

ACCESS AUSSENKJER SOLAR ONE NAMIBIA (PROPRIETARY) LIMITED

and

NOTARIAL LAND LEASE AGREEMENT



PARTIES TO THIS AGREEMENT

The Parties to this Agreement are:

- (1) **ACCESS AUSSENKJER SOLAR ONE NAMIBIA (PROPRIETARY) LIMITED**, registration number 2020/0367, a company incorporated under the laws of Namibia, with its principal place of business at Unit 3, 2nd Floor Ausspann Plaza, Ausspanplatz, Windhoek, Namibia (the **"Tenant"**); and
- (2) **HARPIE INVESTMENTS EIGHTEEN CLOSE CORPORATION**, registration number CC/2012/3286, a close corporation incorporated under the laws of Namibia and to be converted into a private company with limited liability under the *Companies Act, 2004*, with its principal place of business at a certain Portion 1 (Safier) of the Farm Stinkbank No. 62, situate in the Registration Division "G", Erongo Region, held by the Company under Deed of Transfer 2946/2013; (the **"Landlord"**);

RECORDAL

The Parties record the following:

- (1) Access Aussenkjer Solar One Namibia (Proprietary) Limited (the **"Tenant"**, as defined hereinafter) has executed a power purchase agreement (**"PPA"**, as defined hereinafter) with Namibia Power Corporation (Proprietary) Limited (**"NamPower"**, as defined hereinafter) on the 16th December 2020 with the purpose of establishing a 20 MW photovoltaic power plant (the **"Energy Facility"**, as defined hereinafter) that should be connected to the Khan substation of NamPower.
- (2) Harpie Investments Eighteen Close Corporation (the **"Landlord"**, as defined hereinafter) is the current owner of a certain immovable property (the **"Property"** as defined hereinafter), and the Parties wish to enter into this Agreement in order that the aforesaid Energy Facility may be built on the Property.

AGREEMENT

The Parties hereto agree as follows:

1. Definitions and Interpretation

Definitions

1.1. In this Agreement, unless the context indicates otherwise: -

- 1.1.1. **"AFSA Rules"** means the arbitration rules of the Arbitration Foundation of Southern Africa in force from time to time;
- 1.1.2. **"Agreement"** means this document and includes the Schedules;
- 1.1.3. **"Approvals"** means all permissions, authorities, permits, licences, certificates, authorisations, registrations, grants, acknowledgements, exemptions, records of decision, consents, sub-divisions, rights of way, accesses, zonings, Environmental Clearance and such other approvals as may be required by Law for the operation of the Energy Facility including any condition of or limitation of such approval;
- 1.1.4. **"Claim"** includes any claim, right, demand or cause of action arising under or recognised

by Law, such as on account of any contract, delict (negligent act or omission, whether resulting in the death or injury of any person or patrimonial loss), strict or vicarious liability, unjustified enrichment or otherwise by operation of Law;

- 1.1.5. **“Commencement Date”** means, notwithstanding the Signature Date, the first month following the beginning of construction.
- 1.1.6. **“Conveyancers”** means any local legal advisor in Namibia who will be selected by the Tenant as required under clause 11 of this Agreement;
- 1.1.7. **“Energy Business”** the business to be operated by the Tenant from the Property and includes, *inter alia*, the development, commissioning and operation of the Energy Facility and the generation, supply and sale of electrical power;
- 1.1.8. **“Energy Facility”** means a photo voltaic solar power generation facility to be constructed, commissioned, operated and maintained on the Property and comprising, *inter alia*, solar panels, all Improvements, plant, machinery, equipment, all associated buildings, structures, roads and other appurtenances together with all required interfaces to be constructed for the safe efficient and timely operation of the facility, including all ancillary equipment (such “ancillary equipment” to include, without limitation, the electricity transformation equipment, metering installation, connection works, transmission or distribution lines and equipment, cables, electricity generating equipment as well as all associated plant and structures used for the safe and efficient installation, operation and maintenance of the Energy Facility);
- 1.1.9. **“Existing Infrastructure”** means any movable or immovable infrastructure, implements, improvements or things found by the Tenant on the Property when taking occupation thereof;
- 1.1.10. **“Improvements”** means any alterations or additions to Existing Infrastructure or new movable or immovable infrastructure, implements, improvements or things of any nature constructed, erected or established by the Tenant on the Property during the Lease Period;
- 1.1.11. **“Landlord”** means Harpie Investments Eighteen Close Corporation, as identified under the heading “Parties to this Agreement” hereinbefore, and includes its Successor- in-Title;
- 1.1.12. **“Lease”** means the lease of the Property by the Landlord to the Tenant in terms of the provisions of this Agreement;
- 1.1.13. **“Lease Period”** means an initial period of 25 (twenty-five) years as from the commercial operation date of the Energy Facility and, if the option in terms of clause 3 is exercised and the lease re-negotiated and extended, also the further period agreed between the Parties;
- 1.1.14. **“Losses, Damages or Costs”** includes, without limitation, any direct, indirect or consequential damages, losses or costs, as does it include loss of profit, business or opportunities or other categories of pure economic losses or damages of whatsoever nature;
- 1.1.15. **“NamPower”** means the Namibia Power Corporation (Proprietary) Limited;
- 1.1.16. **“Parties”** means Harpie Investments Eighteen Close Corporation, Access Aussenkjer Solar One Namibia (Proprietary) Limited, and “Party” means any one of them, as the context

may indicate or require;

- 1.1.17. **"PPA"** means the power purchase agreement executed on the 16th December 2020 between the Tenant and NamPower to be the purchaser of generation capacity and electricity generated under the Project;
- 1.1.18. **"Project"** means all the activities related or ancillary to the construction, commissioning and operation of the Energy Facility on the Property for the purposes of the Energy Business;
- 1.1.19. **"Property"** means a certain Portion 1 (Safier) of the Farm Stinkbank No. 62, situate in the Registration Division "G", Erongo Region, held by the Company under Deed of Transfer 2946/2013 and as further illustrated in Schedule 1;
- 1.1.20. **"Registration Date"** means the date when this Agreement, has been registered in the Deeds Registry;
- 1.1.21. **"Rent"** means the yearly consideration payable by the Tenant to the Landlord for the lease of the Property, as set out in this Agreement;
- 1.1.22. **"Schedules"** means the documents attached to and forming part of this Agreement, being –
- 1.1.22.1. **Schedule 1** – Graphic Depiction of Property;
- 1.1.23. **"Signature Date"** means the date when the last Party hereto has executed and signed this Agreement;
- 1.1.24. **"Successor-in-Title"** means, in relation to each Party, each Party's, administrators, executors, heirs or legatees, legal successors or substitutes (including, but not limited to, persons taking by novation) and permitted cessionaries or transferees; and
- 1.1.25. **"Tenant"** means, at the Signature Date, Access Aussenkjer Solar One Namibia (Proprietary) Limited as identified under the heading "Definitions and Interpretations" hereinbefore, and includes its Successors-in-Title.

Interpretation

- 1.2. In this Agreement, unless the context indicates otherwise, a reference to –
- 1.2.1. this Agreement includes any amendment, variation or replacement of hereof;
- 1.2.2. a clause is a reference to a clause of this Agreement;
- 1.2.3. a statute or statutory provision includes any amendment or re-enactment from time to time, as well as any subordinate legislation made thereunder;
- 1.2.4. a person includes such person's agents, executors, liquidators and permitted cessionaries or transferees;
- 1.2.5. one gender includes all other genders;

- 1.2.6. time is a reference to Namibian time as per the *Namibian Time Act, 1994*, and -
- 1.2.6.1. if a period of time is specified and the period dates from a given day or the day of an act or event, it is to be calculated exclusive of that day and if a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of that day;
 - 1.2.6.2. if the time for performing an obligation under this Agreement expires on a day that is not a business day, time will be extended until the next business day;
 - 1.2.6.3. a reference to a month is a reference to a calendar month;
 - 1.2.6.4. a reference to a day is a reference to any day;
 - 1.2.6.5. a reference to a “**Business Day**” is a reference to any day other than a Sunday or public holiday in Namibia.
- 1.3. Clause headings appear in this Agreement for reference purposes only and shall not be employed in its interpretation.
- 1.4. Any provision of this Agreement imposing a restraint, prohibition, or restriction on the Parties shall be so construed that the Parties are not only bound to comply therewith, but are also obliged to procure that the same restraint, prohibition, or restriction is observed by any third party engaged by, or acting under the authority or with the consent of the Parties.
- 1.5. Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause only, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this clause 1.
- 1.6. Where a word or phrase is specifically defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- 1.7. This Agreement shall be construed in accordance with the laws of Namibia.

2. Letting and Hiring

- 2.1. Subject to the terms and conditions of this Agreement, the Landlord hereby lets the Property to the Tenant, who hereby hires the same from the Landlord.

3. Duration, Option and Special Right of Termination

Duration – Initial Lease Period

- 3.1. The Lease shall commence on the Commencement Date.
- 3.2. The Lease shall continue uninterruptedly for a period of 25 (twenty-five) years following the commercial operation date of the Energy Facility (the “**Initial Lease Period**”).

Option – Further Lease Period

- 3.3. The Tenant shall have an option to renew the Lease for a further period to be agreed between the Parties (the “**Further Lease Period**”), such Further Lease Period commencing on the termination of the Initial Lease Period, provided that the Tenant shall be required to exercise its

option no later than 12 (twelve) months prior to the termination of the Initial Lease Period by giving written notice to the Landlord to that effect.

- 3.4. Following the giving of the option notice by the Tenant in terms of clause 3.3, the Tenant and the Landlord shall endeavour to re-negotiate and finalise their agreement on the initial Rent payable for the Further Lease Period not later than 6 (six) months prior to termination of the Initial Lease Period.

Special Rights of Termination

3.5. In the event that –

- 3.5.1. the PPA should be cancelled or terminate;
- 3.5.2. the Approvals required from any competent authority for the Tenant to operate the Energy Facility or conduct the Energy Business being suspended, cancelled, revoked or having expired;
- 3.5.3. circumstances should arise at the Property that would render it unsuitable for the operation of the Energy Facility or the conduct of the Energy Business; or
- 3.5.4. the useful productive life of the Energy Facility having been reached,

then the Tenant may terminate this Agreement on 6 (six) days written notice to the Landlord.

4. Nature and Use of Property

Condition of Property

- 4.1. Subject to the express representations and warranties contained in clause 4.6, the Landlord otherwise leases the Property to the Tenant as it is and as the Property is found by the Tenant on taking occupation thereof.

Use of Property and Economic Benefit

- 4.2. During the Lease Period, the Tenant may use the Property for its Energy Business and any other lawful purpose determined from time to time by the Tenant.
- 4.3. During the Lease Period, the Landlord shall be obliged to give and allow the Tenant –
- 4.3.1. undisturbed and peaceful possession of the Property; and
 - 4.3.2. the full economic benefit of the use of the Property,

without any further recourse by the Landlord to the Tenant other than being entitled to receive the Rent in terms of the further provisions of clause 5.

Occupation and Inventory

- 4.4. The Tenant may take occupation of the Property at the Commencement Date. Within 30 (thirty) days of the Commencement Date, the Tenant may document the condition and all Existing Improvements (if any) on the Property and may provide a written record thereof to the Landlord.

State of Property on Return

- 4.5. Upon termination of the Lease, but subject to the further provisions of clause 7.2, the Tenant shall restore possession of the Property to the Landlord in the state the Property is found on such termination date.

Representations and Warranties

- 4.6. The Landlord represents and warrants that –

- 4.6.1. the Property is and will during the Lease Period remain zoned for “Special Use” for the use of a solar electric power generation plant, as will entitle the Tenant to conduct its Energy Business thereon;
- 4.6.2. the Property is suitable for the Tenant’s intended constructing and operating a solar power plant thereon;
- 4.6.3. at the Signature Date the Landlord has not given, and between the Signature Date and the Registration Date the Landlord will not give to any third party any option or right to use or acquire the Property;
- 4.6.4. between the Signature Date and the Registration Date, the Landlord is and will remain the sole registered owner of the Property;
- 4.6.5. as at the Signature Date, and between the Signature Date and the Registration Date, the Property is not nor will it be encumbered in any manner as to limit the Tenant’s rights under this Agreement;
- 4.6.6. there are not and there will not be any lease agreements (other than this Agreement with the Tenant), usufructs, rights of habitation, liens or other real rights (whether of use or otherwise, and whether registered or unregistered) on or in respect of the Property in favour of any third party;
- 4.6.7. during the Lease Period, no person (other than the Tenant in terms of this Agreement) has or will have any right to occupy the whole or any part of the Property and the Property is not and will not be occupied by any persons.
- 4.6.8. as at the Signature Date the Landlord will commence the process of zoning the property as per clause **Error! Reference source not found.**

5. Rent

- 5.1. At the Commencement Date, the rent (the “Rent”) to be paid by the Tenant to the Landlord shall be the sum of N\$ 50,000.00 (fifty thousand Namibia Dollar) per year plus value added tax, which shall be payable yearly in advance on the anniversary of the commercial operation date of the Energy Facility until the termination of this Agreement.
- 5.2. The Landlord acknowledges and agrees that the Rent stipulated in clause 5.1 shall constitute the full consideration payable by the Tenant to the Landlord in respect of the initial Lease of the Property during the initial Lease Period, and, during the initial Lease Period, neither the Landlord nor its Successors-in-Title shall have any claim against the Tenant for further or additional rent, compensation or consideration arising from the Tenant’s occupation and use of the Property in terms of this Lease or otherwise (except as recorded and provided for in this agreement).

6. Subletting, Cession and Delegation



Sub-Letting

- 6.1. During the Lease Period, the Tenant may not sub-let the Property or any portion thereof without written approval of the Lessor, which consent shall not be withheld unreasonably.

No Cession or Delegation

- 6.2. The Tenant may not cede or delegate any of its rights or obligations under this Agreement to any third party without having obtained the prior written consent of the Landlord, which shall not be withheld unreasonably.

7. Existing Infrastructure, Improvements and Maintenance

- 7.1. During the Lease Period, the Tenant shall be entitled to –
- 7.1.1. conduct the Works and alter the surface of the Property as the Tenant may reasonably require for the purposes of conducting its Energy Business;
 - 7.1.2. make any alterations to or dismantle and dispose of any Existing Infrastructure on the Property; and
 - 7.1.3. erect any Improvements on the Property (as further set out herein), provided that such Improvements shall always be erected in accordance with and subject to any applicable regulatory requirements provided for under the laws of Namibia.
- 7.2. Prior to or upon termination of the Lease, the Tenant may dismantle and remove any and all Improvements made by the Tenant on the Property during the Lease Period.

Maintenance

- 7.3. During the Lease Period, the Tenant shall have no specific maintenance obligations to the Landlord in respect of the Property or the Improvements made thereon.

Amenities

- 7.4. During the Lease Period, the Tenant shall be responsible for the payment of all charges, levies or fees raised by any competent authority in relation to –
- 7.4.1. the basic connection charges; and
 - 7.4.2. the Tenant's consumption, of water on the Property (the "Amenities").
- 7.5. The Parties agree that all municipal or third-party service provider accounts for the Amenities shall, where possible, be opened in the name of and for the sole account of the Tenant.
- 7.6. The Tenant shall not be liable for any further rates and taxes unless such rates and taxes are imposed by Law pursuant to this agreement.

8. Limitation of Landlord's Liability

- 8.1. The Landlord shall not be liable to the Tenant in respect of any Claim for, or Losses, Damages or Costs suffered or incurred by the Tenant as a consequence of the Tenant's occupation or use of the Property during the Lease Period, nor shall the Tenant be entitled to claim against the

Landlord any remission of Rent or set-off on account of the aforesaid.

8.2. During Lease Period, the Tenant shall have no Claim against the Landlord in respect of, nor shall the Landlord be liable to the Tenant for any Losses, Damages or Costs suffered or incurred by the Tenant, or the Tenant's officers, agents, employees or guests, nor shall the Tenant have any claim for remission of Rent or set-off against the Landlord on account of –

8.2.1. the Loss or Damage to any property kept by the Tenant on the Property irrespective of the cause of such Losses, Damages or Costs suffered or incurred; or

8.2.2. the death or injury of any person (including, for the avoidance of doubt, the Tenant's officers, agents, employees, visitors, guests or third parties) on the Property.

9. Reciprocal Indemnities

9.1. The Tenant agrees to indemnify, and hereby indemnifies and holds the Landlord harmless against any and all Claims (whether by the Tenant or the Tenant's officers, agents, employees, visitors, guests or any third party) made or held against the Landlord and in respect of which the Landlord's liability has been limited in terms of clause 7.

9.2. The Landlord agrees to indemnify, and hereby indemnifies and holds the Tenant harmless against any and all Claims (whether by the Landlord or third parties) made or held against the Tenant, or Losses, Damages or Costs suffered or incurred by the Tenant on account of the Landlord failing to provide access and use of the property as per clauses 4.2 and 4.3 or failing to pay any taxes or filing any returns for which the Landlord remains liable by Law as owner of the Property.

9.3. The Landlord shall be responsible to obtain any and all approvals for the purposes of the Landlord entering into this Agreement, including, where applicable, approvals from the Minister of Local Government and Housing under the Local Authorities Act, 1995.

10. Taxes

Stamp Duties

10.1. The Tenant shall be responsible to reimburse the Landlord on demand any stamp duties (excluding penalty stamp duties) paid by the Landlord in connection with the execution of this Lease in terms of the Stamp Duties Act, 1993.

Value Added Tax

10.2. It is recorded that the Rent payable by the Tenant to the Landlord is stated exclusive of value added tax, and the Tenant shall be obliged to pay value added tax in accordance with the provisions of the Value Added Tax Act, 2000 to the Landlord.

11. Subdivision and Registration of Lease, Servitude

Registration of Lease

11.1. The Parties agree that this Agreement shall be executed as a notarial lease and shall be registered by the Conveyancers in the Deeds Registry in terms of the provisions of the Deeds Registries Act, 1937 and the Formalities in Respect of Leases of Land Act, 1969.

11.2. The costs of the registration of this Agreement shall be borne by the Tenant.

11.3. For the purposes of clause 11.1, the Parties agree and bind themselves to execute all such documents and to do all such things as the Conveyancers may require from them for the purposes of effecting registration of this Agreement. More specifically, if so required by the Conveyancers, the Parties shall re-execute this Agreement for the purposes of registration in the Deeds Registry, substantially on the same terms and conditions, but pending such registration, this Agreement shall in all respects be valid and binding on and between the Parties.

Servitudes

11.4. The Landlord agrees to grant the Tenant an appropriate and adequate servitude over his immovable property in order to enable the Tenant to connect its power station and electricity infrastructure to the Khan substation operated by NamPower. If required by the Tenant, the Landlord further agrees to grant the Tenant, at no additional cost to the Tenant, a right of way servitude to the Property. This servitude is to be at least 12 meters wide. All servitudes shall be notarially executed and shall be registered by the Conveyancers against the title deed of the Landlord's property, and the Parties agree and bind themselves to execute all such documents and to do all such things as the Conveyancers may require from them for the purposes of effecting registration of these servitudes.

12. Good Faith

- 12.1. Each Party is to act in good faith towards the other Party including but not limited to being just and faithful in all activities in dealings with the other Party in relation to the Agreement.
- 12.2. The Parties undertake to co-operate and consult with one another in good faith with regard to ensuring the implementation of this Lease and its underlying intent in accordance with the terms and conditions of this Agreement and to support each other in the performance of all such actions and to take all such steps as may be reasonably available to them and necessary for the maintenance and the execution and the implementation of this Agreement.

13. Further Special Conditions Pertaining to the Project

Definitions

13.1. In this clause 13.1 (but also where applicable elsewhere in this Agreement) –

- 13.1.1. “**Dispose**” means cede, delegate, transfer or otherwise dispose of a grant or permit or suffer the grant of any legal or equitable interest (either in whole or in part) whether by sale, lease, declaration or creation of a trust or otherwise;
- 13.1.2. “**Transmission Agreement**” means the transmission and use of system agreement between the Tenant and NamPower regulating the electrical connection of the Energy Facility to the Grid;
- 13.1.3. “**Environment**” has the same meaning given to that term under the Environmental Management Act, 2007;
- 13.1.4. “**Environmental Clearance**” has the same meaning given to that term in the Environmental Management Act, 2007;
- 13.1.5. “**Environmental Law**” means all duties, obligations, statutes, regulations, ordinances, bylaws, common law, international law, judicial precedent, administrative orders, directives (including pre directives), compliance notices (including pre compliance notices), Environmental Clearances and any other regulatory tools aimed at, amongst

other things, the protection and management of the Environment and promotion of the health and wellbeing of all persons;

- 13.1.6. **"Financier"** means any financier of the Project as will more fully appear in the Financing Documents including any agent acting on behalf of such financier in relation to the Financing Documents or any entity established at the instance of the Financier for the purpose of holding security pursuant to the Financing Documents;
- 13.1.7. **"Financing Documents"** means any and all loan agreements, notes, bonds, indentures, security agreements, direct agreements, registration or disclosure agreements, export credit agency agreements, guarantees or insurance policies, subordination agreements, mortgages, deeds of trust, credit agreements, inter-creditor agreements, note or bond purchase agreements, hedging agreements, participation agreements and other documents (including international, regional, local facilities agreements, equity bridge loans, service agency agreements, lease agreements, purchase agreements and agency and asset participation agreements) to be entered into by the Tenant relating to, among other things, the financing of the Energy Facility or the Project provided by any financing party, including but not limited to any modifications, supplements, extensions, renewals and replacements of any such financing or refinancing;
- 13.1.8. **"Grid"** means the Namibian national electricity transmission and distribution system;
- 13.1.9. **"Law"** means all statutes, regulations, ordinances, proclamations, by-laws, common law, Environmental Law, international law, judicial precedent, administrative orders, directives, compliance notices, and any judgment, decision, order or rule of any court or tribunal within the relevant jurisdiction, Approvals and any other regulation tools, in each case having the force of law in Namibia;
- 13.1.10. **"Mortgage Bond"** means a mortgage bond hypothecating the Tenant's right, title and interest in and to this Agreement;
- 13.1.11. **"Servitude"** means the servitude to be granted by the Landlord in favour of the Tenant or any nominee of the Tenant in terms of this Agreement;
- 13.1.12. **"Works"** means, inter alia, all works associated with (i) the construction, development, installation, commissioning and operation of the Energy Facility including, where applicable, all Improvements, (ii) the construction of the works necessary to connect the Energy Facility to the Grid including, where applicable, the installation of cables, (iii) any associated infrastructure to be constructed and developed on the Property for the purposes of the Energy Facility and/or the Energy Business, and (iv) the preparation, excavation, construction, installation, repair, replacement and/or maintenance works required by the Tenant in its sole and absolute discretion for the purposes of the Energy Business and/or the Energy Facility, including, where applicable, works relating to any substation, switchyard or control room.

Ownership of Equipment

- 13.2. The Parties agree that the Energy Facility shall be and remain the property of the Tenant and shall at all times be regarded as movable property, shall not accede to or become part of the Property, and shall in no event be subject to a landlord hypothec and the Landlord consents to the Energy Facility being pledged, mortgaged or otherwise hypothecated by the Tenant as security to third parties pursuant to the Financing Documents. If, by operation of Law, the Energy Facility should be regarded as having acceded to the Property, the Landlord hereby nonetheless waives any rights to claim such ownership, and the Tenant and its Successors-in-Title shall

continue to hold the contractual right to dismantle the Energy Facility and any part thereof during the currency and upon termination of this Agreement.

Special Obligations of Landlord as to the Energy Facility

13.3. The Landlord shall have the further special obligations:

13.3.1. The Landlord acknowledges that the operation of the Energy Facility necessitates that repair and maintenance work be carried out thereat from time to time. Accordingly, the Landlord agrees to grant Tenant unrestricted access to and the use of the Property at all times for the duration of this Agreement for the purposes of constructing and operating the Energy Facilities and conducting the Energy Business, including incidental use of the Property for those purposes.

13.3.2. The Tenant shall be entitled to:

13.3.2.1. bring and lay and relay underground all cables, pipes, links, earth wires and/or ancillary equipment installed at the Property and, over and across the Property;

13.3.2.2. to cause such audio, visual, view, light, flicker, noise, shadow, vibration, air turbulence, wake, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Energy Facility;

13.3.2.3. build an access road or roads on the Property to the Property;

13.3.2.4. route Grid connection cables underground or across the Property;

13.3.2.5. install workshops at the Property;

13.3.2.6. install switching and measuring gear, transformer stations, maintenance and/or substations or other electrical infrastructure required by the Energy Facility on the Property; and

13.3.2.7. carry out all construction Works necessary for installing and operating the Energy Facility.

13.4. Special Obligations of Tenant as to the Energy Facility

13.4.1. The Tenant shall be responsible at its own expense for the erection, maintenance and operation of the Energy Facility.

13.4.2. Upon termination of this Agreement, the Tenant shall decommission the Energy Facility, remove the same and rehabilitate the Property in accordance with any Approvals and such that the Property are in substantially the same condition as they were prior to the construction of the Energy Facility.

13.5. Rights of Financier

13.5.1. Financier's Agreement

The Landlord agrees that:

13.5.1.1. the Landlord will, if requested by the Tenant, execute a tripartite agreement or other direct agreement in relation to the rights of the Tenant under this Agreement,

permitting any Financier of the Tenant to exercise against the Landlord any rights which the Tenant has under this Agreement, step-in rights and rights of substitution in favour of the Financier; and

13.5.1.2. the Landlord shall not Dispose or agree to Dispose of all or any of the Landlord's right, title and interest in and to the Property or any part of it except upon the condition that the transferee of the Property enter into a deed of the kind referred to in clause 13.5.1.1 if required to do so by the Tenant.

13.6. Termination of Lease

13.6.1. As security for the Tenant's obligations under the Financing Documents, all of the Tenant's right, title and interest in and to this Agreement have been or stand to be mortgaged in favour of the Financier via a Mortgage Bond.

13.6.2. This Agreement shall not be terminated, cancelled or amended in any manner, whether in consequence of default by either the Landlord or the Tenant, or otherwise howsoever, other than by operation of Law in circumstances which are beyond the control of the Landlord and the Tenant.

13.6.3. The Landlord shall not be entitled to cancel this Agreement in consequence of default by the Tenant unless the Landlord has given the Financier:

13.6.3.1. notice of the default in question, whether or not the Landlord is obliged to give notice of such default to the Tenant, which notice shall be given to the Financier concurrently with any notice pertaining to such default given by the Landlord to the Tenant; and

13.6.3.2. a reasonable period of time, being not less than 45 (forty-five) days, has passed subsequent to:

13.6.3.2.1. the date of receipt by the Financier of such notice; or

13.6.3.2.2. the expiry of the period stated in any notice to the Tenant within which the Tenant is required to remedy the default;

whichever is the later date, within which to procure that such default is remedied.

13.6.4. Any purported cancellation or termination of this Agreement by either Party thereto which is contrary to the provisions of this clause 13.6 will be invalid and of no force or effect whatsoever.

13.7. Option to Lease

13.7.1. In the event that this Agreement is cancelled or terminates, whether in consequence of default by either Party or otherwise howsoever, the Financier shall, forthwith upon such cancellation or termination, acquire an option to lease the Property from the Landlord.

13.7.2. The option to lease the Property contemplated in clause 13.7.1 above shall be open for exercise by the Financier for a period of 45 (forty five) Business Days from the date of receipt by the Financier of notice from the Landlord informing the Financier that a cancellation or termination of this Agreement contemplated in clause 13.7.1 above has occurred.

13.7.3. The Financier shall be entitled, at any time prior to the exercise of the option to cede and

assign its rights, title and interest in and to the option to any third party, or to nominate any third party to exercise the option in its place and stead.

13.8. Exercise of the option to Lease

13.8.1. An exercise of the option contemplated in clause 13.7.1 above shall be effected by notice in writing to the Landlord.

13.8.2. In the event that the option is exercised, the resultant lease will be:

13.8.2.1. for the total duration in terms of clause 3 above less the period for which this lease has run up to the date of exercise of the option; and

13.8.2.2. upon the terms and conditions contained in this Agreement, which shall apply thereto mutatis mutandis.

13.9. Notarial Execution and Registration

13.9.1. The Landlord shall, as soon as is reasonably possible after the exercise of the option contemplated in clause 13.8, cause the resultant lease to be reduced to writing and notarially executed and registered against the title deeds of the Property.

13.9.2. Subject to clause 13.7.3, the Financier shall, on request, pay the reasonable costs of preparation and registration of the resultant lease.

13.10. Default and/or Insolvency in the event that:

13.10.1. the right, title and interest of the Tenant in and to this Agreement is sold in execution of the judgment of a court, whether at the instance of the Financier or any other Party, the Landlord shall, if so required by the Financier, consent to the cession and assignment of the Tenant's right, title and interest in and to this Agreement to the purchaser at such sale; or

13.10.2. the Tenant is placed under liquidation, the Landlord shall, if so required by the Financier, consent to the cession and assignment of the Tenant's right, title and interest in and to this Agreement to any Party nominated for this purpose by the liquidator.

13.11. *Stipulatio Alteri*

The contents of 13.5 to 13.10 inclusive constitute a *stipulatio alteri* in favour of the Financier, who shall be entitled to accept the benefits accorded to the Financier at any time and without notice.

14. **General**

Governing Law

14.1. This Agreement is governed by, and shall be construed in accordance with the laws for the time being in force in Namibia.

Severability and Unenforceability

14.2. If any provisions of this Agreement are found or held to be invalid or unenforceable, the validity of all the remaining provisions of this Agreement will not be affected thereby, but the Parties agree that they will meet and review the matter, and if any valid and enforceable means is

reasonably available to achieve the same object of the invalid provision, to adopt such means by way of variation of this Agreement.

Supervening Legislation

- 14.3. Any present or future legislation which operates to vary an obligation or right, power or remedy of a person or entity in connection with this Agreement is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

No variation

- 14.4. No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties by way of notarial amendment agreement.

Entire Agreement

- 14.5. This Agreement constitutes the full and complete consensus between the Parties in relation to its subject matter and supersedes all prior negotiations, understandings and agreements with respect thereto.

Breach and Remedies

- 14.6. Subject to the provisions of clause 14.7, if any of the Parties (hereinafter referred to as the "Defaulting Party") should commit a material breach of this Agreement, the affected Party (the "Affected Party") may give the Defaulting Party written notice to remedy such breach. In the event of the Defaulting Party failing to remedy its breach within 30 (thirty) days following such written notice, the Affected Party may, at its option, cancel this Agreement, such cancellation to be without any prejudice to the rights of the Affected Party to claim damages as may be allowed by Law.
- 14.7. Notwithstanding anything contained in clause 14.6, if the Tenant has paid the full amount of the Rent the Landlord's only remedies on a breach of the Tenant (whether such breach is material or not) shall then be limited to demanding and enforcing specific performance by the Tenant of the terms and conditions of the Lease, (including any claim for costs incurred or losses or damages suffered by the Landlord on account of the Tenant's breach).

No Waiver

- 14.8. No favour, delay, relaxation or indulgence on the part of either Party in exercising any right conferred in terms of this Agreement shall operate as a waiver of such right, and each of the Parties shall at all times be entitled to require the other Party to fully comply with all the terms and conditions of this Agreement.

Communications and Notices

- 14.9. The Parties choose as their domicilii citandi et executandi the following addresses: -

- 14.9.1. Harpie Investments Eighteen Close Corporation at: a certain Portion 1 (Safier) of the Farm Stinkbank No. 62, situate in the Registration Division "G", Erongo Region, held by the Company under Deed of Transfer 2946/2013;

Email: norbert@alensycc.com



14.9.2. Access Aussenkjer Solar One Namibia (Proprietary) Limited at:

Unit 3, 2nd Floor Ausspann Plaza,
 Ausspanplatz
 Windhoek, Namibia
tironen@yahoo.com
mbenito@access-power.com

- 14.10. Any notices required to be given in terms of this Agreement may be delivered at the *domicilium citandi et executandi*.
- 14.11. Any notice given in terms of clause 14.9 shall be deemed to having been received immediately if delivered by hand or affixed at the outer principal door of the addresses referred to in clause 14.9.
- 14.12. The Parties may change their *domicilium* addresses to any other physical address in Namibia on 7 (seven) days written notice to the other Party.

Dispute Resolution

- 14.13 If any dispute arises relating to this Agreement or any claims for damages or otherwise are made as the result of breach of any obligation hereunder, the Parties shall meet and use their reasonable efforts to resolve such dispute through good faith negotiation.
- 14.14 Should the Parties fail to resolve such dispute in accordance with clause 14.13 above within fourteen (14) days of their meeting or such longer period as the Parties may agree, any Party may refer such dispute or difference to arbitration to be undertaken by three (3) arbitrators. The Parties shall agree on the identity of the arbitrators. Should the Parties fail to agree on the arbitrators within fourteen (14) days of the referral of the dispute to arbitration, the President of the Law Society of Namibia shall appoint the arbitrators from a list of approved arbitrators having the requisite experience and expertise in the field of the dispute.

Arbitration

- 14.15 Except where otherwise specifically provided for, any dispute at any time between the Parties or any failure by them to reach agreement in regard to any matter arising out of or in connection with this Agreement or its interpretation or effect, or arising in any way out of the termination or failure of any of them, shall be submitted to arbitration pursuant to the AFSA Rules, this clause 14.15 being an arbitration agreement within the meaning of the aforementioned rules.
- 14.16 The decision of the arbitrators shall be given in writing as soon as reasonably possible after the dispute has been referred to the arbitrators but not longer than six weeks from the date on which the hearing, including argument, was concluded.
- 14.17 The decision in clause 14.16 shall be final and binding upon the and shall not be subject to appeal to any court or tribunal of any kind unless manifestly unlawful or unjust, provided however that any Party may take action in any court of competent jurisdiction to enforce the arbitrators' decision, including its award in respect of the costs of arbitration.
- 14.18 Each Party shall bear its own costs and the costs of arbitration shall be borne equally by the Parties, unless the arbitrators decide otherwise.
- 14.19 Arbitration shall be conducted under the AFSA Rules and shall be held in Windhoek before three

(3) arbitrators. Each Party shall nominate an arbitrator and the two Party-appointed arbitrators shall jointly nominate the third arbitrator (who shall be the chairperson) within thirty (30) days after the confirmation of the second arbitrator, failing which the chairperson shall be appointed by the President of AFSA. In any event the arbitration shall be conducted in the English language.

14.20 The Parties may be legally represented and may present evidence by independent experts or as otherwise permitted by the arbitrators.

Obligations during Disputes

14.21 While a dispute is continuing, the Parties are required to continue to perform their respective obligations under this Agreement until such dispute has been fully and finally resolved.

14.22 Where a dispute has been referred for resolution by arbitration in accordance with the AFSA Rules, then neither of the Parties shall be entitled to exercise any rights or election arising in consequence of any alleged default by the other arising out of the subject matter of the dispute until the dispute has been resolved by the decision of the arbitrators.



EXECUTED at _____ on this _____ 2021.

For and on behalf of)
ACCESS AUSSENKEHR SOLAR)
ONE NAMIBIA (PROPRIETARY))
LIMITED) Director
)
)

EXECUTED at Windhoek on this 30th April 2021.

HARPIE INVESTMENTS
EIGHTEEN CLOSE CORPORATION
)
)
)


.....
Director

SCHEDULE 1
THE PROPERTY

A small, handwritten mark or signature located in the bottom right corner of the page.

Land Lease Agreement Schedule 1 – Property detail

Schedule 1 – Property Detail

Property Boundary Coordinates:

	Decimal Degrees		WGS84	
	Latitude	Longitude	Y	X
P1	-22.104735°	15.307699°	8050366,734435	2203493,876144
P2	-22.115981°	15.298995°	8049005,750545	2201807,05139
P3	-22.130422°	15.293755°	8047029,990438	2200475,588051
P4	-22.131667°	15.292292°	8046898,497374	2200218,797441
P5	-22.133285°	15.292874°	8046632,246547	2200233,845086
P6	-22.115558°	15.308067°	8048720,7954	2203098,928935

Property Map

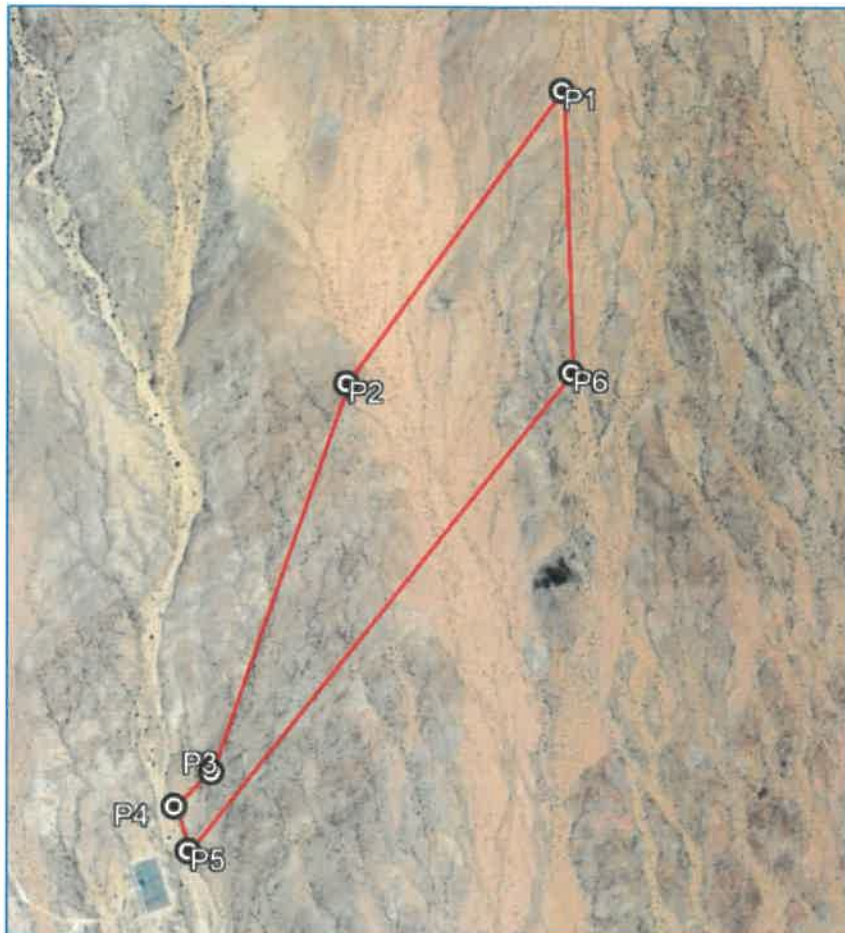


Figure 1: Leased area as per Lease Agreement

A handwritten signature in black ink, appearing to be a stylized name or set of initials.