



GRANT AGREEMENT

between

AFRICA INSTITUTE

And

THE DEVELOPMENT BANK OF SOUTHERN AFRICA

A handwritten signature in black ink, appearing to read 'H. M. Cox' or similar, located in the bottom right corner of the page.

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PARTIES

1. **The Development Bank of Southern Africa Limited**, a development finance institution reconstituted and incorporated in terms of section 2 of the Development Bank of Southern Africa Act, 1997 as the Project Agency; and
2. **Africa Institute**, an Intergovernmental Organisation established through a treaty that member states ratify to become full members ratified on 31 March 2014, as the Executing Agency.

1. DEFINITIONS

For the purpose of this Agreement, unless the context indicates otherwise, the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

- 1.1. **"Agreement"** means this Grant agreement including any schedules hereto;
- 1.2. **"Applicable Laws"** mean all applicable laws, ordinances, regulations, judgments and orders of any competent court or executive authority having the force of law in the Republic of South Africa and/or other competent jurisdiction;
- 1.3. **"Application"** means the Project Identification Form submitted to the GEF Council in respect of the Project;
- 1.4. **"Approval Date"** means the date upon which the Application was approved by the DBSA being 21 July 2016.
- 1.5. **"Authorisations"** mean all authorisations (governmental, regulatory or otherwise) that are necessary for the implementation of the Project;
- 1.6. **"Availability Period"** means a period calculated from the date of the Signature and ending on the date falling 66 months thereafter;
- 1.7. **"Business Day"** means any day other than a Saturday, Sunday or a day which is a statutory public holiday in the Republic of South Africa;
- 1.8. **"Coercive Practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a Party;

- 1.9. **"Collusive Practice"** means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- 1.10. **"Confidential Information"** means all information confidential to a Party (including any information confidential to the DFFE and GEF), to the extent that it is not freely and publicly available, commercial, financial, technical, scientific and research information; trade secrets, passwords, or other secret codes, information disclosed with the permission of third parties in which the third parties have confidentiality rights, information legally protected from disclosure, any information the unauthorised disclosure of which could be expected to cause harm or risk to the Party having disclosed the confidential information and any other information designated by such disclosing Party as confidential or which is manifestly confidential;
- 1.11. **"Connected Person" or "Connection"** shall mean in relation to a company connected with another person:
- 1.11.1. the person has control of the company, or
 - 1.11.2. the person together with persons connected with them have control of the company;
 - 1.11.3. the person is an associate of the company;
 - 1.11.4. the person is a joint venture in which the company is a venturer;
 - 1.11.5. the person is a member of the key management personnel of the company or its parent;
 - 1.11.6. the person is a close member of the family of any individual referred to in 1.11.1, 1.11.2, or 1.11.5;
 - 1.11.7. the person is an entity that is controlled, jointly controlled or significantly influenced by or for which significant voting power in such entity resides with, directly or indirectly, any individual referred to in 1.11.5 or 1.11.6; or
 - 1.11.8. the person is a post-employment benefit plan for the benefit of employees of the company, or of any entity that is a related party of the company.
- 1.12. **"Constitutional Documents"** means in respect of any person at any time, the then current and up-to-date constitutional documents of such person at such time (including, without limitation, such person's memorandum of incorporation, certificate of

incorporation, certificate to commence business, trust deed, letter of authority, certificate of change of name (if applicable), special resolutions or any other document/s constituting or evidencing the incorporation of such person) as may be required by the DBSA;

- 1.13. **"Corrupt Practice"** means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another;
- 1.14. **"DBSA"** means the Development Bank of Southern Africa Limited, a development finance institution reconstituted and incorporated in terms of section 2 of the Development Bank of Southern Africa Act, 1997;
- 1.15. **"DFFE"** means the National Government of the Republic of South Africa acting through its national Department of Forestry, Fisheries and the Environment;
- 1.16. **"Disbursement"** means an amount drawn down by the Executing Agency and disbursed by the DBSA under and in terms of a Disbursement Request and in accordance with the Implementation Plan and Project Budget, and **"Disbursed"** shall be construed accordingly;
- 1.17. **"Disbursement Request"** means a request made by the Executing Agency for utilization of the Grant to be released upon the Signature of the Grant Agreement and the fulfilment of the Conditions Precedent;
- 1.18. **"Endorsement Date"** means the date on which the application was approved by the GEF, which is the 26th October 2020.
- 1.19. **"Effective Date"** means the first Business Day after the DBSA notifies the Executing Agency upon being satisfied that all of the Conditions Precedent have been fulfilled or waived, as the case may be as set out in clause 6.3;
- 1.20. **"Event of Default"** means any one or more events or circumstances as envisaged in clause 15;
- 1.21. **"Executing Agency"** means the Africa Institute;
- 1.22. **"FICA"** means the Financial Intelligence Centre Act, 2001 and all notices and regulations passed thereunder;
- 1.23. **"Financial Year"** means each year commencing on 1 April of each year and ending on 31 March of the following year;

- 1.24. **"Force Majeure Event"** means any event or circumstance occasioned by or resulting from an act of God or public enemy, fire, explosion, earthquake, perils of the sea, flood, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, strikes (excluding strikes which are specific to the Project site, the Executing Agency or any of its subcontractors, only), blockade, embargo, sanctions, epidemics, act of any Government or other Authority, compliance with Government orders, demands or regulations, or any circumstances of like or different nature beyond the reasonable control of the Party;
- 1.25. **"GAAP"** means the Generally Accepted Accounting Principles as approved from time to time by the International Accounting Standards Committee;
- 1.26. **"GEF"** means the Global Environment Facility;
- 1.27. **"Grant"** means a facility in the form of grant funding made available by the DBSA to the Executing Agency under this Agreement in an aggregate sum not exceeding the Grant Amount;
- 1.28. **"Grant Amount"** means an amount of USD 8,242,500 (eight million two hundred and forty-two thousand five hundred US Dollars) inclusive of value-added tax and all applicable taxes thereon;
- 1.29. **"IFRS"** means the International Financial Reporting Standards as approved from time to time by the International Accounting Standards Board;
- 1.30. **"Implementation Plan "** means the implementation plan prepared by the Executing Agency and approved in writing by the DBSA setting out the deliverables against which to measure the progress of the Project and the Project Budget set out in Schedule 1, including any amendments thereof as may be agreed in writing between the Parties;
- 1.31. **"Intellectual Property"** means any intellectual property, including but not limited to all technical, commercial, financial and marketing information and know-how, including all concepts, specifications, data, diagrams, chemical structures, manufacturing and production techniques and designs, specifications and formulae, products, systems, methods, processes, formulae, memoranda, reports, manuals, and computer modelling; all inventions, designs, trade-marks and other works, whether registerable or the subject matter of an application for such registration or of copyright or not; as well as all statutory intellectual property, comprising all patents and trade-marks, whether registered or being or yet to be applied for, and all copyright in any works,

including but not limited to, literary works and computer programmes; relating to any research, development and/or Commercialisation;

- 1.32. **"IPR Act"** means the Intellectual Property Rights from Publicly Funded Research and Development Act 51 of 2008;
- 1.33. **"Material Adverse Event"** means any event or combination of events and/or circumstances which, in the opinion of the DBSA, has or might reasonably be expected to have a material adverse effect on:
- 1.33.1. the Project, business, operations, property, condition (financial or otherwise) or prospects of the Executing Agency; and/or
 - 1.33.2. the ability of the Executing Agency to perform its obligations in terms of this Agreement, as more fully set out in the Implementation Plan and Project Budget; and/or
 - 1.33.3. the ability of the Executing Agency to exercise and enforce any right granted or intended or purported to be granted to it under this Agreement; and/or
 - 1.33.4. the validity, enforceability and/or legality of this Agreement or any other Project document;
- 1.34. **"Parties"** means the DBSA and the Executing Agency;
- 1.35. **"Patent Rights"** means a Party's rights in patents or patent applications, whether domestic or foreign, claiming Inventions arising directly from the Project, including but not limited to, any patents that may issue thereon and any and all provisional, divisions, continuations, reissues, re-examinations or extensions thereof;
- 1.36. **"Permitted Recipients"** means employees, directors, officers, professional advisors, financiers and consultants of the Executing Agency;
- 1.37. **"Potential Event of Default"** means any event or circumstance which, with the giving of notice, lapse of time or expiry of a grace period or making of any determination under this Agreement or fulfilment of any other condition, would be or constitute an Event of Default;
- 1.38. **"Progress Report"** means a report covering progress made in implementation of the Project including a financial reporting of expenditures providing personnel, budget, and other required financial information for the preceding unreported period;

- 1.39. **"Project"** means all activities to be undertaken in fulfilment of this Agreement in order to reduce and eliminate the use and releases of Polychlorinated Biphenyls ("PCBs") to the environment through development and implementation of a pilot project on environmentally sound management, and the disposal of PCB-contaminated equipment and PCB-containing oils and wastes in South Africa, as well as to develop capacity through raising awareness and training of stakeholders such as municipalities, ensuring that affected institutions will manage PCBs in an environmentally sound manner, as described more fully in the Implementation Plan;
- 1.40. **"Project Account"** means the ring-fenced Pastel™ cost code account to be opened by the Executing Agency exclusively for the Purpose in which the Grant Amount shall be recorded and tracked and from which all transactions related to the Purpose shall be recorded and tracked;
- 1.41. **"Project Budget"** means the budget which sets out all expenses related to the Project, submitted to and approved in writing by the DBSA, as set out in the Implementation Plan and Project Budget Schedule;
- 1.42. **"Project Completion Date"** means the date upon which the Project is expected to be finally completed, as set out in the Implementation Plan;
- 1.43. **"Purpose"** means utilising the Grant Amount solely for payment of the Project expenses as set out in the Project Budget;
- 1.44. **"Quarter"** means a period of 3 (three) consecutive calendar months during the Financial Year, beginning from the first day of the month falling after the Effective Date, and **"Quarterly"** shall be construed accordingly;
- 1.45. **"Related Party"** means a Connected Person;
- 1.46. **"Related Party Transactions"** means a transfer of resources or obligations between Connected Persons, regardless of whether or not a price is charged which transfer is undertaken in respect of any of the following transactions:
- 1.46.1. Transactions involving the sale or purchase of goods;
- 1.46.2. Transactions involving the sale or purchase of property and/or assets;
- 1.46.3. Transactions involving the lease of property and/or assets;
- 1.46.4. Transactions involving the provision or receipt of services or leases;

- 1.46.5. Transactions involving the transfer of intangible items (e.g. research and development, trademarks, license agreements);
 - 1.46.6. Transactions involving the provision, receipt, or guarantee of financial services (including loans and deposit services);
 - 1.46.7. Transactions involving the assumption of financial/operating obligations;
 - 1.46.8. Transactions that include the subscription for debt/equity issuances; and
 - 1.46.9. Transactions that involve the establishment of joint-venture entities.
- 1.47. **"Signature Date"** means the date upon which this Agreement is signed by the Party signing last, provided that all Parties sign this Agreement;
- 1.48. **"Taxes"** means all taxes (including value-added tax), charges, imposts, levies, deductions, withholdings or fees of any kind whatsoever, or any amount or payment on account of or as security for any of the foregoing by whomsoever and on whomsoever imposed, levied, collected, withheld or assessed, together with any penalties, additions, fines, surcharges or interest relating thereto, and **"Tax"** and **"Taxation"** shall be construed accordingly;
- 1.49. **"Termination Date"** means the date falling on the sixty-six (66) month anniversary of the Effective Date;

2. INTERPRETATION OF AGREEMENT

- 2.1. Any reference in this Agreement to:
- 2.1.1. an **amendment** includes a supplement, novation or re-enactment and amended is to be construed accordingly;
 - 2.1.2. **Law** shall be construed as any law (including statutory, common or customary law), statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order, other legislative measure, directive, requirement, request or guideline (whether or not having the force of law but, if not having the force of law, is generally complied with by the persons to whom it is addressed or applied) of any government, supranational, local government, statutory or regulatory or self-regulatory or similar body or authority or court and the common law, as amended, replaced, re-enacted, restated or reinterpreted from time to time;

- 2.1.3. a **month** means a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day but one in the next calendar month, except that if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one;
- 2.1.4. a **schedule** shall, subject to any contrary indication, be construed as reference to an appendix to this Agreement.
- 2.2. In this Agreement, unless the context otherwise indicates:
- 2.2.1. all words and expressions referring to any one gender shall be capable of being construed as a reference to the other genders;
- 2.2.2. the words signifying the singular shall include the plural and vice versa;
- 2.2.3. a reference to a natural person shall be capable of being construed as a reference to a juristic person and vice versa;
- 2.2.4. where figures are referred to in numerals and in words in this Agreement, if there is any conflict between the two, the words shall prevail;
- 2.2.5. words and phrases defined in this Agreement shall bear the meaning assigned to them throughout this Agreement;
- 2.2.6. words and phrases used in this Agreement, which are defined or used in any statute, which applies to the subject matter, professional person, goods, or services shall be construed in accordance with the applicable statute or regulations; and
- 2.2.7. headings of clauses and schedules are for convenience only and shall not govern or affect the interpretation, modify or amplify the terms within this Agreement, nor any clause or appendix thereof.
- 2.3. In the event of a conflict between the provisions of this Agreement and those of its schedules, the provisions of this Agreement will supersede those of its schedules.
- 2.4. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

3. INTRODUCTION

- 3.1. The DBSA has applied for GEF support by submitting the Application. The Application was approved by GEF on the Endorsement Date and by the DBSA on the Approval Date. The DBSA intends advance the Grant to the Executing Agency to be used for the Purpose, all on the terms and conditions contained in this Agreement.
- 3.2. The main objective of the Project is to reduce and eliminate the use and releases of Polychlorinated Biphenyls ("PCBs") to the environment through development and implementation of a pilot project on environmentally sound management, and the disposal of PCB-contaminated equipment and PCB-containing oils and wastes in South Africa. It further aims to develop capacity through raising awareness and training of stakeholders such as municipalities, ensuring that affected institutions will manage PCBs in an environmentally sound manner.
- 3.3. This Agreement records the terms and conditions for the cooperation of the Parties in the implementation of the Project.

4. GRANT

- 4.1. Subject to the terms and conditions of this Agreement, the DBSA undertakes to make available to the Executing Agency the Grant Amount subject to clause 4.2 below.
- 4.2. The Grant shall be used by the Executing Agency solely for the Purpose.
- 4.3. The Grant Amount will not exceed the Project Budget required by the Executing Agency for implementing the Project.
- 4.4. The Grant Amount is fixed and shall not exceed the amount set out in the Implementation Plan and Research Budget without the prior written consent of the DBSA.
- 4.5. The Executing Agency shall, subject to this clause 4, request a Disbursement by delivering to the DBSA the Disbursement Request within 5 (five) Business Days from the Effective Date.
- 4.6. The Grant transferable to the Executing Agency under this Agreement will be paid within 20 (twenty) Business Days after the receipt, consideration and approval by the DBSA, of the complete and acceptable Disbursement Request. The DBSA shall make

payment of the Disbursement under this Agreement into the Executing Agency's Bank Account.

4.7. The Executing Agency hereby acknowledges and agrees that the amount Disbursed in accordance with clause 4.6 shall constitute a valid Disbursement made by DBSA (or other funder), the benefit of which shall have been received by the Executing Agency.

4.8. Reimbursement of unsupported Disbursement:

4.8.1. To the extent that an audit of the Executing Agency's Bank Account in connection with the Project by the auditors of the Executing Agency does not provide evidence satisfactory to the Auditors of the DBSA that the Disbursement has been used or has been committed to be used consistently with or in full for the Purpose in accordance with this Agreement, then the Executing Agency shall, upon the DBSA's demand, within 5 (five) Business Days of notification by the DBSA, reimburse the DBSA any amount of the Disbursement not so used.

4.8.2. For the avoidance of doubt, the Disbursement will, for the purposes of this Agreement, not have been used consistently with this Agreement if the Disbursement (or any part thereof) is used for any purpose other than the Purpose, including in relation to:

4.8.2.1. a Corrupt Practice, Coercive Practice, Collusive Practice or Fraudulent Practice; or

4.8.2.2. any event that may lead the DBSA to cancel the Grant in terms of this Agreement.

5. UTILISATION OF THE GRANT

5.1. The Grant shall be used by the Executing Agency solely for the purposes under the Project as set out in the Project Implementation Plan.

5.2. The Grant shall not be utilised for, *inter alia*, any of the following activities:

5.2.1. payment of existing debts;

5.2.2. payment of costs unrelated to the Project;

5.2.3. payments to related persons of the Executing Agency, save for services actually rendered by such related persons in the ordinary course of

business of the Executing Agency and subject to the prior approval of the DBSA;

- 5.2.4. any illegal activities;
- 5.2.5. any success fees or facilitation fees; and/or
- 5.2.6. any other purpose not included in the Project Implementation Plan unless approved by DBSA in writing.

6. CONDITIONS PRECEDENT

6.1. Save for clauses 1 to 3, 12 and 16 to 32 (both inclusive), all of which will become effective immediately, this Agreement is subject to the fulfilment of the following Conditions Precedent:

- 6.1.1. the Executing Agency shall have opened a dedicated Pastel™ cost code account (or similar cost code account) for the Project ("**Project Account**"), which shall reflect the Grant received in respect of the Project, such Project Account which shall form part of the financial audit report annexures of the Executing Agency;
- 6.1.2. the Executing Agency shall have provided documentary proof of its bank account details;
- 6.1.3. the Executing Agency shall have submitted to the DBSA all information and documentation requested by the DBSA for purposes of conducting and completing a legal due diligence of the Executing Agency, all to the satisfaction of the DBSA, and shall have taken steps to the satisfaction of the DBSA to remedy any material risks identified by the DBSA in terms of the abovementioned due diligence investigation;
- 6.1.4. the Executing Agency shall have submitted its latest audited financial statements to the DBSA (if applicable);
- 6.1.5. a certified copy of the Constitutional Documents in respect of the Executing Agency;
- 6.1.6. a certified copy of a resolution of the Board of Directors of the Executing Agency or a delegation of authority approving the terms of this Agreement and authorising the authorised representatives of the Executing Agency to execute the Agreement;

- 6.1.7. Receipt by the DBSA of the Implementation Plan and Project Budget in final form as agreed with the DBSA, all duly initialled/signed by the Executing Agency and the DBSA, as the case may be; and
- 6.1.8. the Executing Agency shall have provided the DBSA with all documents required to comply with the obligations imposed on the DBSA by FICA and the regulations pertaining thereto and in terms of internal procedures which the DBSA may, from time to time, be required to adhere to in order to establish and verify identities of contracting parties to this Agreement.
- 6.2. The Parties shall use their reasonable commercial endeavours and the Parties will co-operate in good faith to procure the fulfilment of the Conditions Precedent contained in clause 6.1.
- 6.3. The Conditions Precedent set out in clause 6.1 above have been inserted for the benefit of the DBSA, which will be entitled to waive the fulfilment of such Conditions Precedent, in whole or in part, by written notice to the Executing Agency.
- 6.4. Unless all the Conditions Precedent have been fulfilled or waived, the provisions of this Agreement, save for clauses 1 to 3, and clauses 12 and 16 to 32 (both inclusive) which will remain of full force and effect, will never become of any force or effect and the status quo ante will be restored as near as may be and neither of the Parties will have any claim against the other in terms hereof or arising from the failure of the Conditions Precedent, save for any claims arising from a breach of clause 6.2.

7. DURATION

- 7.1. The Parties agree that subject to:
 - 7.1.1. the fulfilment or waiver, as the case may be, of the Conditions Precedent;
 - 7.1.2. there being no Event of Default or Potential Event of Default,this Agreement shall commence on the Effective Date and shall continue until the Termination Date.

8. OVERSIGHT ROLE OF THE DBSA

- 8.1. The role of the DBSA shall include but not be limited to the following activities in relation to the Project:

- 8.1.1. periodically reviewing the Project and outlining any discrepancies in respect of the Project Implementation Plan, which the Executing Agency is obliged to rectify;
 - 8.1.2. reviewing the Progress Reports to be submitted by the Executing Agency to ensure that the Project is progressing in accordance with this Agreement;
 - 8.1.3. if the DBSA, in its sole discretion deems necessary, undertaking periodic on-site visits to verify the progress of the Project;
 - 8.1.4. ensuring and maintaining on-going communication with the Executing Agency throughout the Agreement; and
 - 8.1.5. providing oversight to the Project to ensure delivery in line with the approved Project Implementation Plan.
- 8.2. The Parties hereby agree that the DBSA reserves the right to undertake the necessary measures to ensure delivery in line with the approved Implementation Plan subject to fiscal allocation and in line with GEF requirements.

9. SCOPE OF THE PROJECT

- 9.1. The scope of the Project, the roles of the Executing Agency, time frames and budget shall be as stipulated in Schedule 1 of this Agreement.

10. RESPONSIBILITIES OF THE EXECUTING AGENCY AND DELIVERABLES

- 10.1. The Executing Agency shall:

- 10.1.1. In close collaboration with DBSA and DFFE, formulate Terms of Reference for and recruitment of national and international consultants, where relevant;
- 10.1.2. In line with GEF and DBSA's requirements, recruit and appoint national and international Consultants to execute the Project;
- 10.1.3. Under the guidance of DBSA as the GEF Project Agency and DFFE, lead and complete the implementation of the Project ensuring compliance with GEF and DBSA requirements:

- 10.1.3.1. Formulation of Project work plan and budget;

- 10.1.3.2. Formulate project team;
 - 10.1.3.3. Execute project technical and administrative activities;
 - 10.1.3.4. Stakeholder consultations and incorporation of all comments from stakeholders including, DFFE and GEF Secretariat; and
 - 10.1.3.5. Project Scoping and Strategy development.
- 10.2. The Executing Agency shall submit to the DBSA no later than thirty (30) days after the sixth month anniversary of the Effective Date Draft Report covering the Project implementation and a financial report of expenditure in respect of personnel, research budget, and other relevant financial information for the preceding unreported period. The format of the Report shall be agreed to by the Parties and appended to this Agreement as Schedule 3, and each such Report shall be submitted electronically to the DBSA's representative as stipulated in clause 26.2. Reporting to the DBSA needs to happen on a quarterly basis.
- 10.3. Within 30 days after the end of the term of the Project the Executing Agency shall provide a Final Report describing the Project implementation and deliverables completed, a financial reporting of expenditures providing personnel, budget, and other relevant financial information. In the event that any component of the Project proposed in the Application was not conducted, was not completed, or was materially modified, the Final Report shall include an explanation justifying such failure or modification. The Final Report shall also describe the translation potential and significance of the results of the Project. The Executing Agency shall provide one hard copy and one soft copy of the Final Report.
- 10.4. The Executing Agency shall in addition submit to the DBSA, on a Quarterly basis, a financial report on expenditure in respect of personnel, Project Budget, and other relevant financial information for the preceding unreported period.
- 10.5. If requested by the DBSA or GEF, the Executing Agency shall make periodic oral reports at times agreed to by the Parties.
- 10.6. GEF and DFFE shall have the right to use information disclosed in these reports, subject to the terms of this Agreement.

11. MONITORING

- 11.1. The DBSA will be responsible for the monitoring of the implementation of the Project in terms of the Implementation and Project Budget. This will be accomplished by the monitoring of reports submitted by the Executing Agency in accordance with the provisions and time-lines set out in the Implementation Plan, together with any additional information which may be required by the DBSA in its sole discretion from time to time for monitoring purposes.
- 11.2. The DBSA may, at its own discretion, appoint a technical expert to monitor and evaluate the Project to assess the progress and authenticity of the results.

12. **CONFIDENTIALITY**

- 12.1. The Parties undertake to treat all Confidential Information as strictly confidential between themselves and not to divulge any Confidential Information and/or or proprietary information in respect of each other to other parties (including in relation to the DFFE and GEF), unless otherwise required by law or agreed to in writing or required by the DBSA in order to fulfil the conditions of this agreement. The DBSA will nevertheless not be liable for information wrongfully obtained from the DBSA or the DFFE. The following may however be made public by the DBSA:
 - 12.1.1. after this Agreement has been signed, the Application Date, name of the Executing Agency, Grant Amount and the Project Completion Date; and
 - 12.1.2. after the final deliverables have been completed or the Project has been cancelled or terminated, the name of the Project, actual Grant Amount paid, Project Completion Date and a concise generic description of the Project.
- 12.2. The Executing Agency may disclose the Confidential Information of the DBSA to its Permitted Recipients, provided that:
 - 12.2.1. the Executing Agency will take such steps as are necessary to ensure that its Permitted Recipients to which Confidential Information is disclosed adhere to this Agreement;
 - 12.2.2. any disclosure by a Permitted Recipient of the DBSA's Confidential Information contrary to this Agreement will be an unauthorised disclosure by the Executing Agency.
- 12.3. The Executing Agency will not use the Confidential Information for any purpose other than:

- 12.3.1. that for which it is disclosed in connection with this Agreement;
 - 12.3.2. as otherwise permitted by the DBSA in writing; or
 - 12.3.3. in accordance with this Agreement.
- 12.4. The DBSA does not warrant that the Confidential Information it discloses is accurate or complete and the DBSA will not be liable for any losses, damages, costs or penalties suffered by, or claims made against, the Executing Agency as a result of any inaccuracies in, or incompleteness of, the Confidential Information disclosed.
- 12.5. The Executing Agency hereby indemnifies the DBSA against any loss, cost, damages, expense or liability arising from, or in connection with, disclosure of Confidential Information contrary to this Agreement by the Executing Agency, or Permitted Recipients or third parties to which the Executing Agency has made disclosure.
- 12.6. Upon the request of the DBSA, the Executing Agency will, within 5 (five) Business Days, return, destroy or expunge from any storage device all Confidential Information other than documents prepared by the Executing Agency; provided that if required by Law or for purposes of this Agreement, the Executing Agency may retain 1 (one) copy of the Confidential Information for the period so required.
- 12.7. Notwithstanding the provisions of this Clause 12, it is recorded that the DBSA may be required to disclose information to GEF in terms of the GEF Practises on Disclosure of Information. The Executing Agency holds the DBSA harmless against any and all costs, losses, suits and damages arising out of the disclosure of information by GEF in terms of their Practises on Disclosure of Information.

13. UNDERTAKINGS BY THE EXECUTING AGENCY

The Executing Agency hereby undertakes:

- 13.1. to provide for a separate cost centre in its accounting system in order to record expenses related to the Project as well as the income originating from the Project and to keep full, true and accurate books of account and records in accordance with GAAP or IFRS. Such books of accounts and records shall be kept at the premises where the Executing Agency carries on business. The DBSA shall be permitted at any time during business hours to have an independent auditor of the DBSA's selection examine all of the aforementioned books of accounts and records, including information stored in computer readable form, and to take copies of all such documents, books and records;

- 13.2. to immediately inform the DBSA in writing of the material details of any financing the Executing Agency acquires from other private sector or governmental sources, banking and/or financial institutions in respect of the Project;
- 13.3. to ensure that any activities undertaken as part of the Project, including but not limited to, employment, recruitment or any other labour, are sourced locally and only sourced externally where such capabilities and skills cannot be readily obtained locally or where the external sourcing of such capabilities and skills is crucial to ensure the Executing Agency adequately performs and achieves in terms of the Project Implementation Plan;
- 13.4. to respond, to the best of its ability, to any questionnaires for the purpose of evaluating the DBSA for the Republic of South Africa;
- 13.5. not to use any portion of the Grant for any expenses other than those provided for in the Project Budget;
- 13.6. all sub-contracting will be to entities that the Executing Agency has no interest in or connection to. If the Executing Agency has an interest in or connection with the sub-contractor which the Executing Agency intends to use, the Executing Agency shall disclose such information to the DBSA and obtain prior written consent from the DBSA before the Executing Agency can appoint the sub-contractor. Any change of the sub-contractor shall require the prior written consent of the DBSA;
- 13.7. All transactions between the Executing Agency and Connected Persons must be effected on arm's length terms.

14. REPRESENTATIONS AND WARRANTIES

- 14.1. The Executing Agency represents and warrants that:
 - 14.1.1. it has the power to enter into and perform, and has taken all the necessary action to authorise its entry into and performance under this Agreement;
 - 14.1.2. the entry into and performance by it of the terms and conditions as contemplated by this Agreement will not conflict with:
 - 14.1.2.1. any Applicable Law;
 - 14.1.2.2. its Constitutional Documents; and/or
 - 14.1.2.3. any agreement or instrument binding upon it or any of its assets;

- 14.1.3. it has disclosed to the DBSA all information at its disposal pertaining to the Project as required in clause 6.1 and during the DBSA's investigation thereof;
- 14.1.4. it has disclosed to the DBSA any financing for the Project made available by or applied for from any governmental source and private sector including any banking and/or financial institution;
- 14.1.5. All transactions between the Executing Agency and any other "Connected Persons" as defined in section 1 of the Companies Act read together with clause 1.11 or any other person referred to in section 31(3)(a)(ii) of the Income Tax Act ("Tax Act") 58 of 1962 as amended read with section 31(3)(b) of the Tax Act are not capable of being challenged by the South African Revenue Services under any Tax law including, but not limited to, section 31, section 56 and/or section 103 of the Tax Act;
- 14.1.6. All transactions between the Executing Agency and Connected Persons were effected, before the signing of this Agreement, on arm's length terms;
- 14.1.7. No transactions or arrangements involving any of the Executing Agency has taken place or are in existence, which are such that a South African Revenue Services is able to ascribe terms to such transactions or arrangements that differ from the terms agreed by the Executing Agency, and which would affect the Tax position of the Executing Agency;
- 14.1.8. Insofar required by Law, the Executing Agency has made or obtained records or documents in respect of transactions between the Executing Agency, and transactions between the Executing Agency and Connected Persons that meet the requirements of the appropriate Law;
- 14.1.9. all the Intellectual Property rights existing and developed as a result of the Project, which the Executing Agency own or claim to own is not in any manner whatsoever owned by any other party;
- 14.1.10. no Event of Default or Potential Event of Default:
- 14.1.10.1. has occurred or is continuing under or in respect of any agreement or document to which the Executing Agency is a party or by which it may be bound, including this Agreement;

14.1.10.2. might reasonably be expected to result from the conclusion of this Agreement to which it is a party or the making of any of the Disbursements to the Executing Agency;

14.2. The DBSA is entering into this Agreement relying on each of the representations and warranties made by the Executing Agency, each of which shall be deemed to be a separate representation and warranty which is material and having induced the DBSA to enter into this Agreement.

15. EVENTS OF DEFAULT

15.1. Each of the following shall constitute an Event of Default under this Agreement:

- 15.1.1. any event or condition has occurred which in the opinion of the DBSA has or could be expected to have a Material Adverse Effect;
- 15.1.2. the Executing Agency fails to comply with any of its obligations under this Agreement, and any such failure continues for a period of 14 (fourteen) days after the date on which the DBSA notifies the Executing Agency of that failure or, if earlier, the date on which such Executing Agency becomes or should have, with diligence, become aware of such failure;
- 15.1.3. the Project is abandoned, suspended or terminated for any reason whatsoever, or the Project has not been completed by the Project Completion Date;
- 15.1.4. the Executing Agency deviates materially from the Implementation Plan and Project Budget without the prior written consent of the DBSA;
- 15.1.5. any representation or warranty made by the Executing Agency in this Agreement or in connection with the execution and implementation of this Agreement is found to have been incorrect in any respect;
- 15.1.6. the Executing Agency commits any fraud or gross misconduct with respect to the Grant or the Project or in any way does not use the Disbursements in accordance with this Agreement;
- 15.1.7. the Executing Agency has modified the nature or the objective of the Project without the prior written approval of the DBSA;
- 15.1.8. it appears that material information in the Application is incorrect or that material information was not disclosed.

15.2. Forthwith upon the occurrence of an Event of Default and at any time thereafter, if such event continues, the DBSA shall in its sole and absolute discretion be entitled (but not obliged), without prejudice to any other rights which the DBSA may have, by notice to the Executing Agency to:

15.2.1.1. declare that the obligations of the DBSA in terms of this Agreement shall be cancelled forthwith, whereupon the same shall be so cancelled; and

15.2.1.2. claim immediate payment of any amount disbursed under the Grant, any damages costs and other amounts incurred in consequence of such Event of Default from the Executing Agency in terms of this Agreement.

15.3. The exercise by the DBSA of the right of suspension shall not preclude the DBSA from exercising its right of cancellation as provided in this Agreement, either for the same or another reason, and shall not limit any other provision of this Agreement.

15.4. Notwithstanding any provision to the contrary in this Agreement, the DBSA may by notice to the Executing Agency cancel the Agreement, as the case may be, if:

15.4.1. the Project activities are interrupted for a consecutive period of 2 (two) calendar months save for Force Majeure; or

15.4.2. the DBSA determines that any person who is engaged in Corrupt Practice, a Coercive Practice, a Collusive Practice or a fraudulent practice, without the Executing Agency having taken timely and appropriate action satisfactory or to address such practice when they occur; or

15.4.3. the Executing Agency has modified the nature or the objective of the Project without the prior approval of the DBSA.

16. PUBLICATIONS

16.1. Subject to the provisions of clause 16.1.1 to 16.1.3 the Parties recognise that the results of the Project may be publishable and agree that the Parties shall be permitted to present at symposia, international, national or regional meetings ("public presentations") and to publish through any methods of reporting of their own choice in accordance with the following conditions:

16.1.1. Advertising, Publicity, Marketing or Promotional Materials

Neither party is, by virtue of their association hereunder, authorised to use the name, logo(s) or trademarks of the other in connection with any advertising, publicity, marketing or promotional materials or activities, or for any other purpose whatsoever, without the prior written consent of the other party. For purposes of this clause, the Parties recognises that, the use of abbreviation or the logo of a Party, may be prohibited in connection with any trade, business, profession or occupation or in connection with a trade mark, mark or trade description applied to goods, and therefore the use thereof may only be with the consent of the Party whose trademark, logo or abbreviation is to be used.

16.1.2. Publications for Journals and Public Presentations

Should the Executing Agency wish to publish the results of the Project deliverables carried out pursuant to this Agreement, the Executing Agency shall first obtain written approval from DFFE and supply DFFE with a copy of the proposed publication/presentation, who shall review the proposed review the proposed publication/presentation and notify the Executing Agency, within 21 (twenty-one) business days after receipt, in writing whether DFFE consents to such publication/presentation.

16.1.3. Theses or Dissertations

Where a student works or participates in the Project, nothing in this Agreement will prevent a registered student from submitting for a degree, a university a research project report based on the results from the Project. The DBSA shall be given a copy of the draft research project report, where after the DBSA may within thirty (30) days of receipt request the exclusion of its Confidential Information, or to correct any errors of fact.

17. INTELLECTUAL PROPERTY

17.1. Subject to the Provisions of this clause 17, all Intellectual Property generated in the course of the execution of the Project shall vest in the Executing Agency, and the Executing Agency shall be entitled to use the Intellectual Property for any purposes whatsoever.

17.2. The Parties acknowledge that such Intellectual Property shall be governed by the IPR Act, the object of this Act is to make provision for the identification, protection, utilisation and commercialisation of Intellectual Property emanating from publically financed

research and development for the benefit of the people of the Republic of South Africa, whether it be for a social, economic, military or any other benefit.

- 17.3. The Executing Agency shall enter into appropriate agreements with third parties participating in the Project to ensure the effective management of Intellectual Property generated in the course of the Project.
- 17.4. The Executing Agency undertakes to use reasonable endeavours to ensure that, to the extent feasible, Intellectual Property developed during the course of the Project is filed and prosecuted for purposes of patenting the rights and is licensed royalty-free to South African public entities as defined in the IPR Act.

18. **DISPUTE RESOLUTION**

- 18.1. Prior to the initiation of formal arbitration procedures, the Parties shall, within 10 (ten) business days after the arise of any dispute, first attempt to resolve their dispute informally by reference to a joint committee comprised of a single designated representative of each Party and a designated representative of DFFE who shall have the authority of the Party he/she represents to settle the dispute.
- 18.2. Should the designated representatives, within 10 (ten) business days after the dispute has been referred to them, conclude in good faith that they are unable to settle the dispute or should either Party have failed to appoint a designated representative on the written request of the other within 10 (ten) business days after being requested to do so, then either Party may refer the matter for arbitration in terms of clause 19 (Arbitration) below or to the court specified in clause 24 (Jurisdiction).

19. **ARBITRATION**

- 19.1. Should any dispute between the Parties with regard to the interpretation, the carrying into effect and implementation of any one or more of the provisions of this Agreement, any of the rights and obligations or either Party arising from the Agreement, the termination or purported termination of, or arising from the termination of, or the rectification or proposed rectification of the Agreement, or pursuant to this Agreement, or any other matter which in terms of this Agreement requires agreement by the Parties, the Parties shall, in the first instance, attempt to come to an agreement in relation to any such dispute by consultation and negotiation in good faith and in the second instance proceed to arbitration.
- 19.2. A dispute shall be determined in terms of this clause after written notice has been given by the aggrieved Party to the other Party.

- 19.3. This clause shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 19.4. The arbitration shall be held:
- 19.4.1. at a venue to be agreed between the disputing Parties, failing which at the offices of the Arbitration Foundation of South Africa ("AFSA") closest to the DBSA's *domicilium* address;
 - 19.4.2. with only the legal and other representatives of the Parties present thereat;
 - 19.4.3. *mutatis mutandis* in accordance with the provisions of the Supreme Court Act, 1959, the rules made in terms of that Act and the practice of the division of the High Court referred to in clause 24;
 - 19.4.4. otherwise in terms of the Arbitration Act, 1965;
 - 19.4.5. it being the intention that the arbitration shall be held and completed as soon as possible.
- 19.5. The arbitrator shall, failing agreement between the Parties, be such person as appointed by AFSA.
- 19.6. The decision of the arbitrator shall be final and binding on the Parties and may be made an order of the court referred at the instance of any of the Parties.
- 19.7. The Parties agree to keep the arbitration including the subject-matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone unless required by Law.
- 19.8. The provisions of this clause:
- 19.8.1. constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions; and
 - 19.8.2. are severable from the rest of this Agreement and shall remain in effect despite determination of or invalidity for any reason of this Agreement.

20. **SEVERABILITY**

The Parties agree that each and every provision of this Agreement is severable from the remaining provisions of this Agreement and should any provision of this Agreement be in



conflict with any applicable law, or be held to be unenforceable or invalid for any reason whatsoever, such provision should be treated as *pro non scripto* and shall be severable from the remaining provisions of this Agreement which shall continue to be of full force and effect.

21. CESSION AND DELEGATION

21.1. The Executing Agency shall not be entitled to cede, assign, delegate or otherwise transfer any of its rights or obligations under this Agreement to any third party, without the prior written consent of the DBSA.

21.2. The DBSA shall be entitled, without the Executing Agency's consent, to cede, delegate or assign all or any of its rights, benefits and obligations or obligation only under this Agreement to any third party.

22. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreements as at the date of signature of the Party last signing one of the counterparts.

23. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.

24. JURISDICTION

The parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the South Gauteng High Court, Johannesburg (or any successor to that division) in regard to all matters arising from this Agreement.

25. COSTS

25.1. Each Party shall bear its own costs of and incidental to the negotiation and preparation of this Agreement.

25.2. If in any legal proceedings relating to the enforcement by either party of its rights in terms of this Agreement, a court awards costs to any party, such costs shall be determined and recoverable on the scale as between an attorney and his own client and shall include collection charges, the costs incurred by such party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection

with the satisfaction or enforcement of any award or judgment awarded in favour of such party in relation to its rights in terms of or arising out of this Agreement.

26. **NOTICES AND DOMICILIA**

26.1. The Parties choose as their *domicilia citandi et executandi* their respective addresses set out in this Agreement for all purposes arising out of or in connection with this Agreement at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

26.2. For purposes of this Agreement the Parties' respective addresses shall be as follows:

26.2.1. **DBSA:**

Physical: 1258 Lever Road
Headway Hill
Midrand, 1685

Facsimile: 011 206 3611

Attention:

26.2.2. **Executing Agency:**

Physical: Environment House
473 Steve Biko Road
Pretoria
0083

Facsimile:

Attention: Joseph Molapisi

or at such other address in the Republic of South Africa of which the Party concerned may notify the other in writing provided that no street address shall be changed to a post office box or post *restante*.

26.3. Any notice given in terms of this Agreement shall be in writing and shall:

26.3.1. if delivered by hand be deemed to have been duly received by the addresses on the date of delivery;

26.3.2. if transmitted by facsimile be deemed to have been received by the addressee on the day following the date of dispatch, unless the contrary is proved.

26.4. Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from another including by way of facsimile transmission shall be adequate written notice or communication to such Party.

27. RELAXATION

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Party in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement and no single or partial exercise of any right by any party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

28. VARIATION

No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any rights arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the Parties or their duly authorised representatives.

29. WHOLE AGREEMENT

This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof and no agreements, representations or warranties between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.

30. INDEMNITY

30.1. The Executing Agency, including any authorised person acting for or on behalf of the Executing Agency, shall exercise due care and diligence in the performance of its duties in terms of this Agreement and the Executing Agency, including any authorised person acting for or on behalf of the Executing Agency, shall be liable to the DBSA where the Executing Agency has failed to exercise such due care and diligence.

- 30.2. The Executing Agency indemnifies and holds the DBSA harmless against any liabilities, arising out of the conduct of the Executing Agency, its employees, agents and or other natural or juristic persons connected with the Executing Agency, in conducting the work pursuant to this Agreement.
- 30.3. Notwithstanding anything to the contrary set out in this Agreement, the Executing Agency hereby indemnifies and shall hold the DBSA harmless against any claims, damages, expenses and costs (including those asserted by third parties) directly or indirectly related to this Agreement, in delict, for breach of statutory duty or otherwise.
- 30.4. The Executing Agency shall indemnify and hereby indemnifies the DBSA against any expenditure incurred in vain, any fruitless or wasteful expenditure incurred and any expenditure which could have been avoided had reasonable care been exercised or expenditure incurred as a result of fraud, theft or negligence or commission and/or omission during the execution of the Project.

31. ANTI-CORRUPTION AND GOOD FAITH


- 31.1. In implementing this Agreement and in all further dealings with each other, the Parties undertake to observe utmost good faith and to give effect to the intent and purpose of this Agreement.
- 31.2. The Executing Agency will not make or cause to be made any offer, gift or payment or consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement including any activity contained in the Prevention and Combating of Corrupt Activities Act, 2004.
- 31.3. Any such practice will be a ground for termination of this Agreement.

32. ATTESTATION

The Parties hereby acknowledge having read and signed this Agreement and its schedules, the contents of which are understood and accepted by both the Parties.

SIGNED at Johannesburg on the 5th day of July 2021.

For and on behalf of **THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED**



Name: Cathrine Koffman

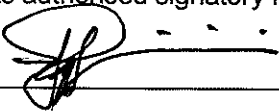
Capacity: Group Executive Project Preparation

Who warrants authority

Name of Witness:

SIGNED at PRETORIA on the 23rd day of JUNE 2021.

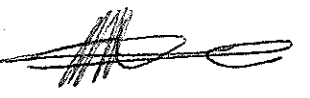
As authorised signatory for and on behalf of **AFRICA INSTITUTE**



Name: Joseph Molapisi

Capacity: Executive Director

Who warrants authority

Thabo Morabg 

Name of Witness:

Schedule 1- Project Description, Implementation Plan and Project Budget

1. Introduction

The DBSA was appointed by the Department of Forestry, Fisheries and the Environment (DFFE) then called the Department of Environmental Affairs (DFFE) to act as an implementing agency for the GEF-funded project on management of PCBs. The project is categorized under the Chemicals and Waste theme. The Department further appointed Africa Institute to play the role of an executing agency for the project. Africa Institute is both a Basel Convention Regional Centre (BCRC) and a Stockholm Convention Regional Centre (SCRC) for English speaking African countries. It was established as an Intergovernmental Organization (IGO) based in Pretoria, South Africa.

In the year 2016, the DBSA, in collaboration with key stakeholders including the DFFE, developed a project information form (PIF – the project concept) which was approved by the GEF Council for further development into a full proposal. The project was fully developed into a CEO endorsement document that was approved for implementation in the year 2020.

PCBs are a class of synthetic organic chemicals which are fire resistance, have a low electrical conductivity, high resistance to thermal breakdown and a high resistance to oxidants and other chemicals. Since the early 1930s PCBs have been widely used as dielectric fluids in electrical transformers and capacitors. Municipalities, Eskom and other energy intensive industries and mines are known to own and manage electricity generating and transmission equipment which could contain PCB oils. However, because of lack of capacity and awareness on the environmentally sound management of these oils, the municipalities and other stakeholders are experiencing a hazardous waste management challenge.

PCBs are considered to be immunotoxic and affect the reproduction system. Adverse effects associated with the exposure of PCBs include: damage to the immune system, liver, skin, reproductive system, gastrointestinal tract and thyroid gland. PCBs are difficult to degrade or destroy as they have extremely high thermal and chemical stability. They may be thermally degraded at very high temperatures (1200°C – 1600°C), and through various chemical and microbial degradation processes. From the increasing research conducted on PCB destruction, it appears that hydrogenation/dehalogenation is one of the most environmentally friendly methods and is widely recognized as "Best Available Technology (BAT)" for PCB destruction. On the ground, South Africa is facing the following challenges:

- Municipalities across the country do not for the most part, have specific schemes or administrative mechanisms governing PCB oils, equipment and wastes and because of poor procurement management in these structures there is a likelihood of purchasing PCBs contaminated transformers for second hand use;
- Owners of PCB equipment currently lack the means to apply ESM practices to PCB equipment in service, in storage or out of service, let alone even to identify PCB containing equipment;

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CK

- Despite awareness raising efforts during NIP preparation, owners of PCB oils, equipment and wastes are frequently unaware of the threats that PCB pose to human health and the environment, hence electrical equipment is not even managed in any environmentally sound manner;
- There is limited capacity in the country at the moment to manage PCBs in an environmentally sound manner within the private sector but most of the owners do not have this capability;
- There are no systematic investment mechanisms to support the ESM of PCB wastes within the country; and
- The preliminary national inventory available as a result of NIP development is not sufficiently detailed for the purposes of phase out and disposal planning.

2. Project description

The objective of the project is to reduce and eliminate the use and releases of PCBs to the environment through development and implementation of a pilot project on environmentally sound management, and the disposal of PCB-contaminated equipment and PCB-containing oils and wastes in South Africa. It further aims to develop capacity through raising awareness and training of stakeholders such as municipalities, ensuring that affected institutions will manage PCBs in an environmentally sound manner. The project entails the following components:

Component 1: Institutional Capacity Building and Awareness Raising

The aim of this component is to assist all PCB holders (municipalities, power generation and transmission and mining companies) to have the ability to verify their PCB inventories. These PCB holders will be assisted to develop and upgrade their phase-out plans. This component consists of activities such as trainer's training and seminar/workshop for key stakeholders and development of Information, Educational and Communication (IEC) materials such as multi-media educational materials. It also includes the demonstration and field work activities in coordination with project partners, extending technical assistance in formulating PCB Management plans. A documentation of these activities including lessons learned and best practices undertaken in pilot studies of municipalities, will be made available to all stakeholders for adoption. The activities in this component are expected to enhance the ability of PCB owners and key stakeholders in formulating their own PCB management Plans beyond 2025.

The IEC aspect of the project will bring about a better understanding and appreciation by all players including the public on the importance of having an ESM of PCB that emphasizes health and environmental impacts. The PCB owners will accordingly be better guided in their policy and decision making functions. Moreover, one outcome of IEC activities is a better understanding of applicable environmental policies and regulations by all stakeholders which in turn promote better cooperation towards achieving compliance.

While South Africa has a regulatory regime in waste and chemical management, there is seemingly lack of coordination and linkages at some levels especially at the municipal level. Thus, the project aims to promote an integrated approach in identifying, capturing, evaluating and sharing information through the design and establishment of a knowledge management framework. Through the knowledge management network, DFFE will be able to report to each PCB holder their progress regarding their phase out plan as a peer report back mechanism.

Component 2: Final treatment and disposal of PCBs and PCB-contaminated oil, equipment, and wastes.

In this component, collection, treatment and disposal of at least 2,000 tons of PCB contaminated oils and equipment and wastes will be undertaken in an Environmentally Sound Manner. The equipment will be labelled, packaged, transported, temporarily stored, where necessary and finally treated. During the collection phase, verification of the concentrations will be done in order to classify PCB contaminated wastes that will be sent for incineration outside (or within) the region, while PCB concentrations below 1000 ppm will be treated within the country.

Regarding final treatment/disposal, two potential options exist in South Africa at A-Thermal and Enviroil. A detailed third-party assessment of interested facilities will be conducted in the early part of this project to ensure that they can treat PCBs in an environmentally sound manner in accordance with national laws and regulations, Stockholm and Basel Convention provisions.

Component 3: Monitoring, evaluation, and replication

Under this component, an internal project monitoring and evaluation (M&E) team will be established and an M&E framework will be designed and implemented in accordance with DBSA and GEF requirements. The M&E team will produce monthly activity reports, quarterly progress reports, and annual Project Implementation Reviews (PIRs), which will be submitted to DBSA. These will address project performance, stakeholders' views on project impacts, and recommendations for improvements. Outputs of this component will also include mid-term and terminal evaluation reports, and an audit undertaken by an independent consultant and commissioned by the DBSA as the Implementing Agency.

Lessons learned and case study reports will also be prepared for project milestones (e.g. upgrading the national PCB equipment tracking and record keeping system, strengthening sampling and analysis capacity), endorsed by national stakeholders, and shared internally as well as externally with other project countries addressing PCB management. Best practices for the introduction of ESM will be identified, documented, and disseminated to stakeholders and other Parties of the Stockholm Convention. In coordination with the IEC strategy, a national project website will be developed for engagement, sharing good practices, guidance, tools, and experience. End-of-project publications will be prepared and disseminated. All of these activities will be undertaken in line with the IEC Strategy. This component will also involve the implementation and tracking of the Gender Action Plan.

3. Schedule of Work

The project will be implemented over a period of 5 years (60 months) in accordance with the Implementation Plan and the Project Budget.

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PROJECT OUTPUTS	KEY ACTIVITIES AND DELIVERABLES	Year 1												Year 2												Year 3												Year 4												Year 5												BUDGET IN USD
		Q1				Q2				Q3				Q4				Q1				Q2				Q3				Q4				Q1				Q2				Q3				Q4																
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4																									
Component 1: Institutional capacity building and awareness raising		1.1.1																																			2,355,789																									
1.1.2	National Project Inception Meeting																																			50,000																										
1.1.3	Comprehensive assessment of institutional capacity for ESM of PCBs - capacity gap analysis report																																																													
1.1.4	Sharing of technical guidance documents																																																													
1.1.5	Develop training materials and conduct training - training reports																																			200,000																										
1.1.6	Procurement of an analytical laboratory to perform analyses, collection and analysis of PCB samples - analytical laboratory appointed, sample results																																			250,000																										
1.1.7	Track (identification and labelling) transformer stockpiles and identify contaminated sites - report on contaminated sites																																			1,900,000																										
1.1.8	The creation of a national database/inventory																																																													
1.1.9	Coordinate development of phase-out plans by PCB owners																																																													
1.1.10	PCB phase-out plans																																																													
1.1.11	Development of national PCB phase-out strategy and management plan																																																													
1.1.12	PCB EC Strategy to be addressed by awareness raising strategy																																			106,798																										
1.1.13	Implement PCB awareness EC strategy/awareness workshops - Workshops reports																																																													
1.1.14	Risk assess and development of contaminated sites management plans																																			200,000																										
Component 2: Final treatment and disposal of PCBs and PCB-contaminated oil, equipment and wastes		2.2.1																																			100,000																									
2.2.2	Study tour on PCB management - study tour report																																			4,025,240																										
2.2.3	Procurement of PCB Treatment Facility (and destruction technology transfer) - facility selected																																			150,000																										
2.2.4	Environmental assessments - EIA/scoping report - ROD																																			150,000																										
2.2.5	Build industry capacity, training workshops - training course material, workshop reports																																			60,000																										
2.2.6	Assessment and contracting of provincial and municipal existing storage areas for PCB-contaminated waste - storage contracts, contaminated PCBs (material)																																			50,000																										
2.2.7	Appointment of consultant and conducts drainage of contaminated transformers, flushing, retro-filling, labelling and certification.																																			699,644																										
2.2.8	Procurement of services to transport PCB-contaminated waste to provincial storage facilities and to the treatment facility - service providers selected, waste (tonnes) transported to storages and treatment facility																																			300,000																										
2.2.9	Treatment of PCB-contaminated waste																																			2,400,000																										
Component 3: Monitoring, evaluation and replication		3.1.1																																			1,113,596																									
3.1.2	Design and Implementation of the M&E framework for the project																																			182,471																										
3.1.3	Appointment of gender specialist and gender specialist report lessons learned workshop - lessons learned reports (also project knowledge management material)																																			15,000																										
3.1.4	Project close-out validation																																			17,471																										
3.1.5	Development on the project - improved website																																			100,000																										
3.1.6	Mid-term evaluation of the project																																			30,000																										
3.1.7	Terminal evaluation																																																													
3.1.8	Project Close-out																																			20,000																										

Project title: Environmentally Sound Management of PCBs in South Africa

Project executing (Africa Institute
 Project implementation period: 2021-2025
 From: 2021
 To: 2025

Budget Line	Total budget/annum					Total
	1	2	3	4	5	
10 PERSONNEL COMPONENT						
1100 Project personnel						
1101 Project Coordinating (Africa Institute based)	78 500	78 500	78 500	78 500	78 500	392 500
1199 Sub-total	78 500	78 500	78 500	78 500	78 500	392 500
1200 Workplan activities						
1201						
1299 Sub-total						7 462 500
1300 Administrative Support						
1301 HR, procurement, financial management						
1399 Sub-total						7 462 500
1600 Travel on official business						
1601 Project Travel						
1699 Sub-total	33 000	33 000	33 000	33 000	33 000	165 000
3300 Meetings/Conferences	33 000	33 000	33 000	33 000	33 000	165 000
3301 PSC meetings	10 000	10 000	10 000	10 000	10 000	50 000
3399 Sub-total	30 000	30 000	30 000	30 000	30 000	150 000
3999 Component total	200 000,00					200 000
40 EQUIPMENT AND PREMISES COMPONENT	8 214 000,00					
4200 Non-expendable equipment						
4201 Computer and printer	1 000	1 000	1 000			3 000
4202 Communication, cellular phones, fax, etc	1 000	1 000	2 000			4 000
4299 Sub-total	2 000	2 000	3 000			7 000
4999 Component total	2 000,00	2 000,00	3 000,00			7 000,00
50 MISCELLANEOUS COMPONENT						
5500 Audits						
5599 Sub-total	3 100,00	3 100,00	3 100,00	3 100,00	3 100,00	15 500,00
5999 Component total	3 100,00	3 100,00	3 100,00	3 100,00	3 100,00	15 500,00

CCK

Schedule 2

To: Development Bank of Southern Africa Limited

[physical address]

Attention: [•]

Date: [•] 20__

Dear Sirs

**GRANT AGREEMENT BETWEEN THE DBSA AND THE EXECUTING AGENCY DATED [•] 20__
("AGREEMENT"): DISBURSEMENT REQUEST FORM NO: [•]**

1. Please refer to the agreement dated [*insert date*] between the Executing Agency and the Development Bank of Southern Africa Limited ("DBSA") ("**Agreement**"). Terms defined in the Agreement have their defined meanings whenever used in this request.
2. The Executing Agency requests the disbursement on or before [*insert date*] (or as soon as practicable thereafter) of the aggregate amount of [*insert numerals*] [*insert words*] (the "**Disbursement**"). You are kindly requested to pay such amount to the account of the Executing Agency, Account No. [•] Branch Code [•].
3. The Executing Agency further certifies as follows:
 - 3.1 the representation and warranties made in the Agreement are true on the date of this request and will be true on the date of Disbursement with the same effect as if such representations and warranties had been made on and as of each such date except as set forth on the certificate accompanying this request;
 - 3.2 the Executing Agency is not aware (after due enquiry) that any Potential Event of Default, Event of Default, Insolvency Event or Material Adverse Effect has occurred, is continuing or about to occur;
 - 3.3 since the date of the Agreement no changes in the Project or in the financial condition of the Executing Agency has occurred and no other circumstance has arisen which has or is reasonably likely to have a Material Adverse Effect;
 - 3.4 the proceeds of the Disbursement are at the date of this request required by the Executing Agency exclusively for the Purpose;
 - 3.5 after receipt of the Disbursement the Executing Agency will not be in violation of:

- 3.5.1 its Constitutional Documents;
 - 3.5.2 any provision contained in any document to which the Executing Agency is a Party or by which the Executing Agency is bound; or
 - 3.5.3 any law, rule or regulation, directly or indirectly limiting or otherwise restricting the Executing Agency's borrowing power or authority or its ability to borrow,
- 3.6 all invoices and related supporting documentation in respect of our Disbursement Request are enclosed in accordance with the provisions of the Agreement; and
- 3.7 all documentation delivered by us pursuant to the Agreement are available for inspection by the DBSA.
- 3.8 The above certifications are effective as at the date of this Disbursement Request and shall continue to be effective as of the date of the Disbursement. If any of these certifications is no longer valid as of or prior to the date of the requested Disbursement, the Executing Agency undertakes to promptly notify the DBSA unless it is not aware of the same (after due enquiry).

Yours faithfully

For and on behalf of [insert]

Name:

Capacity:

Who warrants his/her authority hereto

CCK


Schedule 3 Reporting Template

ccs