

MARULENG MUNICIPALITY



PROJECT PREPARATORY AGREEMENT

made and entered into between

MARULENG LOCAL MUNICIPALITY

Herein represented by **Mr Lesley Muroa** in his capacity as the Acting Municipal
Manager.

(Hereinafter referred to as “MLM”)

and

TRIVIRON PROJECT MANGEMENT (PTY) LTD

A company duly registered in the Republic of South Africa under Registration Number
2006/19791/07

Herein represented by **Mr PHENYO MATHOPA** in his capacity as CHIEF EXECUTIVE
OFFICER.

(Hereinafter referred to as the “Investor/Investor Operator”).

and

KGORA AFRIKA (PTY) LTD

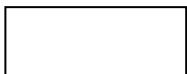
A company duly registered in the Republic of South Africa under Registration Number:
2018/377587/07

Herein represented by **Mr. Derrick Bolokang Montshwe** in his capacity as Director
(Hereinafter referred to as the “Transaction Advisor”).



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PREAMBLE

WHEREAS MLM, TRIVIRON (PTY) LTD and Kgora Afrika Fund have entered into a service level agreement for the provision of a comprehensive large scale development project related to the implementation of build, operate and transfer (BOT) of a solar photovoltaic facility generating a maximum 100MWp electricity on the grid as defined under Bid Number: **MLM/SCM/31/2022**.

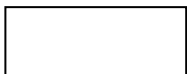
AND WHEREAS the Investor/Investor Operator shall review the existing Pre-Feasibility Study, Conduct a Feasibility Study, Conduct Other Technical and Viability Studies with the support of the Transaction Advisor. The process and completion of the required and/or relevant studies shall constitute Phase 1 of **MLM/SCM/31/2022**.

AND WHEREAS the investor/investor operator agrees to enter into this Project Preparatory Agreement, which is subject to the service level agreement, General Conditions of Contract applicable to government bids, contracts and orders.

THEREFORE, the parties wish to record in writing the terms and conditions of their agreement relating to the aforementioned and matters incidental thereto.

1. DEFINITIONS

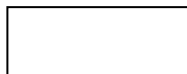
- 1.1. **“Agreement”** means this Project Preparatory Agreement;
- 1.2. **“Build–operate–transfer/BOT”** means the Project delivery method;
- 1.3. **“Business day”** means any day other than a Saturday, Sunday or South African public holiday.
- 1.4. **“Day”** means a calendar day.



- 1.5. **“Deliverables”** means any information collected, a document drawn, a programme devised.
- 1.6. **“Effective date”** means starting date notwithstanding the signature date;
- 1.7. **“Institutional Analysis”** means the IIO’s prepared analysis which aims to ensure that (i) the BOT Project is institutionally sound and adequate capacity exists for a successful implementation; and (ii) the institutional arrangements facilitate effective and sustainable operations and maintenance of the project facilities.
- 1.8. **“Investor/Investor Operator/IIO”** means the legal private entity appointed to invest in the projects allocated by MLM;
- 1.9. **“FIRR”** and financial internal rate of return;
- 1.10. **“EIRR”** means economic internal rate of return;
- 1.11. **“Local Municipality”** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is as defined in the Municipal Finance Management Act [No. 56 of 2003];
- 1.12. **“MFMA”** means Municipal Finance Management Act 56 of 2003;
- 1.13. **“Month”** means a month calculated from a particular day in one month to the day before the day numerically corresponding to it in the following month;
- 1.14. **“Output Specifications”** means the Investor/Investor Operator’s technical specification in relation to Phase I of the BOT Project focusing on the requirements for the planning phase (Phase I) of the Project;
- 1.15. **“NPV”** means net present value;
- 1.16. **“Parties”** means all the Parties to this Agreement;
- 1.17. **“Party”** means one or more than one of the Parties to this Agreement;

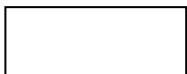


- 1.18. **“PFMA”** means Public Financial Management Act of 1999.
- 1.19. **“Phase I/Phase One”** means the planning phase of the BOT implementation of the Project within local municipalities of MLM;
- 1.20. **“Public-Private Partnership/PPP”** means in terms of Regulation 16 of the PFMA a commercial transaction between an institution and a private party in terms of which the private party either performs an institutional function on behalf of the institution for a specified or indefinite period; or acquires the use of state property for its own commercial purposes for a specified or indefinite period; the private party receives a benefit for performing the function or by utilizing state property, either by way of (i) compensation from a revenue fund; (ii) charges or fees collected by the private party from users or customers of a service provided to them; or (iii) a combination of such compensation and such charges or fees;
- 1.21. **“Procurement”** means the procurement policies of MLM;
- 1.22. **“Project”** means the project to be implemented in terms of this Agreement which includes the BOT implementation of a solar photovoltaic facility generating a maximum 100MWp electricity;
- 1.23. **“Regulations”** means the Municipal PPP Regulations in relation to the MFMA as amended from time to time;
- 1.24. **“Signature Date”** means the date of signature of this Agreement by the Party signing last;
- 1.25. **“Termination Date”** means the date of termination of this Agreement in accordance with its terms; and
- 1.26. **“Warranties”** means collectively any and/or all warranties (if any) given by the service provider in terms of this agreement;



2. INTERPRETATIONS

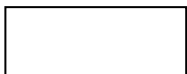
- 2.1. In this agreement clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention:-
- 2.2. An expression which denotes;
 - 2.2.1. Any gender includes the other genders;
 - 2.2.2. a natural person includes an artificial or juristic person and vice versa; and
 - 2.2.3. the singular includes the plural and vice versa.
- 2.3. Any reference to any statute, regulation or other legislation or official policy shall be a reference to that statute, regulation or other legislation or national policy as at the signature date of this agreement, and as amended or re-enacted from time to time.
- 2.4. When any number of days is prescribed, such shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or Public Holiday, in which case the last day shall be the next succeeding day which is a business day.
- 2.5. Where any term is defined within a particular clause, other than the interpretation clause, that term shall bear the meaning ascribed to it in that clause wherever it is used in this agreement.
- 2.6. Clause headings have been inserted for reference purposes only and should not be utilized in the interpretation thereof.
- 2.7. If any provision in the definition is a substantive provision conferring to rights or imposing obligations on any party, notwithstanding that it is only in this



- interpretation clause, effect shall be given to it as if was a substantive *provisio* in the body of this Agreement.
- 2.8. Any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time.
- 2.9. Expiration or termination of this agreement shall not affect such of the provisions of this Agreement that expressly provide that operate after such expiration or termination, or which of necessity must continue to have effect after such expiration or termination provide for this.
- 2.10. The *contra-pferentem* rule shall not be applicable in the interpretation of this agreement. The rule means that the document is interpreted in favour of the party not represented in the drafting of the agreement.
- 2.11. Where figures are referred to in numerals and words, if there is any conflict between the two, the words shall prevail.
- 2.12. In the event of any inconsistency or conflict between this Agreement and the terms and conditions of any other documentation or annexure forming part of this Agreement, then the terms and conditions of this Agreement will prevail.
- 2.13. The various documents forming part of this Agreement are to be taken as mutually explanatory except where they are inconsistent or specifically excluded.

3. INTRODUCTION

- 3.1. MLM resolved to promote overall economic development by identifying and implementing economic development projects and investments intended to expand and diversify the economic base of the Local Municipality.
- 3.2. Kgora Afrika Fund and TRIVIRON (PTY) LTD are tasked with the responsibility to develop a concept, review and/or conduct pre-feasibility study, conduct a feasibility study, conduct other technical and viability studies. These will guide the



implementation and operation of projects to business in line with MFMA. This project preparatory agreement will provide a clear guide in terms of scope, work-breakdown and detailed plans of Phase 1.

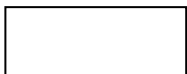
- 3.3. TRIVIRON (PTY) LTD has been appointed as an Investor/Investor Operator by MLM to invest into the BOT implementation a photovoltaic (PV) solar energy facility of up to 100 MW generation capacity. The total footprint of the project, including supporting infrastructure on site shall reflect on Annexure 1.

4. SCOPE OF WORK

- 4.1. **MLM/SCM/31/2022** is the first Renewable Energy Project to be implemented by MLM as an off-balance sheet initiative. The scope of work for the planning phase is comprised by concept development, pre-feasibility, feasibility and viability studies, **Annexure 1 “Planning Phase – Work-breakdown”**. These components of the planning phase entails transaction advisory, financial advisory, (debt and equity), legal framework, licensing, site preparation, plant design, engineering (structural, electrical and civil) as well as project management. This model will be used as a benchmark for future project development.

5. DURATION

- 5.1. This Agreement shall commence on the effective date and the Investor/Investor Operator and Transaction Advisor shall upon signing this Agreement have 8 months to perform the obligations set under the terms and conditions of this Agreement in preparation for the planning phase (Phase I) of the BOT implementation of the Project.
- 5.2. The parties agree that should this Agreement be extended for any reason whatsoever, such extension shall be made by notice in writing and shall continue to be of force and effect under the same terms and conditions as stipulated in this Agreement unless the parties agree otherwise in writing.



5.2.1. Renewal for an extension period provided in clause 3.2 shall be determined upon written consent by the Parties.

6. PRE-FEASIBILITY AND FEASIBILITY STUDY

Pre-feasibility and Feasibility studies are the key components of Phase I, **Annexure 2** **“Pre-feasibility and Feasibility study – work-breakdown”**. Parties agree that the IIO’s feasibility study in respect of Phase I of the BOT implementation of the Project must include the following:

6.1. **An introduction to the feasibility study;**

6.2. **An analysis** which shall include the Investor/Investor Operator’s strategic objectives, the BOT Project Budget for this Phase I, Institutional Analysis, Output Specifications, scope of the project;

6.3. **Solution options analysis** by IIO that evaluates every possible pathway that leads to a desired outcome of the implementation of the BOT Project including options considered for the Project;

6.3.1. An evaluation and assessment of each option pursuant to clause 6.3.

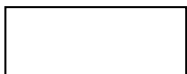
6.3.2. Assessing IIO’s role in Phase I of the Project;

6.3.3. Developing and providing detail to the legal architecture and design of the BOT Project;

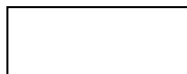
6.3.4. Summary of evaluation and assessments of all options considered by IIO;

6.3.5. Review of risk allocation assumptions to assess whether those risks can be allocated.

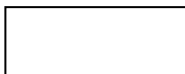
6.3.6. Review of project assumptions and whether they are practically and legally viable.



- 6.3.7. Assess the financial management and accounting structures proposed to identify efficiency gains available through other structural mechanisms.
- 6.3.8. Identifying other contractual and commercial relationships in the sector or related to the sector and how those relationships will interface with the identified project.
- 6.3.9. Assess risk management structures for potential efficiency gains through alternative structures or modifications.
- 6.3.10. Assess the financial feasibility and provide valuation of revenues according to the different options and based on various assumptions used in the forecasts including those of demand and pricing should be stated clearly.
- 6.3.11. Advise on a financial (capital) structure for mobilizing debt in respect of implementation of BOT Project.
- 6.3.12. Legality of budgeting assumptions and the management of revenue flows.
- 6.3.13. Assessing chosen approach to PPP and whether any aspect of that approach will conflict with available or required procurement, contracting and financing structures and recommendation of a preferred option.
- 6.4. **Project due diligence**, including, legal aspects (land access/rights, use rights, regulatory matters, approvals required, vires of grantor, key challenges to risk allocation as law);
 - 6.4.1. Identify licensing, permitting and other legal risks that need to be addressed and allocated under the chosen approach;
 - 6.4.2. Ensuring all necessary approvals and permissions are obtained for processes before commencement of the Project, in particular to allow MLM to sign the Service Level Agreement;
 - 6.4.3. Site enablement;



- 6.4.4. Socio-economic and environmental;
- 6.4.5. Initial market testing.
- 6.5. A **value assessment** which includes inter alia the following;
 - 6.5.1. PSC model of this Phase I;
 - 6.5.2. Technical definition of the BOT Project;
 - 6.5.3. Discussion on costs (direct and indirect) and assumptions made on cost estimates of the implementation of the BOT Project;
 - 6.5.4. Discussion on revenue (if relevant) and assumptions made on revenue estimates;
 - 6.5.5. Discussion on all BOT Project assumptions made throughout all phases of the BOT Project which in construction of the model, including inflation rate, discount rate, depreciation, and budgets;
 - 6.5.6. Summary of results from the base PSC model: NPV, FIRR, DSCR.
- 6.6. **References to the BOT of the Project;**
 - 6.6.1. The technical definition of the Project.
 - 6.6.2. Discussion on costs (direct and indirect) and assumptions made on cost estimates surrounding the implementation of the Project;
 - 6.6.3. Discussion on revenue, and assumptions made on revenue estimates
 - 6.6.4. Discussion on proposed BOT Project
 - 6.6.5. The structure and sources of funding in relation to the BOT Project model.
 - 6.6.6. Payment mechanisms in relation to the Project;



6.6.7. Discussion on all model assumptions made in the construction of the model, including inflation rate, discount rate, depreciation, tax and VAT

6.6.8. Summary of results from the BOT reference model: NPV

6.7. Risk assessment

6.7.1. Comprehensive risk matrix for all BOT Project risks;

6.7.1.1. identify the risks that the Project would/may potentially face;

6.7.1.2. Which stakeholders (MLM/IIO) would be negatively affected;

6.7.1.3. Summary of the IIO retained and transferable risks;

6.7.1.4. The NPV of all risks (retained and transferable) to be added onto the base PSC model;

6.7.1.5. The NPV of all retained risks to be added onto the BOT Project model.

6.7.2. The risk assessment pursuant to this clause 6 shall contain recommendations on the mitigation mechanisms for each of the identified risks to be implemented by the Party identified to bear that risk whereby the risk assessment and applicability and economy of various risk mitigation mechanisms should be carried out.

6.8. Risk adjustment of implementation of the BOT Project;

6.8.1. Summary of results: NPV, key indicators

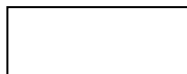
6.8.2. Sensitivity analyses

6.8.3. Statement of affordability

6.8.4. Statement of value for money

6.8.5. Recommended procurement choice.

6.9. Economic valuation, including;



- 6.9.1. Introduction and evaluation approach
- 6.9.2. Assumptions
- 6.9.3. Valuation results
- 6.9.4. Macroeconomic Impact
- 6.9.5. Market Analysis
- 6.9.6. Project level analysis project cost-benefit analysis, including NPV, FIRR and EIRR.

Preparation of Procurement Plan

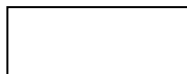
- 6.10. Prepare procurement plan as per National Treasury Practice Notes and Treasury Regulation 16 to the PFMA.

7. CONCEPT DEVELOPMENT

- 7.1. Operator shall conduct a detailed narrative of the development concept based on the BOT implementation a photovoltaic (PV) solar energy facility of up to 100 MW within local municipalities of MLM, **Annexure 3 “Concept Development – Work-breakdown”**.

8. TECHNICAL STUDIES

- 8.1. The Parties hereby agree that the Investor/Investor Operator on the support of the Transaction Advisor shall conduct a technical assessment providing a detailed account of all potential impacts that the that the BOT implementation would have on the Project, in order to determine suitable mitigation measures to manage the risk (if any) posed to the BOT implementation of the Project by the Investor/Investor Operator SPV.
- 8.2. The Investor/Investor Operator and the and where necessary, the Transaction Advisor (in the event that the Investor/Investor Operator shall require the



Transaction Advisor's support) agree that the following assessments/studies shall in terms of the technical planning of the Project be conducted during Phase I of the BOT implementation of the Project conduct the following assessments. **Annexure 4 "Technical studies – work-breakdown"**.

8.3. VIABILITY STUDY

8.3.1. The Parties hereby agree that the Investor/Investor Operator shall conduct a Financial Viability assessment and draw up a Financial Viability Report on the BOT and

8.3.2. The Investor/Investor Operator SPV shall secure sound financial management practices that enhance financial viability & compliance with the requirements of Municipal Finance Management Act 56 of 2003 ("MFMA") in conjunction with any relevant legislation pursuant to this clause 5. **Annexure 5 "Viability study – work-breakdown"**.

9. IMPACT STUDY

9.1.1. The Parties hereby agree that the Investor/Investor Operator shall conduct an impact assessment outlining any and/or all potential direct, indirect and cumulative impacts that may occur as a result of the planning and design phase, construction phase, operational phase and transfer phase, in accordance with Environmental Impact Assessment Regulations, 2014.

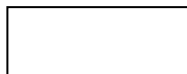
9.1.2. The Parties agree that the responsibilities of the Investor/Investor Operator in terms of this Agreement and the impact assessment shall include inter alia the following determinations in its Impact Study;



- 9.1.2.1. the Investor/Investor Operator SPV shall stipulate determinations on current environmental conditions in sufficient detail to ensure that there is a baseline against which impacts that may be identified and measured;
- 9.1.2.2. The Investor/Investor Operator shall stipulate a forecast on future changes to the environment that will occur in the event that the BOT implementation of the Project activity does not commence;
- 9.1.2.3. The Investor/Investor Operator SPV shall in the Impact report, develop an understanding of the activity in sufficient detail to ensure a comprehensive understanding of the consequences subject to the BOT implementation of the Project; and
- 9.1.2.4. The Investor/Investor Operator SPV shall, in its Impact Report, identify all significant impacts which are likely to occur during all phases of the BOT implementation of the Project. **Annexure 6 “EIA and Social Impact Study – Work-breakdown”**.

10. PRESENTATION OF THE FEASIBILITY STUDY FOR TREASURY VIEW & RECOMMENDATIONS

- 10.1. The Parties agree that a feasibility study pursuant to clause 5 and 6 deliverables, must each be compiled in a single report in Word format (with relevant annexures), and delivered as both electronic and hard copy documents.
- 10.2. The Parties agree that all financial models must be in Excel format, and must clearly set out all assumptions made, sensitivity analyses carried out, and model outputs.
- 10.3. The Parties agree that financial models shall be sufficiently adaptable for use by others at later stages.



11. PPP PROCUREMENT DELIVERABLES (IF APPLICABLE) FOR TREASURY VIEW & RECOMMENDATIONS: IIA (TVR: IIA)

The Transaction Advisor shall deliver the following:

11.1. APPROVAL AND ADMINISTRATION OF THE BIDDING PROCESS FOR TREASURY VIEW & RECOMMENDATIONS: IIB (TVR: IIB)

11.1.1. The Transaction Advisor shall prepare a complete set of procurement documents, complying with public sector procurement law, policies and guidelines, and in accordance with the Supply Chain Management (SCM) policies of the IIO. The documentation must be consistent with the results of the feasibility studies and enable the IIO to obtain relevant approvals.

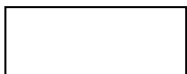
11.1.2. The Transaction Advisor shall provide the MLM all the necessary drafting, bidder communication and administrative support necessary for the entire procurement process to be conducted in accordance with law and policy, and to the highest standards of efficiency, quality and integrity.

12. PROJECTS BUDGET

12.1. The budget for Project Preparatory and this shall be deposited into the SPV account. The budget is structured into Planning budget and Transaction Advisor Fees . **Annexure 7 “Monthly Payment Schedule”** explains activities and expenditure. The budget takes cognizance of the external and internal capacity of the investor as well as fees for the transaction advisor.

13. INTELLECTUAL PROPERTY

13.1. All the intellectual property developed for and associated including any templates, electronic programmes, methodology or other items, created by the Investor/Investor Operator, Transaction Advisor and/or MLM in respect of this Agreement and the Project on a BOT model, shall become the property of MLM.



14. **ARBITRATION**

14.1. At the option of either party, any dispute arising out of this Agreement shall be submitted to and determined by arbitration under the rules of Arbitration Foundation of South Africa. The venue for arbitration will be Welkom, Free State, South Africa.

15. **FORCE MAJEURE**

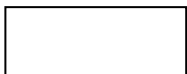
15.1. If any Party fails to perform its obligations in terms of this Agreement because of an event beyond its reasonable control, that party will not be liable, subject to the terms of this clause, for any loss or damage resulting from its non-performance. Events beyond a party's reasonable control will include one or more of the following:

15.1.1. events recognized as casus fortuitis acts of God;

15.1.2. Epidemic, flood, earthquake or like natural disaster;

15.2. To avoid liability for non-performance, the defaulting party must notify the other parties of the nature of the event and the commencement date thereof within 14 (fourteen) days of the event coming to the knowledge of the defaulting party. The defaulting party must also notify the other parties within 14 (fourteen) days of the event ending.

15.3. If the event of the force majeure subsists for more than 90 (ninety) consecutive days, any Party will have the right to terminate this Agreement. The remaining parties or party, as the case may be, will be entitled to complete the scope of work exclusive of the terminating party or parties with no obligation to such terminating Party or Parties. If the Scope is preceded with, the terminating party or parties will make all reasonable efforts to assign to the remaining party all its rights, titles and interests in and to the scope of work, including any contracts with third parties related to the scope of work.



16. DOMICILIUM

The Parties choose their *domicilium citandi et executandi* for all purposes arising out in connection with this Agreement and the following addresses;

16.1. MARULENG LOCAL MUNICIPALITY

65 Springbok Street
Hoedspruit

16.2. TRIVIRON (PTY) LTD

128 Marshall Street
6B Amy Park
Polokwane
0699

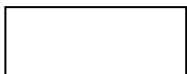
16.3. KGORA AFRIKA FUND (PTY) LTD

Maxwell Office Park, Waterfall City, Midrand, 2090

16.4. Each party shall be entitled from time to time, by giving written notice to the others, to vary its physical domicile to any other physical address (not being a post office box or Poste Restante) within the Republic or to vary its postal domicile or its facsimile domicile to any other within the Republic.

16.5. This domicile clause shall not operate to invalidate the giving or receipt of any notice, which is received by the addressee other than by a method referred to in this clause.

16.6. Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if in writing.



17. OFFICIAL CONTACT PERSONS

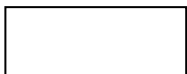
- 17.1. MLM has appointed **Mr Lesley Muroa, the AMM of MLM** or His duly authorized representatives as the official contact person between the parties for reporting, assistance, and control process *inter alia*.
- 17.2. The Investor/Investor Operator has appointed **Mr PHENYO MATHOPA, the Chief Executive Officer of TRIVIRON (PTY) LTD** or his duly authorised representatives as the official contact person between the parties for reporting, assistance, and control process *inter alia*.
- 17.3. The Transaction Advisor has appointed **Mr Bolokang Derrick Montshwe, the Managing Director of Kgora Afrika Fund (Pty) Ltd** or his duly authorised representatives as the official contact person between the parties for reporting, assistance, and control process *inter alia*.

18. GOVERNING LAW AND JURISDICTION

- 18.1. This Agreement shall be construed, governed and interpreted in accordance with the Laws of the Republic of South Africa and the High Court of South Africa, Limpopo Division: Polokwane shall have exclusive jurisdiction in relation to any claim, dispute, or difference concerning this Agreement or any matter arising from it.

19. TOTALITY OF THIS AGREEMENT

- 19.1. This Agreement constitutes the entire agreement between the Parties with regard to the matters dealt with in this Agreement and or presentations, terms, conditions warranties or material evidence (express or implied) not contained therein shall be binding to the Parties.



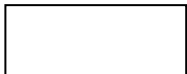
SIGNED AT _____ ON THIS ____ DAY OF
_____ 2026.

Mr Lesley Muroa
AMM of MLM

AS WITNESSES

1. _____ 2. _____

SIGNED AT _____ ON THIS ____ DAY OF
_____ 2026.



PHENYO MATHOPA

Managing Director of TRIVIRON (PTY) LTD

AS WITNESSES

1. _____ 2. _____

SIGNED AT _____ ON THIS _____ DAY OF
_____ 2026.

MR. BOLOKANG DERRICK MONTSHWE

Managing Director of Kgora Afrika Fund

AS WITNESSES

1. _____ 2. _____

SIGNED AT _____ ON THIS _____ DAY OF
_____ 2026

