

2 June 2022

Corporate and Investment Management Agreement

Mahube Asset Management Proprietary Limited

Mahube Infrastructure Limited

Dated 2022



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This agreement is made between:

Parties

- (1) **Mahube Asset Management Proprietary Limited**, a private company incorporated under the laws of South Africa with registration number 2016/297256/07 (the **Manager**); and
- (2) **Mahube Infrastructure Limited**, a public company incorporated under the laws of South Africa with registration number 2015/115237/06 and listed on the Johannesburg Stock Exchange (the **Company**).

Agreed terms

1 Definitions

In this Agreement:

Agreement means this corporate and investment management agreement contained herein.

Applicable Law in relation to a person, includes all and any:

- (a) statutes and subordinate legislation and common law;
- (b) regulations imposed by an Authority (including the JSE Listings Requirements and any other stock exchange recognised by an Authority);
- (c) ordinances and by-laws;
- (d) circulars, codes of practice, directives, guidance notices, judgments and decisions of any competent authority or any governmental, intergovernmental or supranational agency, body, department or regulatory, self-regulatory or other authority or organisation; or
- (e) other similar provisions.

Authority means any supra-national, national or sub-national authority, commission, department, agency, regulator, regulatory body, court, tribunal or arbitrator.

Black Fund Manager means an entity which –

- (a) is registered as a financial services provider with the Financial Sector Conduct Authority;
- (b) has 51% or more shareholders capable of exercising voting rights that are Black Persons;
- (c) has 51% or more Black Persons appointed to its board of directors; and
- (d) has 51% or more Black Persons employed as its employees pursuant to written employment agreements.

Board means the board of directors of the Company from time to time.

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Capital Raising Fee shall have the meaning ascribed to such term in clause 6.3.

Capital Targets shall mean the capital raising targets of the Company set out in paragraphs 1.1 and 1.2 of Schedule 1 to this Agreement, provided that such capital raising targets shall be updated from time to time on written agreement between the Manager and the Company.

CPI means the annualised rate of consumer price inflation as at the end of the calendar month preceding the date of notice of termination.

Discretionary Code of Conduct means the *Code of Conduct for Discretionary FSPs* as set out in Chapter II of notice 79 of 2003 issued in government gazette 25299 on 8 August 2003 by the Registrar of Financial Service Providers under section 15 of the FAIS Act.

Effective Date means the first day of the calendar month after the Subscription Date.

FAIS Act means the Financial Advisory and Intermediary Services Act 37 of 2002.

Financial Services means the Services set out in clause 3.3.

Investco means Mahube Infrastructure Investment 1 (RF) Proprietary Limited, a private company incorporated under the laws of South Africa with registration number 2015/377586/07.

JSE means the exchange, licensed under the Financial Markets Act, operated by the JSE Limited (registration number 2005/022939/06), a public company duly incorporated in accordance with the laws of South Africa.

JSE Listings Requirements means the Listings Requirements of the JSE applicable from time to time.

King IV Code means the code of corporate governance as set out in part 5 of the King IV Report on Corporate Governance for South Africa, 2016 or such updated or amended code of corporate governance published from time to time.

Management Fee shall have the meaning ascribed to such term in clause 6.1.

Parties means the Company and the Manager, being the parties to this agreement and **Party** shall mean either of them.

Qualifying Assets means the asset classes set out in paragraph 1.2 of Schedule 1 to this Agreement, provided that such asset classes may be updated from time to time on written agreement between the Manager and the Company.

REIPPP Program means the South African Government Department of Mineral Resources and Energy's Renewable Energy Independent Power Producer Procurement Programme.

Services means the services set out in clause 3, including any additional services agreed between the parties in terms of clause 3.5.

Signature Date means, once both Parties have signed this Agreement, the date on which it was signed by the last Party to do so.

SSA means the Subscription and Shareholders Agreement concluded between, amongst others, the Company, the Manager and Encha Infrastructure Investments Proprietary Limited on or about the Signature Date.

Subco means Mahube Capital Fund 1 (RF) Proprietary Limited, a private company incorporated under the laws of South Africa with registration number 2015/212709/07.

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Subscription Date shall have the meaning ascribed to such term in the SSA.

Term means the period commencing on the Effective Date and ending on the Termination Date.

Termination Date means the date on which this Agreement is terminated in accordance with clause 8.

VAT means value-added tax as levied in terms of the Value-Added Tax Act 89 of 1991.

2 Appointment

- 2.1 With effect from the Effective Date, the Company hereby appoints the Manager to act as the Company's corporate and investment manager and to provide the Services to the Company.

3 Scope of Services

The Manager will provide the following investment management, corporate management and administrative services to the Company:

3.1 Corporate Management Services

The Manager will generally oversee the corporate activities of the Company, including (without limitation) the following services:

- (a) provide to the Company such office space, secretarial services and access to telephony and electronic communication services within the principal offices of the Manager, as the Company may from time to time reasonably require;
- (b) provide general administrative services to the Company;
- (c) attend meetings with the Company's service providers as and when required;
- (d) nominate a suitably qualified person to occupy the office of chief executive officer of the Company in compliance with the Listing Requirements, whose remuneration costs shall be borne by the Manager;
- (e) nominate a suitably qualified person to occupy the office of financial director of the Company in compliance with the Listing Requirements, whose remuneration costs shall be borne by the Manager;
- (f) provide the external auditors with all necessary information required for purposes of performing any audit of the Company's financial statements and to provide the requisite assistance to the external auditors for such purpose;
- (g) promptly comply with all reasonable requests of the Company pertaining to the rendering of the aforementioned corporate management services; and
- (h) at the reasonable request of the Company furnish written reports to the Company on progress in the rendering of the corporate management services.

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3.2 Investment Management Services

The Manager shall render the following investment management services to the Company:

- (a) originate, identify, evaluate, screen and investigate (including performing due diligence reviews) appropriate investment opportunities for the Company, as well as exit strategies in respect of existing investments, which shall be presented to the Board for deliberation and possible approval;
- (b) advise the Company in respect to originating, evaluating, structuring, negotiating, managing and monitoring investments, reinvestment and divestment opportunities, in line with the Company's investment policy
- (c) analyse and investigate potential opportunities for Subco to divest from invested interests, including the identification of prospective acquirers and the evaluation of offers made by prospective acquirers, and advising the Company accordingly;
- (d) supervise the negotiation, preparation and review of all documents required in connection with the acquisition or disposal of investments;
- (e) enter into, execute and perform such agreements in connection with investments or proposed investments and do all such other acts or things as it may reasonably deem necessary and/or advisable or incidental to the management of the Company;
- (f) generate internal valuations in respect of the Company's investments as the Company may require from time to time;
- (g) prepare material for inclusion in annual or other reports as the Company may reasonably require;
- (h) manage the investments held by Subco, and represent Subco's interests on the boards of directors of the underlying portfolio entities;
- (i) monitor the performance of and, where appropriate, nominate directors of portfolio entities, exercise all rights conferred upon the Company under the terms of any shareholders agreement, partnership agreement or investment agreement or otherwise in respect of a portfolio entity and liaise with, consult, assist or procure assistance to be given to portfolio entities and generally to take any action it reasonably considers appropriate for the protection of an Investment;
- (j) at the reasonable request of the Company, report to the Board as well as the relevant subcommittees of the Board, on the state and performance of the business of the Company and its underlying investments; and
- (k) manage and monitor the assets and investments held from time to time by Subco and Investco on the same basis set out above.

3.3 Capital Raising and Deployment Services

The Manager shall raise new listed equity capital on behalf of the Company in terms of the Capital Targets and deploy such equity capital into Qualifying Assets, on the basis set out in Schedule 1 of this Agreement.

3.4 Company Secretarial Services

The Manager shall render the following investment management services to the Company:

- (a) draft policies and terms of reference for the Board and subcommittees of the Board;

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- (b) ensure that accurate minutes of all meetings of the Board and any subcommittee of the Board are recorded and distributed, minute books are maintained and comprise certified copies of the minutes, and that all subcommittees of the Board are properly constituted and provided with clear terms of reference (which services will be provided to the Company, Subco and Investco);
- (c) drafting or vetting all Stock Exchange News Service (SENS) announcements and liaising with the Company's sponsors in relation to all such announcements that are required to be published from time to time, including all announcements in respect of all directors and prescribed officers and their associates, in order to ensure that the Company complies timeously with its obligations under Applicable Law;
- (d) ensure that the policies, instructions and resolutions, as approved by the Board, are communicated to the relevant persons in the Company and that pertinent issues from the Board are referred back to the relevant subcommittee of the Board;
- (e) advise the Board regarding the statutory obligations of the directors, identify training required for members of the Board and ensure that there is an ongoing programme to keep members of the Board informed of developments in respect of the Company and in respect of matters relevant to their general responsibilities as directors of the Company;
- (f) monitor and implement procedures to ensure compliance with Applicable Law and the Company's policies, including legal requirements on retention of documents, retaining the minimum set of records (on both a legal and commercial basis) and ensuring that procedures are in place to allow an adequate historical archive to be maintained;
- (g) report any failure on the part of the Company or a member of the Board to comply with the Company's policies or rules to the Board to the extent that such failure comes to the attention of the Manager or that the Manager obtains any knowledge of a failure;
- (h) ensure that all information packs necessary or appropriate to be provided to any meeting of the Board are compiled and distributed timeously before the applicable meeting and that a standardised format for such board packs is developed;
- (i) attend quarterly updates with the chairperson of the Board and the chairpersons of subcommittees of the Board;
- (j) ensure that a copy of the Company's annual financial statements is sent to every person who is entitled to it in terms of Applicable Law, once such annual financial statements are approved by the Board;
- (k) provide input which assists to coordinate the publication and distribution of the annual report, in consultation with the Company's internal and external advisers;
- (l) report and file amendments to the Company's documents or information, in compliance with applicable filing requirements;
- (m) conduct the Company's Board and subcommittee evaluations;
- (n) assist the Company's Board with addressing conflicts and emergencies, such as unsolicited offers being received in terms of the Companies Act;
- (o) maintain the various registers required in terms of the Companies Act including:
 - (i) register of directors;
 - (ii) securities register; and

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- (iii) declarations of interest for each director, prescribed officer and member of executive management; and
- (p) ensure that all business letters, notices and other official publications of the Company correctly reflect the Company's name and other information as required by applicable statutes and that the Company's name is displayed in a conspicuous place.

3.5 Additional/Ancillary Services

In addition to the services listed in clauses 3.1 to 3.4 above, the Company may request that the Manager provide any additional services to the Company from time to time provided that no such additional service shall be rendered unless the following has been agreed in writing between the Company and the Manager:

- (a) the nature and scope of the requested additional service;
- (b) any regulatory considerations/requirements;
- (c) the time required to implement the additional service;
- (d) any variations to the Management Fee arising from the additional service;
- (e) the impact of any additional costs to be incurred by the Manager in order to provide such additional service; and
- (f) any other terms agreed between the Company and the Manager in respect thereof.

4 Duty of Skill and Care

4.1 Good Faith

The Parties shall at all times act in good faith towards each other and shall not bring the other Party into disrepute.

4.2 General duty of care

- (a) The Manager will perform its duties with due and professional care, diligence and skill, in accordance with all Applicable Law.
- (b) The Manager will provide the Services with a degree of care, skill, attention and expertise consistent with the professional standard achieved by reasonable and prudent persons who provide similar services.
- (c) The Manager will at all times ensure that it has the professional ability, trained personnel and infrastructure to provide the Services to the Company.

4.3 Corporate Governance

- (a) Without derogating from the company secretarial services contemplated in clause 3.4, the Manager, with support from the Company's appointed sponsor, will provide the Company, the Board, prescribed officers and management with general corporate governance advice, including the compliance with enabling legislation to ensure that the aforesaid parties are compliant with such enabling legislation. Furthermore, the Manager will ensure that the Board is kept abreast of developments in corporate governance and inform and assist management where reasonable possible, so that they may comply to the highest governance standards as detailed in the King IV Code.

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- (b) The Manager will:
- (i) use its reasonable endeavours to establish best practice in respect of the Services;
 - (ii) lead through example, mentoring and guidance embedding the best ethical practises as part of the institutional fabric of the Company;
 - (iii) exercise reasonable care and skill in all aspects of providing the Services;
 - (iv) not unduly interfere with the business of the Company;
 - (v) ensure that it has appropriate resources including, without derogating from the generality hereof, adequately qualified staff, during the term of this Agreement to provide the Services;
 - (vi) ensure that all its employees and other personnel are appropriately experienced, qualified and available to enable it to carry out the Services;
 - (vii) not do anything or allow anything to be done which does or is likely to prejudice the reputation of the Company;
 - (viii) adhere to and comply with all reasonable and lawful directions and instructions of the Company;
 - (ix) strictly adhere to and comply with all industry standards, the Company's policies, legislation, regulations, by-laws, directives, orders, notices, promulgations and other decrees of any authority applicable to the Company and the common law, as amended, replaced, re-enacted, restated or re-interpreted from time to time;
 - (x) on termination of this Agreement, hand over all originals of documents generated in the performance of the Services to the Company;
 - (xi) obtain, on its behalf, and furnish the Company with a current tax clearance certificate on an annual basis;
 - (xii) during the term of this Agreement, provide the Company with copies of all documents generated in the performance of the Services to the Company; and
 - (xiii) procure that appropriate corporate governance, as outlined in this clause 0 is applied in portfolio entities and investments of the Company, Subco and Investco.
- (c) The Company acknowledges that the Manager does not warrant, nor will it be liable for, the success of any investment made, whether in accordance with the Manager's recommendations or not, or for the achievement by any investment of any particular returns or capital growth or other particular investment performance result.

5 The Company's Responsibilities

- 5.1 The Company will provide the Manager with all information reasonably necessary to enable the Manager to perform the Services.
- 5.2 The Company hereby represents and undertakes to the Manager that all information provided by it and/or its professional advisers relating to the Services is complete and accurate and that

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there are no other material facts known to it relating to the Services which may be relevant to the Manager in carrying out its instructions.

- 5.3 The Parties confirm that nothing in this Agreement shall be construed as to require the Company to take any action other than as contemplated in clause 5.1 and clause 5.2, and without derogating therefrom, the Company shall not be required to procure, or otherwise assist in obtaining, any corporate authorisations (including board and/or shareholder approval) required to implement any of the Services in the manner proposed by the Manager.

6 Fees

- 6.1 As consideration for rendering the Services to the Company, the Company shall pay a management fee (the **Management Fee**) to the Manager on the following basis:
- (a) for the first 36 (thirty-six) months of the Term, an amount equal to R1,050,000 (one million and fifty thousand Rand) (excluding VAT) per month; and
 - (b) thereafter, a monthly amount equal to 0.8% of consolidated total issued capital of Subco and Investco (including all shareholder loans), calculated daily and payable at the end of each month.
- 6.2 The Management Fee, plus VAT thereon, shall be payable to the Manager:
- (a) upon presentation of a valid tax invoice by the Manager to the Company in respect of the Management Fee payable for the preceding calendar month;
 - (b) within 5 (five) business days of the tax invoice being issued; and
 - (c) in cash, without any deduction or set-off, by way of electronic transfer to the bank account of the Manager (nominated by the Manager for such purpose).
- 6.3 As consideration for the Services relating to the raising of listed equity capital to be rendered by the Manager to the Company, as contemplated in clause 3.3, the Company shall pay a capital raising fee (**Capital Raising Fee**) to the Manager, which Capital Raising Fee will be calculated as 1% of the amount of capital raised, provided that the Capital Raising Fee shall only become payable by the Company upon (i) the applicable capital being reflected as received in the applicable bank account of the Company and/or (ii) the applicable non-cash assets received by the Company in respect of that capital raise having been received by, or registered in the name of, the Company (as applicable).
- 6.4 If in the course of raising equity capital contemplated in clause 6.3, the Manager incurs any Transaction Costs then the Company will reimburse the Manager for such Transaction Costs together with the Capital Raising Fee.
- 6.5 The Capital Raising Fee, plus VAT thereon, shall be payable to the Manager, provided that the Capital Raising Fee shall only become payable by the Company upon (i) the applicable capital being reflected as received in the applicable bank account of the Company and/or (ii) the applicable non-cash assets received by the Company in respect of that capital raise having been received by, or registered in the name of, the Company (as applicable):
- (a) upon presentation of a valid tax invoice by the Manager to the Company in respect of the Capital Raising Fee and any Transaction Costs to be reimbursed in terms of clause 6.4, for the applicable equity capital amount raised;
 - (b) within 5 (five) business days of the tax invoice being issued; and

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(c) in cash, without any deduction or set-off, by way of electronic transfer to the bank account of the Manager (nominated by the Manager for such purpose).

6.6 Subject to prior approval by the Board, the Manager shall be reimbursed for any costs, plus VAT thereon, which the Manager may incur incidental to the raising of capital, to be payable to the Manager by the Company:

(a) upon presentation of a valid tax invoice by the Manager to the Company in respect of such costs;

(b) within 5 (five) business days of the tax invoice being issued; and

(c) in cash, without any deduction or set-off, by way of electronic transfer to the bank account of the Manager (nominated by the Manager for such purpose).

7 Costs and expenses

7.1 Subject to clause 7.2, the Manager will be responsible for all costs and expenses incurred by it in the provision of the Services, including (but not limited to) all costs relating to employees, consultants and sub-contractors.

7.2 Notwithstanding the provisions of clause 7.1, the Company shall be responsible for all transaction costs relating to the acquisition and/or disposal of any assets or investments of the Company, Subco or Investco, which expenses are prior approved by the Board and shall include (but not be limited to):

(a) independent due diligence costs;

(b) advisory costs;

(c) legal fees; and

(d) independently generated valuation reports

(Transaction Costs).

7.3 Notwithstanding clause 7.2, the Manager shall be responsible for all charges which do not reasonably constitute Transaction Costs.


8 Duration and termination

8.1 This Agreement will become effective from the Effective Date.

8.2 Subject to clause 8.3, this Agreement shall continue to be binding and enforceable against the Parties until the termination as provided for herein or winding up of either Party.

8.3 This Agreement may not be terminated prior to the date following 3 (three) years after the Effective Date, except for instances of a breach of this Agreement by either Party.

8.4 If the Company terminates this Agreement prior to the third anniversary of the Effective Date, for reasons other than breach by the Manager, such termination shall be subject to a termination penalty, the quantum of which shall be calculated as the present value of the Management Fees payable in respect of the remaining period of the first 36 (thirty six) months of this Agreement, discounted at a rate equal to CPI + 6%.

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8.5 A notice of termination may be issued:

- (a) by either Party after notice in writing to the other Party of not less than 60 (sixty) calendar days in the circumstances contemplated in clause 8.3 or in circumstances other than as contemplated in sub-clause (b) below;
- (b) by the Company on written notice to the Manager if:
 - (i) the Manager is no longer licensed to provide the Services in terms of the FAIS Act;
 - (ii) the Manager ceases to be a Black Fund Manager;
 - (iii) the Manager becomes subject to any judgement, consent, decree or interdict of a court of competent jurisdiction precluding it, on a permanent basis, from discharging its obligations in relation to the Company;
 - (iv) the Manager is:
 - (A) finally wound-up or finally liquidated (whether such winding-up is voluntary or compulsory) or the directors of the Manager pass a resolution for its winding-up;
 - (B) adjudged to be insolvent, or has entered against it an order of relief in any insolvency proceeding; or
 - (C) placed under business rescue;
 - (v) the Manager files an application or answer seeking for itself any judicial management, business rescue, insolvency, reorganisation, arrangement, composition;
 - (vi) readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;
 - (vii) the Manager files an answer or other pleading admitting or failing to contest the material allegations of an application filed against it in any proceeding of this nature;
 - (viii) the Manager seeks, consents to or acquiesces in the appointment of a trustee, receiver, liquidator, judicial manager, business rescue practitioner or other similar person of all or any substantial part of its properties; or
 - (ix) the Manager fails to provide the Services to the standard required by the Company in terms of clause 9; or
 - (x) without derogating from the generality of sub-clause (ix), the Manager fails to meet any of the financial targets contemplated in paragraph 1.1 of Schedule 1,

provided that if any of the circumstances contemplated in (i) to (x) occur the Manager shall be deemed to have breached this Agreement for purposes of clauses 8.3 or 8.4.

8.6 Termination of this Agreement shall be without prejudice to any liability or obligation in respect of any matters, undertakings or conditions which shall not have been observed or performed by the relevant Party prior to such termination.

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9 Performance Measurement

- 9.1 The Company will annually assess the performance of the Manager in relation to the Services on the following basis:
- (a) in respect of the Services (other than the Financial Services), in terms of the criteria set out in clause 3; and
 - (b) in respect of the Financial Services, in terms of the requirements set out in Schedule 1.
- 9.2 The annual assessment shall take place immediately upon the conclusion of each financial year, provided that such assessment must have been completed by the Company within 60 (sixty) calendar days of the end of the applicable financial year.
- 9.3 To the extent that the Manager has failed to deliver the Services to the standard required in terms of this Agreement, the Company shall notify the Manager of such failure and provide the Manager 60 (sixty) calendar days' notice to remedy such failure, failing which:
- (a) the Company may impose penalties in respect of the Management Fee payable to the Manager; and/or
 - (b) terminate this Agreement in terms of clause 8.5.
- 9.4 Notwithstanding the provisions of clause 9.3, when assessing the performance of the Manager in respect of the Financial Services for the financial year ending on 28 February 2023, the Company shall not be required to provide the Manager with 60 (sixty) calendar days' notice in which to remedy any failure in respect of the Financial Services and shall be entitled to take ~~either~~ of the actions contemplated in 9.3(a) ^{and/or} 9.3(b) immediately.
- 9.5 Notwithstanding the Effective Date, for purposes of assessing the performance of the manager for the financial year ending on 28 February 2023 (FY2023), all transactions concluded by the Company on or after the Subscription Date (as contemplated in the SSA) (but prior to 1 March 2023), whether at the instance of the Manager or otherwise, which may contribute towards the fulfilment any of the Capital Target or Qualifying Asset criteria set out in Schedule 1, will be assumed to have been instituted by the Manager and shall be assessed as contributing towards the fulfilment by the Manager of the Capital Targets and the Qualifying Asset targets set out in Schedule 1 for purposes of the assessment in respect of FY2023.

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10 Representations, Undertakings and Warranties

10.1 General Representations, Undertakings and Warranties

Each Party represents and warrants to the other Party Company that, on the Signature Date:

- (a) it is validly existing as a company incorporated in South Africa and has the requisite power and authority to own its assets and to conduct its activities as contemplated by this Agreement;
- (b) it has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder;
- (c) the execution and delivery of this Agreement by it, and the performance of its obligations hereunder do not, and will not:
 - (i) constitute a default under or conflict with any contract, agreement, instrument, mortgage, judgement, decree, or order applicable to it;

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- (ii) result in the creation of any mortgage, lien, encumbrance or charge upon any of the properties or assets of it; or
- (iii) violate any law or regulation applicable to it;
- (d) there is no action, suit, arbitration, governmental investigation, inquiry or proceeding (including, without limitation, proceedings under any applicable bankruptcy, insolvency or other similar law) by or before any court, arbitration panel, agency or other governmental authority pending or threatened against it; and
- (e) this Agreement constitutes a legal, valid and binding obligation on it and enforceable against it to the extent of its obligations in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganisation or similar laws affecting the enforcement of creditors' rights generally.

10.2 Specific Representations, Undertakings and Warranties by the Manager

- (a) The Manager represents and warrants to the Company as at the Effective Date and on each day during the Term that:
 - (i) it will render the Services and generally perform its duties with due and professional care, diligence and skill;
 - (ii) it will develop a risk management plan to ensure that risk issues are considered during investment decision-making process, as well as post investment;
 - (iii) it will comply with the Company, Subco and Investco (as applicable) documents insofar as they relate to the Manager;
 - (iv) it will be adequately licensed to provide the Services as a financial services provider under the FAIS Act;
 - (v) it will comply with the codes of conduct applicable to it (including the Discretionary Code of Conduct) and all other related provisions of the FAIS Act and the regulations promulgated thereunder with which it is required to comply including those relating to reporting, maintenance of records, and accounting/audit requirements;
 - (vi) it will establish, implement and maintain a written skills development and succession, and conflicts of interest policy which identifies the types and actual or potential conflicts of interest which affect its business, and sets out its approach to maintaining such competing interests;
 - (vii) in carrying out its duties it will act in accordance with this Agreement and Applicable Law;
 - (viii) it will procure and maintain professional and fidelity indemnity cover with a registered short-term insurer sufficient to meet all liabilities that may arise from, or in connection with the rendering of the Services;
 - (ix) it will maintain the systems and resources, including human resources, to fulfil its duties in terms of this Agreement at a standard that could reasonably be expected of an organisation in its position; and
 - (x) it will maintain adequate disaster recovery arrangements for its computer systems and premises and adequate back-up procedures for the protection of the information obtained by it in the course of providing the Services.

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- 10.3 The Manager further warrants that, as at the Effective Date, neither it nor, to its knowledge having made due and proper enquiry, any of its current employed officers, directors or representatives will have:
- (a) been convicted of an offence involving dishonesty or a breach of trust related to the investment of assets belonging to another; or
 - (b) been found by a court or other body including an administrative body with judicial function, to have violated any law related to the provision of the Services; or
 - (c) had insurance cover by an insurer denied or revoked for a reason related to dishonesty; or
 - (d) had any licence to engage in investment related business denied, revoked or made subject to restrictions.

11 Reports, Statements and Product Supplier Information

- 11.1 The Manager will provide the Company with reports and statements as requested by the Company in writing from time to time and in compliance with the Discretionary Code of Conduct.
- 11.2 All reports and statements provided to the Company in terms of this Agreement will be provided in electronic form, provided that the Company may request to receive the reports and statements in printed form.
- 11.3 The Manager will obtain and transmit to the Company any information which a relevant portfolio entity (i.e.: an investment of the Company, Subco or Investco) must disclose in terms of any Applicable Law, unless the Company specifically instructs the Manager in writing not to provide such information.

12 Non-Exclusivity and Risk Disclosure


12.1 Non-Exclusivity

The services to be provided by the Manager to the Company are not to be deemed exclusive and the Manager will be free to render similar services to third parties, and to retain for its own use and benefit fees or other monies payable in respect thereof, provided that:

- (a) The Manager's ability to provide the Services is not materially adversely affected by the provision of such additional services; and
- (b) Where the services rendered to third parties relate to identification of investment opportunities aligned with the investment policy of the Company, the Company shall have the right to invest in up to 50% of such investment opportunities.

12.2 Risk Disclosure

- (a) The Company acknowledges and confirms that it fully understands the contractual relationship that it is entering into and that it has been made aware by the Manager of the risks pertaining to the investment activities envisaged by this Agreement. The Company further acknowledges that any risk assessment process is a highly subjective exercise that is dependent on a number of quantitative and nonquantitative factors, and notwithstanding the internal risk assessment process followed by the Manager, the market value of its portfolio may, at any point in time, be significantly less than the initial value.

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- (b) The Company acknowledges and confirms that it fully understands the nature and extent of its exposure to risk and financial loss, which may significantly exceed the amount of its initial or subsequent investment in any investment, and that it will not hold the Manager liable for any loss that it may incur other than for loss directly attributable to wilful default, fraud or gross negligence on the part of the Manager.

13 Liability of the Manager

The Manager, and its officers, directors, employees and affiliates will not be liable to the Company, for any mistake in judgement or otherwise, except by reason of wilful misconduct, fraud, bad faith or gross negligence by the Manager and its officers, directors, employees and agents of their duties in respect of the Company.

14 Sub-contracting

- 14.1 The Manager may, in order to render services and meet any of its obligations in terms of this Agreement, utilise the service of its own staff or that of another approved financial services provider.
- 14.2 The appointment of any sub-contractors will not relieve the Manager of any of its obligations and duties under this Agreement. The Manager will be responsible for the payment of any fees to subcontractors and the sub-contractors will have no recourse against the Company for the payment of any fees.
- 14.3 The Manager may, as appropriate, employ or otherwise use agents (including its affiliates), independent contractors or other professional advisors to perform any administrative, dealing and ancillary services that will enable the Manager to perform its services under this Agreement.

15 Cession and delegation

No Party may cede any or all of its rights or delegate any or all of its obligations under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed.

16 Costs

- 16.1 Save as expressly provided elsewhere in this Agreement, each Party shall bear that its own legal costs and disbursements of and incidental to the negotiation, preparation, settling, signing and implementation of this Agreement.
- 16.2 Any costs, including all legal costs on an attorney and client basis and VAT, incurred by a Party arising out of or in connection with a breach of this Agreement by another Party shall be borne by the Party in breach.

17 Entire agreement

- 17.1 This Agreement constitutes the whole agreement between the Parties relating to the matters dealt with herein and no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.
- 17.2 This Agreement supersedes and replaces any and all agreements between the Parties and undertakings given to or on behalf of the Parties, in relation to the subject matter hereof.

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18 General

18.1 Severability

All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

18.2 Variation and waiver

No variation, addition to, deletion from or cancellation of this Agreement (including in relation to this clause), and no waiver, suspension or postponement of any right under this Agreement, shall be effective unless reduced to writing and signed electronically or otherwise by or on behalf of the Parties.

18.3 No latitude

No latitude, extension of time or other indulgence which may be given or allowed by either Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of either Party arising from this Agreement and no single or partial exercise of any right by either Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by that Party or operate as a waiver or a novation of or otherwise affect any of its rights in terms of or arising from this Agreement or estop or preclude it from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of either Party in exercising any right, power or privilege under this Agreement will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

18.4 Cumulative remedies

The rights and remedies under this Agreement are cumulative and in addition to and, except where otherwise expressly provided in this Agreement, do not exclude, any rights and remedies provided by law or otherwise.

18.5 Relationship of the Parties

- (a) Nothing in this Agreement is intended or shall be construed as creating a partnership, joint venture, the relationship of principal and agent, or any other legal relationship between the Parties that would impose liability upon one party for the act or failure to act of the other. Except where expressly stated otherwise in this Agreement, no Party has authority or power to make representations or bind another in any way.
- (b) Each of the Parties undertakes at all times to do all such things, perform all such acts and take all such steps, and to procure the doing of all such things, within its power and control, as may be open to it and necessary for and incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.
- (c) The Parties shall at all times act in good faith towards each other in respect of the exercise of their rights and fulfilment of their obligations under this Agreement, and shall not bring any of the other Parties into disrepute.



18.6 Signature and counterparts

- (a) This Agreement is signed by the Parties (electronically or otherwise) on the dates and at the places indicated below.
- (b) This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the last counterpart.
- (c) The persons signing this Agreement in a representative capacity warrant their authority to do so.
- (d) The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall initial the pages of this Agreement and/or have its signature of this Agreement verified by a witness.

19 Notices

19.1 Interpretation

In this clause 19:

- (a) **business day** means any day on which commercial banks are open for general business in the principal financial centre of the country in or to which the Notice is delivered or sent; and
- (b) any reference to a time is to the local time in the place at or to which the Notice is delivered or sent.

19.2 Domicilia and contact details for Notices

The Parties select as their respective domicilia citandi et executandi the following physical addresses, and for the purposes of giving or sending any Notice, the said physical addresses as well as the following email addresses:

- (a) in the case of the Manager to:

address: Third Floor, Penthouse 5,
4 The High Street
Melrose Arch
Johannesburg
2196

and is marked for the attention of: The Directors;

- (b) in the case of the Company to:

address: Third Floor, Penthouse 5,
4 The High Street
Melrose Arch
Johannesburg
2196

and is marked for the attention of Chairperson of the board of directors;

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provided that a Party may change its domicilium or its address for the purposes of notices to any other physical address or email address by written notice to the other Parties. Such change of address will be effective five business days after receipt of the notice of the change.

19.3 Form of Notice

Any notice or other communication to be given or made to a party under or in connection with this agreement ("Notice") shall be in English and in writing.

19.4 Method of giving Notice

Any Notice shall be sent to the relevant Party at the physical address and for the attention of the person specified in clause 19.2. Service or delivery of a Notice must be effected personally, by hand delivery or by courier (using an internationally recognised courier company).

19.5 Deemed service or delivery

Any Notice which has been served or delivered in accordance with clause 19.2 shall be deemed to have been served or delivered if served or delivered personally, by hand or by courier, at the time of service or delivery at the relevant address, provided that if any Notice would be deemed to have been served or delivered after 5.00 pm on a business day and before 9.00 am on the next business day, such Notice shall be deemed to have been served or delivered at 9.00 am on the second of such business days.

19.6 Proof of service or delivery

In proving service or delivery of a Notice, it shall be sufficient to prove that the envelope containing the Notice was properly addressed and that service or delivery personally, by hand or by courier, was made to such address.

19.7 Notices actually received

Notwithstanding the above, any Notice given in writing, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause 19.

20 Arbitration

20.1 If a dispute arises in respect of this Agreement, including a dispute about –

- (a) the validity or enforceability of;
- (b) the interpretation of;
- (c) the effect of;
- (d) the termination of;
- (e) the Parties' respective rights and obligations under;
- (f) a breach of; or
- (g) any matter arising out of,

this Agreement, such dispute shall be decided in accordance with the dispute resolution mechanism set out in this clause 20.

- 20.2 Any Party that is of the view that a dispute of the nature referred to in clause 20.1 has arisen shall give written notice thereof to the other Party, provided that such notice shall clearly identify the dispute and provide full particularity thereof, and the Parties shall thereafter take immediate steps to attempt to resolve the dispute.
- 20.3 If the Parties cannot agree on a resolution of the dispute within 15 (fifteen) business days of receipt of the notice referred to in clause 20.2 then the subject matter of the dispute may be referred by either Party on demand to arbitration within a further period of 20 (twenty) business days in accordance with this clause 20.
- 20.4 The said arbitration shall be held subject to the provisions of this clause:
- (a) at Sandton (which shall be the seat of the arbitration);
 - (b) otherwise in accordance with the provisions of the Arbitration Act 42 of 1965, as amended and the rules of AFSA or its successor body and in the event of a conflict in this regard the rules of AFSA or its successor body shall prevail,
- it being the intention that, if possible, it shall be held and concluded within 45 business days after it has been demanded.
- 20.5 The arbitrator shall be, if the question in issue is:
- (a) primarily an accounting matter, an independent accountant agreed upon between the Parties, and failing agreement, appointed by the President for the time being of the South African Institute of Chartered Accountants;
 - (b) primarily a legal matter, a practising Senior Counsel of not less than 10 (ten) years standing as such agreed upon between the Parties and, failing agreement, appointed by the President for the time being of the Johannesburg Society of Advocates;
 - (c) any other matter, an independent person agreed upon between the Parties and failing agreement appointed by AFSA.
- 20.6 If agreement cannot be reached within 7 (seven) business days after the arbitration has been demanded, as to the whether the question in issue falls under clause 20.5(a), 20.5(b) or 20.5(c), then a practising Senior Counsel of not less than 10 (ten) years standing as such agreed upon between the Parties or, failing agreement, appointed by the President for the time being of the Johannesburg Society of Advocates as soon as possible thereafter, shall determine whether the question in issue falls under clause 20.5(a), 20.5(b) or 20.5(c), and an Arbitrator shall thereafter be appointed in terms of clause 20.5.
- 20.7 The Parties irrevocably agree that the decision in these arbitration proceedings:
- (a) shall be final and binding on them;
 - (b) shall be carried into effect; and
 - (c) may be made an order of any Court of competent jurisdiction.
- 20.8 An aggrieved party may appeal against the arbitration award in accordance with the procedure set out in the rules of AFSA.
- 20.9 The provisions of this clause 20 shall not preclude either Party from obtaining interim relief on an urgent basis in the High Court of South Africa, Gauteng Local Division, Johannesburg pending the decision of the Arbitrator. Nothing herein contained shall be deemed to prevent or prohibit a Party to the arbitration from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.

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- 20.10 This clause 20 will continue to be binding on the Parties notwithstanding any termination or cancellation of this Agreement.
- 20.11 The Parties agree that a written demand in terms of clause 20.3 to submit a dispute to arbitration shall be a legal process for the purpose of interrupting extinctive prescription in terms of the Prescription Act 68 of 1969.

21 Governing law and jurisdiction

- (a) This Agreement will in all respects be governed by and construed under the laws of South Africa.
- (b) Subject to clause 20, the Parties hereby consent and submit to the non-exclusive jurisdiction of the High Court of South Africa (Gauteng Local Division, Johannesburg) in any dispute arising from or in connection with this Agreement.

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Signature page

Signed for and on behalf of **MAHUBE ASSET
MANAGEMENT PROPRIETARY LIMITED**
by:

Signature



Name (block capitals)

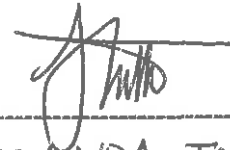
GONTSE MOSEKENE
Director/authorised
signatory

Dated

06th June 2022

Signed for and on behalf of **MAHUBE
INFRASTRUCTURE LIMITED**
by:

Signature



Name (block capitals)

SISANDA TUKU
Director/authorised
signatory

Dated

06 JUNE 2022

Schedule 1 Capital Raise and Investment Targets

- 1 The Manager shall be required to meet the following targets in respect of the Company over the initial three-year period (assuming a start date of 1 March 2022):
 - 1.1 Financial - raise capital and expand the Company's listed share capital to R2,000,000,000 on the following timelines:
 - (a) total issued share capital base of at least R1,000,000,000 by end February 2023 (Y1) (R450,000,000 raised over the current R550,000,000 base);
 - (b) total issued share capital base of at least R1,500,000,000 by end February 2024 (Y2) (R500,000,000 raised); and
 - (c) total issued share capital base of at least R2,000,000,000 by end February 2025 (Y3) (R500,000,000 raised).
 - 1.2 Non-financial - achieve the following asset diversification:
 - (a) By end February 2023: The Company should have acquired an interest in at least 2 (two) assets outside the REIPPP Program;
 - (b) By end February 2024: The Company should have acquired interests in at least a further 2 (two) additional assets outside the REIPPP Program (a cumulative total of four assets); and
 - (c) By end February 2025: The Company should have acquired an interest in at least 3 (three) additional assets outside the REIPPP Program, such that at the end of February 2025, the collective 7 (seven) assets (or more) should hold the following characteristics:
 - (i) 1 (one) independent power production asset outside the REIPPP Program;
 - (ii) 1 (one) asset in transport;
 - (iii) 1 (one) water or sanitation asset;
 - (iv) 1 (one) asset that diversifies the energy portfolio into thermal energy; and
 - (v) 3 (three) other assets of which 1 (one) is in a sector other than energy, transportation or water & sanitation.

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