

PUBLIC PRIVATE PARTNERSHIP AGREEMENT

BETWEEN

**(NAME OF PUBLIC PARTY)
(ADDRESS OF PUBLIC PARTY)**

(HEREINAFTER REFERRED TO AT THE PUBLIC PARTY)

AND

**(NAME OF PRIVATE PARTY)
(ADDRESS OF PRIVATE PARTY)**

(HEREINAFTER REFERRED TO AT THE PRIVATE PARTY)

(DATE OF AGREEMENT)

1.0 DEFINITIONS AND TERMS

In this PPP Agreement the following terms shall have the following meanings:

Public Party	The public sector partner who is a party to the PPP Agreement and owns the underlying Energy Asset(s) (e.g. either an electricity cooperative of the service area, a community governing body, a public company, or an Public Party / department representing local or national government);
Private Party	The registered private sector partner that is a party to the PPP Agreement, who shall fulfil the conditions defined in the PPP Agreement, regarding the underlying energy asset(s);
PPP Governing Board	The board who is established as a governing body under the PPP Agreement, who shall provide oversight for adherence to the PPP Agreement by the Parties, and fulfilment of the agreed Defined Services with regards to the underlying energy asset(s);
Board of Directors	The Board of Directors of Private Party as duly constituted under its registered articles of association in accordance with the relevant provisions of the Companies Act 2015;
Termination Date	Means the date on which the PPP Agreement shall terminate;
PPP Agreement	Means a legal agreement entered into and between the Public Party and the Private Party for providing the Defined Services operating, managing and maintaining the renewable energy power generation project;
Parties	Means the Public Party and the Private Party;
Service Period	Means a period between Service Commencement Date and Termination Date;
Service Commencement Date	Means a date on which the Private Party has commenced the provision of its obligations under the Defined Service;

Defined Service	Means the services required to satisfy the services specification of the Public Party contained in the PPP Agreement under ANNEX I;
Energy Asset(s)	Are the hard assets owned by the Public Party which produce and deliver electricity to end users, and are defined in the Defined Services;
Electricity Tariff	Is the unit price of electricity in the form of FJD per kWh;
Tariff Guarantee Fund or Major Maintenance Fund	As defined in clause 5.0 D of this PPP Agreement;
Specific Monitoring Parameters	As specified in ANNEX I of this PPP Agreement; and
Confidential and/or Proprietary Information	As defined in clause 8.0 of this PPP Agreement.

2.0 DURATION AND CRITICAL DATES

- A. This PPP Agreement and the rights and obligations of the Parties under this PPP Agreement shall take effect on the [REDACTED].
- B. The Service Period shall commence on the Service Commencement Date, which shall be no later than the [REDACTED], and terminate on the Termination Date of the [REDACTED].

The Public Party and Private Party have the option to extend this PPP Agreement for a further period of time without changes, or on such terms and conditions as may be mutually agreed upon between them, and any extension shall be approved by the PPP Governing Board in accordance with ANNEX III.

3.0 INTENT OF THE PPP AGREEMENT

- A. This PPP Agreement intends to:
 - i. Secure a mechanism under an agreement between the Public and Private Parties to provide sustainable access to energy services to the end users of the Energy Asset(s);
 - ii. Encourage the Private Party to attain maximum performance based on sound commercial and technical principles consistent with its role to perform its obligations as detailed in the Defined Services; and
 - iii. Provide a mechanism for the Public Party to establish, operate, manage and/or maintain the underlying Energy Asset(s) as a means to provide a service to the end users as specified in the Defined Services;
- B. This PPP Agreement is not intended to exempt either Party from any regulatory requirements for performance imposed by any law, existing from time to time in the Republic of Fiji, in respect of the underlying Energy Asset(s) and delivering the related services.

4.0 PERFORMANCE, MONITORING, AND REPORTING

- A. The Private Party agrees to perform its obligations as specified in this PPP Agreement and the Defined Services.

- B. The Public Party agrees to perform its obligations as specified in this PPP Agreement and the Defined Services.
- C. The Parties agree to perform acts of support to each other, within boundary of each Party’s legal status and association, in the following manner:
- i. To support the address of end user(s) of the services supplied by the Energy Asset(s) and the Parties obligations as detailed in the Defined Services in the following cases:
 - Where the end user(s) must be notified of any change in Energy Asset(s);
 - Where the end user(s) must be notified of any physical and/or monetary change in the service supplied by the Energy Asset(s); and
 - Where there are disputes of a physical and/or monetary nature with the end user(s), which have not been sufficiently resolved between the Private Party and the end user(s) after a period of 30 days from the issuance of written notice to the Private Party or the end user(s);
 - ii. To support the address of the Government of Fiji, and its representatives, in matters relating to the fulfillment of either Party’s obligations under the PPP Agreement and the Defined Services; and
 - iii. To support the address of any public, private, or international agency or institution who wishes to provide technical or financial support to either of the Parties to fulfill their obligations under the PPP Agreement and the Defined Services. For the absence of doubt this includes any financial services institutions who are or may provide financial services relating to the Energy Assets(s), the PPP Agreement and/or the Defined Services.
- D. Monitoring by the Private Party shall include the following:
- i. The monitoring of the technical / physical condition of the Energy Asset(s);
 - ii. The “Specific Monitoring Parameters”; and
 - iii. Financial monitoring as required by the Companies Act 2015.
- E. Reporting by the Private Party shall include the following:

- i. The Private Party shall provide to the Public Party any documents, records, information and the like in its possession as may reasonably be requested by the Public Party for the purpose of complying with any of its statutory reporting obligations of the Private Party to the Government of Fiji for the purpose of this PPP Agreement and the Defined Services, including reporting on the Specific Monitoring Parameters;
- ii. The Private Party shall provide to the Government of Fiji, any information as lawfully requested in accordance with the Government of Fiji’s regulation of the energy sector;
- iii. The Private Party shall provide to the PPP Governing Board any information material to the PPP Agreement or the Defined Services which is lawfully requested by the PPP Governing Board, in addition to the Specific Monitoring Parameters (this can be jointly reported with the Public Party);
- iv. The Private Party shall on an annual basis provide to the PPP Governing Board audited accounts of its expenses and revenues as incurred/gained under the PPP Agreement; and
- v. The Private Party shall provide to the Government of Fiji, any information as required by the Companies Act 2015.

F. Monitoring by the Public Party shall include the following:

- i. Monitoring of financial accounts relating to transactions between the Private Party and the Public Party; and
- ii. The Specific Monitoring Parameters.

G. Reporting by the Public Party shall include the following:

- i. The Public Party shall provide to the Private Party any documents, records, or information in its possession which are material to PPP Agreement and the Defined Services, and are required by the Private Party to efficiently fulfil its obligations under this PPP Agreement and the Defined Services;
- ii. The Public Party shall provide to the Private Party any documents, records, or information and the like in its possession which relate to the purpose of this PPP Agreement and the Defined Services, as may reasonably be requested by the Private Party for the purpose of complying with any of its statutory reporting obligations to the

Government of Fiji for the purpose of this PPP Agreement and the Defined Services;

- iii. The Public Party shall provide to the Government of Fiji, any information as lawfully requested in accordance with the Government of Fiji's regulation of the energy sector; and
- iv. The Public Party shall provide to the PPP Governing Board any information material to the PPP Agreement or the Defined Services which is lawfully requested by the PPP Governing Board, in addition to the Specific Monitoring Parameters . (this can be jointly reported with the Private Party).

5.0 COMPENSATION & PAYMENT

- A. The Private Party will be compensated for the services fulfilling the performance requirements as detailed in the Defined Services, where compensation will take the form of: (a) service charges directly paid by the end-users of the Energy Asset(s) to the Private Party or (b) service charges paid by the Public Party to the Private Party.
- B. The Private Party will be compensated by the Public Party for loss of revenues due to the documented non-payment of affected end consumers, insofar that the Private Party has issued at least two monthly notices to the affected end consumers. Where any such compensations shall be determined and paid on a quarterly basis (e.g. every three months), out of the Tariff Guarantee Fund defined in Article 5.0(D).
- C. The service charges in Article 5.0(A) option (a) will take the form of an Electricity Tariff as defined and approved by the PPP Governing Board from time to time, and which may be approved by the appointed electricity regulator of the Government of Fiji. The Electricity Tariff structure shall be defined by the methodology, and take the form as detailed in ANNEX IV.
- D. A Tariff Guarantee Fund (or referred to as the "Major Maintenance Fund") shall be established in form of an ESCRO-bank account, to ensure that the costs for required major maintenance and guarantee for compensation, as defined in Article 5.0(B), can be ensured at any time of the operation of the PPP. The Private Party must transfer **XX%** of revenues to the account, so that this Tariff Guarantee Fund is capitalized over time. After initial capitalization, this Tariff Guarantee Fund should at all times include an amount equal to no less than the value of 3 months of expected revenue of the Private Party.

- E. The Private Party shall only make payment of specified funds, as collected separately or as a part of the Electricity Tariff, to the Public Party which are detailed in ANNEX IV.

6.0 EXTRA ORDINARY COMPENSATION

- A. The Parties agree to extra ordinary compensation or relief by the Public Party to the Private Party for extra ordinary expenses which may be incurred by the Private Party for additional capital investments in the Energy Asset(s) or for costs incurred from unplanned major maintenance of the Energy Asset(s), which are not covered under the Defined Services or the Tariff Guarantee Fund / Major Maintenance Fund.
- B. The need for additional capital investments or unplanned major maintenance of the Energy Asset(s) must be approved in writing by a majority of the members of the PPP Governing Board before the commitment to commence the additional capital investment or major maintenance by the Private Party. To gain this approval the Private Party should issue to the PPP Governing Board a notice in writing of the need for additional capital investments or unplanned major maintenance, along with the estimated costs.
- C. For compensation or relief of the extra ordinary expenses, the Private Party is to provide to the Public Party a record of the full itemized cost including invoices or receipts from third parties of the direct costs of the additional capital investments or unplanned major maintenance of the Energy Asset(s), and the total of these extra ordinary expenses shall not exceed those as approved by the PPP Governing Board.
- D. The compensation of any other expenses incurred by the Private Party, outside of compensation defined in Article 5.0 and Points A, B, and C of this Article 6.0 may only occur if approved in writing by a majority of the members of the PPP Governing Board.

7.0 INDEMNITIES

- A. The Private Party shall indemnify and keep the Public Party indemnified at all times against all losses incurred by the Public Party as a consequence of:
 - i. Any loss or damage to property as caused by gross negligence of the Private Party (including, without limitation, the Energy Asset(s));

- ii. Any breach by the Private Party of a statutory duty arising under the applicable law;
 - iii. Claim for the death or the personal injury of an individual who dies or is injured while operating or maintaining the Energy Asset(s), during the persons working hours, and who are employed or contracted by the Private Party;
 - iv. Other claim, action, charge, cost, demand, or expense (including, without limitation, any legal fees or costs) arising because of the performance or non-performance of any Defined Service, except to the extent caused by the gross negligence of the Public Party; and
 - v. Any breach by the Private Party of any warranties given by it under this PPP Agreement.
- B. The Public Party shall indemnify and keep the Private Party indemnified at all times against all losses incurred by the Private Party as a consequence of:
- i. Any loss or damage to property life as caused by gross negligence of the Public Party (including, without limitation, the Energy Asset(s));
 - ii. Any breach by the Public Party of a statutory duty arising under the applicable law;
 - iii. Claim for the death or the personal injury of an individual, who is not defined in Point A.iii of this Article 7.0, who dies or is injured through their own gross negligence, insofar that the Private Party has reasonably indicated to the public at large the dangers of contact with the Energy Asset(s) (e.g. documentation of an education campaign and proper signage is available);
 - iv. Other claim, action, charge, cost, demand, or expense (including, without limitation, any legal fees or costs) arising because of the performance or non-performance which is not detailed in the Defined Service, except to the extent caused by the gross negligence of the Private Party; and
 - v. Any breach by the Public Party of any warranties given by it under this PPP Agreement.

8.0 CONFIDENTIAL AND/OR PROPRIETARY INFORMATION

- A. “Confidential and/or Proprietary Information” means any information disclosed by a Party whether or not marked as confidential including but not limited to financial models, commercial, financial, product marketing and technical information, know-how, trade secrets, information about software, computer systems and software related documentation, of whatever nature and in any form or medium (including, without limitation, in written, oral, visual and electronic form) whether disclosed before or after the date of this PPP Agreement together with any reproductions of such information relating to a Party.
- B. The Parties agree that the permitted use of the Confidential and/or Proprietary Information is for the fulfilling of either Parties obligations under this PPP Agreement, and shall not be used for any other purpose by the receiving party.
- C. Should the disclosure of the Confidential and/or Proprietary Information of a party be required by law or by regulatory or judicial process, then the receiving party should notify the disclosing party of the requirement for its disclosure as soon as possible, and both Parties shall work to limit this disclosure to that as required by the law, regulatory, or judicial process.

9.0 DISPUTE RESOLUTION MECHANISM

- A. Any dispute, controversy, or claim arising out of or relating to this PPP Agreement, or the breach, termination or invalidity thereof, shall be settled in the following manner;
 - i. First, the Parties shall endeavor in good faith to resolve their dispute via mutual negotiations, where the affected Party shall give written notice of the grievance to the other Party at least seven (7) calendar days before holding a joint meeting at a scheduled place and time as agreeable by both Parties; and
 - ii. Second, if the dispute is unresolved after the mutual negotiations referred to in Article 9.0(A.i) above, then the dispute shall be referred to the PPP Governing Board, who shall offer binding judgement in a tribunal for arbitration. Refer to Annex III – Bylaws of the PPP Governing Board for the process of such a tribunal for arbitration.

- B. No dispute arising shall relieve either Party from its obligations under this PPP Agreement, unless relief is provided by a resolution arising from the mutual negotiations, or through binding judgement in a tribunal for arbitration.

10.0 TERMINATION

- A. The PPP Agreement may be terminated prior to the Termination Date for any one of the following reasons, and can only be terminated by the the PPP Governing Board, who must grant termination in accordance with ANNEX III:
- Public Party Default;
 - Private Party Default;
 - Force Majeure Event; or
 - Criminal Misconduct.

The reasons above are the only reasons to terminate the PPP Agreement prior to the Termination Date, and the Parties shall not exercise any rights to terminate this PPP Agreement except as expressly provided herein.

- B. "Public Party Default" means any one of the following events:
- i. An expropriation of a material part of the Energy Assets and/or the shares of the Private Party by the Public Party;
 - ii. A failure by the Public Party to pay amounts of money due to the Private Party in accordance with the PPP Agreement or decision of the PPP Governing Board; or
 - iii. A breach by the Public Party of its obligations under this PPP Agreement which materially renders the Private Party unable to perform its obligations under this PPP Agreement;
- C. "Private Party Default" means any of the following events or circumstances:
- i. Any compromise or arrangement with or for the benefit of the creditors being entered into by the Private Party which is not approved by the PPP Governing Board;
 - ii. The Private Party ceases to carry on business, due to bankruptcy, insolvency, business failure or other reasons;

- iii. The Private Party fails to meet the Service Commencement Date;
 - iv. The Private Party ceases to provide all or a substantial part of the Defined Services under this PPP Agreement (other than when the Private Party is impacted by Public Party Default); or
 - v. A failure by the Private Party to pay amounts of money due to the Public Party in accordance with the PPP Agreement or decision of the PPP Governing Board;
- D. “Force Majeure Event”, means:
- i. War, civil war, armed conflict, or a terrorist attack;
 - ii. Nuclear, chemical, or biological contamination unless the source of contamination is from the Private Party or its subsidiary; or
 - iii. Any act of God, or act of the Government of Fiji, which materially impairs either Parties ability to fulfill it’s obligations under the PPP Agreement, and that such event would prevent the Party from fulfilling it’s obligations in the foreseeable future.
- E. “Criminal Misconduct”, means any person acting as board member, officer, or is employed by either one of the Parties is charged with and convicted for a criminal act by the courts of the Republic of Fiji, or other competent jurisdiction. For the absence of doubt a criminal act is defined by the Crimes Act of Fiji, and the criminal act in terms of this PPP Agreement must be material to the person’s acting role under a Party to this PPP Agreement.

11.0 AMENDMENTS TO THE PPP AGREEMENT

- A. The PPP Agreement may be amended from time to time as necessary to ensure the intent of the PPP Agreement as defined in Article 3.0.
- B. Any amendment to the PPP Agreement shall be presented to the PPP Governing Board members in writing (including the draft amendment and dually signed request of approval by the Parties), and shall be approved by a unanimous written decision of the PPP Governing Board members, before signature of the amendment by the Parties.
- C. Any amendment to the PPP Agreement shall take effect on the effective date as defined in the signed amendment.

12.0 WARRANTIES

A. The Private Party warrants that:

- i. It has taken all necessary actions to authorize the execution of this PPP Agreement;
- ii. All consents required of the Private Party for the development and delivery of the Defined Services are in full force or are expected to take effect on or before the Service Commencement Date;
- iii. No litigation, arbitration, or administrative proceedings is in progress as of the date of signature of the Private Party's representatives, which may have a great impact on the ability of the Private Party to develop and deliver of the Defined Services; and
- iv. All information disclosed by or on behalf of the Private Party at any time during the procurement and/or negotiation process and up to the date of signature of the Private Party's representatives is true, accurate, and complete, and the Private Party is not aware of any material information not disclosed to the Public Party, which if disclosed would impact the decision of the Public Party to enter into the PPP Agreement with the Private Party.

B. The Public Party warrants that:

- i. It has taken all necessary actions to authorize the execution of this PPP Agreement;
- ii. All consents required of the Public Party for the development and delivery of the Defined Services are in full force or are expected to take effect on or before the Service Commencement Date;
- iii. No litigation, arbitration, or administrative proceedings is in progress as of the date of signature of the Public Party's representatives, which may have a great impact on the ability of the Public Party to fulfill its obligations as defined in this PPP Agreement; and
- iv. All information disclosed by or on behalf of the Public Party at any time during the procurement and/or negotiation process and up to the date of signature of the Public Party's representatives is true, accurate, and complete, and the Public Party is not aware of any material

information not disclosed to the Private Party, which if disclosed would impact the decision of the Private Party to enter into the PPP Agreement with the Public Party.

13.0 GOVERNING LAW AND UNENFORCEABLE PROVISIONS

- A. This PPP Agreement states the entire agreement between the Parties, shall be governed by the laws of the Republic of Fiji, and subject to the competent jurisdiction of the courts of the Republic of Fiji.
- B. If any provision(s) of this PPP Agreement is found to be unenforceable, then remainder shall be enforced as fully as possible, and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the PPP Agreement as a whole.

The below persons acknowledge that they have the authority to represent and act on the behalf of their respective Parties, and to execute this PPP Agreement on behalf of their respective Parties.

In witness whereof, the Parties have, by their duly authorized representatives, executed this PPP Agreement on the date(s) indicated below.

For and on behalf of **NAMED OF PUBLIC PARTY**

Signature	Date	Signature	Date
<Name of authorized person>		<Name of authorized person>	
<Title of authorized person>		<Title of authorized person>	

For and on behalf of **NAMED OF PRIVATE PARTY**

Signature	Date	Signature	Date
<Name of authorized person>		<Name of authorized person>	
<Title of authorized person>		<Title of authorized person>	

Witnessed by **<Representatives of the Government>**

Signature	Date	Signature	Date
<Name of authorized person>		<Name of authorized person>	
<Title of authorized person>		<Title of authorized person>	

ANNEX I: DESCRIPTION OF THE DEFINED SERVICE

Location: Bukuya, Tabalei and Natabuquto Villages, Ba District, Republic of Fiji

1) Description of The Energy Asset(s)

- a) The dam & reservoir;
- b) The penstock from the dam & reservoir to the water reserve tank (mostly below ground);
- c) The water reserve tank and valve house;
- d) The penstock from the water reserve tank to the power house (above ground);
- e) The power house building;
- f) All generation and transmission equipment in and on the property of the power house;
- g) Transmission and Distribution lines, poles, and equipment to Bukuya, Tabalei and Natabuquto;
- h) System for electricity monitoring, control and payment (connected or not to the meters); and
- i) Electricity meters and panels in households and other consumers.

2) Specified Responsibilities and Services

- a) Technical Responsibilities of the Private Party:
 - i) To provide for its own business operation;
 - ii) At least a monthly walk-through inspection of the energy assets 1.a through 1.i;
 - iii) To provide for periodic general cleaning of the dam & reservoir as needed to ensure the flow of water to the power house (item 1.a);

- iv) To provide for periodic general cleaning of the water reserve tank and valve house as needed to ensure the flow of water to the power house (item 1.c);
 - v) To provide for periodic general cleaning of the power house and generation and transmission equipment in the power house as needed to ensure power generation (item 1.e and 1.f);
 - vi) To provide daily maintenance and small parts replacement of the power generation (item 1.f);
 - vii) To provide for the operation of the power generation assets (item 1.f);
 - viii) To provide for the proper maintenance of electricity meters, within the meters supplier warranty and as not impacted by the gross negligence of the consumers. For the absence of doubt this means that consumer must pay for full replacement of meters or new meters which are outside of supplier warranty (item 1.i);
 - ix) To provide for the vending or issuance of electricity units, or other written or electronic items which allocate power to end consumers, and for the cost of this allocation (item 1.h); and
 - x) To define and provide evidence for the need and cost for major maintenance and repairs of the Energy Asset(s) 1.a through 1.i, as the case be needed.
 - xi) To provide for the operation and maintenance of transmission and distribution lines, poles, and equipment to Bukuya, Tabalei and Natabuquto (item 1.g);
 - xii) To provide for the connection of electricity to consumers, including new meters, at the consumers own cost (item 1.h and 1.i).
- b) Financial Responsibilities of the Private Party:
- i) To collect revenues from the consumers of the Energy Asset(s);
 - ii) To pay for and provide for its own cost of business operation, including amongst others the costs of management, administration, and operation staff, and legal/auditing/book-keeping services...etc;

- iii) To make payment to suppliers for any monthly or annual fees related to Technical Responsibilities of the Private Party;
 - iv) To pay for and provide for its own cost of operational and technical staff;
 - v) To make payment to the Public Party's Tariff Guarantee Fund (which is also used to cover for major maintenance cost);
 - vi) To make payment to the Public Party's income generation investment fund (which is used for income generation investments);
 - vii) To make payment to the Public Party for the agreed cooperative fee on a monthly basis;
 - viii) To make payment to reimburse the Public Party for the expense of the fees to the grantors of the right-of-way / easement of the Energy Asset(s) on an annual basis; and
 - ix) To make payment to the Government of Fiji for taxes as applied to its own business.
- c) Technical Responsibilities of the Public Party:
- i) To provide for the investment of transmission lines, poles, and equipment to Bukuya, Tabalei and Natabuquto (item 1.g);
 - ii) To provide for the investment of Distribution lines, poles, and equipment in Bukuya, Tabalei and Natabuquto to households and other consumers (item 1.h); and
 - iii) Ensuring that there is a secured and valid right-of-way / easement agreement for the Energy Asset(s).
- d) Financial Responsibilities of the Public Party:
- i) To pay for and provide for its own cost of business operation, including amongst others the costs of management & administration staff, legal/auditing/book-keeping services...etc.;

- ii) To pay for the cost of extra ordinary compensation, which is approved, out of Tariff Guarantee Fund (or similar) for consumers who have not paid for their electricity;
- iii) To pay for the cost of extra ordinary compensation, which is approved, out of Tariff Guarantee Fund for additional capital investments in the Energy Asset(s) or for costs incurred from unplanned major maintenance of the Energy Asset(s);
- iv) To make payment to the Grantors of the Right-of-Way / Easement of the Energy Asset(s) on an annual basis;
- v) To make payment for any license or fees as required by the Government of Fiji to hold and operate the Energy Asset(s); and
- vi) To make payment to the Government of Fiji for taxes as applied to its own business.

3) Monitoring and Reporting Parameters

a) Specific Monitoring Parameters for the Private Party:

- i) EG-Monthly= Monthly records of power generation (kWh);
- ii) TSE-Monthly = Total sold electricity each month (kWh);
- iii) ER = Reduced or saved CO₂e emissions (tCO₂e/yr);
- iv) THC = Total household and other consumer connections (no.);
- v) JC-TOTAL and JC-FEMALE = Reporting of total persons employed by the Private Party and total females employed (no. and no.);
- vi) QIP = Reporting qualitative implementation of the project components;
- vii)UP = Unit price of electricity for consumers (FJD/kWh);
- viii) OH = Hours per-month in Operation (h);

- ix) Itemised annual accounts (revenues and expenses) of the business related to the PPP Agreement which are third party audited;
- x) Daily log of maintenance events, including shutdowns;
- xi) Reporting on needs for need and cost for major maintenance and repairs at least every quarter (every three months); and
- xii) Extend that the Private Party has fulfilled its obligations under the PPP Agreement.

b) Specific Monitoring Parameters for the Public Party:

- i) TSE = Total sold electricity (kWh / yr);
- ii) ER = Reduced or saved CO₂e emissions (tCO₂e/yr);
- iii) THC = Total household connections (no.);
- iv) IGA = Total number of active income generating activities (no.);
- v) JC-TOTAL and JC-FEMALE = Reporting of total additional jobs created and total additional female jobs created, at the Private Party and from income generating investments (no. and no.);
- vi) CS-IGA = Level of capital savings for investment in income generating activities – Income Generating Investment Fund (FJD).
- vii) CS-IGA = Level of capital savings for covering costs of major maintenance and non-payment of consumers – Tariff Guarantee Fund (FJD);
- viii) QIP = Reporting qualitative implementation of the project components;
- ix) UP = Unit price of electricity in Bukuya (FJD/kWh);
- x) Status of the Right-of-Way / Easement of the Energy Asset(s); and
- xi) Extend that the Public Party has fulfilled its obligations under the PPP Agreement.

ANNEX II: ESTABLISHMENT AND MANDATE OF THE PPP GOVERNING BOARD AND ROLES OF REPRESENTATIVES

A PPP Governing Board (hereinafter referred to as the “Board”) shall be established as a part of, and within, the PPP Agreement between the Private Party (e.g. the private company providing the activities regarding the energy asset(s)) and the Public Party (e.g. either of the electricity cooperative of the service area, the community governing body, or a public company), jointly referred to as the “Parties”. The Board shall be composed of four Representatives as follows:

- A. One representative from the Department of Energy (DOE);
- B. One representative of another government statutory body as appointed by the DOE (e.g. this may be a person from provincial or district government);
- C. One representative of the Public Party; and
- D. One representative of the Private Party.

The Board will be the governing body and provide oversight for adherence to the PPP Agreement by the Parties, and the operation of the underlying Energy Asset(s). Where the Board’s primary objective is to ensure the continuous and sustainable operation of the Energy Asset(s), and to ensure that the PPP functions in a commercially viable manner, without placing undue financial or energy access hardships on the consumers of the energy provided under the PPP. The Board’s secondary objective is to ensure that a neutral body guides the process and operation of the PPP, including to act as a first body for resolving disputes between the Parties of the PPP Agreement. It is the goal of the Board to help mitigate risks associated to the PPP, and to build trust between the Parties of the PPP Agreement.

The Board will hold the mandate to provide for and/or address the following in terms of the PPP and the PPP Agreement between the Parties:

1. In the case that the Board is established prior to the selection of Private Party, and prior to signature of the PPP Agreement (e.g. the Board without the Private Party), for the purpose of selecting a Private Party. Where the nomination of the Private Party may be provided by the Public Party, or as deemed necessary nominated through a competitive selection process and in accordance with the laws of the Republic of Fiji. Then the Board shall evaluate the nomination of the Private Party, and make judgement on the

authorization of the Public Party and Private Party to enter into a PPP Agreement;

2. To agree to amend the PPP Agreement as deemed appropriate by the Board;
3. To identify, agree upon, and prioritize planned income generating activities to be established within the service area of the Energy Asset(s) of the PPP, and authorize (or not) the disbursement of funds for such sole-investment or co-investment in the aforementioned income generating activities, from a special fund setup for financing income generating activities under the PPP Agreement;
4. To agree to the Tariff Structure for consumers of energy in the service area of the Energy Asset(s) of the PPP, including total unit cost, and itemized components of the unit cost. Then, if required, the Board shall submit the Tariff Structure to the Government appointed regulatory body for final authorization or approval. In the case that final authorization or approval is not given, then the Board shall adjust and amend the Tariff Structure as deemed appropriate to gain the aforementioned final approval;
5. On at least an annual basis, to review the certified audited annual accounts (as provided by the Private Party and submitted to the Board) for the activities regarding the Energy Asset(s) defined under the PPP Agreement, and make adjustments to the Tariff Structure if required in accordance with the point above;
6. To review, allocate, and authorize (or not) the disbursement of funds for major maintenance activities from a special Tariff Guarantee Fund setup under the PPP Agreement;
7. To review, allocate, and authorize (or not) the disbursement of funds for unpaid (documented) expenses of the Private Party's activities regarding the Energy Asset(s) defined under the PPP Agreement from a special Tariff Guarantee Fund setup under the PPP Agreement;
8. To act as an arbitrator for any dispute between the Parties of the PPP Agreement, offering binding judgement in such cases. Any tribunal for arbitration shall be held as an extraordinary Board meeting, and any binding judgement shall be a unanimous decision of only Representatives A and B. Any such tribunal for arbitration can only take place after notice of any breach of the PPP Agreement is issued by the effected party and received by the party in breach, and that negotiations between the Parties concerning the breach has occurred and been unresolved for at least thirty (30) calendar days after the notice is received by the party in breach; and

9. To either renew, extend, or terminate the PPP Agreement. Where renewal or extension shall be approved by the Board at least thirty (30) calendar days prior to the end date of the PPP Agreement. Where termination of the PPP Agreement can be granted by the Board in the case of criminal misconduct by a Party, or Force Majeure, or can be granted by the Board after the conclusion of the arbitration tribunal above determining default by a party, and/or when the binding judgement has not been remedied by the offending Party(s) within sixty (60) calendar days of the date of the binding judgement.

The roles and responsibilities of each of the Board members are as follows:

DOE Representative: Will act as the Government’s permanent representative on the Board, with the role to ensure that the PPP operates with the regulatory and legal context of the Republic of Fiji. In doing so, also holding the responsibility to impartially act on the behalf of the citizens of Fiji impacted by the activities provided by the PPP regarding the energy asset(s). This representative shall also act as the Chairman of the Board to ensure the due process of Boards activities, to include setting the meeting agenda, mediating the Board meeting, and authorizing the minutes of meetings.

Another Government Public Party Representative as appointed by DOE: DOE may appoint another Government Public Party Representative in accordance with the by-laws of the Board. The person will have the role to ensure that the PPP operates with the regulatory and legal context of the Republic of Fiji. This representative shall also act as the Vice Chair of the Board to ensure the proper record of Board meetings, and processing of outcomes of the Board meetings.

Representative of the Public Party: Will act as the electricity cooperative’s (of the service area), the community governing body’s, or a public company’s permanent representative on the Board, with the role to represent the Public Party’s interests, ensure the Public Party’s responsibilities within the PPP, that the Board decisions, and other related actions are reported to the Public Party.

Private Party Representative: Will act as the Private Party’s permanent representative on the Board, with the role to represent the Private Party’s interests, to ensure the Private Party’s responsibilities within the PPP, that the Board decisions, and other related actions are reported to the Private Party.

WE the undersigned hereby agree to establish the PPP Governing Board, and represent the interest of the appointed parties to the PPP.

PPP Agreement – Template (v1.2)

Signature Date Signature Date

<Name of authorized person> <Name of authorized person>

Public Party Representative

Private Party Representative

(If applicable)

Signature Date Signature Date

<Name of authorized person> <Name of authorized person>

Department of Energy Representative Other Representative

Government

Statutory

Body

ANNEX III: BYLAWS OF THE PPP GOVERNING BOARD

- I. NAME: The name of the governing body shall be the “PPP Governing Board” (and the “Board” in this document).
- II. AUTHORITY AND RESPONSIBILITY: The Board will be the governing body and provide oversight for overseeing the PPP, adherence to the PPP Agreement by the Parties to the PPP Agreement, and the operation of the underlying Energy Asset(s). Where the Board’s primary objective is to ensure the continuous and sustainable operation of the Energy Asset(s) and to ensure that the PPP functions in a commercially viable manner, without placing undue financial or energy access hardships on the consumers of the energy provided under the PPP. The Board’s secondary objective is to ensure that a neutral body guides the process and operation of the PPP, including to act as a first body for resolving disputes between the Parties of the PPP Agreement. It is the goal of the Board to help mitigate risks associated to the PPP, and to build trust between the Private and Public Parties of the PPP Agreement.

The Board will hold the mandate to provide for and/or address the following in terms of the PPP and the PPP Agreement between the Parties:

- A. In the case that the Board is established prior to the selection of Private Party, and prior to signature of the PPP Agreement (e.g. the Board without the Private Party), for the purpose of selecting a Private Party. Where the nomination of the Private Party may be provided by the Public Party, or as deemed necessary nominated through a competitive selection process and in accordance with the laws of the Republic of Fiji. Then the Board shall evaluate the nomination of the Private Party, and make judgement on the authorization of the Public Party and Private Party to enter into a PPP Agreement;
- B. To agree to amend the PPP Agreement as deemed appropriate by the Board;
- C. To identify, agree upon, and prioritize planned income generating activities to be established within the service area of the Energy Asset(s) of the PPP, and authorize (or not) the disbursement of funds for such sole-investment or co-investment in the aforementioned income generating activities, from a special fund setup for financing income generating activities under the PPP Agreement;
- D. To agree to the Tariff Structure for consumers of energy in the service area of the Energy Asset(s) of the PPP, including total unit cost, and itemized components of the unit cost. Then, if required, the Board

shall submit the Tariff Structure to the Government appointed regulatory body for final authorization or approval. In the case that final authorization or approval is not given, then the Board shall adjust and amend the Tariff Structure as deemed appropriate to gain the aforementioned final approval;

- E. On at least an annual basis, to review the certified audited annual accounts (as provided by the Private Party and submitted to the Board) for the activities regarding the Energy Asset(s) defined under the PPP Agreement, and make adjustments to the Tariff Structure if required in accordance with the point above;
- F. To review, allocate, and authorize (or not) the disbursement of funds for major maintenance activities from a special Tariff Guarantee Fund setup under the PPP Agreement;
- G. To review, allocate, and authorize (or not) the disbursement of funds for unpaid (documented) expenses of the Private Party's activities regarding the Energy Asset(s) defined under the PPP Agreement from a special Tariff Guarantee Fund setup under the PPP Agreement;
- H. To act as an arbitrator for any dispute between the Parties of the PPP Agreement, offering binding judgement in such cases. Any tribunal for arbitration shall be held as an extraordinary Board meeting, and any binding judgement shall be a unanimous decision of only Representatives A and B. Any such tribunal for arbitration can only take place after notice of any breach of the PPP Agreement is issued by the effected party and received by the party in breach, and that negotiations between the Parties concerning the breach has occurred and been unresolved for at least thirty (30) calendar days after the notice is received by the party in breach; and
- I. To either renew, extend, or terminate the PPP Agreement. Where renewal or extension shall be approved by the Board at least thirty (30) calendar days prior to the end date of the PPP Agreement. Where termination of the PPP Agreement can be granted by the Board in the case of criminal misconduct by a Party, or Force Majeure, or can be granted by the Board after the conclusion of the arbitration tribunal above determining default by a party, and/or when the binding judgement has not been remedied by the offending Party(s) within sixty (60) calendar days of the date of the binding judgement.
- J.

- III. ELECTION AND APPOINTMENT OF REPRESENTATIVES: The Board shall be composed of the four Representatives as follows:
- A. One representative appointed from the Department of Energy (DOE) and appointed by the Director of the Department of Energy;
 - B. One representative of another Government Public Party other than DOE, who is appointed by the Director of the Department of Energy (e.g. this may be a person from the provincial or district government);
 - C. One representative of the Public Party, who is either of the electricity cooperative of the service area, the community governing body, or a public company, and is appointed by the Managing Director or Chairman of the governing body of the Public Party; and
 - D. One representative of the Private Party who is appointed by the Managing Director or Chairman of the governing body Private Party.

The DOE, Public Party, and Private Party shall make their appointments and changes in appointments to the Board within five (5) business-days prior to any Board meeting, and make all efforts to avoid vacancies of representatives.

- IV. OFFICERS OF THE PPP GOVERNING BOARD: The Board will have the following officers:
- A. Chairman: Shall be the Representative A from clause III, who must ensure the due process of Boards activities, to include setting the meeting agenda, mediating the Board meeting, and authorizing the minutes of meetings; and
 - B. Vice Chairman: Shall be the Representative B from clause III, who must ensure the proper record of Board meetings, and processing of outcomes of the Board meetings.
- V. MEETINGS OF THE PPP GOVERNING BOARD: The rules governing meeting of the Board consist of the following:
- A. The Annual Board Meeting shall be held once in a calendar year, on the first Tuesday of April, unless otherwise determined by the Board;and

- B. Regular Board Meetings shall be held in accordance with the schedule of meetings as determined in the Annual Board Meeting, where two Representatives of the Board may request of the Chairman a change in the date of a scheduled regular Board meeting;
 - C. An Extraordinary Board Meeting may be scheduled by the Chairman, or be requested by two Representatives of the Board making a request of the Chairman, and the Chairman shall schedule an Extraordinary Board Meeting, within 14 calendar days of receiving the aforementioned request, but no sooner than 5 calendar days after issuing a notice of the Extraordinary Board Meeting to the Representatives.
 - D. The Agenda of all Board meetings shall consist of the following:
 - Approval of Minutes from the most recent past Board meeting;
 - Report of the Chairman;
 - Report of the Representative of the Private party;
 - Report of the Representative of the Public party;
 - Old Business; and
 - New Business.
 - E. The Chairman shall notify all Representatives of the time and place of any Board meeting no sooner than 5 calendar days before the meeting.
- VI. RULES OF PROCEDURES FOR MEETINGS: The rules of procedure for meetings shall be as follows:
- A. The Board is subject to the law of the Republic of Fiji;
 - B. Three Representatives of the Board shall be necessary to constitute a quorum for meetings of the Board; and
 - C. The decision of the majority of Representatives voting on a question shall prevail, and Representatives votes shall be recorded in the minutes, and proxy voting is not permitted. Representatives may participate by electronic means if accepted by the Chairman.
- VII. OTHER PROVISIONS FOR BOARD: The following are additional provisions for the Board:

- A. Representatives must be of at least 25 years of age, and either a citizen or permanent resident of the Republic of Fiji;
- B. The Representative A and B from clause III, shall not have any personal or financial interest in the Public or Private Party. Personal interest consist of direct family members holding a position of decision making capacity in either the Public or Private Party. Financial interest means any form of ownership or holder of debt issued to the Public or Private Party; and
- C. The Representatives may be reimbursed for reasonable travel expenses (occurring with Fiji) paid by the Public Party.

VIII. AMENDMENT'S AND SUSPENSION OF BYLAWS:

- A. The Bylaws may be amended or suspended by an affirmation vote of three of the four Representatives of the Board at any meeting, provided, however, that notice of any proposed changes shall be sent by the Chairman to all Representatives (with acknowledge receipt) at least 5 calendar days before the meeting.

ANNEX IV: TARIFF METHODOLOGY AND STRUCTURE

Methodology for tariff setting

The tariff development process was carried out in three phases.

The first phase is to calculate the annual revenue requirement for the Private Party operating and managing the project, the costs of management, as well as the revenue requirement for financing the income generating activities.

The second phase is to conduct a maintenance cost analysis, develop the proposed tariff structure and to calculate the tariff rate.

The third phase is to ensure the cornerstones of a processes and instruments have been defined that will ensure a reliable and acceptable approach to allocate the revenues and to set-up a management and governance system to provide objective and unbiased guidance to the key parties involved in the PPP.

The general revenue, which the Private Party is allowed to receive through tariffs, is called "revenue requirement". It should be sufficient to cover all costs required for reliable, safe and uninterrupted daily operation of the power station and to receive a reasonable profit for the private company in charge of operation, maintenance and management.

It is noted that for calculating the tariff, the total estimated costs are divided by the total estimated power demand of consumers connected. The step and processes are described in the following sub-sections.

Costs components of the tariff

The tariff for the electricity generated and sold needs to ensure a safe and continues supply of electricity and cover all costs that are required for operating and managing the Energy Asset(s) on a daily basis, the costs for implementing the income generating activities, costs for major maintenance, and to allow for a profit margin to the Private Party. All the relevant costs can be divided in the following 6 categories:

1. Daily Operation Costs;
2. Annual Servicing Costs;
3. Private Company Annual Costs (incl. Labour);
4. Public Party Management Costs (incl. land lease);
5. Major Maintenance Costs; and

6. Investment in income generating activities.

The following Table 1 (example) should provide detailed information about the individual costs components attributed to daily operation costs, annual servicing costs, Private Party Annual Costs (incl. Labour), and Public Party Management Costs (incl. land lease). Whereas, Table 2 indicates that annualized major maintenance costs, assuming equipment life time (example 12 years time period). Note that the annualized major maintenance costs is derived by dividing the total cost by the life time.

Items	Quantity	Frequency	Unit Price	Annual Cost	Total Cost
					FJD
Annual Servicing of					XXXX
Daily Operation (Nominal Replacement Parts)					XXXX
Private Party Annual Costs					XXXX
Public Party Management Costs					XXXX
TOTAL Annual Operating and Maintenance Costs				FJD	XXXX
Monthly breakdown				FJD	XXXX

Table 1: Annual operating and maintenance costs

Items	Quantity	Frequency	Unit Price	Annual Cost	Total Cost
					FJD
Major Maintenance Costs					XXXX
TOTAL Annual Operating and Maintenance Costs				FJD	XXXX
Monthly breakdown				FJD	XXXX

Table 2: Annual major maintenance costs

The following Table 3 summarizes the itemized costs of the selected income generating activities, which is further divided by the expected period of investment in the income generating activities (example 3 years).

Items	Quantity	Unit Price	Cost	Total Cost
				FJD
Income Generating Activity 1				XXX
Income Generating Activity 2				
Total				XXXX
Annual over X years				XXXX

Table 3: Investment costs of income generating activities

The following Table 4 summarizes all cost components and provides an overview of the total annual costs per category and for the PPP in total. For the investment costs in income generating activities, the total costs should be divided in a number of years the investment will take (for a example 3 years), as the implementation period of all the chosen activities, to estimate the annual costs. As well an error/contingency margin should be determined (example +10%).

Tariff Components	Annual Cost
Daily Operational Costs	
Continual Maintenance Costs	
Company Management Costs (incl. Labour)	
Cooperative Costs (incl. lease)	
Major Maintenance Costs	
Investment in income generating activities	
	FJD
TOTAL Annual	XXX
Margin of Error (+ 10%)	XXX

Table 4: Total annual costs of PPP

Power Demand of the service area

After determining the total costs of operation and management and the required revenue for the project, it is important to estimate the annual electricity demand of the power consumers connected to the Energy Asset(s). Originally, there may be only very limited and old data about power consumption available. To ensure greater accuracy regarding the power demand of consumers, the power demand survey can be used. With the objective to receive realistic information about the electric appliances (consumption) used by the potential consumers in the service area.

Such a survey should include the question of which electric appliances exist and would be in use, as well as the estimated operation time per day (in hours). For calculating the daily power consumption / demand of the appliances, conservative estimations about the average power rating in watts were used (based on research of common electrical appliances available in Fiji and the local area). With these

parameters, the daily consumption in Wh is calculated per appliance and per household/service consumer.

The most common electrical appliances are mobile chargers, TVs and light appliances (LED/CFL). In terms of the daily electricity consumption ironing, using a refrigerator, watching TV, and listening to the radio are the highest combined electricity consuming activities.

The results of the survey will give the average household electricity demand in the in the service area as X.XX kW per day. Accordingly when extrapolated to the total number of households in the service area (XXX households), the total electricity demand of all households is estimated to be XXX kWh per day (or XXX MWh per year).

For service providers (e.g. health centre, nurses' quarters, teacher quarters / school, resorts, commercial businesses....) the situation is slightly different. In terms of the electricity consumption, computers and electric ovens as well a smaller number of electric appliances with a higher power load (e.g. washing machine, steriliser, electric kettle) are responsible for the major part of the power consumption. The total electricity demand for the service providers can be XX.XX kWh per day (or XX MWh per year).

Alternative to the above, and more accurate, is if the Energy Asset(s) are already installed and operational, and all consumers are connected, then load metering can be attached to the transmission/distortion point at the generation point. This can often give an hour-by-hour reading of power demand in the total system, but should be gather over several week or better months. Note that the "total demand" should be at the consumer level, and any losses from transmission/distribution or theft should be accounted for in the final total demand value. The below Table 5 gives an example of the output of a demand study.

Total Demand					
Items	Number	Average Daily Load (Wh)	Daily Load (kWh)	Monthly Load (kWh)	Annual Load (kWh)
Households					
Services					
Total			XXXX	XXX	XXXXXX
				Theoretical Plant Load Factor	XX%

Table 5: Total annual power demand of Bukuya project area

Tariff Setting

With the information received for the required PPP revenue and the annual electricity demand in the service area, the tariff that would be required to ensure the sustainable PPP of the project can be calculated. The following formula is used to calculate the tariff:

$$T = \frac{RR_Annual}{W_Annual}$$

Where:

T = Tariff [FJD/kWh]

RR-Annual = Annual Required Revenue [FJD]

W-Annual = Annual Power Demand of Service Area [kWh]

By applying this formula for the PPP and the figures on RR-Annual and W-Annual, a tariff of 0.XX FJD/kWh is calculated. To account for uncertainties both on the cost side and the power demand side, regarding the input parameters for the tariff setting, a margin of error of at least +10% should be applied. Taking this into account, the final tariff should be set in the range of 0.XX FJD/kWh (minimum) and 0.XX FJD/kWh (maximum).

The tariff can then be broken down into a proportionate share of the tariff by item in the table below.

Tariff Components	Annual Cost	Part of Tariff	Part of Tariff
		FJD/kWh	%
Daily Operational Costs			
Continual Maintenance Costs			
Company Management Costs (incl. Labour)			
Cooperative Costs (incl. lease)			
Major Maintenance Costs			
Investment in income generating activities			
	FJD	FJD/kWh	
TOTAL Annual	XXX	0.XX	
Margin of Error (+ 10%)	XXX	0.XX	

Table 6: a proportionate share of the tariff by item