have an important contribution to both the development and the finalization of this document.
 - In this regard, the Working Group should integrate all of the information related to guidelines for IPPs developed by the ECB and NamPower and produce a single document to be posted on the ECB website as the final policy and information guideline for prospective IPPs. This document should be visited periodically for updates based on input from all energy sector stakeholders.

- Just as the responsibilities and authorities of ECB as the national electricity regulator should be recognized and respected by all parties, the right of NamPower as an electricity market player, should also be respected in that NamPower, as the buyer of the electricity from any IPPs, has the right to engage prospective IPPs for any discussions that may suit NamPower and a potential IPP. However, such discussions and NamPower and any prospective IPPs need to be in the context of a single IPP policy and procedure in the country.
- The NamPower “Guide for Independent Power Producers in Namibia” date March 10, 2008 also includes discussions on technical subjects such as transmission tariff methodology, grid code, power purchase agreements, due diligence process, connection terms, etc. While some of the discussion on these issues in the Paper is consistent with the point of view of an enterprise or a market player, and serves the interest of the same, it is important that before such papers are released to the public or prospective IPPs, ECB and NamPower agree on all of the procedures to ensure a single message is given to the IPP industry.
- The Paper does not include a lot of other information that a prospective IPP developer would need in order to make decisions with respect to its potential interest in Namibia’s power industry. In this regards, it should be emphasized that the overall goals of the Namibian government with respect to encouraging the entry of IPPs in the Namibian electricity market will be compromised if ECB and NamPower proceed independently, without consultation, and give their own respective messages to the prospective IPPs.
- Extensive collaboration between ECB and NamPower is even more crucial in the absence of an NIRP as decisions will need to be made in terms of specific technologies and especially renewable energy with respect to the best interest of the country.
- As a final point, it is recommended that this paper, along with all of the current information related to IPPs on the ECB website be integrated into a final document which should be agreed to between the ECB and NamPower. This final document should then be circulated for public comments and consultation and finalized.
- Once finalized, this document should be the sole and single piece of information on Namibia’s IPP plans and procedures and should be posted on the ECB website. On issues related to technical procedures such as connection agreements or PPA requirements, NamPower may prepare and publish its own information on its website to provide the prospective IPPs with

further details. However, it is strongly recommended that before any such information is released to the public and prospective IPPs, NamPower and ECB should consult with each other and arrive at an agreement. This approach should form the core of the ECB/NamPower collaborative process, as it will, most certainly, avoid confusion in the public as well as within the IPP producer community.

- The paper entitled “Incorporating IPPs into the Namibian ESI” prepared by NamPower is a Power Point Presentation which discusses a variety of issues related to (i) the IPP Process, (ii) NamPower’s Contractual Arrangements, and (iii) Fine-tuning the Grid Code. CORE’s specific comments on this document are as follows:
 - The IPP Process proposed by NamPower in this Power Point Presentation is a mix of NamPower’s own interests as a market player and those of ECB as the regulator. These interests need to be synchronized and harmonized through discussions between the parties under the auspices of the Working Group. Once again, the principle that these deliberations should be driven by is that there should be a **single** IPP Process and it should be **led** by the ECB as per the statutory authority of the ECB. In addition, since NamPower is both a “player” and a “market participant”, it is important for NamPower to avoid any perceived or real conflicts of interest in its own desire to be an important entity in the development of the IPP industry in Namibia.
 - Clearly, there will be a second part to the IPP process, which relates to ongoing consultations between the ECB and NamPower on specific IPP proposals. While these consultations are encouraged, both parties must respect the confidentiality of the information that may be submitted by prospective IPPs as part of the IPP license application requirements. Furthermore, such consultations should be carefully carried out to avoid NamPower being seen as influencing the ECB licensing application review process, which must remain independent.
 - The second part of the Power Point Presentation discusses a variety of contractual arrangements and due diligence activities that NamPower will rightly need to be involved in as part of any negotiations that it may enter into with a prospective IPP as the buyer of electricity from that IPP. ECB, at all times, needs to recognize and respect that such consultations and negotiations are the business of the parties involved (market players). At the same time, NamPower should recognize and respect that the process of reviewing an IPP license application is solely the business of the ECB and needs to be carried out in an independent and transparent manner. That said both parties would significantly benefit by carefully guarded consultations during the process of review of an IPP application as this will make the process more efficient and avoid downstream confusion or conflicts.

- The third part of the Power Point Presentation addresses the fine-tuning of the Grid Code. ECB and NamPower agreed during the July 21, 2008 meeting that a separate Working Group (possibly a subset of the ECB/NamPower IPP Working Group) would address this issue and move towards the finalization of the Grid Code.
- The last part of the Power Point Presentation includes a number of recommendations from NamPower to ECB. These recommendations are well thought out and need to be discussed in working sessions of the Working Group to arrive at final agreements between the two parties. Once again it should be stressed that the two parties need to recognize that despite extensive consultation that is recommended, certain functions are reserved onto each party as the lead. For example, the function of IPP license application review and decision-making is reserved onto ECB by statute. At the same time the functions related to technical and operational agreements such as the PPA, transmission connection, and related performance conditions for a particular IPP project, are reserved onto the parties involved (NamPower and the prospective IPP). However, since ECB is the final authority for recommending the rejection or issuance of a license to an IPP applicant, NamPower must recognize that to the extent it enters into its own agreements on technical and operational matters with an IPP applicant, it should do so consistent with the overall IPP license application review requirements in order to assist ECB in its review and decision making process. A specific example for this would be the PPA negotiated between NamPower and the IPP applicant. If such a PPA is negotiated based on the criteria used by ECB for the review of PPAs, the probability of a downstream disagreement that may either delay or derail a license to the applicant will be minimized.

During the meeting on July 21, 2008, it was discussed that CORE International will provide a format which may serve as a guide to the ECB-NamPower IPP Working Group to deliberate on many of these issues, particularly with respect to agreeing on which entity takes the lead for what specific actions and items and which areas need extensive consultation between the parties. Exhibit 1 below provides a simple format that will assist in getting the work of the Working Group started. As the IPP Working Group makes progress, this format could be expanded and further refined.

EXHIBIT 1: PROPOSED FORMAT TO AID THE ACTIVITIES OF THE ECB-NAMPOWER IPP WORKING GROUP

NOTE: THIS IS A FORMAT AND NEEDS TO BE EXPANDED AND FILLED IN DURING THE FIRST MEETING OF THE ECB-NAMPOWER IPP WORKING GROUP

NO.	AREA OF ACTIVITY AND SUB-ACTIVITIES	LEAD RESPONSIBILITY AND AUTHORITY	AREAS REQUIRING EXTENSIVE MUTUAL CONSULTATION
1.	<p>IPP LICENSING APPLICATION GUIDELINE AND REQUIREMENTS</p> <ul style="list-style-type: none"> • General Information to Prospective IPPs • Pre-Application Issues • Application Format • Various Requirements for Documents to be Submitted with the Application • Fuel Supply Agreement • Agreed-to PPA • Financial Analysis and Financing Plan • Technical Feasibility of the Project • Proof of Site Acquisition and Permits • Environmental Considerations of the proposed Project • Financial Strength and Track Record of the Applicant 	ECB	Extensive consultation is needed between the ECB and NamPower on various details
2.	<p>IPP APPLICATION REVIEW PROCESS</p> <ul style="list-style-type: none"> • Criteria for IPP Application Review and Record Keeping • Check List for Initial Screening of the Application and Documentation of Incomplete Compliance with Requirements • Safeguarding Commercially Sensitive and Proprietary Information Submitted by the Applicant – Chain of Custody • Record-keeping of Reviews of Application • Standard Forms for Evaluation of 		

	<p>Applications and Documentation</p> <ul style="list-style-type: none"> • Standard Format for Recommendation to the Minister • Standard Form for the Decision by the Minister • Appeals Procedure • Other relevant Information 		
3.	NIRP DEVELOPMENT	ECB	Extensive input from NamPower in the process of developing the NIRP including technical details
4.	FINE-TUNING OF THE GRID CODE		NamPower to provide specific comments and work with the ECB to finalize the Grid Code based on the existing Draft
5.	MARKET MODEL AND THE REQUEST BY NAMPOWER TO BE OFFICIALLY DESIGNATED AS A SINGLE BUYER		To be filled in jointly by the ECB and NamPower

ANNEX III: TERMS OF REFERENCE – ECB-NAMPOWER IPP WORKING GROUP

ECB-NAMPOWER IPP WORKING GROUP (THE WORKING GROUP)

August 8, 2008

1. Background

The Electricity Act 2007 promulgated in November 2007 cleared the way for private participation in the power sector in Namibia. Subsequent to the enactment of the Electricity Act 2007, the Electricity Control Board (ECB) began the development of necessary information, requirements, and process for promoting independent power producers (IPPs). While the process of enactment of Electricity Act 2007 was underway in 2006, ECB approached and received assistance from the U.S. Trade and Development Agency to develop the necessary framework models and processes in preparation for initiating an IPP regime in the country. ECB selected CORE International through a competitive process to provide the necessary technical assistance (TA) and capacity building to ECB in key areas including market models, regulatory models, tariff development, power purchase agreement (PPA) development, and the development of various framework agreements typically required as part of an IPP project. Throughout the duration of the TA by CORE International, NamPower and ECB collaborated with each other. Also, NamPower managers participated in a number of work sessions and workshops facilitated by CORE International. NamPower also commented on the work conducted by CORE. A copy of the Final report was also provided to NamPower in addition to the ECB, the client.

Shortly after the completion of this TA by CORE, ECB approached the U.S. Trade and Development Agency (USTDA) for further technical assistance as ECB had already started receiving applications from various IPPs for licenses. Specifically, ECB requested USTDA to provide funding needed to continue the services of CORE International in the area of further refining the IPP application review process, evaluation of technical and financial documents submitted by the applicants, and related areas involved in a fair and transparent evaluation and licensing process. CORE International is currently providing this TA to ECB.

While the ECB, as the national electricity regulator has the responsibility and statutory authority to regulate the sector, NamPower, as the national utility has the responsibility to ensure that adequate amount of electricity is generated and transmitted to meet the electricity demand in the country. Both entities have an important role to play in the sector and the development of the IPP industry. Each has a separate role and each needs to ensure that all decisions are coordinated so that the development of the sector is in accordance with the Electricity Act 2007 and government policies.

In this regard, the need for the two entities to coordinate the IPP process is crucial as the IPP industry should get a single message and the process for IPPs including the roles of the regulator and the utility (the buyer) should be clear and transparent. World body of experience confirms that the IPP industry is fraught with various risks and often even good IPP project go by the way side if the prospective investors are given confusing or conflicting signals from the

various energy sector entities in a country – the regulator, the government, and the national utility.

2. The ECB-NamPower IPP Working Group

Recognizing the need for a single policy, regulation, procedure, and process for the development of the IPP industry in Namibia, ECB and NamPower have established a joint ECB-NamPower IPP Working Group (The Working Group) with the responsibility to ensure that the parties coordinate all aspects related to the development of an IPP industry. These include the development of (i) a National Integrated Resource Plan (NIRP), (ii) the transmission grid code, (iii) a single document that provides all key information to prospective IPPs, and (iv) a clear and transparent process for IPP application filing, application, and licensing. In addition, clear processes need to be developed for both solicited and unsolicited IPPs including the individual roles of ECB and NamPower.

The Working Group includes five members each from the ECB and NamPower. Additional experts from within the two organizations or outside sources may be brought into specific work sessions of the Working group. However, such individuals as may be consulted by the Working Group from time to time as the need arises will not be official members of the Working Group.

The Working Group will report all of its activities and submit all of its reports and documents to the CEOs of ECB and NamPower for approval and final decisions. Any disputes between the Working Group members from the ECB and NamPower will be reported to the CEOs of the two organizations for resolution.

3. Term of the Working Group and Reporting

The Working Group has been established for a period of one year and its term may be renewed for another year by mutual agreement of the parties. A comprehensive report of the activities conducted by the Working Group will be submitted to the CEOs of ECB and NamPower every month for the first three months and every quarter thereafter. This formal reporting requirement will not preclude the submission of any intermediate reports to the two CEOs on key issues that the Working Group may feel need to be brought to the attention of the top management.

4. Terms of Reference

The Terms of Reference for the Working Group include the following key areas:

- Development of an IPP License Application Information Document
- Development of a IPP Licensing Application Review and Decision Process
- Development of an NIRP
- Development of a Transmission Grid Code
- Development of a Position Paper on the Optimum Market Model in Namibia
- Development of a Position Paper on both the Solicited and Unsolicited IPP Project Proposals

The following is a description of specific activities and results to be achieved by the Working Group during its first year.

4.1 Development of an IPP License Application Information Document

ECB has developed and posted a considerable amount of information on the IPP license application process on its web site. With all of this information as a starting point, the Working Group will conduct a review and finalize the information including any revisions. Once finalized, this will become the final and single source of information for any prospective IPP applicants. The Information Document should include the following types of information:

- General Information on the Legal and Regulatory Setting – Electricity Act 2007, Administrative Regulations, etc.
- Format for an IPP Application
- All requirements and Documents to be Submitted by the IPP Applicant as Part of the Application – feasibility study, environmental assessment, project technical details such as the site, size, technology, and other technical parameters, financial analysis, financing plan, delivered price of electricity, power purchase agreement (PPA) with NamPower, and other relevant documents
- Method of Application Submission to ECB
- Process for Maintaining Confidentiality of Commercially Sensitive Information Submitted by the Applicants
- Any Other Information Deemed Appropriate by the Working Group

The Working Group may also consider that the information is posted on the NamPower web site as well. This will be the best way to give the message to the IPP industry that there is a single IPP policy and process in the country.

4.2 Development of an IPP Licensing Application Review and Decision Process

It is a common practice in most countries with an IPP regime to provide prospective IPP applicants detailed information on the process used by the regulatory authority for reviewing applications for IPP licenses. This makes the process transparent and avoids any confusion. It also deters speculators to put in frivolous applications for IPP projects that have not been sufficiently developed.

Accordingly, the Working Group will develop a detailed IPP license application review process that will include the following:

- Process for the Documentation and Recording of the Application
- Detailed Criteria for Application Review and the Review Procedure
- Process for Requesting Additional Information
- Process for Making and Notifying Decisions – application rejection, provisional license, conditional license, and full license
- Appeals Process and Steps

4.3 Development of an NIRP

Both the ECB and NamPower have done some planning work for the development of an NIRP. NIRP is commonly defined as the “national” plan for the energy sector in a country and goes beyond the development plans that electric utilities or other energy enterprises (oil companies, gas companies, etc.) routinely develop. Typically, the plans developed by electric utilities are termed – (i) Capacity Expansion Plan, (ii) Investment Plan, or (iii) System Plan. Therefore, the plan developed by NamPower should be termed differently in order to avoid confusion with the NIRP which is a national energy plan deriving its basis from the national energy policy. For example, an NIRP will address all forms of energy and provide a direction with respect to the development of the **overall** energy sector including renewable energy, rural electrification, etc. In contrast, the plan to be developed by NamPower will and should focus on what is in the best interest of NamPower as an electricity enterprise rather than the implementer of Namibia’s national energy policy, a role reserved on to the regulator, the ECB. While ECB should take the lead for the development of the NIRP, NamPower, as the only and the lead entity producing power, should be extensively involved in the development of the NIRP.

Accordingly, the Working Group will develop an agreement on precisely how ECB and NamPower will proceed forward and specifically the role to be played by each party in the development of the NIRP. Once, an agreement is reached on the process, the Working group will jointly develop a detailed outline of the NIRP and develop a plan for financing the cost of the development of the NIRP.

In addition, the Working Group will develop a schedule for the development, review, public comments, and submission of the final NIRP to the Ministry of Mines and Energy for promulgation.

4.4 Development of a Transmission Grid Code

ECB provided a copy of the draft Grid Code to NamPower for comments. NamPower has provided comments to the ECB. At this point, the Working Group needs to move forward with the finalization of the grid Code. ECB and NamPower may appoint a subgroup of experts from their respective organizations to finalize and submit the Grid Code to the Working Group for final review. ECB may also consider issuing the document for public comments prior to finalizing the Code. Once finalized, the Grid Code will be submitted by the Working Group to the CEOs of ECB and NamPower for a final decision.

This process needs to be completed as soon as possible.

4.5 Development of a Position Paper on the Optimum Market Model in Namibia

In a previous assignment for the ECB, CORE International completed a report on various framework models for the power sector in Namibia including recommendations for the implementation of a market model. NamPower has requested ECB that it be designated officially as a Single Buyer and that Namibia should adopt a Single Buyer Model. A decision with respect to the market model to be adopted in Namibia will be important for the prospective IPP community. Therefore, the Working Group should develop a position paper on the pro's and cons of officially adopting a Single Buyer Model with NamPower designated as the Single Buyer. This position paper should be submitted to the CEOs of the two organizations for further debate and based on the recommendations in the paper; ECB should make a final decision on promulgating a market model for Namibia.

4.6 Development of a Position Paper on both the Solicited and Unsolicited IPP Project Proposals

The development of the IPP industry in many countries utilizes both solicited and unsolicited applications for private power projects. In CORE's previous report it was recommended to ECB that large IPPs should be negotiated as unsolicited IPP proposals whereas smaller IPPs, such as wind power projects or other renewable energy projects, should be negotiated on the basis of solicited proposals. Typically, the NIRP provides a basis for the regulator to decide which projects will be negotiated as solicited or unsolicited proposals. The Working Group will develop a position paper on the model to be adopted for promoting the IPP industry in Namibia. ECB may wish to adopt a model to negotiate only solicited proposals until after a NIRP has been developed and issued. After the issuance of the NIRP it would be more appropriate for the ECB to proceed on a parallel track for both solicited and unsolicited IPP projects.

The Working Group will develop a position paper on this subject and make a specific recommendation for adopting a process for receiving and reviewing IPP proposals. NamPower has requested ECB that renewable energy projects should be kept aside for a while until after specific government policies are developed on the future of renewable energy in Namibia. The Working Group will include specific recommendations on the deployment of renewable energy

ECB/USTDA: Independent Power Producer (IPP) and Investment Market Framework Technical Assistance Phase II

IPP Projects and include these recommendations in the position paper. The position paper will be submitted to the CEOs of ECB and NamPower for final discussion and decision.

The activities to be conducted by the Working Group will require external expert services. In the areas of the IPP process development, ECB has engaged CORE International to provide services for the development of draft documents and advise ECB on streamlining the IPP application review process. CORE will provide this support to the Working Group. In the other areas of the terms of reference, the Working Group will identify specific outside expert needs and propose to the CEO of the two organizations a request for specific services to be funded in order to facilitate the activities of the Working Group.

ANNEX IV: STAKEHOLDER PARTICIPATION IN IPPS

Questions and Answers on stakeholder participation in the IPP Pilot Product Exercise

1. INTRODUCTION

The Commission's services launched two IPP pilot projects on the 25th of June 2004. Both in the press release and on the DG Environment website it asked for stakeholder participation. Following this request, the Commission's services received many questions; this document aims to answer them.

2. HOW CAN STAKEHOLDERS CONTRIBUTE?

All stakeholders can contribute by sending relevant information to the Commission's services concerning the environmental impacts of the two pilot products throughout their life-cycle. This information should be sent to the Commission's services by September 15th 2004. All stakeholders can also submit comments on the work produced at different stages of the pilot projects (see question 8).

Stakeholders can also contribute in a more active way by volunteering to participate in one or both of the pilot projects.

3. WHAT TYPE OF INFORMATION COULD BE RELEVANT FOR STAKEHOLDERS TO SEND BY SEPTEMBER 15TH?

Many different types of information could be considered relevant. This could include:

- information on industry-led initiatives in the sector;
- international activities and projects in this area;
- quantified information on the environmental impacts (e.g. costings, LCA results); and
- information on relevant labelling or management schemes.

However, this list is not exclusive.

4. WHAT WOULD PARTICIPATION IN THE PILOT PROJECT ENTAIL?

Participating will mean being part of a small group of stakeholders that will identify and, ideally, implement solutions to reduce the environmental impact of the product. These stakeholders will need to have a high level of commitment. They will participate in around 7 meetings with the Commission's services and Carrefour or

Nokia over the course of a year. During these meetings they will be expected to contribute constructively with information, views and suggestions on the activities in the different stages of the project.

5. WHICH STAKEHOLDERS CAN VOLUNTEER TO PARTICIPATE?

All stakeholders can volunteer to participate in the pilot projects; however, the Commission's services will particularly welcome interest from those stakeholders that come into contact with the product during its life-cycle.

For the **mobile phone** project, this would particularly mean:

- material suppliers;
- manufacturers, including Nokia's competitors;
- mobile phone operators;
- retailers;
- consumer representatives;
- recyclers and waste managers;
- NGOs;
- government, including local authorities.

For the **teak garden chair** project this would particularly mean:

- wood producers;
- wood suppliers / wholesalers;
- furniture manufacturers;
- retailers, including Carrefour's competitors;
- consumer representatives;
- recyclers and waste managers;
- NGOs;
- government, including local authorities, and potentially also representatives from developing countries supplying timber.

6. HOW SHOULD A STAKEHOLDER VOLUNTEER TO PARTICIPATE?

The stakeholder should send an e-mail to Orsolya Csorba (orsolya.csorba@cec.eu.int) by September 15th. This should clearly indicate their commitment to participate and outline what they could contribute to the exercise.

7. HOW WILL THE COMMISSION'S SERVICES DECIDE WHO PARTICIPATES?

The Commission's services, in consultation with Nokia and Carrefour, will then select the participants for each pilot product. This will be based on:

- their relevance for the product in question;
- their degree of commitment (as demonstrated by their application);
- their ability to function at a European level (for trade associations, NGOs and consumer organisations).

This final criterion is relevant for such organisations, because national organisations would not have the same degree of coverage.

8. HOW WILL WORK ON THE PILOT PRODUCTS PROGRESS?

The work on the two pilot projects will progress separately; however, they will follow roughly the same stages.

Stage1: Analysis of the product's environmental impact throughout its lifecycle (estimated duration: 5 months)

This stage involves selecting stakeholders and collecting information (including that submitted by stakeholders described in question 3) from them on the environmental impact of each product throughout its life-cycle. This stage of the teak garden chair project will also be supplemented by a study by external contractors financed by the Commission's services. This will begin shortly and will produce a report summarising the existing information.¹ Nokia will prepare a similar report for mobile phones summarising the available information and that provided by stakeholders. Once these reports have been produced, all stakeholders – not just those selected to participate in the pilot projects - will have the opportunity to submit written comments on the results. These will then be discussed by the participants in the pilot projects before a final document is produced and placed on the Commission's website.

Stage2: Identifying the ways of improving environmental impacts (estimated duration: 3 months)

The Commission's services will draft a document for each project with Nokia and Carrefour to identify the ways to improve the products' environmental impact. All stakeholders will have the opportunity to submit comments in writing on this report, which will be put on the Commission's website. A summary of these comments will then be prepared by Carrefour and Nokia which will be placed on the website. Both this summary and the report on the different options will then be discussed at a meeting by the participants in the pilot project. A revised options document will then be produced and placed on the Commission's website.

¹ Such a study by consultants is not necessary for the mobile phone project because Nokia believe there is enough information available on the product's lifecycle within their company.

Stage 3: Analysis of the potential environmental, social and economic effects of all possible options to reduce environmental impacts (estimated duration 2.5 months)

The social and economic effects of the possible solutions found in Stage 2 will be examined and the Commission and Carrefour or Nokia will produce a report which will then be published on the Commission's website for stakeholder comments. The Commission will then prepare a summary of these comments which, together with the report, will be discussed at a meeting with participants in the pilot project at a meeting. This stage will also involve stakeholder consultation and will also involve examining the effectiveness of existing policy tools. A revised document will then be produced and placed on the Commission's website.

Stage 4: Agreement on implementation plans and identification of different stakeholders' responsibilities (Estimated duration: 2.5 months)

The participants in the pilot project will be asked to suggest concrete actions that they and other participants could take. These will then be discussed and an action plan agreed upon. The outcome of this will be placed on the Commission's website.

Stage 5: Implementation

This stage involves the implementation of the commitments made by stakeholders in Stage 4. Their progress will be monitored after one year.

9. HOW WILL IT BE ENSURED THAT THE 3 PILLARS OF SUSTAINABLE DEVELOPMENT ARE TAKEN INTO ACCOUNT?

While the initial assessment (stages 1 and 2 above) will be focused on the environmental impacts of the product in question, stage 3 will clearly bring in the social and economic dimensions. As it is expected that companies and/or business interests will be represented in the projects, they, in particular, will be able to bring their experience and knowledge in the economic pillar into discussions. Ultimately, because the exercise is voluntary and based on a consensual approach, any actions will have to be accepted by the range of interests taking part. This should provide sufficient checks and balances to ensure that the 3 pillars are adequately addressed.

10. HOW WILL THE PILOT PROJECTS BE MANAGED AND FINANCED?

Both projects will be chaired by the Commission's services: Mr Timo Makela, Director in DG Environment will chair the one on mobile phones and Ms Marianne Klingbeil, Head of Unit in DG Environment, will chair the one on the teak garden chair. The meetings are likely to be held mainly in Brussels.

Participants in the pilot projects will generally not be financed, however exceptions may be made for particularly cases; the need for financing must be made explicit when the stakeholder volunteers.

11. WILL THERE BE RULES OF PROCEDURE IN THE GROUPS? HOW WILL DECISIONS BE TAKEN?

It will be for the groups themselves to decide whether rules of procedure are necessary. This is something that they will need to discuss at their first meeting. Any actions flowing from the projects should be based on consensus as far as possible; there will be no official “decision-making procedure” within the groups.

12. UPDATES ON PROGRESS

The Commission will prepare updates on progress and make them available on its IPP website. This will ensure that stakeholders interested in knowing what is going on in the projects will be able to follow the progress of the projects.

13. HOW WILL THE PROJECTS BE FOLLOWED UP?

Stage 5 of the project involves the monitoring of implementation. This will ensure that there is some assessment of the outcomes of stage 4. In the longer term, and depending on the results of these projects and the lessons that can be learned, the Commission’s services may consider setting up further such exercises, perhaps building on the work being done to identify the products with the greatest potential for environmental improvement.

14. ADDITIONAL QUESTIONS?

If you have any additional questions, please send them to orsolya.csorba@cec.eu.int

ANNEX V: FORMAT FOR INDUSTRY PARTICIPATION IN IPPS

Industry Participation Plan Format

*Name of **Project Proponent***

Name of Project

*Address of **Project Proponent***

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1 Introduction

The purpose of this Industry Participation Plan (IPP) is to demonstrate the commitment of **insert name of Project Proponent** (Project Proponent) to maximise opportunities for local industry participation in the **Name Of Project**, located at **location**, WA.

This IPP is designed to provide a management strategy that **Project Proponent** will implement to ensure Western Australian (WA) and Australian industry will receive full, fair and reasonable opportunity to participate in the **Name Of Project**.

2 Project Details

2.1 Proponent and Representative Details

Project Proponent: **Project Proponent**

Address:

Contact details:

Tel: Fax: Email:

Alternate Contact Details:

Tel: Fax: Email:

ABN **12 345 678 999**

2.2 Project Description and Overview

Provide a brief description of the Project, including different phases. Information may be sourced from the project plan.

2.3 Project policies

This overarching IPP will take into account the government requirements of the *Buy Local Policy* and the *Building Local Industry Policy*.

Project Proponent will endeavour to maximise local industry opportunities for competitive Western Australian / Australian suppliers to compete on best value for money in procurement and major projects undertaken.

Project Proponent will request its suppliers, subcontractors and Alliance partners to apply the relevant strategies in this IPP, and cascade them to all tiers of their supply chain.

These government policies will be supported by other **Project Proponent** internal policies and procurement practices that encourage the use of competitive Western Australian / Australian industry.

2.4 Project time frame

A detailed design and construction programme and letting schedule have been developed to identify critical path items. An indicative timeframe for the project is attached. **Attach a gannt chart, if available.** Information from this gannt chart will be provided, when considered advantageous, to the Industry Capability Network Western Australia (ICNWA) to enable prospective tenderers to bid for work.

2.5 Through life support

Post construction, operation and maintenance of any major projects or procurement packages undertaken by **Project Proponent** will be managed by **Project Proponent** and will follow **Project Proponent**'s procurement arrangements.

Part A Economic Impact of the Project

3 Potential Economic Impact

There are two separate ways major projects or procurement packages undertaken by **Project Proponent** may have a bearing on the impact on the Western Australian economy:

1. The initial impact of the project; and
2. The ongoing maintenance of the project, post **construction/implementation**

1. The **construction/implementation** project includes **several** packages which will cost approximately \$xx million over X – Y month period. Competitive Western Australian/Australian companies will be given a full, fair and reasonable opportunity to tender via the Early Tender Advice on the Department of Treasury and Finance Bulletin Board, and via the ICNWA ProjectConnect online information facility. Procurement Practices are further detailed in Section 4. Successful tenderers will be encouraged to utilise Western Australian labour, where available. Companies who develop increased capabilities during any major projects or procurement packages will be encouraged to register on the ICNWA Global Supply Chain Access Service.

2. The ongoing functions of the **Project** will contribute to the economic development of Western Australia. **Please add in any pertinent information to support this claim**

3.1 Employment

Project Proponent currently employs xxxxx full time employees, including indigenous personnel, trainees, apprentices and regional employees. It is anticipated this workforce may grow to xx over time as this project proceeds. **Please make a comment on employment opportunities, including regionally based opportunities, during the project's construction phase.**

Additional personnel required to be recruited will, wherever possible, be sourced from within Western Australia. Contractors will be encouraged to cascade this practice in their own procurement.

Project Proponent is aware of the Skilled Migration Unit within the Small Business Development Corporation. Should there be a need to locate labour during the current perceived skilled labour shortage, it will consider utilizing this service.

3.2 Skills Transfer

Generally, existing **Project Proponent** personnel have the necessary skills required to undertake any major projects or procurement packages by **Project Proponent**. **Project Proponent** has a comprehensive programme of training and development in place.

Project Proponent is subject to the Western Australian Government's "Priority Start – Building Policy".

Please put in some specific information which may broaden this point eg ICT up-skilling, etc

3.3 Technology Transfers and Innovation

It is anticipated that any major projects or procurement packages undertaken **Project Proponent** will involve a significant level of Western Australian/Australian content. Ongoing maintenance will be conducted by **Project Proponent**, or the Alliances, where appropriate, using locally based staff.

There is the potential to implement new technology from Australia or overseas if it can be shown to provide benefits to the project.

3.4 Regional development

Please complete this section if the project will be undertaken in a regional area. Reference can be made to existing workforce eg

Project Proponent has full time employees located in regional areas of Western Australia to undertake this work. Should the ***Project Proponent*** need to source additional contractors, it will endeavour to utilize local contractors.

The ***construction/implementation*** phase of this regional project will provide a positive economic impact to the area and will provide opportunities for local contractors to provide services to the project. Other goods and services where practical will also be sourced locally.

Project Proponent is committed to keeping the local community informed of the commencement and on-going progress of this project. The local business community will be informed of potential opportunities available and provide initial contact and enable further discussion of potential business opportunities. The information will be disseminated via letter drops, advertisements in the community newspaper, information displays in the local shopping centres with all information contained on the project web site. Advice regarding the project will also be provided to the local Regional Development Corporation, Local Chamber of Commerce and Industry, Business Enterprise Centres and Area Consultative Committees. ***Amend as appropriate***

Part B Procurement Practices

Project Proponent operates on the principle that Western Australian/ Australian suppliers are given full, fair and reasonable opportunity to compete with overseas suppliers. **Project Proponent** will continue to seek local companies and businesses to support its operations. The methods by which this overarching objective will be achieved are **(modify as required, these are prompt points)**:

- Issuing early tender advice notices, through local communication mediums, to inform industry of upcoming project packages opportunities.
- Advertising potential work opportunities through the Industry Capability Network of Western Australia (ICNWA) ProjectConnect website with a dedicated project page. This site will also include a 'Supplier Information Guide' to enable potential suppliers to understand what they must do to be considered for work.
- Utilising the services of ICNWA to supplement **Project Proponent's** existing industry capability registers and to involve ICNWA in the procurement planning processes, as appropriate.
- Staging, as appropriate, industry briefing session/s to outline the scope of the project, timing factors and supplier requirements.
- Depending on the level of industry response at the briefing sessions, countenance holding specific workshops for prime contractors to clarify or amplify procurement related issues.
- Requiring project managers engaged to facilitate any major projects or procurement packages undertaken by **Project Proponent** to adopt the actions identified in this IPP.
- Undertaking, as appropriate, company visits (to validate capability and capacity) to new, potential Western Australian suppliers interested in tendering as part of any major projects or procurement packages undertaken by **Project Proponent**.
- Designing the project in Western Australia with a proviso that a small amount of technical expertise may potentially sourced from the eastern states.
- Requiring **Project Proponent's** Project Execution Team, Engineering Procurement and Construction Management contractor, prime contractors and subcontractors to cascade the relevant strategies of this IPP to all tier suppliers as part of their supply contract.
- Providing feedback on unsuccessful Western Australian/Australian suppliers so as to assist them in future opportunities.
- Providing feedback of unsuccessful WA/Australian suppliers to Department of Industry and Resources (DoIR) in order for DoIR to assist with improving industry capabilities in WA/Australia.
- Meeting, as required, with key Government stakeholders viz., DoIR where issues relating to procurement procedures and/or industry participation are likely to be of a contentious nature.

4.2 Subcontractor / Supplier Assessment

Selection of suppliers will be performed through **Project Proponent** procedures as outlined in the Project Execution Plans (PEPs) relating to the project. **What is the correct name? Amend as appropriate in 6 and 6.1. Please describe how you undertake selection – possibly amend this paragraph accordingly** Assessments include the completion of a general data questionnaire which includes management and strategy, core business, financial soundness, project management, technical and industrial capabilities, quality systems and certification, environmental management controls, after sales capabilities etc.

Potential suppliers in Western Australia/Australia and overseas will be invited to tender on the basis of identical specifications.

Contracts will be awarded to those suppliers who can provide the best competitive advantage to the project in terms of value for money, which will be demonstrated by:

- Demonstrated quality performance.
- Ability to meet timeframes.
- Compliance with specification.
- Whole of Life Costs including ongoing service and support.

4.3 Contract Responsibility

Project Proponent, will be the principal to all contracts and will be responsible for the legal engagement of all Consultants and Contractors using standard procurement process and procedures.

4.4 Responsibilities and Authorities

The implementation and further development of this Plan is the responsibility of **Project Proponent**.

Part C Identification of opportunities for Western Australian / Australian producers

5.1 Strategic Partnering

Due to the specialised nature of this **construction/implementation project** being undertaken, it is anticipated that successful tenderers may develop increased skills and knowledge in order to undertake this work, including regional contractors.

Project Proponent will encourage these companies to register with the ICNWA Global Supply Chain Access Service, to enable them to become known to global companies seeking these skills, and assist with the opportunity to competitively tender for overseas projects.

Project Proponent will also encourage successful tenderers to develop business relationships with other key players in the project, to enable future strategic partnerships in similar projects. **Please describe how**

6. Monitoring, Review and Reporting

Monitoring the implementation of the IPP will be conducted in accordance with the requirements of the PEPs/Contract Management Plans.

Management Review is conducted in general accordance with the **Project Proponent** normal operating procedures. It is proposed that the effectiveness of the IPP will be reviewed **quarterly/half-yearly**. A copy of this report is to be provided to DoIR. The first report will be due in **Month 200x**.

6.1 Implementation

This IPP is a subordinate plan to the PEP. Beneath this plan, there are more detailed and specific documents such as system procedures, system instructions, technical procedures, inspection and test plans, work method statements and standard forms and checklists which have application to this Plan.

ANNEX VI: MODEL PPA FOR SMALL-SCALE IPPS

**STANDARDIZED AGREEMENT FOR PURCHASE OF
ELECTRICAL ENERGY
MODEL TEMPLATE – A GUIDE ONLY
BASED ON THE SPPA BEING USED BY THE GOVERNMENT OF
SRI LANKA**

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**STANDARDIZED AGREEMENT FOR SMALL SCALE IPP
FOR SUPPLY OF ELECTRICAL ENERGY**

This Agreement is made and entered into at Windhoek this [] day of [] [20], by and between the Electricity Control Board, Namibia, a body corporate duly constituted by Act No. -----and having its head office at -----, Windhoek, Namibia (hereafter referred to as "ECB"), and [] a private company with its registered office at [] (hereafter referred to as "Seller" which term or expression where the context so requires means and includes the said [] and its successors and assigns, as permitted hereby)

WHEREAS, the Seller had submitted a proposal for sale to the Buyer of electrical energy from a small power production facility in Namibia; and

WHEREAS, the Seller's project and tender of electrical energy for sale qualifies under the Small Power Producer Procurement Scheme of ECB, which is approved by the Government; and

WHEREAS the Buyer may purchase electrical energy under applicable law and regulations of the Democratic Socialist Republic of Namibia; and

WHEREAS, the Seller is a company duly incorporated and validly existing under the laws of the Democratic Socialist Republic of Namibia, has all requisite corporate and legal authority to execute this Agreement, and is permitted by applicable laws and regulations to sell independently produced power; and

WHEREAS, the SELLER wishes to sell and to deliver, and ECB wishes to grant a license to the Seller to produce and sell electrical energy to be produced by the Seller from the Facility described at Appendix B, all pursuant to the terms and conditions as set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Seller and ECB hereby agree as follows:

ARTICLE 1 DEFINITIONS

When used with initial capitalization, whether in the singular or in the plural, the following terms shall have the following meaning:

"Agreement" means this document, including its appendices and all documents, regulations, or standards incorporated by reference, as such may be amended from time to time.

"Agreement A" means the appendix to this document defining the tariff applicable in the base year of -----for sale of energy output to the Buyer by the Small Power Producers and the methodology for calculating the applicable tariff for the years thereafter.

"Agreement B" means the appendix to this document setting out key specifications of the Seller's Facility

“Agreement C” means the appendix to this document defining the technical standards for testing the Facility for the purpose of demonstrating whether or not the Facility satisfies the grid connection requirements of ECB.

“Commercial Operation Date” means the first day of the succeeding month following the day on which:

- (1) Subject to Section 4.4, the Seller notified ECB that electrical energy deliveries can commence, or
- (2) The Seller has commenced deliveries of electrical energy to the Buyer.

“Contract Year” means the twelve-month period beginning with the Commercial Operation Date and each succeeding twelve-month period.

“Due Date” means thirty (30) days after the date on which Buyer reads its meters installed at the Metering Point for the purpose of determining the amount of Energy Output of the Facility for the prior period, which reading shall occur pursuant to Article 5.2(a).

“Emergency” means a condition or situation, which is likely to result in disruption of service to the Buyer’s customers, or is likely to endanger life or property.

“Energy Output” means the amount of electrical energy generated by the facility and delivered to the Buyer.

“Facility” means all the Seller’s equipment and appurtenant land at a single site or parcel of land utilized to produce and deliver Energy Output, including but not limited to Seller’s generating, metering, and protective equipment.

“Government” means the Government of Namibia.

“Grid Point” means the relevant standards published by International Electrotechnical Commission of No. 3, rue de Varembé, P.O. BOX 131, CH-1211 Geneva, Switzerland.

“IEC Standards” means the relevant standards published by International practices, standards and engineering and operational considerations, including but not limited to, manufacturers’ recommendations and the exercise of reasonable skill, diligence, foresight, and prudence that would be exercised or generally followed in the operation and maintenance of facilities similar to the Facility.

“Prudent Utility Practices” means accepted international practices, standards and engineering and operational considerations, including but not limited to, manufacturers’ recommendations and the exercise of reasonable skill, diligence, foresight, and prudence that would be exercised or generally followed in the operation and maintenance of facilities similar to Facility.

“Interconnection Guidelines” means the G.59/1 engineering recommendation of the British Electricity Association, “Recommendations on the Connection of the Embedded Generating Plant to the Regional Electricity Companies; Distribution Systems (1991), or any subsequent version of this or a reasonable and prudent substitute guidance or standard adopted by ECB to apply to small power production facility interconnection.

“Metering Point” mean the point where Buyer metering of Seller’s Energy Output initially takes place and where title to electricity delivered by Seller passes to the Buyer.

“Must Run Facility” means the Seller has operating control over the amount and timing of electrical energy to be generated by the Facility, subject only to Emergencies and such directions as may be issued by ECB for the protection of its electrical system.

“MW” means a megawatt or 1000 kilowatts.

“Month” or “month’ means a calendar month.

“Party” means the Seller or Buyer and ECB

“Prime Rate” means the prime rate as announced from time to time by the Central Bank of Namibia for Rupee amounts, and in force on such date and, for the purpose of this Agreement, a change in any such rate shall be effective on, or from date on which it is announced or, if such announcement provides for such change to come into effect on later date, on and from such later date.

“Regulator” means the Electricity Control Board of Namibia, or his delegate, should one be created.

“Schedule Outage” means the owner or operator of a waste or renewable energy electrical generation or cogeneration facility that enters this agreement for the sale of the Energy Output from not more than 10MW of the installed electric generated by the Facility.

“Unscheduled Outage” means and outage, which is not a Scheduled Outage.

ARTICLE 2 SALE AND PURCHASE OF ENERGY OUTPUT

2.1 Sale and purchase of Energy Output The Seller shall deliver and sell, and the Buyer shall accept and purchase the electrical Energy Output generated by the Facility of the Seller, which Seller shall maintain its status as a Small Power Producer and which Energy Output shall be as specified in Appendix B for Quality of Electrical Energy at the Termination Point.

2.2 Obligations of the Seller

- (a) The Seller shall notify the Buyer and ECB in writing at least 30 days prior to synchronizing or operating the Seller’s generators in parallel with the Buyer’s grid system, and co-ordinate such commencement of operation with the Buyer.
- (b) Prior to the Commercial Operation Date and thereafter on or before 1st December of each subsequent Year, the Seller shall furnish to the Buyer and ECB an annual forecast that includes the following: (i) anticipated monthly generation availability, and (ii) Schedule Outages for each year; provided, however, the Seller shall have no liability to the Buyer and shall be subject to no penalty in the event that the actual amount of electrical energy delivered to Buyer, or the times of said delivery, differ from the amounts or times shown in said forecasts.
- (c) The Seller shall notify the Buyer and ECB on month in advance of Scheduled Outages, including a non-binding estimate of expected length, and as soon as possible, of any Unscheduled Outages, including a non-binding estimate of expected length.

- (d) Notwithstanding that the Seller Facility is a Must Run Facility, whenever the Buyer's system with which it is directly interconnected experience an Emergency, or whenever it is necessary to aid in the restoration of service on the Buyer's system or on the systems with which it is directly or indirectly interconnected, the Buyer may, in its sole discretion, curtail or interrupt the taking of all or a portion of Energy Output hereunder, provided such curtailment or interruption shall continue only for so long as it reasonably necessary under Prudent Utility Practices.
- (e) The Seller shall comply strictly with interconnection Guidelines and all ECB Standards applicable to interconnection of similar facilities. The Seller shall make all arrangements at its own expense necessary to make available the Energy Output to the Buyer at the Grid Point. The Buyer shall cooperate with the Seller in these arrangements.
- (f) The Seller shall obtain all the necessary permission, clearances for construction and operation of the facility.

2.3 Buyer's obligation

- (a) Buyer's obligations to make payments as described herein, shall continue during the term of this Agreement, and shall only be excused in the event of Force Majeure arising under Article 6 herein.
- (b) Because the Seller's Facility is a Must Run Facility, Buyer shall use its best efforts to co-ordinate and to minimize any periods of interruption, reduction, refusal, or curtailment as provided for in this Article with the periods of previously Scheduled Outages at the Facility. Buyer shall, prior to initiating any interruption, reduction or refusal of Energy Output under this Article, use its best efforts to provide the Seller with a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of start and duration of the interruption.
- (c) Buyer shall not assert the Seller's liability for, and the Seller shall not be liable to the Buyer for, any direct damages resulting from the Sellers inadvertent or accidental and non-negligent failure in meeting the Energy Output. Without Buyer's prior written approval, the said limitation of the Seller's liability shall not apply where the Seller deliberately reduced Energy Output for the purposes of selling or attempting to sell electrical energy to any third party, or for the purpose of producing any other form of energy capable of being produced at the Facility.

2.4 Interruptions

- (a) Buyer may interrupt, reduce or refuse to purchase and accept delivery of all or a portion of Energy Output from the Facility, to the extent that such interruption, reduction or refusal is necessary, Buyer's sole discretion, under Emergencies or under Prudent Utility Practices, in order for Buyer to install equipment, make repairs, replacements, investigation or inspections of Buyer's electrical network.
- (b) Even though the Seller's Facility is a Must Run Facility, Buyer shall not be obligated to purchase to take Energy Output if the Facility is not operated and maintained in a manner consistent with Prudent Utility Practices in accordance with Article 4.

ARTICLE 3 TERM; TERMINATION

3.1 Term As of the date and when signed below by all Parties, this Agreement shall commence and, subject to the termination provisions set forth in this Agreement, shall continue for a period of 15 years, beginning on the Commercial Date. Notwithstanding the foregoing, the applicable provisions of this Agreement shall remain in effect after termination hereof to the extent necessary to provide for final billings, billing adjustments, payments, and effectuation of all rights hereunder.

3.2 Default

- (a) Events of Default hereunder shall be each or any of the following events:
- (i) The Seller fails to achieve the milestones set forth in Article 11(b).
 - (ii) The Seller fails to complete, abandons, or cancels construction of the Facility.
 - (iii) The adjudged bankruptcy, dissolution, or liquidation of either Party, in which case the bankrupt, dissolved, or liquidation Party shall be deemed to be the Party in default hereunder
 - (iv) Either Party fails to perform or observe any of the terms, conditions, or provisions of this Agreement and appendices hereto, and such failure shall not be rectified or cured within sixty (60) days after written notice thereof from the non-defaulting Party, provided, however, that if such failure cannot reasonably be cured within sixty (60) day period to effect such cure, provided that the defaulting Party commences within such sixty (60) day period to effect such cure and at all time thereafter proceeds diligently to complete such cure as quickly as possible, subject to the provisions of Article 6.
 - (v) Without reasonable excuse, the failure of any party to make an undisputed payment when due and non-payment continues for more than ninety (90) days.
 - (vi) The compulsory expropriation, acquisition or nationalization of the material assets or equity of the Seller by any instrumentality of Government, or the dissolution or reorganization of Buyer such that it cannot perform its obligations hereunder.
 - (vii) Either Party contests and denies the enforceability of this Agreement, in which case the Party contesting enforceability shall be deemed to be the Party in default hereunder.

(b) Termination Upon the occurrence of an Event of Default, in each and every case, the non-defaulting Party shall give 30 days written notice to the defaulting Party and may pursue any remedies provided for this Agreement or under law, and may terminate this Agreement by giving 60 days written notice to the other Party, provided that should Buyer claim and Event of Default against the Seller, it shall notify and afford the Seller's lenders reasonable time, access and opportunity to remedy the event giving rise to the default, and shall cooperate with the Seller's lenders to this end.

ARTICLE 4 CONSTRUCTION; INTERCONNECTION; OPERATION; METERING

4.1: Construction, Interconnection Operation and Metering

- (a) The Seller shall obtain and remain in compliance with all governmental and other environmental and other approvals, licenses, permits, and certificate necessary for the siting, construction, and operation of the Facility for the duration of this agreement.
- (b) The Seller shall obtain all licenses, permits, approvals and regulations necessary, imposed or required by the Government of Namibia and/or any other agency or any local authority in Namibia and shall comply with all legal requirements with this Agreement.
- (c) The Seller shall obtain all customs clearances and approvals for the importation and transportation of all equipment necessary for the design, and construction of the Facility.
- (d) The Seller shall obtain all necessary visas and work permits from Government agencies or departments in Namibia to enable the Seller's expatriate officers and staff to work in Namibia for the duration of their assignment.

4.2 Standards

- (a) ECB's standards and requirements for equipment, transmission, and distribution including the Interconnection Guidelines shall apply to the Facility and to the Transmission Line.
- (b) The Facility shall be operated by the Seller in a manner consistent with Prudent Utility Practices.

4.3 Testing Upon completion of construction, the Facility shall be tested by and at the expense of the Seller as per with the technical standards set out in Appendix C hereof, and incorporated by reference herein. ECB and the Buyer shall be entitled to witness testing procedures. The parties shall meet and agree to the procedures, standards, protective settings and a program for the testing of the Facility in accordance with the Appendix C hereto. The Buyer undertakes to accept and pay for all electrical output generation during any such testing. The Seller shall certify in writing to the Buyer that the Facility conforms to the specifications for Quality of Electrical Energy at the Termination Pint set out in Appendix B and incorporated by reference.

4.4 Inspection of Seller's equipment Upon reasonable prior notice, The Buyer has the right to inspect the Seller's equipment of the Facility to ensure compliance with Prudent Utility Practices and the Interconnection Guidelines. Such access shall not interfere with the Seller's normal business operation. If, in the opinion of Buyer, the Sellers equipment is not being so operated and maintained, Buyer shall notify the Seller of any such discrepancies which the Seller shall correct promptly. Until such correction, Buyer is not required to accept and pay for Energy Output.

4.5 Induction type generators If the Seller's Facility includes an induction type generator(s), the Seller shall pay Buyer, at prevailing rates, the cost for all capacity and energy consumed from Buyer to excite the induction generators.

4.6 Meters

- (a) Buyer shall procure, own and maintain the primary metering equipment (“Metering Equipment”) employed for purposes of measurements and billing under this Agreement. The Metering Equipment shall be sealable. The Seller shall provide a lockable cubicle for the Metering Equipment as required by Buyer.
- (b) The Seller shall provide Buyer access to the Facility at all reasonable times upon reasonable prior notice for the purpose of reading
- (c) The metering Equipment shall be tested at least annually, at the Seller’s expense, in accordance with Prudent Utility Practices. At any reasonable time, either Party may request a test of the accuracy of any metering equipment. Each Party shall bear the cost of a test requested by it. The results of meter calibrations or tests shall be available for examination by the Parties at all reasonable times. If, at any time, any metering equipment is found to be inaccurate by more than two percent (2.0%), Buyer shall cause such metering equipment to be made accurate or replaced as soon as possible. Each party shall be present for breaking the seals, testing, recalibration and sealing of meters. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other. Buyer shall then investigate and take corrective action if so required.
- (d) Testing and calibrating of meters, and any verification of meter accuracy, shall be performed pursuant to IEC Standards, by Buyer or a mutually agreed upon qualified independent third party. Calibration shall occur before use of the meters. All meters shall be sealed and locked by Buyer after calibration. The Seller shall be notified of calibration, and have the right to present at such testing and calibration.
- (e) Any supplemental electrical energy purchased by seller shall be pursuant to normal tariffs for that category and amount of power.

4.7 Transmission Line Buyer shall design and construct the Transmission Line per ECB technical standards and IEC Standards at the cost and expense of the Seller so as to be available to transmit the electrical energy generated by the Facility as of the Commercial Operation Date, or if ECB is not able to commit to construct the Transmission Line so as to be available to transmit the electrical energy generated by the Facility as of the Commercial Operation Date, or if the parties otherwise agree that it is preferable for Seller to construct the Transmission Line per ECB technical standards and IEC Standards at its own expenses, and Buyer shall cooperate with and assist Seller as necessary to obtain any necessary right of way or easements for the Transmission Line. The Transmission will be operated and maintained by the Buyer at its own cost and expense.

4.8 Protective Apparatus

- (a) Seller shall install at its own expense such protective apparatus as reasonable required by Buyer to protect from damage the Buyer system and the Transmission line from fluctuations or variations in voltage, power, current and frequency of the Energy Output, and so as to satisfy the Specification of the Seller’s Facility for quality of Electrical Energy at the Termination Point set out in Appendix B herein.

- (b) Buyer shall have the right to review the design of all equipment of the Seller as to the adequacy of the protective apparatus provided at the Facility. The Seller shall be notified of the results of such review by Buyer in writing within thirty (30) days of the receipt of all specifications related to the proposed design. Any flaws perceived by Buyer in the proposed design shall be described in the written notice. Any additions or modifications required by Buyer shall be incorporated by the Seller.

ARTICLE 5 DELIVERY AND ACCEPTANCE OF ENERGY OUTPUT; PAYMENT

5.1 Title to Energy Buyer shall accept all Energy Output that substantially satisfies the specification of the Seller's Facility for Quality of Electrical energy at the Termination Point set out in Appendix B herein, and title to such Energy Output shall pass from seller to Buyer at the Metering Point. Where these Specifications are not substantially satisfied, Buyer may reject such Energy Output where it could reasonably damage Buyer's system, by disconnecting the Facility from the Buyer's system.

5.2 Billing

- (a) Buyer shall read its meters provided as in Article 4.6 (a) at the end of each month for determination of the electrical energy delivered to and accepted by Buyer under the terms of this Agreement, and shall supply the results of such meter readings (including time and date of the reading) to the Seller within fifteen (15) days following the reading thereof.
- (b) Buyer pay the Seller on or before the due date the seasonally adjusted price as calculated pursuant to the provisions of Appendix A for all Energy Output that is not disputed in good faith pursuant to Article 8. The price for Energy Output shall be adjusted annually for the prospective year, differentiated seasonally, and subject to a minimum price of not less than ninety (90) percent of the price at the time of execution of this Agreement, all such values indicated in, and determined pursuant to the calculation in, Appendix A. Any undisputed amounts unpaid after the Due Date shall bear interest at the Prime Rate compounded on a monthly basis. Either party may dispute any billing error, amount, or payment by written notification to the other party within one (1) year of receipt of a meter reading or other alternative billing information pursuant to subpart (d) of this section, whether or not payment has been made by Buyer dispute resolution is in favor of the Seller, Buyer pay the disputed amount plus interest at the Prime Rate, compounded monthly, from the original Due Date to the Date the refund is made. All such payments shall be due within fifteen (15) days of the date of such resolution.
- (c) In the event that any data required for the purpose of determining payment hereunder are unavailable when required, such unavailable data may be estimated by Buyer subject to any required adjustment based upon actual data in the next subsequent payment month.
- (d) To determine the amount of electrical energy delivered and accepted, billing and payment will be based on the first available of the following metering or estimation options in order of preference:

- (i) The primary Buyer meter measurement(s) when that Buyer meter satisfies for the period at issue the accuracy standard in Article 4(c); or
 - (ii) The Seller's secondary or other meter or check meter measurement when that secondary meter is positioned to record the Energy Output, and when that meter(s) satisfies the accuracy standard in Article 4(c) for the period if issue.
 - (iii) Where all meters and sub-meters fail to accurately register electrical energy delivered accepted, the average monthly data for the Facility from the same month in the prior Contract Year, if available, as reasonably adjusted for the particular billing period by any relevant available data regarding rainfall, stream flow, actual Facility fuel consumption, average heat rate, hours of operation, time of operation of generators, and native self-use of power output (collectively "Operation Variations") during the period of meter failure, shall be employed to estimate the amount of electrical energy delivered and accepted. Where such data are not reliably available, the average monthly electrical energy delivered and accepted during the previous six (6) billing periods prior to meter failure (or fewer months if the Facility is less than six months from the Commercial Operation Date), as adjusted or normalized for outages or Operating Variations, shall be used to estimate electrical energy delivered and accepted by the Facility for the period if issue.
- (e) Buyer may set off amounts owed by Buyer to the Seller regarding the Facility against amounts owed by the Seller to Buyer regarding the Facility under this Agreement.
- (f) The Seller may interrupt, reduce or refuse to make available Energy Output to Buyer only to the extent that the Seller reasonably determines that such interruption, reduction, or refusal is necessary in order to install equipment in, make repairs, replacements, investigations and inspections of, or perform maintenance on the Facility which directly affects the Energy Output. The Seller shall, prior to initiating and interruption, reduction or refusal of Energy Output, use its best efforts to provide Buyer a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.
- (g) All payments made under this Agreement shall be calculated net of Goods and Services Tax that is payable in respect of such payments. Any Goods and Services Tax that is payable will then be added to such payments.

ARTICLE 6 FORCE MAJEURE

- (a) For purposes of this Agreement, the term "Force Majeure" shall mean any of the following events not within the reasonable control and not due to the failure, negligence or persistent disregard of the Party whose performance is adversely affected or becomes impracticable, and who chooses to invoke Force Majeure:
 - (h) Action of a court or public authority having or purporting to have jurisdiction or restraints by a court or regulatory agency;

- (d) A break or fault in Buyer's transmission or distribution systems or failure of Buyer's or the Seller's transformers, switches, or other equipment necessary for delivery and receipt of electrical energy by Buyer from the Seller;
 - (e) After the Commercial Operation Date, the failure by the Seller after reasonable effort to obtain a necessary consent or approval from the Government;
 - (f) Any act of God, fire, explosion, excessive rains, floods, tidal wave, epidemic, or earthquake.
 - (g) Failure of any major supplier to perform;
 - (h) Any other cause, whether or not similar thereto, beyond the reasonable control of , and without the fault or negligence of, the party claiming Force Majeure;
 - (i) Civil disturbance, insurrection, rebellion, hostilities, public disorder or public disobedience, sabotage, riot, embargo, blockade, quarantine, labor dispute, strikes, lockouts, acts of war or the public enemy whether or not is declared;
 - (j) Nationalization, expropriation, or confiscation of the assets or authority of the Buyer by any authority of the Government.
- (b) Any obligation of either Party which arose before the occurrence of the Force Majeure event causing non-performance shall not be excused as a result of the occurrence of a Force Majeure event. The late payment of money owed is not excused by Force Majeure. No event resulting from a failure of a Party to operate and maintain their respective plant and equipment accordance with Prudent Utility Practices shall be deemed to be an event of Force Majeure.
- (c) No default shall occur, provided that the adversely affected non-performing Party invoking Force Majeure shall:
- (i) Provide prompt notice in writing to the other Party of the occurrence of the Force Majeure, giving an estimation of its expected duration and the probable impact on the performance of its obligations hereunder, and submitting good and satisfactory evidence of the existence of the Force Majeure,
 - (ii) Exercise all reasonable efforts to continue to perform its obligations hereunder,
 - (iii) Expeditiously take action to correct or cure the Force Majeure and submit good and satisfactory evidence that it is making all reasonable efforts to correct or cure the Force Majeure,
 - (iv) Exercise all reasonable efforts to mitigate or limit damages to other Party, to the extent such action will not adversely effect its own interests, and
 - (v) Provide prompt notice to other Party of the cessation of the Force Majeure.
- (d) If a Party is rendered wholly or partly unable to perform its duties and obligations under this Agreement because of a Force Majeure event, that Party shall be excused to the extent necessary from whatever performance is affected by the Force Majeure event to the extent so affected.
- (e) Notwithstanding the foregoing, if the Party is prevented from substantially performing its obligations under this Agreement for a period of three(3) years

due to the occurrence of a Force Majeure event, the other Party may terminate the Agreement by ninety (90) days written notice given any time thereafter to the non performing Party, unless substantial performance is resumed prior to the expiration of ninety (90) day period. ECB may not terminate the Agreement under this part due to a Force Majeure event described in Article 6(a) items (7) or (8).

ARTICLE 7 RELATIONSHIP OF PARTIES; LIMITATION OF LIABILITY; INDEMNIFICATION

The Parties do not intend to create any rights, or grant any remedies to, any third party beneficiary of this Agreement.

- (a) Nothing in this Agreement shall be construed as creating any relationship between the Parties other than not of independent contractors for sale and purchase of electrical energy generated at the Facility. No agency relationship of any kind is created by this Agreement.
- (b) Notwithstanding subpart (d) hereof or any other provision of this Agreement to the contrary, neither the Buyer nor the Seller nor their respective officers, directors, agents, employees, parent, subsidiaries or affiliates shall be liable or responsible to the other party or its parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insurers, for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement).
- (c) Each Party shall defend, indemnify and save the other party, its officers, directors, agents, employees and affiliates, harmless from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses (including reasonable attorney's fee), suits, actions or damages arising by reason of bodily injury, death, or damage to property sustained by any person or entity (whether or not a party to this Agreement):
 - (i) caused by or sustained on facilities owned or controlled by the Party, except to the extent caused by an act of negligence or willful misconduct: by an officer, director, subcontractor, agent or employee of the other Party; or
 - (ii) caused by an act of negligence or willful misconduct of the Party or by an officer, director, subcontractor, agent or employee of the Party.
- (d) If ECB and Seller are both determined to have been negligent in manner addressed by subpart (d) above, the obligations of the Seller and ECB shall be appropriately adjusted based on the percentage of the responsibility of each Party for such negligence.
- (e) The Seller shall accept all liability and release ECB from and indemnify ECB against any Liability for faults or damage to the Transmission Line, ECB electrical system and public, as a result of the operation of the Seller's equipment.

ARTICLE 8 DISPUTE RESOLUTION

- (a) The parties agree that if there is any dispute or difference between them arising out of the Agreement or in the interpretation of any of the provisions thereof they shall Endeavour to meet in an effort to resolve such dispute by discussion, within 30 days (Conciliation Period) of such dispute arising, failing such resolution then the parties in dispute shall refer at their costs the dispute to mutually agreed expert with experience in the field of Power generation or related field to resolve the matter within 60 days from the conciliation period, where the difference or dispute involves a claim in money this Article shall apply where the claim is less than Namibia Rupees 1,000,000.00. Where such dispute is not resolved as aforesaid at the end on ninety (90) days after conciliation period notwithstanding the fact that the claim is less than -----then the provisions of 8(b) shall apply.
- (b) Any dispute that is not resolved under 8(a) above may be submitted by either party to arbitration for final settlement under the Arbitration Act No. 11 of 1995
- (c) The decision of the Arbitrator shall be final and binding on the parties.
- (d) The performance of the contract may continue during arbitration proceedings as far as possible.

ARTICLE 9 DELEGATION AND ASSIGNMENT

This Agreement shall inure to the benefit of and bind the respective successors, assigns, and delegates of the Parties. No assignment or delegation by the Seller of any of its rights, duties, or obligations here under shall be made or become effective without the prior written consent of the Buyer in each case being obtained, which consent shall not be unreasonably withheld by the Buyer or its successors in interest, except that without the Buyer's consent the Seller may (1) delegate or assign some or all of its rights and duties to an affiliate whose principal functions are to hold the ownership interest in or to operate the Facility, or (2) assign or delegate to an unrelated entity for purposes of financing, obtaining equipment, or construction of the Facility. The Seller shall promptly notice Buyer in writing of any assignment or delegation that it makes.

ARTICLE 10 MISCELLANEOUS PROVISIONS

- (a) This Agreement may not be modified or amended except in writing signed on behalf of both Parties by their duly authorized officers.
- (b) This Agreement constitutes the entire agreement between the Parties relating to the subject hereof, and all previous agreements, discussions, communications and correspondences with respect to the subject matter hereof are superseded by the execution of this Agreement
- (c) The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the Democratic Socialist Republic of Namibia.

- (d) Each Party represents and warrants to the other that the execution and performance of this Agreement does not conflict with any rules, regulations or requirements binding that Party, and that there is no legal or administrative action pending that prohibits or impairs the Party from performing under the Agreement.
- (d) There shall be no implied waivers under this Agreement. The failure of either Party to require compliance with any provision of this Agreement shall not affect that Party's right to later enforce the same. It is agreed that the express waiver by either Party of performance of any of the terms of this Agreement or of any breach thereof shall not be held or deemed to be an implied waiver by that Party of any subsequent failure to perform the same or any other term or condition of this Agreement or of any breach thereof.
- (e) If any clause of this Agreement is ruled invalid by a court of competent jurisdiction, it shall not affect the remainder of the Agreement if it can construed to affect its essential purpose without the invalid clause.
- (f) The Headings in this Agreement are descriptive, and are not intended to affect the interpretation or meaning of the Agreement.
- (g) Any notice, invoice, or other communication which is required or permitted by this Agreement, except as otherwise provided herein, shall be in writing and delivered by personal service, telecopy, or mailed postage prepaid, properly addressed as follows:
 - (1) In the case of the Seller to the person, the Seller, and address as indicated on the signature execution line below.
 - (2) In the case of the Buyer to: General Manager, -----

Another address or addressee may be specified in a notice duly given as provided. Each notice, invoice or other communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given and received for all purposes at such time as it is delivered to the addressee or at such time as delivery is refused by the addressee upon presentation.

ARTICLE 11 FIRST REFUSAL; MILESTONES

(a) First Refusal At the conclusion of the term of this Agreement, Buyer shall have the right of first refusal on terms identical to those offered by a third party to the Seller, to purchase any electrical energy to be sold from the Facility after the term of this Agreement. The Seller shall inform Buyer in writing of any such terms offered by a third party. ECB shall sixty (60) days thereafter to exercise its right of first refusal, if at all.

(b) Milestones (i) The Seller shall have a period of the [] day of the months for receipt of all permits and approvals necessary for land acquisition and use; construction, and operation of the Facility, from the date hereof.

(ii) The Seller shall have a period [] month after achieving the Milestone (i) above, to achieve the Commercial Operation Date.

**Namibia IPP and Investment Market Framework Technical Assistance
A Grant by the U.S. Trade and Development Agency to the Electricity Control Board of
Namibia – Grant Number: GH051130313**

In witness whereof the Parties have executed this Agreement as of the [] day of the month of [], [200], each signatory duly authorized entity to enter freely this Agreement and to be bound by the terms and conditions contained herein.

-----BUYER

THE SELLER

By:

By:

Name:

Name:

Title:

Title:

By:

By:

Name:

Name:

Title:

Title:

APPENDIX A RATES FOR DELIVERY OF ENERGY OUTPUT

1. Power Purchase Tariff

- 1.1 Payments to be made to the Seller under the Power Purchase Agreement shall be calculated in accordance with the provisions of this Appendix. The Tariff calculation is based on avoided cost principles. The methodology of calculating the avoided cost is given under Section 2 of this Appendix.
- 1.2 Tariff for a given year is applicable from 1st January to 31st December of the year. The Tariff shall be adjusted annually for the perspective year. Differentiated seasonally and subject to provisions of the Section 1.3 below.

The Tariff applicable for a given year will be published before the first day of December of the previous year.

1.3 Minimum tariff

The Tariff in any given year shall not be less than 90% of the First Year Tariff as set out in Section 3 below. If during the term of this Agreement, the Tariff forecast for any year becomes less than 90% of the Tariff on the date of the execution of this Agreement ("First Year Tariff"), the Tariff applicable for that year will be equal to the Tariff applicable for the previous year.

2. Calculation of the Tariff

2.1 Introduction

Avoided cost of energy represents the maximum value of generation avoided by the Buyer as result of any purchase of energy from sources outside the Buyer's system. Ideally, this value should be the value of one unit of energy (kWh) displaced at the margin by unit of energy purchased from such sources. According to this rather broad definition, the avoided cost of a unit of electricity comprises fuel and variable O&M costs of generation displaced at the margin by a unit purchased at a given instant. This is generally the cost of most expensive unit being generated at that instant, since it is implied that different generators are dispatched in their merit order of costs, subject to availability.

For purchases of energy from the Seller, the maximum price the Buyer is willing to pay for energy is its avoided cost, subject to the provisions of Sections 1.3 above. The avoided generation cost is calculated separately for dry and wet seasons of year.

2.2 Tariff Calculation Methodology

The following method is used in the calculation of yearly Tariff:

Step 1. To calculate the cost of a unit generated by each plant in operation using applicable fuel costs and other plant data such as heat rates. The applicable fuel cost will be determined on basis of the fuel price calculation by the Ceylon Petroleum Corporation in its fuel sales to the Buyer. This formula, along with the plant data and the parameters used in the calculations are published in the "Calculation of Small Power Purchase Tariff", which is published separately for the respective year.

Step 2 Compute the expected plant factors for each month in the year under consideration using projections prepared by the Buyer's System Control Center

Step 3 Calculate the fraction of time that each plant operates in the margin during a given month using the expected monthly plant factors. These fractions are then used in estimating the overall monthly avoided cost.

Step 4 Estimate the avoided costs for wet and dry seasons separately (for hydropower IPPs) by taking the arithmetic average of the months in each season. That is, the Dry Season tariff is the average of avoided costs calculated for months -----and the Wet Season tariff is the average of those in the balance of the months. Allowances made on account of Station Losses, Transmission Losses and overheads incurred by ECB are as follows:

Allowance for	Percent
Station Losses	3.0
Transmission Losses	3.2
ECB Overheads	1.5

Step 5 Estimating the Tariff offered to small power producers

The Tariff offered to the Seller each year shall be the arithmetic average of the following:

- (a) Avoided cost of generation for the year, calculated according to methodology described in Step 4, and;
- (b) Avoided costs of generation used for estimating the price offered to the Seller in the previous two years.

APPENDIX C TECHNICAL STANDARDS FOR TESTING OF THE FACILITY

- (i) The Engineering Recommendation G.59/1 of The Electricity Association, 30, Millbank, London SW 1P 4RD, United Kingdom and connected documents thereto.
- (ii) Any Subsequent written agreement come into force between the seller and ECB on testing the Facility.

