



ANNEXURE A

**SUPPLEMENTAL CONTRACT FOR EMBEDDED GENERATION**

(Supplemental to the contract for the supply of electricity)

Made and entered into between -

**THE MUNICIPALITY OF GEORGE**

(hereinafter referred to as the “Municipality”)

And

(hereinafter referred to as the “Customer”)

WHEREAS the Customer has applied to the Municipality for the connection of an embedded generator and the Municipality is prepared to approve the connection in accordance with the terms and conditions of this contract;

AND WHEREAS the Municipality and the Customer are desirous of entering into a written contract recording and regulating the terms and conditions relating to the connection of the embedded generator;

NOW THEREFORE THE PARTIES HERETO HAVE AGREED EACH WITH THE OTHER:

**1. DEFINITIONS**

In this contract the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

- 1.1 “Anti-Islanding” shall mean the ability of an embedded generation system to instantly automatically disconnect the generator from connection to the municipal electrical grid whenever the local municipal electrical grid has lost the supply of power from the national electricity grid, thus preventing the export of electricity to the municipal electrical grid from the embedded generator. This is done primarily to protect municipal workers who may be working on the municipal electrical grid and who may be unaware that the municipal electrical grid is still being energized by the embedded generator.
- 1.2 “MUNICIPALITY” shall mean The Municipality of George established in terms of the Local Government: Municipal Structures Act, 1998 read with the Western Cape Provincial Notice No. 479/2000 published in Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000 and herein represented by Trevor Botha in his capacity as Municipal Manager, duly authorised hereto.
- 1.3 “Customer” shall mean: (individual/company name)  
.....  
Company/close corporation registration number (if applicable)  
.....
- 1.4 “Contract” shall mean this contract together with the Schedules and Annexures hereto.
- 1.5 “Effective date” shall mean, notwithstanding the date of signature of this contract, provided that connection to the municipal electrical grid shall only be permitted as provided in terms of this contract.
- 1.6 “Electrical installation” shall mean any machinery, in or on any premises, used for the transmission of electricity from a point of control to a point of consumption anywhere on the premises, including any article forming part of such an electrical installation irrespective of whether or not it is part of the electrical circuit.
- 1.7 “Embedded generator” shall mean an electricity generating device, such as a photovoltaic panel, wind turbine, steam turbine that is connected to the Customer’s electrical installation beyond the point of control.
- 1.8 “Energy import” shall mean the energy flowing from the municipal electrical grid into the Customer’s electrical installation.
- 1.9 “Energy export” shall mean the energy flowing from the Customer’s electrical installation back into the municipal electrical grid.

- 1.10 “Kilowatt hour” shall mean the consumption or generation of electrical energy equivalent to one kilowatt of power sustained for one hour.
- 1.11 “Law” shall mean the provisions of the Local Government: Municipal Systems Act (Act No. 32 of 2000), the Electricity Regulation Act, (Act No. 4 of 2006), the Municipality of George’s Electricity Supply By-law, as well as any applicable law, proclamation, ordinance, act of parliament or other enactment having force of law.
- 1.12 “Main supply contract’ shall mean the existing contract in place between the Municipality and the Customer for the supply of electrical power at the premises, as contained in the documentation signed at the time of applying for an electrical connection, read together with the Municipality of George’s Electricity Supply By-Law.
- 1.13 “Month” shall mean the period between successive monthly meter readings made in terms of this contract, irrespective of whether such readings are taken on the last day of the calendar month; provided that if, in terms of this contract, meter readings may be estimated should the actual reading of the meter not be possible in any particular month.
- 1.14 “Net consumer” shall mean a Customer who over a period of a year imports (purchases) more energy than he/she exports (puts back into the municipal electrical grid).
- 1.15 “Point of control” shall mean the point at which an electrical installation on or in any premises can be switched off by a user or lessor from the electricity supplied from the point of supply.
- 1.16 “Parties” shall mean the Municipality and the Customer.
- 1.17 “Point of supply” shall mean the actual supply point on the municipal electrical grid as described in Schedule 1.
- 1.18 “Prescribed tariff” shall mean the approved Municipality’s tariff of charges for electricity and services, as amended from time to time.
- 1.19 “Rated generator capacity” shall mean the maximum output of the embedded generator as advised by the Customer to the Municipality, being for example the sum of the maximum outputs, in kVA, of all invertors connected to embedded generators, measured at the AC output of the inverters, that the system is capable of delivering in its current configuration.

## **2. INTERPRETATION**

- 2.1 Unless inconsistent with the context, an expression which denotes:
- 2.1.1 any gender includes the other genders;

- 2.1.2 a natural person includes a juristic person and vice versa;
- 2.1.3 the singular includes the plural and vice versa.
- 2.2 The headings of the clauses of this contract shall not be deemed part of or affect the interpretation or construction thereof.
- 2.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it only appears in a definitions clause, effect shall be given to it as if it were a substantive provision in the body of this contract.

### **3. CONNECTION OF EMBEDDED GENERATOR**

The Municipality undertakes to approve the connection of an embedded generator, as described in Schedule 1 to this agreement, by the Customer at the premises, subject to the terms and conditions of this contract. The Customer may only, other than for the purposes of carrying out tests and commissioning, connect his/her/its SSEG installation to the municipal electrical grid upon receipt of a written letter from the Director: Electro-technical Services giving consent for such connection.

### **4. PERIOD OF CONTRACT**

- 4.1 This contract shall commence on the effective date and shall continue for a period of 36 months, unless terminated earlier by either party, in terms of Clause 21 or 22 of this contract.
- 4.2 The parties recognise that the South African energy landscape is in a transitory phase and that the Municipality will, in terms of its Constitutional competencies, be responsible and obliged to properly regulate embedded generation in terms of creating the required infrastructure and facilitating the necessary regulatory environment to enable the establishment and growth of the small scale embedded generation field. In this respect the Municipality will *inter alia* be subject to national regulation in terms of the Electricity Regulations Act 4 of 2006 and norms and standards laid down by the National Energy Regulator of South Africa.
- 4.3 In this regard, it is recorded that the Municipality is, in terms of Section 12 of the Local Government: Municipal Systems Act 32 of 2000, in the process of preparing a by-law on Small Scale Embedded Generation as well as a supporting policy for Small Scale Embedded Generation of the kind envisaged in terms of this agreement.
- 4.4 It is anticipated that changes in the regulatory framework applicable to municipalities as far as small scale embedded generation is concerned, including the finally adopted and approved by-law and policy will impact on the manner and the terms and conditions on which the Municipality will contract with embedded generators.

4.5 Subject to what is stated in the aforementioned clauses the parties agree to, before the expiry of the 36 months, enter into negotiations to extend or to renegotiate this agreement within the then applicable regulatory framework.

**5. CESSION**

The Customer shall not cede or assign this contract or any part thereof or any benefit, obligation or interest herein or hereunder without the prior written consent of the Municipality.

**6. CURTAILMENT OF GENERATION**

The Customer shall, if and when required and on instruction by the Municipality, reduce peak generation during abnormal system conditions or low load periods.

**7. DISCONTINUENCE OF MUNICIPAL ELECTRICAL GRID CONNECTED GENERATION**

An embedded generator which has been decommissioned must be physically disconnected from the municipal electrical grid by the removal of all wiring which connects the inverter/s with the municipal electrical grid.

Municipal electrical grid connected generation will only be considered by the Municipality as being disconnected from the municipal electrical grid once the Customer has notified the Municipality of George in writing on the prescribed form and provided the Municipality with a copy of the Certificate of Compliance covering the removal of the wiring.

**8. NOTIFIED MAXIMUM EMBEDDED GENERATOR OUTPUT**

8.1 The notified maximum output of the embedded generator is as specified in Schedule 1.

8.2 If the Customer proposes increasing the maximum output of the embedded generator, he/she/it shall not implement such increase without the written consent of the Municipality, which shall not be granted to the Customer until: -

8.2.1 the Customer has submitted an additional embedded generator application for an upgrade of an existing system to the Municipality; and

8.2.2 The parties enter into a new contract; and

8.2.3 any work required on the parties' electricity networks have been completed, to the satisfaction of the Municipality.

**9. NET CONSUMER**

- 9.1 Consent to the connection of an embedded generator is given subject to:
- 9.1.1 the condition that the Customer remain a net consumer of electricity over a rolling period of twelve months:
  - 9.1.2 the condition that the embedded generator shall not exceed the maximum generator output figure stipulated in Schedule 1.
- 9.2 Should the Customer not remain a net consumer he/she/it shall be deemed to be in breach of this Contract in terms of section 20.

**10. RESIDENTIAL, COMMERCIAL OR INDUSTRIAL CUSTOMERS**

- 10.1 These Customers shall only be entitled to the benefit of being charged the small scale embedded generation tariff if he/she/it has a bona fide need to feed power back into the municipal electrical grid each month. Should this not be the case the Director, Electro-technical Services may require that the Customer either withdraw the embedded generator from service or alternatively have the standard meter and reverse power flow blocking protection installed, so as to place the Customer on the appropriate non-SSEG domestic, commercial or industrial consumption tariff.
- 10.2 All costs for metering changes will be for the Customer's account.

**11. PRICES FOR ELECTRICITY**

- 11.1 The Customer's municipal electrical account shall be credited for energy generated by the embedded generator and exported to the municipal electrical grid in the amount/s determined in accordance with the Municipality's annual tariff relating to the import and export of electrical energy for embedded generation.
- 11.2 The aforesaid tariffs are amended annually on 1 July of each calendar year, as regards quantum and structure, and are applicable to all existing and new embedded generators. The Municipality reserves the right to make amendments to the tariff as stated and does not warrant the financial viability of the Customer's embedded generation installation.
- 11.3 A schedule of the tariffs set by the Municipality shall be furnished to the Customer upon written request to the Municipality.
- 11.4 Municipality shall not be obliged to grant credit to the Customer for power not received onto the municipal electrical grid due to unavailability of the municipal electrical grid or for any other reason.

**12. SUPPLY TO THIRD PARTY PROHIBITED**

The Customer shall not supply any electricity generated on the premises under this contract to any third party on any other premises in any way.

**13. TRANSFER OF SUPPLY TO ANOTHER SUPPLY AUTHORITY**

The parties agree that, if the premises of the Customer in the future become located within the area of jurisdiction of another supply authority, this Supplemental Contract will be terminated and the Customer may negotiate with the new supply authority a new Contract for embedded generation.

**14. COMPLIANCE WITH THE MUNICIPALITY'S TECHNICAL REQUIREMENTS**

14.1 It is an express condition of this contract that the Customer ensure that the SSEG equipment remains compliant with the Municipality's technical requirements and if it does not do so the Customer will be in breach of this contract.

14.2 The Municipality reserves the right to (not unreasonably) alter its requirements for whatsoever reason and the Customer will be obliged to ensure at the Customer's cost that the SSEG equipment complies with the additional requirements.

**15. QUALITY OF SUPPLY**

15.1 In accordance with the Electricity Regulation Act, as amended, the Customer shall be responsible for maintaining the quality of supply from the embedded generator within the limits set out in the NRS 048 Quality of Supply and NRS 097 Grid Interconnection of Embedded Generation specification, with which the Customer acknowledges himself/herself/itself to be acquainted.

15.2 The Municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a Customer or any third party as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity and the Customer hereby indemnifies and holds the Municipality harmless against such loss or damage.

**16. MUNICIPAL ELECTRICAL GRID STABILITY**

The Customer shall ensure that the anti-islanding functionality of the generation equipment is in good operational order at all times to ensure the safety of the Municipality's personnel.

**17. MEASUREMENT OF IMPORT AND EXPORT OF ENERGY**

In order to accept reverse feed onto the grid from the embedded generator, the metering shall be of the bi-directional type, in accordance with NRS097-2 and NRS 057, and be approved by the Municipality.

The metering will measure the imported and exported electricity at the point of common coupling. The meter will be supplied and installed by the Municipality at the cost of the Customer.

Metering upgrading to be in accord with this contract, or future amendments to applicable metering requirements or the applicable standards, will be for the customer's account.

Measurement of imported and exported energy shall be carried out monthly.

The energy import and export reconciliation in terms of the Customer's account principle shall be on a monthly period. In terms of the Net Customer/Consumer principle stated in Clause 9, the energy import and export shall be measured for the annual period of 1 July to 30 June each year.

## **18. BILLING AND PAYMENT OF CHARGES**

The Customer shall be liable for all charges as per the Municipality's Electricity Tariff as amended from time to time.

Customers who have had a bidirectional AMI credit meter installed and are on a small scale embedded generation tariff will be billed as follows:

- 18.1 The Basic Monthly charge and all energy charges, as applicable, will be billed on the monthly electricity account.
- 18.2 Provision of credit for export of energy will be carried out monthly against the normal monthly electricity account.
- 18.3 Customers will not be paid out if the monthly bill goes into credit - the credit balance will be made zero at the end of each month.

## **19. EXEMPTION FROM GENERATION LICENCE**

19.1 It is hereby recorded that this agreement is entered into on the basis that the Customer is not legally required to apply for and hold a generation license under the Electricity Regulation Act 4 of 2006. Should any licensing requirement exist in terms of any law, the Customer will be responsible to apply for and obtain any such license. In the aforesaid event, the Customer indemnifies and holds the Municipality harmless against any liability or responsibility as far as the licensing of its generation facility is concerned.

19.2 The Municipality shall be responsible to register the generation facility with the National Energy Regulator of South Africa.

## **20. THE PARTIES' OBSERVANCE OF APPLICABLE LEGISLATION**

The parties shall in addition to complying with the terms and conditions of this contract also comply with the provision of any law which may have application to this contract.

## **21. BREACH**

21.1 Should either party hereto breach or fail to comply with any term or condition of this contract then the party aggrieved thereby shall give the defaulting party written notice to rectify such a breach.

21.2 In the event of the defaulting party failing to rectify such a breach within fourteen (14) days of the receipt of such notice, the aggrieved party shall be entitled to give written notice of termination of this contract to the other party. Such termination shall take effect upon receipt of such notice by the defaulting party.

21.3 Should either party repeatedly breach any of the terms and conditions of this contract in such a manner as to justify the aggrieved party in holding that the defaulting party's conduct is inconsistent with the defaulting party's intention to carry out the terms and conditions of this contract, then and in such event the aggrieved party shall without prejudice to its legal rights and remedies, be entitled to terminate this contract.

21.4 Termination of this contract shall be without prejudice to any other rights or remedies of the aggrieved party under this contract or at law and will not affect any accrued rights or liabilities of the aggrieved party at the date of termination.

## **22. TERMINATION**

This contract shall terminate with immediate effect upon the happening of any of the following events:

22.1 If either party fails to rectify a breach of this contract as provided for in terms of Clause 20.

22.2 If the Customer gives two working days' notice in writing of him/her decommissioning and disconnecting the embedded generator.

22.3 If the main supply contract is terminated.

22.4 If the parties mutually agree to terminate this contract.

**23. GENERAL CONDITIONS**

- 23.1 No alteration, cancellation, variation of or addition to this contract shall be of any force or effect unless reduced to writing and signed by the Municipality and the Customer or their duly authorised representatives.
- 23.2 The schedules to this contract may be amended by an exchange of letters between the parties.
- 23.3 This Contract constitutes the entire supplemental contract between the parties hereto in relation to the municipal electrical grid connected embedded generator and neither of the parties shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein.
- 23.4 No extension of time or other indulgence granted by either party to the other in respect of either of the parties’ obligations will constitute a waiver of either of the parties’ right to enforce compliance with the terms of this contract; neither shall it constitute a novation of this contract.
- 23.5 The Customer acknowledges that he/she/it is entering into this contract voluntarily and at his/her/its risk. Accordingly he/she/it grants a full and sufficient indemnity in favour of the Municipality against all risk or liability which may arise from the contract. This shall include any losses suffered by the Customer arising from negligence relating to the design, construction, installation, commissioning, operation and maintenance of the embedded generator.

**24. DOMICILIUM CITANDI ET EXECUTANDI**

- 24.1 Each of the parties chooses domicilium citandi et executandi for the purposes of the giving of any notice, the serving of any legal process and for any purposes arising from this Contract at their respective addresses set forth hereunder:

<b>The MUNICIPALITY:</b>	<b>The Customer:</b>
The Municipality of George	.....
Civic Centre	.....
York Street	.....
George	.....

- 24.2 Any notice to any party shall be addressed to it at its domicilium aforesaid and be sent either by pre-paid registered post or be delivered by hand. In the case of any notice:

- 24.2.1 Sent by pre-paid registered post, it shall be deemed to have been received, unless the contrary is proved, on the seventh day after posting; and
- 24.2.2 Delivered by hand, it shall be deemed to have been received, unless the contrary is proved, on the date of delivery, provided such date is a business day or otherwise on the next following business day;
- 24.2.3 Any party shall be entitled by notice in writing to the other, to change its domicilium to any other address within the Republic of South Africa, provided that the change shall become effective only fourteen (14) days after the service of the notice in question;
- 24.2.4 Any notice addressed to the Municipality shall be required to be addressed to the Municipal Manager (for the Attention of the Director: Electro-technical Services to be deemed to have been effectively delivered or served.

## **25. JURISDICTION**

The parties hereby consent in terms of Section 45 of the Magistrate's Court Act No 32 of 1944 as amended to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, to adjudicate any dispute arising from this contract, provided that such consent shall not derogate from the right of either party to institute proceedings in the High Court.

## **26. COSTS**

Each party shall bear his/her/its own costs incurred in the negotiation, preparation and settling of the terms of this contract.

## **27. CONTRACT COMMENCEMENT**

The applicable tariff (stated in schedule 1) will commence and credit be provided for exported energy as from the Effective Date.

## **28. DISPUTE RESOLUTION**

Any dispute that may arise due to this agreement will be resolved as follows:

- 28.1 The parties hereby agree that in the event of a dispute arising out of this agreement then resolution of this dispute must be attempted by the way of consultation between the parties. If the consultation process does not lead to a resolution of the dispute, within 10 days, then the parties agree to refer the dispute for arbitration.

- 28.2 All arbitration proceedings shall be conducted in George. The arbitration shall be conducted informally, but in accordance with the provisions of the Arbitration Act, No. 42 of 1965, it being intended that if possible it shall be concluded within ten days of referral.
- 28.3 If the parties cannot agree on the appointment of an Arbitrator within three days after arbitration has been agreed upon, then the President for the time being of the Cape Bar Council will be requested to appoint the arbitrator.
- 28.4 The fees payable to the arbitrator shall be determined and agreed to between the arbitrator and the parties and the parties shall be jointly and severally liable for the payment of the arbitrator’s fees. Any party may request the other party to deliver an acceptable guarantee or reasonable deposit for his portion of the cost.
- 28.5 The Arbitrator shall be requested to hand down his/her award within ten days after the completion of the arbitration.
- 28.6 The decision of the Arbitrator shall be final and binding and may be an order of the Cape of Good Hope Provincial Division.

**27. WARRANTY OF AUTHORITY**

Each party warrants to the other party that it has the power, authority and legal right to enter into, sign and perform in terms of this contract, and that this contract has been duly authorised by all necessary actions of its directors or person/s on whose behalf the signatory acts herein.

SIGNED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018

**The Customer** : \_\_\_\_\_

As Witnesses: 1: \_\_\_\_\_

2: \_\_\_\_\_

SIGNED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018

**The Municipality** : \_\_\_\_\_

As Witnesses: 1: \_\_\_\_\_

2: \_\_\_\_\_

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**SUPPLEMENTAL CONTRACT FOR EMBEDDED GENERATION  
SCHEDULE 1**

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1. Details of premises:
  - a. Erf no. .... Suburb .....
  - b. Address .....
  - c. Name of building .....
  - d. Meter position .....
2. Customer category: **Residential / Commercial / Industrial \***
3. Supply voltage .....V( $\pm 10\%$ ) Single / Three phase \*
4. Type of meter .....
5. Rated generator capacity (AC side).....kVA
6. Notified maximum demand of the property .....kVA.
7. Authorized capacity of the property ..... kVA
8. The tariff rate applicable to this supply as per the schedule of tariffs of the MUNICIPALITY is:  
  
Tariff description/s .....
9. Allow export of excess power onto municipal electrical grid - Yes/No \*
10. Special power quality requirements:  
.....  
.....  
.....  
.....  
.....

*\* Delete what is not applicable*