



NAMIBIA POWER CORPORATION (PTY) LTD

ANNEXURE A

STANDARD CONDITIONS FOR THE SUPPLY OF ELECTRICITY

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1. DEFINITIONS

Unless inconsistent with the context, the expressions used in the Power Supply Agreement between NamPower and the Customer and in these Standard Conditions for Supply of Electricity, as well as in the Schedule of Standard Prices, shall have the same meaning.

- 1.1. **"POWER FACTOR"** shall mean the ratio of the kilowatt hours to the kilovolt ampere-hours (i.e. kWh/kVAh) measured during the same period for which the demand is measured.
- 1.2. **"KILOWATT HOUR"** shall mean the consumption of electrical energy equivalent to one kilowatt of power sustained for one hour.
- 1.3. **"MAXIMUM DEMAND"** shall mean, when specified in kilowatts, the highest load in kilowatts supplied or to be supplied by NamPower to the Customer during any consecutive period as stated in the Power Supply Agreement in the month; and when specified in kilovolt amperes, shall mean the highest load in kilovolt amperes supplied or to be supplied by NamPower to the Customer during any consecutive period as stated in the Power Supply Agreement in the month.
- 1.4. **"MONTH"** shall mean the period between monthly meter readings, irrespective of whether such readings are taken on the last day of the calendar month or not.
- 1.5. **"NOTIFIED MAXIMUM DEMAND"** shall mean:
 - 1.5.1. The maximum demand notified in writing by the Customer and accepted by NamPower as the maximum demand which the Customer requires NamPower to be in a position to supply on demand; plus
 - 1.5.2. any increase in the notified maximum demand taken by and supplied to the Customer above the notified maximum demand for the time being in force: Provided that the notified maximum demand may be temporarily increased for a period of not less than one month on such terms and conditions as may be agreed between NamPower and the Customer.
- 1.6. **"TERMINATION DATE"** shall mean the date on which the Power Supply Agreement can, at any particular time, be terminated by due written notice given by either party.
- 1.7. **"POINT OF SUPPLY"** shall be the terminals of NamPower's metering equipment installed in the accommodation referred to in Clause 3.

2. GENERAL CONDITIONS OF SUPPLY

- 2.1. The provisions of the Electric Power Proclamation, 1922 (Proclamation 4 of 1922) and any amendment or addition thereto or substitution thereof is applicable to the Power Supply Agreement. Likewise the Power Supply Agreement shall further be subject to the provisions of the Powers of the S.W.A. Water and Electricity corporation Act, 1980 (Act 14 of 1980).
- 2.2. The electricity supplied to the Customer may not be re-sold, supplied or be provided to another person or instance, or be bartered or exchanged in any manner, except as stated below:
 - 2.2.1. In the case of a Local Electricity Supply Authority: Electricity may be re-sold, provided or supplied within the supply boundaries or license area of the Local Electricity Supply Authority as determined by laws and regulations applicable in Namibia.
 - 2.2.2. In all cases except that mentioned in 2.2.1 above: Electricity may be re-sold, provided or supplied only on the property where the supply point is located. Electricity may however not be sold at a rate per kWh exceeding that charged per kWh by NamPower to the Customer.
- 2.3. The ownership of the line and equipment shall vest in NamPower, irrespective of the mode of financing the capital cost. NamPower will maintain the line and equipment for the duration of the Power Supply Agreement and any extension thereof. NamPower may also utilise the line and equipment to supply other Customers.

3. SITE TO BE PROVIDED BY THE CUSTOMER

The Customer shall, at his own expense, provide a suitable site for NamPower's transformation, switching and/or metering equipment and shall maintain such site in good order. The said site shall be subject to the reasonable approval thereof by NamPower. The Customer shall afford NamPower reasonable access to the said site for the purpose of erecting and/or connecting up, inspecting, operating and maintaining the apparatus of NamPower therein.

4. CUSTOMER'S NOTIFIED MAXIMUM DEMAND

The installed capacity of the power supply to the Customer is as stated in the Power Supply Agreement, the Customer having notified NamPower that this is his maximum demand. Should the Customer at any time require NamPower to supply a maximum demand exceeding that stated in the Power Supply Agreement, NamPower shall have the right to increase the rental charge referred to in Clause 6 hereof and the amount of the deposit referred to in Clause 9 hereof.

5. COMMENCEMENT OF SUPPLY

Supply of electricity to the Customer shall be made available by NamPower within a period as specified in the Power Supply Agreement from the date of this contract having been signed by the Customer and the Customer having fulfilled his obligations under clause 7 and 8 hereof, or as soon thereafter as practicable, unless it is agreed between the Customer and NamPower that the said supply shall be made available at an earlier date.

6. RENTAL CHARGE

The Customer shall pay NamPower during the currency of the Power Supply Agreement, the sum per month as stated in the Power Supply Agreement (hereinafter referred to as the "rental charge") from the date on which the supply is made available in terms of Clause 5, for the period of the Power Supply Agreement and any extension thereof. The rental charge shall be payable monthly at the same time as the charges payable under Clause 10.

7. CAPITAL CONTRIBUTION BY CUSTOMER

On the signing of the Power Supply Agreement, the Customer shall pay to NamPower an amount as stated in the Power Supply Agreement as a contribution towards the capital costs to be incurred to make a power supply available to the Customer. The said contribution is not refundable, except at the sole discretion of NamPower.

8. GUARANTEED CONTRIBUTION

NamPower will be put to expenses in respect of funding all or part of the capital cost of the power supply not covered by the capital contribution by the customer (Clause 7). Part of such expenses will not be covered by the recoverable assets in the event of it becoming necessary to dismantle NamPower's equipment on premature termination of the Power Supply Agreement. It is therefore agreed that:

- 8.1. The Customer acknowledges that an amount as stated in the Power Supply Agreement is due and payable to NamPower (hereinafter referred to as the "guaranteed contribution");
- 8.2. On the signing of the Power Supply Agreement the Customer shall furnish NamPower with a bank guarantee for an amount as stated in the Power Supply Agreement (hereinafter referred to as "the guaranteed contribution"), given in a form approved by NamPower, for payment on demand by NamPower, of the said guaranteed contribution or the reduced amount thereof, payable in accordance with the provisions of this clause.

- 8.3. Subject to the Customer meeting his obligations under the Power Supply Agreement, the guaranteed contribution shall be reduced for and in respect of each completed year during which the Power Supply Agreement remains in force from and including the fifth year until and including the fourteenth year, calculated from the date referred to in Clause 5 hereof, by one-tenth (1/10) of the guaranteed contribution.
- 8.4. If the Power Supply Agreement is terminated by NamPower for breach of the conditions by the Customer or is terminated by the Customer for any reason, the amount of the guaranteed contribution or the reduced amount thereof shall cease to be reducible and shall vest in NamPower.

9. DEPOSIT

The Customer hereby undertakes to deposit with NamPower at a time before the supply is made available the sum as stated in the Power Supply Agreement or to furnish NamPower with an approved guarantee for that amount (hereinafter referred to as the "deposit") as security for the due payment of the accounts to be rendered in terms of the Power Supply Agreement.

The amount of the deposit may be varied at any time by NamPower so that the amount of the security hereunder shall be sufficient to cover the estimated amount payable by the Customer for electricity used and the rental charge during any period of three consecutive months.

10. PRICES TO BE CHARGED

Subject to the provisions of Clause 11 hereof the charges to be made by NamPower and to be paid by the Customer for the supply of electricity shall be the prices set out in the Schedule of Standard Prices (Annexure B to the Power Supply Agreement) , or as amended from time to time.

The charges payable to NamPower in terms of this Clause shall be calculated from the date on which supply is made available by NamPower to the Customer in terms of Clause 5 hereof, and shall be payable as provided in Clause 23.

11. VARIATIONS AND INCREASES IN PRICES

NamPower may from time to time change the prices to be paid in terms of Clause 10 hereof by giving the Customer one month's written notice to this effect. Price increases are subject to regulatory mechanisms and laws in force in Namibia at that time.

12. TERMINATION OF AGREEMENT

Should the Customer commit any breach of his obligation under the Power Supply Agreement, NamPower shall be entitled to give the Customer fourteen (14) days notice to remedy the default and if the Customer fails to remedy the default in that time, NamPower shall be entitled to cancel the Power Supply Agreement without prejudice to its right to sue for damages suffered by it owing to the fact of the said breach or that the Power Supply Agreement did not run its full course.

13. PERIOD OF AGREEMENT

- 13.1. The Power Supply Agreement shall come into force on the date of signing thereof and shall remain in force for an initial period of **ten years** calculated from the date set out in Clause 5 hereof.
- 13.2. Should the Power Supply Agreement be terminated before expiration of the initial period of **ten years** due to default by the Customer, NamPower may recover from the Customer the rental charge payable in respect of the remainder of the said period of **ten years**.
- 13.3. If either party hereto desires the Power Supply Agreement to terminate at the end of the said **ten year** period, or to be amended in respect of any provision thereof, he shall give to the other **twelve** calendar months prior notice in writing, failing which the Power Supply Agreement shall continue to be in force subject to **twelve** calendar months written notice on either side.

14. INSTALLATION OF GATES AND BUSH CLEARING

The Customer shall be responsible, at his own cost:

- 14.1. To install or to have installed the necessary gates along the power line route where such power line crosses the existing or future border- or any other fence on the Customer's property.
- 14.2. For bush clearing along the power line route on the Customer's property for the duration of the Power Supply Agreement and any extension thereof.

15. WIRING OF INSTALLATION

The wiring of the Customer's installation shall in all respects comply with the requirements of the SABS Code of Practice for the Wiring of Premises (SABS 0142 as amended), and the wiring may only be carried out by a Contractor duly registered by NamPower.

16. FORM OF ELECTRICITY TO BE SUPPLIED

The electricity supplied by NamPower shall be in the form of single or three-phase alternating current having a frequency which shall be maintained as near to fifty hertz and at a nominal voltage as close to that stated in the Power Supply Agreement, as circumstances and conditions will permit.

17. EQUIPMENT TO BE PROVIDED BY NAMPOWER

NamPower shall provide, erect, connect up, operate and maintain a distribution line or cable from a suitable point on its system to the site agreed upon and shall provide and install, connect up, operate and maintain in the accommodation referred to in the Power Supply Agreement such equipment and apparatus as may be necessary for furnishing the supply to be made available in terms of the Power Supply Agreement.

The Customer shall not, except in cases of emergency or at the request of or in terms of a special authorisation from NamPower, operate or interfere with the apparatus of NamPower.

18. EQUIPMENT TO BE PROVIDED BY THE CUSTOMER

- 18.1. The Customer shall at his own expense provide, erect, connect up, operate and maintain in good order all circuits from the point of delivery referred to in the Power Supply Agreement to his installation and all apparatus necessary for controlling the said circuits, including efficient apparatus for automatically isolating any circuit which may break down. The said circuits and installations, automatic apparatus and the adjustment thereof shall be to the approval of NamPower's authorised representative.
- 18.2. NamPower shall be entitled to recover from the Customer any losses or expenses incurred by NamPower by reason of damage to NamPower's plant and equipment or otherwise by reason of failure of the Customer to comply with the provisions of this Clause.
- 18.3. All material and apparatus of the Customer shall be installed in the separate portion of the accommodation referred to in the Power Supply Agreement which is set aside for the Customer's use or elsewhere on the property of the Customer in such a manner as to distinguish clearly between the property of the Customer and the property of NamPower.
- 18.4. The apparatus of the Customer shall be of good design and construction, properly installed and maintained by the Customer, and shall in all respects comply with the requirements of the SABS Code of Practice for the Wiring of Premises, as amended from time to time and with any statutory or other regulations or by-laws in force from time to time governing the use of electricity.
- 18.5. NamPower's authorised representative shall have at all times free access to the Customer's installation for the purpose of inspecting and, where necessary, approving the Customer's plant, equipment and apparatus supplied with electricity by NamPower.

- 18.6. Customers should ascertain from NamPower the nature of the protection provided on the supply and should provide adequate means for the protection of their own equipment.
- Inter alia it is not practicable for NamPower to install protective equipment on its system which will ensure in all cases that electrical equipment on the Customer's side will be protected in the event of high voltage, low voltage or single phasing or any other system disturbances. It is therefore for the Customer to take adequate measures to protect his electrical equipment against damage that may arise from these conditions.
- 18.7. NamPower will not accept any liability in terms of this agreement for damages arising as a result of temporary low voltage conditions, over voltage conditions, single phasing, power interruptions or any other system disturbances or any other damages resulting from circumstances beyond the control of NamPower, including but not limited to:
- 18.7.1. war and other hostilities, (whether war be declared or not), invasion, act of foreign enemies, mobilisation, requisition or embargo;
 - 18.7.2. rebellion, revolution, insurrection, military or usurped power and civil war;
 - 18.7.3. riot, commotion or disorder.
- 18.8. The Customer shall not at any time load in excess of its rated capacity the distribution line or cable, equipment or apparatus provided by NamPower and NamPower may provide and install automatic apparatus designed and arranged to interrupt the supply to the Customer in the event of an overload occurring.

19. RIGHT(S)-OF-WAY

- 19.1. The Customer shall grant to NamPower free of charge right(s)-of-way in perpetuity over property owned by the Customer, along a route or routes to be agreed, for
- 19.1.1. the overhead electric power line(s) and/or underground electric cable(s) which NamPower requires to erect, lay or install in connection with the supply of electricity to the Customer; and
 - 19.1.2. any extension(s) of such line(s) and/or cable(s) to other customers of NamPower. The right(s)-of-way under 19.1.1 may be used by NamPower to supply other Customers of NamPower.
- 19.2. Agreement regarding the route(s) contemplated in clause 19.1 shall be reached as follows:
- 19.2.1. In the case of NamPower infrastructure which may be in existence on the Customer's property at the time of signing the Power Supply Agreement, the Customer shall be deemed to have agreed to the routes of such infrastructure by signing the Power Supply Agreement.
 - 19.2.2. In the case of new infrastructure to be erected the Customer shall lodge any complaints regarding the planned power line route(s) over his property to NamPower in writing within seven days after the survey of the said route(s) has been completed and before the construction of the power line(s) commences. Should no written complaints be received from the Customer regarding the route(s), this shall be construed as agreement having been reached between the Customer and NamPower regarding the said route(s).
- 19.3. Furthermore, the Customer shall undertake to assist NamPower in acquiring right(s)-of-way over any other ground or property within the Customer's area of supply as may be required by NamPower in connection with the supply of electricity to the Customer.
- 19.4. Should NamPower so desire the said right(s)-of-way may be registered as notarial servitude against the title deeds of the Customer's property; and the Customer undertakes that after the granting of any such right(s)-of-way to NamPower, any sale or alienation of the said property by the Customer before the registration of the said right(s)-of-way shall be made subject to NamPower's right to secure registration of such servitude.

- 19.5. The right(s)-of-way shall include provisions for access at all times to enable NamPower to operate, maintain, repair, remove or replace any or all of the equipment of NamPower.
- 19.6. All legal expenses in connection with the execution and registration of right(s)-of-way shall be borne by NamPower.
- 19.7. If the Customer requires NamPower to change the route of any overhead electric power lines and/or underground electric cables across its property or the position of NamPower's equipment or meters, the cost to be incurred by NamPower in effecting the change or removal shall be borne, and paid in advance, by the Customer.

20. POWER FACTOR, PHASE BALANCE, INTERFERENCE WITH OTHER SUPPLIES

- 20.1. The power factor of the supply taken by the Customer under all loading conditions shall not be leading or less than 0,85 lagging and, where necessary, the Customer shall provide and install suitable apparatus to ensure this requirement is met.
- 20.2. As power factor correction equipment could be detrimental to the safe operation of the NamPower system, the specifications of any power factor correction equipment shall be to the reasonable satisfaction of NamPower, and approval thereof shall be subject to the following:
 - 20.2.1. On signing of the Power Supply Agreement the Customer shall submit to NamPower the full technical specifications of any power factor correction equipment already installed and obtain NamPower's written approval thereof before being connected to NamPower's system.
 - 20.2.2. The Customer shall submit to NamPower the full technical specifications of any new power factor correction equipment to be installed and obtain NamPower's written approval thereof before such equipment is installed.
 - 20.2.3. NamPower shall have the right to specify any additional equipment to be added to the Customer's installation that may be required for the installation to meet NamPower's requirements. Such equipment shall be for the account of the Customer.
 - 20.2.4. The settings of protective equipment installed in conjunction with the power factor correction equipment shall be submitted to NamPower for scrutiny and approval prior to commissioning of any such equipment.
- 20.3. The Customer's load shall be balanced over the three phases to the satisfaction of NamPower.
- 20.4. The Customer shall so use the supply as not to interfere with an efficient and economical supply to other customers.

21. MEASUREMENT OF THE SUPPLY

- 21.1. NamPower shall provide, install and connect up as near as possible to the point of delivery referred to in the Power Supply Agreement appropriate metering equipment necessary for measuring the amount of electrical energy (kWh) supplied to the Customer during the month and the Customer's maximum demand, if applicable, in that month.
- 21.2. For the purposes of such measurement the meter or meters and the maximum demand attachment shall be read at or near the end of each calendar month at a time of day convenient to NamPower: Provided that such reading shall normally be taken on the day in the month which is the same number of days before the end of the month as the previous months reading was.
- 21.3. Where duplicate meters are installed, if readings of the meters are within 2,5% (two and one half per centum) of the arithmetic mean of the readings of both meters, each meter shall be accepted as correct for the purposes of the Power Supply Agreement and the said arithmetic mean shall be deemed to represent the number of units supplied. If the readings of the meters differ from the said arithmetic mean by more than 2,5% (two and one half per centum) then for the purposes of rendering accounts, if a fault in one meter or NamPower's records show that the discrepancy is

attributable to one meter only, the reading of the other meter shall be taken as correct. If the discrepancy may be due to either or both meters the arithmetic mean of the readings of both meters shall be taken for the time being. Such meters shall as soon as possible be tested by NamPower and appropriate adjustment of the account shall subsequently be made in accordance with the provisions of Clause 22 hereof.

- 21.4. By agreement between the parties, the Customer may provide and install his own metering equipment for measuring the number of units and maximum demand for electricity supplied under the Power Supply Agreement: Provided that the Customer's meter shall be of a type having similar characteristics to those of NamPower's meter. Where such arrangement is made, the provisions herein for measurement of the supply by duplicate meters shall apply.
- 21.5. In case a meter or maximum demand attachment fails to register or a fault in the meter or NamPower's records show that the reading is unreliable, and no duplicate meter is installed, a reasonable estimate of the number of units supplied or the maximum demand shall be made by NamPower and the account for that month shall be based on such estimate.
- 21.6. All meters shall at all reasonable times be accessible for the inspection of each of the parties hereto or their authorised representative.

22. TESTING OF METERS

- 22.1. For the purpose of the Power Supply Agreement the accuracy coefficient of a meter or maximum demand attachment shall be determined by test of the meter or attachment and shall mean the mean accuracy coefficient obtained during the period of test.
- 22.2. NamPower shall have the right to test its metering equipment at any time and also to test any meter of the Customer which is used for the purpose of measuring the amount of electricity, to be paid for in terms of the Power Supply Agreement.
- 22.3. NamPower undertakes to test each meter or attachment installed by it
 - 22.3.1. upon or as soon as possible after installation;
 - 22.3.2. in the circumstances set out in Clause 21 hereof; and
 - 22.3.3. if and when it appears to NamPower that the reading of the meter or attachment is inaccurate to an extent exceeding 2,5% (two and one half percent) fast or slow.
- 22.4. If upon test, a meter or maximum demand attachment is found to be inaccurate, the inaccuracy shall, in the absence of evidence to the contrary, be deemed to have existed since the previous occasion of testing or since the date of the last monthly meter reading, whichever is the later date; and the reading of the meter or attachment for the period of the inaccuracy shall be adjusted or estimated as may be necessary.
- 22.5. If the Customer, within fourteen (14) days of the rendering of any monthly account for electricity supplied, requests NamPower in writing to test the meter or meters or maximum demand attachment installed by it, NamPower shall do so and if upon the necessary test being made the inaccuracy of any meter or attachment be found to be more than 2,5% (two and one half per centum) NamPower shall bear the expense of such test and shall adjust the account aforesaid for the period of inaccuracy since the previous occasion of testing or the date of the previous monthly meter reading, whichever date is the later; but should the inaccuracy of the meter or meters or maximum demand attachment be found to be not more than 2,5% (two and one half per centum) the customer shall bear the expense of such test and the account shall stand as rendered.

23. PAYMENT OF ACCOUNTS

- 23.1. Accounts of all moneys due to NamPower under the Power Supply Agreement shall be made up in respect of each month and shall be delivered to the Customer as soon as possible after the end of the month and shall be paid by the Customer in Windhoek not later than the 14th day of the

calendar month following the month in respect of which the account is rendered, whereafter interest may be levied at prime bank rates.

- 23.2. In case payment shall not be made within the following fourteen days, NamPower may discontinue the supply of electricity to the Customer and may forthwith terminate the Power Supply Agreement without prejudice to its claim for damages for breach of contract. Should the Customer subsequently settle his outstanding debts and request the supply to be reconnected, NamPower shall have the right to recover the cost thereof from the Customer in advance.
- 23.3. Should the Customer dispute any account or submit a written request for the testing of NamPower's meter or meters or maximum demand attachment, the Customer shall not be entitled to defer payment of the disputed account beyond the due date referred to in this Clause, but such account shall be subject to subsequent adjustment if necessary.

24. FAILURE OR STOPPAGE OF ELECTRICITY SUPPLY

- 24.1. Subject to the provisions of Clause 23 hereof, neither party to the Power Supply Agreement shall be considered in breach or default of performance of its obligations herein, if prevented or delayed by any circumstances of force majeure, epidemics, acts of war, civil disturbances, labour disturbances, sabotage and any other circumstances beyond the control of the parties. Notice of such occurrence or existence of the event shall be given within the shortest possible time to the other party.
- 24.2. As soon as the event which results in preventing a party to carry out its contractual obligations, ceases to exist, the party thus affected shall forthwith notify the other party of this fact and shall forthwith resume its obligations under the Power Supply Agreement.
- 24.3. Notwithstanding the provisions of Clauses 24.1 and 24.2, NamPower shall not be held liable for failure to supply electricity or stoppage in the supply of electricity for any reason whatever and shall not be liable for any financial loss suffered by the Customer arising out of such failure to supply or stoppage or for financial loss suffered by any third party as a result thereof.

25. VARIATION IN VOLTAGE AND FREQUENCY

- 25.1. When any variations in voltage occur at the point of delivery aforesaid beyond the limits of 7,5% (seven and one half per centum) above or below the normal voltage referred to in the Power Supply Agreement and lasting for more than ten (10) consecutive minutes not causing a stoppage of the Customer's operations, the Customer may notify NamPower of such variation and NamPower shall rectify such variation in voltage as soon as reasonably possible.
- 25.2. If the frequency of the electricity supplied at the point of delivery falls below 48 (forty eight) hertz or rises above 52 (fifty two) hertz, the Customer shall notify NamPower of such variation in frequency and NamPower shall rectify same as soon as reasonably possible.

26. ARBITRATION / DISPUTE RESOLUTION

- 26.1. In the event of a dispute between the parties concerning construction, interpretation or meaning or effect of the Power Supply Agreement, or as to the rights, obligations or liabilities of any party thereto or as to the adjustment of any matter or thing to be agreed to or to be adjusted thereunder, or the observance or non-observance of any of the provisions of the Power Supply Agreement, the parties agree to refer the dispute to arbitration, and each party shall within 30 days of such dispute arising, appoint an arbitrator and the arbitrators so appointed shall appoint a third arbitrator by consensus within 15 days of the appointment of the last arbitrator.
- 26.2. If there is no consensus in appointing the third arbitrator, the Attorney General of the Republic of Namibia shall appoint such third arbitrator. The decision of the majority of arbitrators in arbitration shall be binding on the parties hereto.

27. REMOVAL OF APPARATUS AT TERMINATION OF AGREEMENT

Upon the termination of the Power Supply Agreement, NamPower shall have the right to enter upon the premises of the Customer and remove therefrom all material, plant and apparatus which may belong to it.