

MEMORANDUM OF AGREEMENT
AND GENERAL CONDITIONS OF SUPPLY CONTRACT

THIS SUPPLY CONTRACT (hereinafter referred to as "the Agreement") is made and entered into between **Barend Bartholomeus Theron** of **21 Melsetter Estate, Lovemore Heights, Port Elizabeth, 6070** (hereinafter referred to as "The Permit Holder") and **Misthoek Trust** (hereinafter referred to as "The Supplier") of **the Farm Leeuwenfontein No. 6, Division of Murraysburg, Western Cape, PO Box 400, Murraysburg** and represented by **Mr Jacques Theron**.

[Handwritten signatures and initials]

WHEREAS the Permit Holder desires to operate a quarry for commercial purposes for the construction of the future wind farm (Ishwati Wind Farm) on the land (hereinafter referred to as "the Quarry Site and Access Routes") owned by the Supplier.

[Handwritten signatures and initials]

NOW THEREFORE IT IS AGREED HEREBY

1. INCORPORATED PROVISIONS

The Supplier warrants that it is the legal owner of the Quarry Site and Access Routes and that it has the legal right to grant access to the site to the Permit Holder.

2. SUPPLIER'S RESPONSIBILITY

- The Supplier will make available to the Permit Holder the required land and access routes to operate the quarry.
- To ensure that the rehabilitation of the Quarry Site and Access Routes are done in accordance with the EMP.

3. PERMIT HOLDER'S RESPONSIBILITY

- To acquire a valid Mining Permit from the Government Department.
- To carry all costs in relation to obtaining such a Permit.
- To keep detailed record of all costs incurred in obtaining the Mining Permit.
- To liaise with the prospective Wind Farm Contractor in respect of drawing up a quarry agreement, monthly returns to the Department of Mines & Energy and measurement and payment of the royalties.
- To negotiate the supply price (royalty) and payment conditions of the blasted rock in the quarry with the Wind Farm Contractor. The outcome of these negotiations will be shared with the Supplier once agreement has been reached with the Wind Farm Contractor.
- To ensure that the rehabilitation of the Quarry Site and Access Routes are done in accordance with the EMP.
- The Permit Holder shall, unless otherwise agreed to in writing or as provided for in this Agreement, make monthly payments to the Supplier for the amount which at the date thereof fairly represents the value of the material blasted from the quarry for the month in question and to the agreed proportion.

4. REMEDIES OF DEFAULT

- a) If the Supplier is in breach of any of his obligations under this Agreement, including and without limiting the foregoing, if he denies unhindered access to the designated quarry area or access routes to the Wind Farm Contractor, his servants or agents,
- b) and fails to remedy such breach within 5 (five) days after written notice from the Permit Holder; or

- c) if the Supplier's estate is sequestered or if it is placed in voluntary or compulsory liquidation or under judicial management or if the Supplier effects a compromise or compound with his general body of creditors or if any of his assets are attached pursuant to warrant or execution issued by any Court of Law, or if he commits an act of insolvency; then the Permit Holder shall be entitled, without prejudice to any other remedy he may have, to forthwith terminate the employment of the Supplier and recover from him any damages, losses or expenses incurred by the Permit Holder.
- d) If the Permit Holder fails to perform any act under this agreement on the due date thereof, the Supplier shall be entitled to cancel this agreement, close off all access to the quarry to bar the Wind Farm Contractor from entering his property and claim from the Wind Farm Contractor any damages sustained by the Supplier due to its failure to perform in terms of the contract. The Supplier will give the Permit Holder written notice of such a default and 14 days to rectify the default, prior to any of the above-mentioned actions being taken.

5. DISPUTES

- e) Any dispute or difference of any kind whatsoever between the Contractor and the Supplier in connection with or arising out of this Agreement (whether during the execution of the Agreement or after its completion and whether before or after the determination, abandonment or breach of the Agreement) shall be settled by arbitration which shall be held under the latest published edition of the Rules for the Conduct of Arbitrations published by the Association of Arbitrators (Southern Africa). The place of arbitration shall be Port Elizabeth, South Africa and the language of arbitration shall be ~~English~~ ^{Afrikaans}. The arbitrator may hold hearings, meetings and deliberations at any place he deems appropriate, having regard to the circumstances of the arbitration. The decision of the arbitrator shall be final and binding on the parties.
- b) Notwithstanding any disputes, claims or actions arising out of or in connection with this Agreement, the Supplier warrants that he shall give uninterrupted, unhindered, and dedicated access to the Quarry Site and Access Routes at all times for the duration of the Agreement, save for as stipulated in paragraph 4 (d).

SPECIAL PROVISIONS

6.

a) Programming

The Supplier warrants its acceptance that, should the Contractor's requirements so dictate, the loading and transport of the material sourced from the quarry may be carried out on a 24 hour/day basis, 365 days of the year.

b) Details to be Confidential

The Supplier and Permit Holder shall treat the details of this Agreement, as a whole, as private and confidential and shall not publish or disclose any particulars to any third party unless with prior agreement with the other party.

c) Validity of Contract

- i. This Agreement shall remain in full force and effect until all claims of the Permit Holder against the Supplier have been determined and *vice versa*.
- ii. The duration of the Agreement will be until the completion of the construction of the aforementioned Wind Farms and thereafter negotiated between the parties.

d) Commencement of Agreement

This Agreement will only be binding on the approval of the EMP and ROD (Environmental Management Plan and Record of Decision) from the Department of Mines and Energy and only if the Department approves the Construction of these Wind Farms.

e) Measurement and Payment

- i. Measurement and payment will be based on blasted volumes obtained from survey data supplied by the blasting Contractor. The measurement of volumes shall strictly be recorded by the Permit Holder and the method of record shall be to the satisfaction of the Supplier. The Supplier shall have reasonable access to such records at all times.
- ii. Payment will be done on a monthly basis (in each month when a blast took place) from the Wind Farm Contractor to the Permit holder.
- iii. The Permit Holder will deduct all cost mentioned in the third bullet of Section 3 from the payments received from the Wind Farm Contractor and thereafter all payments received will be shared on an equal basis between the Permit Holder and the Supplier.

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iv. The Permit Holder will make payment to the Supplier within 14 days after receiving an invoice from the Supplier for 50% of the earned revenue after the Permit costs have been deduced. The supplier shall be supplied with the blast volume information within 7 days of a blast taking place.

THUS DONE and SIGNED at Lowmore Heights on this
19 day of May 2021 in the presence of the
undersigned.

For and on behalf of :

THE PERMIT HOLDER who warrants that he is duly authorised to sign.

Full name : Barend B Theron

I.D. Number : 630409 5023 081


Authority : Sole Proprietor



Signature : 

AS WITNESSES:

1) Full name : Sheree Theron

I.D. Number : 610524 0111 089

Signature : 

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MSW

THUS DONE and SIGNED at Murrayburg on this 18 day of May 2021 in the presence of the undersigned.

For and on behalf of :

THE SUPPLIER, Mithoek Trust

Full name : Isobus Belus Theron

I.D. Number : 607305037086

Authority : Trustee

Signature : [Signature]

AS WITNESSES:

1) Full name : Maretha Maria Theron

I.D. Number : 61005 0074 055

Signature : [Signature]