

APPENDIX H

Additional Information





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Lizande Kellerman - Re: CSIR / Proposed Kwagga WEFs near Beaufort West

From: Dhiveshni Moodley
To: mbaloye@ska.ac.za
Date: 13 Jan 2021 13:19
Subject: Re: CSIR / Proposed Kwagga WEFs near Beaufort West
Cc: Lizande Kellerman; bsethole@ska.ac.za ; smathane@ska.ac.za

Good afternoon Musa

In addition to my previous email; we would also like to follow up on the assessment required to confirm/comment on whether our proposed WEF projects will have any impact on the SKA and any of its buffer areas.

We are currently compiling our Draft Scoping reports for the proposed Kwagga WEFs and would like to inquire if SARAO perhaps conducted the assessments required to issue us a letter indicating if our projects are low, medium or high risk to SARAO.

Thank you in advance.

Kind regards
Dhiveshni

>>> Dhiveshni Moodley 09 Dec 2020 09:31 >>>

Dear Musa

I hope you are well.

Thank you again for confirming that SARAO will conduct assessments and revert back in 30 days or less.

Do you require any additional information pertaining to the Kwagga WEF projects in order for SARAO to conduct the required assessments?

Please do not hesitate to contact us should you require any project details and specifications.

Kind regards
Dhiveshni

>>> Musa Baloye <mbaloye@ska.ac.za> 01 Dec 2020 13:18 >>>

Dear Dhiveshni

Thank you for your email, SARAO will conduct assessments as per the details you have provided and issue yourselves with a letter indicating if your project is low or medium or high risk to SARAO. SARAO has 30 days to revert to you.

Regards,

On Tue, Dec 1, 2020 at 10:28 AM Dhiveshni Moodley <DMoodley1@csir.co.za> wrote:

Dear Selaelo

I hope that you are well.

We obtained your details from Rohaida (CSIR).

We are currently working on three projects near Beaufort West. The projects propose the development of three Wind Energy Facilities (WEFs)(Kwagga 1-3), each of which will have a total installed capacity of; 279 MW (Kwagga 1), 341 MW (Kwagga 2) and 204.6 MW (Kwagga 3), respectively.

Please find the attached KMZ file showing the site boundaries of the proposed WEFs.

Please can we ask that you kindly confirm/comment that our proposed WEF projects will not have any impact on the SKA and any of its buffer areas?

Thank you in advance.

Kind regards
Dhiveshni

--

Musa Baloye

Project Coordinator

South African Radio Astronomy Observatory (SARAO)

17 Baker Street, Rosebank, Johannesburg, 2196

Email: mbaloye@ska.ac.za

Website: www.ska.ac.za

FINAL ENVIRONMENTAL IMPACT ASSESSMENT REPORT: Scoping and Environmental Impact Assessment for the proposed development of the 204.6 MW Kwagga Wind Energy Facility 3 and associated infrastructure near Beaufort West in the Western Cape

From: Thato Nape <tnape@ska.ac.za>
To: ems <ems@csir.co.za>
CC: Busang Sethole <bsethole@ska.ac.za>, Selaelo Matlhane <smatlhane@ska.ac.za>, Musa Baloye <mbaloye@ska.ac.za>, Adrian Tiplady <atiplady@ska.ac.za>
Date: 25 Jun 2021 15:23
Subject: Fwd: Reminder - Re: Release of Draft Scoping Reports for the three Kwagga Wind Energy Facility Developments, near Beaufort West, Western Cape
Attachments: ABO Wind renewable energies (Pty) Ltd - Response letter.docx.pdf

Dear Lizande

I have shared with you the SARAO response letter to Kwagga Wind Energy Facility.

Regards,

----- Forwarded message -----

From: ems <ems@csir.co.za>
Date: Mon, Jun 21, 2021 at 2:34 PM
Subject: Reminder - Re: Release of Draft Scoping Reports for the three Kwagga Wind Energy Facility Developments, near Beaufort West, Western Cape
To: <ems@csir.co.za>

Dear Interest and/or Affected Party,

RE: REMINDER OF THE RELEASE OF THREE DRAFT SCOPING REPORTS FOR A 30-DAY COMMENT PERIOD FOR THE DEVELOPMENT OF THE THREE KWAGGA WIND ENERGY FACILITIES; NAMELY, THE 279 MW KWAGGA WEF 1, THE 341 MW KWAGGA WEF 2 AND THE 204.6 MW KWAGGA WEF 3, AND ITS ASSOCIATED INFRASTRUCTURE, NEAR BEAUFORT WEST IN THE WESTERN CAPE PROVINCE

Further to the email notification below, this serves as a reminder that the 30-day public comment period on the Draft Scoping Reports for the proposed three Kwagga WEFs; namely the 279 MW Kwagga WEF 1, the 341 MW Kwagga WEF 2 and the 204.6 MW Kwagga WEF 3 and its associated infrastructure near Beaufort West, as detailed below, **closes on 28 June 2021**.

As indicated below, the Draft Scoping Reports can be accessed on the project website and Google Drive at the following links:

- <https://www.csir.co.za/environmental-impact-assessment>
- https://bit.ly/KWAGGA_WEF1-3_DSRs

You are kindly requested to register your interest and submit any comments you may have on these Draft Scoping Reports to the EAP at the CSIR, details are provided below.

Thank you to those of you that have already provided comment.

Please do not hesitate to contact us should you have any queries relating to the above.

Kind Regards,
EIA Project Team

CSIR Environmental Management Services
E-mail: ems@csir.co.za
Postal Address: PO Box 320, Stellenbosch, 7599
Tel: 021 888 2400
Fax: 021 888 2693

>>> ems 28 May 2021 21:04 >>>

Dear Interest and/or Affected Party,

RE: RELEASE OF THREE DRAFT SCOPING REPORTS FOR A 30-DAY COMMENT PERIOD FOR THE DEVELOPMENT OF THE THREE KWAGGA WIND ENERGY FACILITIES; NAMELY, THE 279 MW KWAGGA WEF 1, THE 341 MW KWAGGA WEF 2 AND THE 204.6 MW KWAGGA WEF 3, AND ITS ASSOCIATED INFRASTRUCTURE, NEAR BEAUFORT WEST IN THE WESTERN CAPE PROVINCE

Notice is hereby given that the Project Developer, ABO Wind renewable energies (Pty) Ltd, is proposing the development of the three Kwagga Wind Energy Facilities (WEFs), namely the 279 MW Kwagga WEF 1, the 341 MW Kwagga WEF 2 and the 204.6 Kwagga WEF 3, and its associated infrastructure, located to the south of Beaufort West in the Western Cape Province. The associated infrastructure for each WEF includes various structures, buildings, access roads and electrical grid infrastructure such as two on-site substation hubs incorporating the facility substation, switchyard, collector infrastructure and one Battery Energy Storage System (BESS). The proposed projects are located within the Beaufort West Local Municipality (Kwagga WEF 1 and 3) and Prince Albert Local Municipality (Kwagga WEF 1, 2 and 3), which fall within the Central Karoo District Municipality.

FINAL ENVIRONMENTAL IMPACT ASSESSMENT REPORT: Scoping and Environmental Impact Assessment for the proposed development of the 204.6 MW Kwagga Wind Energy Facility 3 and associated infrastructure near Beaufort West in the Western Cape

The proposed WEFs are not located within any of the gazetted Renewable Energy Development Zones (REDZ) (as gazetted in Government Notice R114 on 16 February 2018). Therefore, the proposed projects are subject to a Scoping and Environmental Impact Assessment (S&EIA) Process and a decision making period of 107 days, in terms of the 2014 NEMA EIA Regulations (as amended).

The Council for Scientific and Industrial Research (CSIR) has been appointed as the independent Environmental Assessment Practitioner (EAP) to undertake and manage the S&EIA Processes for each of the proposed WEF projects on behalf of the respective Project Applicants.

Three separate Draft Scoping Reports have been compiled and are hereby released for comment, as indicated below, and an integrated Public Participation Process is being undertaken for the S&EIA Processes.

The Draft Scoping Reports for the proposed projects are hereby released for a 30-day public comment period, which extends from 28 May to 28 June 2021.

The Draft Scoping Reports can be accessed on the project website and Google Drive; details are indicated below:

- <https://www.csir.co.za/environmental-impact-assessment>
- https://bit.ly/KWAGGA_WEF1-3_DSRs

You are kindly invited to register your interest and submit any comments you may have on these Draft Scoping Reports to the EAP at the CSIR by **28 June 2021**. Details are provided below and in the attached cover letter.

Kindly find attached a cover letter that provides additional detail on the proposed projects. For ease of reference, we have also attached the Executive Summary of each the three Scoping Reports to this email.

Copies of all comments received from I&APs and other stakeholders during the review of the Draft Scoping Reports will be included in the Comments and Response Report as an appendix to the Final Scoping Reports. The Final Scoping Reports will then be submitted to the Competent Authority i.e. DFFE for decision-making in line with Regulation 21 (1) (a) of the 2014 NEMA EIA Regulations (as amended).

Please do not hesitate to contact us should you have any queries relating to the above.

Kind Regards,
Lizande Kellerman

CSIR Environmental Management Services
E-mail: ems@csir.co.za
Postal Address: PO Box 320, Stellenbosch, 7599
Tel: 021 888 2400
Fax: 021 888 2693

--

Thato Nape

Permit Coordinator

South African Radio Astronomy Observatory (SARAO)

Address: 17 Baker Street, Blend Building;

Rosebank, Johannesburg, 2196

Tel: [+27 \(0\) 21 506 3451](tel:+270215063451) |

Email: tnape@ska.ac.za

Website: www.ska.ac.za



CSIR Environmental Management Services

PO Box 320

Stellenbosch, 7599

Email: ems@csir.co.za

Date: 24 June 2021

Dear Lizande Kellerman

RE: DRAFT SCOPING REPORT ON THE PROPOSED DEVELOPMENT OF THREE KWAGGA WIND ENERGY FACILITIES NAMELY 279 MW KWAGGA WEF1, 341 KWAGGA WEF2 AND 204.6 KWAGGA WEF3 IN THE WESTERN CAPE PROVINCE.

This letter is in response to the notification of the proposed wind energy facilities and its possible impact on the Square Kilometre Array radio telescopes.

SARAO has undertaken an impact assessment and based on the information provided it was determined that the project represents a low risk of interference to the SKA radio telescope with a compliance surplus of 41.53 dBm/Hz. As such, we do not have any objection to the development.

Thank you for your correspondence, we would appreciate it if you could keep us informed with the development of the project.

Regards,

Mr Selaelo Matlhane

Spectrum & Telecommunication Manager

South African Radio Astronomy Observatory (SARAO)

Tel: 011 442 2434

Email: smatlhane@ska.ac.za

www.ska.ac.za

The South African Radio Astronomy Observatory (SARAO) is a National Facility managed by the National Research Foundation and incorporates all national radio astronomy telescopes and programmes. SARAO is responsible for implementing the Square Kilometre Array (SKA) in South Africa.

CAPE TOWN Tel: +27 (0)21 506 7300 | 2 Fir Street, Black River Park | Observatory, Cape Town | South Africa 7925

JOHANNESBURG Tel: +27 (0)11 442 2434 | 17 Baker St, Rosebank | Johannesburg | South Africa 2196

HARTBEESTHOF Tel: +27 (0)12 300-3100 | Farm 502 Q Hartbeesthoek, Broederstroom Road | Krugersdorp, Gauteng | South Africa 1740

H. 2: APPOINTMENT LETTER FOR THE TERRESTRIAL BIODIVERSITY AND ECOLOGY SPECIALIST AS CONTRACTUAL PROOF THAT THE TERRESTRIAL BIODIVERSITY SPECIALIST ASSESSMENT COMMENCED PRIOR TO THE PUBLICATION DATE OF THE TERRESTRIAL ANIMAL AND PLANT SPECIES PROTOCOLS i.e. GOVERNMENT NOTICE NO. 1150 OF 30 OCTOBER 2020

ABO Wind renewable energies (PTY) LTD · Unit B1 · Mayfair Square · Century
Way · Century City · Cape Town · 7441 · South Africa

Attention: **Dr Noel van Rooyen**

7 St George Street

Somerset West, 7130

Cape Town

South Africa

Telephone: 082 882 0886

Email: noel@ekotrust.co.za

ABO Wind renewable energies (PTY) LTD

Unit B1, Mayfair Square

Century Way, Century City

Cape Town

7441

South Africa

phone: 021 276 3620

fax: 086 595 4668

mobile: 073 265 8575

Robert Invernizzi

Rob.Invernizzi@abo-wind.com

04 October 2020

APPOINTMENT LETTER AND PROFESSIONAL SERVICES AGREEMENT – KWAGGA WEFS 1–3

This letter serves as confirmation of appointment and a Professional Services Agreement that is made and entered into by and between **ABO Wind renewable energies (Pty) Ltd**, registration number 2018/062901/07, a company incorporated under the laws of South Africa (hereafter **ABO Wind**) and **Ekotrust cc**, registration number CK 90/10465/23, a closed corporation incorporated under the laws of South Africa (hereafter the **Contractor**) (the **Parties** and each a **Party**).

Whereas **ABO Wind** wishes to obtain the professional services of the Contractor;

Whereas the **Contractor** has the required knowledge, skills, capabilities and resources to perform the required services for ABO Wind; and

Therefore in consideration for the foregoing, the Parties intend to be legally bound and hereby agree to the following:

1. Services of Contractor

In compliance with the terms and conditions of this Agreement, the Contractor shall provide those services specified in its signed and accepted quotation dated 14 September 2020, to undertake three **Terrestrial Biodiversity and Ecology including Species Impact Assessments**, as part of three Scoping and Environmental Impact Assessment Processes required for the proposed development of the three Kwagga Wind Energy Facilities near Beaufort West in the Western Cape Province (**Quotation**).

- 1.1. The Quotation is appended hereto as Annexure A and it lists the key deliverables to be provided by the Contractor for the benefit of ABO Wind (**Services**). The scope of Services and associated deliverables are specified in the Specialist Terms of Reference to be provided to the Contractor by the Council for Scientific and Industrial Research (the **EAP**).
- 1.2. The timeframes for the required deliverables and invoicing schedule are appended hereto as Annexure B.
- 1.3. The Annexures to this Agreement form an integral part of this Agreement. Should a conflict arise between this Agreement and the Annexures thereto, this Agreement shall prevail.
- 1.4. Note that all research findings resulting from these site verification reports and compliance statements become and will remain the property of ABO Wind.

2. Health and Safety Regulation

- 2.1. The Contractor undertakes to execute its Services in compliance with all health and safety regulations required by applicable law and in accordance with the health and safety regulations stipulated by ABO Wind, especially in light of the COVID-19 pandemic and the national Lockdown regulations that are applicable at the time of assessment.
- 2.2. The Contractor shall provide safety and protection equipment to its employees, if relevant, as required by all applicable laws and which are adequate for the risk profile of the Services to be provided on the respective Kwagga study sites.
- 2.3. The Contractor shall furthermore provide all health and safety documentation as required by all applicable laws in order for it to render the Services, where relevant.

3. Payment and Invoices

- 3.1. ABO Wind shall pay the Contractor for the Services provided hereunder at the rates and in the currency stipulated in Annexure A.
- 3.2. The Contractor shall invoice ABO Wind for the Services provided promptly upon the execution and completion of the Services, as per the deliverables stipulated in Annexure B.
- 3.3. The Contractor's invoice shall be payable by ABO Wind within 30 days of receipt, provided there are no amounts in dispute and all documentary and supporting evidence has been delivered together with the invoice.
- 3.4. The Contractor shall deliver the invoice (together with all supporting documentation where applicable) to the following Address:

ABO Wind renewable energies (Pty) Ltd
Unit B1, Mayfair Square
Century Way, Century City
Cape Town 7441 South Africa
Attention: Rob Invernizzi
E-mail: Monique.marais@abo-wind.com and rob.invernizzi@abo-wind.com
VAT registration No: 4370284061

- 3.5. The Contactor chooses the following address as its address for the purposes of this Agreement:

7 St George street
Somerset West, 7130
Cape Town, South Africa
Attention: Dr Noel van Rooyen
Telephone: 082 882 0886
Email: noel@ekotrust.co.za

4. Suspension and Cessation of Services

- 4.1. Notwithstanding anything to the contrary elsewhere in the Agreement, ABO Wind may at any time suspend all or part of the Services or terminate this Agreement by giving at least five (5) days' notice to the Contractor. The Contractor shall immediately make arrangements to stop rendering the Services and cease incurring any further expenditure.

- 4.2. Should ABO Wind terminate the Agreement, the Contractor shall be reimbursed for all reasonable costs associated with this termination including, but not limited to, pro rata fees for services rendered and deliverables met, as well as the costs or commitments incurred prior to the date of termination.

5. Confidentiality

- 5.1. The Contractor undertakes to keep and hold confidential any information disclosed to it in performing its obligations under this Agreement and not to disclose same to any other person in any way whatsoever without the prior written consent of ABO Wind, and shall ensure that all such information shall be disclosed only to those of its and its affiliates' advisors, agents, contractors, directors and employees who have signed undertakings of secrecy and confidentiality and who have a need to know such information for the purposes of performing their obligations in respect of this Agreement.
- 5.2. This Agreement further requires the Contractor to sign a **Non-Disclosure Agreement (NDA)** as provided by ABO Wind. The NDA is hereto appended as Annexure C.

6. Domicilia

- 6.1. Each Party chooses its physical address referred to in clause 3 as its domicilium citandi et executandi at which documents in legal proceedings in connection with this Agreement may be served.
- 6.2. Any Party may by written notice to the other Party change its domicilium from time to time to another address, not being a post office box or a poste restante, in South Africa; provided that any such change shall only be effective on the 14th day after deemed receipt of the notice by the other Party.

7. Severability

- 7.1. The provisions of this Agreement shall be deemed severable and if any clause shall be held invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the Parties.

8. Governing Law and Jurisdiction

- 8.1. The Parties shall attempt in good faith to resolve amicably any disputes arising from or related to this Agreement (by using amicable dispute resolution mechanisms, such as mediation for example). If, for any reason, such amicable attempt should fail, the dispute shall be definitively resolved by arbitration in accordance with the Rules of Arbitration of the Arbitration Foundation of South Africa, by a single arbitrator appointed in accordance with the said Rules. The arbitrator shall be bound by the substantive law and his/her decision shall be binding on the Parties. The arbitration shall take place in Cape Town and shall be conducted in the English language.

9. Entire Agreement

- 9.1. The Agreement (including the Annexures thereto) constitutes the entire agreement between the Parties in relation to the Services to be rendered by the Contractor for ABO Wind and supersedes any previous agreement that might exist, whether express or implied, regarding the subject matter hereof.

Signed at: Claremont Date: 8 October 2020

For: ABO Wind renewable energies (Pty) Ltd, duly authorized

Signature: 
Name: Rob Invernizzi
Capacity: Team Leader: Project Development

Signed at: Somerset West Date: 6 October 2020

For: Contractor, duly authorized

Signature: 
Name: Dr Noel van Rooyen
Capacity: Terrestrial Ecologist (Pr.Sci.Nat. Reg. 4014430/83)

ANNEXURE A: QUOTATION

Quote nr: 2020/09/14/1

Company:	ABO Wind Renewable Energies (Pty) Ltd	Tel:	+27 64 090 3633
Address:	Unit B1, Mayfair Square	Fax:	
	Century Way, Century City	Mobile:	
	7441	E-mail:	



CK 90/10465/23

Attention:	Rob Invernizzi	Project Name:	Terrestrial Ecology: ABO WEF Kwagga 1, 2 & 3 Beaufort West: 23 700 ha
RFQ number: (CSIR)	ABO-WIND/ KWAGGA/ 003/16/07/2020	Date:	2020/9/14

	Dr Noel van Rooyen
Address:	7 St George street Lionvham 7130 Somerset West
Mobile:	082 882 0886
Email:	noel@ekotrust.co.za
B-BBEE status	Level 4
CSD	MAAA0070982

Terrestrial Ecology: ABO WEF Kwagga 1, 2 & 3 Beaufort West: 23 700 ha

Item	Description	Quantity (km or days)	Hours per day	Fixed Rate (p/km or p/hour)	Amount
WORK PACKAGE 1					
A DISBURSEMENTS					
1 Travel					
	Travel Somerset West - Site - Somerset West	940		ZAR5.50	ZAR5,170.00
	Travel on site (total 7 days)	420		ZAR5.50	ZAR2,310.00
2 Accommodation & subsistence					
	Accommodation 8 nights	8		ZAR900.00	ZAR7,200.00
	Subsistence (2 persons) 8 days	8		ZAR300.00	ZAR2,400.00
B PROFESSIONAL FEES					
1 Survey of 3 sites		7	8	ZAR650.00	ZAR36,400.00
2 Site verification reports		2	8	ZAR650.00	ZAR10,400.00
3 Description & mapping of sensitivity of 3 sites		4	8	ZAR650.00	ZAR20,800.00
				Sub-total:	ZAR84,690.00
WORK PACKAGE 2					
A PROFESSIONAL FEES					
1 3 Terrestrial Biodiversity Specialist Assessment Reports (as part of EIA)		6	8	ZAR650.00	ZAR31,200.00
2 Updates of Specialist study following comments by CSIR, client and public reviews		1	8	ZAR650.00	ZAR5,200.00
				Sub-total:	ZAR36,400.00
WORK PACKAGE 3					
A PROFESSIONAL FEES					
1 Terrestrial Biodiversity Compliance Statements		2	8	ZAR650.00	ZAR10,400.00

Dr N van Rooyen

ANNEXURE B: DELIVERABLES AND INVOICING SCHEDULES

Deliverable Schedule

Key Deliverables		Due Date
1	Appointment finalisation	04 October 2020
2	<p>Specialist input for the Scoping Phase:</p> <p>a) <u>Environmental Sensitivity Map</u> (x3) (in kmz/shp) based on desktop level analysis and a site visit to verify the site sensitivity to inform each preliminary project layout;</p> <p>b) <u>Site Sensitivity Verification Report</u> (x3) detailing the high-level impacts that may occur due to the proposed development of the WEFs. The reports must confirm or dispute the current use of the land and the site's environmental sensitivity as identified by the National Web-Based Screening Tool, as well as to provide review input on the preferred infrastructure locations i.e. wind turbines, construction platforms, construction compounds, laydown areas, on-site substation, etc. following the sensitivity analysis. It should also include a description of the potential direct, indirect and cumulative impacts that will require further assessment in the EIA Phase (a report template can be provided by CSIR); and</p> <p>c) <u>Terms of Reference</u> for the EIA Phase.</p> <p><u>Note</u> that the Site Sensitivity Verification Reports must adhere to the gazetted Environmental Assessment Protocols of the NEMA EIA Regulations (2014, as amended) i.e. Protocol for the Specialist Assessment and Minimum Report Content Requirements of Environmental Impacts on Terrestrial Biodiversity (GG 43110 / GNR 320, 20 March 2020)).</p>	06 November 2020 (or otherwise agreed upon in writing)
3	<p>Three Final <u>Terrestrial Biodiversity and Ecology including Plant and Animal Species Impact Assessment Reports</u> for inclusion in the 3 x Draft EIA Reports for the three proposed Kwagga WEFs.</p> <p>These Specialist Impact Assessment Reports must adhere to the content requirements of the aforementioned Protocol in GN 320 (March 2020).</p>	08 March 2021 (or otherwise agreed upon in writing)

Invoicing Schedule

Deliverable/Milestone		Percentage of total budget	Invoicing Amount excl. VAT
1	Final specialist input i.e. 3 x Site Sensitivity Verification Reports with maps for inclusion in the 3 x Draft Scoping Reports (following review by ABO Wind and CSIR (review timeframe 1-2 weeks))	30%	R 36 324.00
2	Amendment of specialist input i.e. addressing stakeholder comments (should it be required) following the Scoping Phase 30-day public comment period (i.e. for inclusion in the Final Scoping Reports)	10%	R 12 108.00
3	Final 3 x Terrestrial Biodiversity and Ecology Impact Assessment Reports for inclusion in the 3 x Draft EIA Reports (following review by ABO Wind and CSIR (review timeframe 1-2 weeks))	50 %	R 60 540.00
4	Amendment of specialist Terrestrial Biodiversity and Ecology Impact Assessment Reports i.e. addressing stakeholder comments (should it be required) following the EIA Phase 30-day public comment period (i.e. for inclusion in the Final EIA Reports)	10%	R 12 108.00
TOTAL (ZAR excluding 15% VAT)			¹R 121 080.00

¹ **Note** that this budget is based on the combined cost to undertake Work Package (WP) 1 (Site Sensitivity Verification) and WP 2 (Impact Assessment) as per the quotation included in Annexure A. Should a Compliance Statement (i.e. WP 3) however be required following the Site Sensitivity Verification (i.e. WP 1) instead of WP 2, then this Agreement and the invoicing schedule will be amended accordingly to reflect the combined budget quoted for WP 1 and WP 3.

ANNEXURE C: NON-DISCLOSURE AGREEMENT

CONFIDENTIALITY AGREEMENT entered into

BETWEEN

- (1) **ABO Wind renewable energies (Pty) Ltd**, a South African Company with its offices at Unit B1, Mayfair Square, Century Way, Century City, 7441, South Africa, and being registered under South African Law with the registration number 2018/062901/07 ("**ABO**");
- (2) **EKOTRUST cc**, a South African Closed Corporation with its offices at 7 St George Street, Lionviham, 7130, Somerset West, South Africa, and being registered under South African Law with the registration number CK 90/10465/23 ("**EKOTRUST**")

The parties under (1) and (2) are hereinafter also referred to as the "**Parties**" and each a "**Party**".

WHEREAS

The Parties are interested in entering a collaboration in which ABO provides documentation to **EKOTRUST** for services relating to **Terrestrial Biodiversity and Species Impact Assessments** from time to time ("**Services Appointment Period**"). For means of providing services and during the Services Appointment Period (if applicable) the Parties will provide certain "Confidential Information" as defined in clause 1. The disclosure of Confidential Information to the Parties' competitors or the general public or utilizing the Confidential Information for the Parties own or any third party's benefit could be detrimental. Therefore, the Parties agree on the non-disclosure of Confidential Information and the limitations regarding the use of the Confidential Information and certain other matters in accordance with the terms and conditions of this Agreement.

1. CONFIDENTIAL INFORMATION

- (a) In this Agreement, the definition "Confidential Information" means any information of confidential nature provided by each Party or a representative relating to the business and operations of the Parties including, but not limited to, financial and/or technical data and other information whether written, graphic or oral; and reports, analyses, studies or other documentation prepared by the Parties ("**Confidential Information**").
- (b) Confidential Information does not include any information which
 - (i) is publicly known or publicly available at the time when disclosed by the Party disclosing Confidential Information ("**Disclosing Party**");
 - (ii) became publicly known or publicly available after disclosure by the Disclosing Party without any violation of this Agreement;
 - (iii) is or has become available to the Party receiving Confidential Information ("**Receiving Party**") prior to its disclosure by the Disclosing Party from a source other than the Disclosing Party, provided that such source was not prohibited from disclosing such information by a legal, contractual or fiduciary obligation.

2. DUTY TO CONFIDENTIALITY

- (a) The Parties shall be obliged
 - (i) to use Confidential Information exclusively to perform services for ABO from time to time during the Services Appointment Period (if applicable).
 - (ii) to keep the Confidential Information strictly confidential and as a secret;

- (iii) to only disclose Confidential Information to a third party if and to the extent that
 - (A) the Receiving Party is under an obligation to disclose Confidential Information vis-à-vis public authorities and courts or due to mandatory legal provisions,
 - (B) it is disclosed to a third party that is bound to professional secrecy, in particular lawyers, tax advisors, accountants or notaries,
 - (C) the Disclosing Party agreed to the disclosure to the relevant third party and the latter entered into a confidentiality agreement with the Receiving Party that protects the interests of the Disclosing Party at least to the same extent as this Agreement
- (iv) to make sure that all employees of the Parties or a third party within the meaning of 2. (a) (iii) above who are entrusted with the Evaluation and render the legal and advisory services during the Services Appointment Period (if applicable), observe the duty to confidentiality in the same manner as if they were a party hereto; and
- (v) to return to the Disclosing Party all Confidential Information including all copies, extracts or other reproductions (regardless of the form in which such reproductions are maintained) or to notify the Disclosing Party that all Confidential Information has been destroyed and/or erased from all electronic media as soon as the Parties terminated their negotiations and the Receiving Party received a respective written request from Disclosing Party; this shall not apply if and to the extent that the Receiving Party is obliged to keep copies of Confidential Information for the fulfillment of any mandatory legal obligations (e.g. for audit purposes).
- (b) Both Parties undertake to keep strictly confidential the fact that negotiations between the Parties are held.

3. **TERM**

The duty to confidentiality according to clause 2 of this Agreement shall end with the lapse of 36 (thirty-six) months to be calculated from the signing of this Agreement.

4. **MISCELLANEOUS**

- (a) Unless expressly provided otherwise in this Agreement, the Parties shall not be responsible for the correctness or completeness of the Confidential Information.
- (b) Changes and amendments to this Agreement, including this clause 4(a), require the written form.
- (c) Should any provision of this Agreement, in whole or in part, be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected. In lieu of the invalid or unenforceable provision a provision shall apply which, to the extent legally possibly, comes as close as possible to what the parties had intended or would have intended, according to the spirit and purpose of this Agreement, if they had considered the matter. The same applies to any loopholes.

- (d) This Agreement shall in all respects, including as to validity, interpretation and effect, be governed by the laws of the Republic of South Africa, and the courts of Cape Town, South Africa, shall have non-exclusive jurisdiction to adjudicate any dispute hereunder.

ABO Wind renewable energies (Pty) Ltd

Name: Robert Invernizzi

Date: 8 October 2020

Signature: 

EKOTRUST cc

Name: Noel van Rooyen

Date: 6 October 2020

Signature: 