

Electricity Act

GN. No. 491(contd.)

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ELECTRICITY ACT,
(CAP.131)

RULES

(Made under sections 45)

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THE ELECTRICITY ACT,
(CAP.131)

RULES

(Made under sections 18(5) and 45)

THE ELECTRICITY (DEVELOPMENT OF SMALL POWER PROJECTS)
RULES, 2020

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Electricity (Development of Small Power Projects) Rules, 2020.
- Application 2. These Rules shall govern the regulatory and procedural matters relating to the Development of Small Power Projects in Tanzania.
- Interpretation 3.-(1) In these Rules, unless the context otherwise requires:
- Cap. 131 “Act” means the Electricity Act;
- Cap. 414 “Authority” means the Energy and Water Utilities Regulatory Authority established under the Energy and Water Utility Regulatory Authority Act;
- “avoided cost” means the cost the Distribution Network Operators have incurred when it generate electricity itself or sourced it from another source;
- “backup tariff” means the tariff for electricity sold by a Distribution Network Operators to a Small Power Producer for the purposes of providing electrical

- loads for the Small Power Projects during startup of the power plant;
- “Bid Security Payment” means 2USD per kW of proposed project installed capacity;
- “bulk supply tariff” means the tariff for sale of electric power in bulk to a Distribution Network Operator who may resell the electric power to a retail customer;
- “Clean Development Mechanism Guidelines” means the clean development mechanism guidelines issued by the United Nations Framework Convention on Climate Change (UNFCCC);
- “commercial operation date” shall be as specified in the Standardized Power Purchase Agreement;
- “commercially sustainable” means a situation whereby an entity is able to recover its costs and earn a target return on equity as specified by the Authority;
- Cap.414 "Council" means the Consumer Consultative Council established under section 30 of the Energy and Water Utility Regulatory Authority Act;
- "customer" means the end user and includes eligible customers;
- “distribution assets” means poles, low voltage distribution wires and step down transformers and meters which are in the Distribution Network Operators’ standards;
- “Distribution Network Operator” or in its acronym “DNO” means a network operator responsible for the operation of a distribution network at 33 kV or below and with at least ten thousands customers;
- “eligible customer” means a person who is authorized by the Authority to enter into contract for the purchase of electricity directly from a person licensed to supply electricity
- “best utility industry practice” means the practices,

methods and acts with regard to adequate materials, resources, supplies, fuel, personnel, maintenance, repairs, monitoring, testing, and operation in the international utility industry at a particular time, in the exercise of reasonable judgment based on the facts known or that should have been known at the time of a decision, that would have been expected to accomplish the desired result in a manner consistent with the law, regulations, codes, equipment manufacturers' recommendations, safety, environmental protection and economy;

“grid” means the main-grid, the mini-grid or the regional grid;

“import load factor” means the ratio of the average electric load purchased by a Small Power Producer from a Distribution Network Operator measured across one billing interval, to the peak load measured in intervals, typically averaged over fifteen minutes within a period of time corresponding to the billing interval;

“installed capacity” means the capacity that is determined by a manufacturer of a generator which indicates the maximum output a generator can produce without exceeding the design limits;

“interconnection” means the electrical equipment and materials that allow the transfer of electricity between the Distribution Network Operator system and a new electrical system that has not been part of the Distribution Network Operators' distribution system and includes any transformers, switchgear, switch or relay at the point of interconnection that are necessary for the transfer, but does not include the lines and switchgear at the connection that form part of the transmission or distribution system;

- “interconnection certificate” means a document issued by a Distribution Network Operators certifying that a Small Power Project developer has passed construction specifications and that the interconnection test conducted by the Distribution Network Operator is pursuant to these Rules;
- “interconnection costs” means those costs incurred to connect to the Distribution Network Operators’ system, and includes those costs, if any, required to upgrade the system to receive electricity produced by a Small Power Producer;
- “interconnection point” means a point where the seller's facility electric output line or electric system feeds into the electric system to which it delivers power, whether owned by the Distribution Network Operator or another entity and is the point at which the Distribution Network Operator or another entity assumes ownership or wheeling responsibility for the power received and measured by a meter;
- “letter of intent” means a statement of intent by a Distribution Network Operator to connect and purchase power that a Small Power Project developer offers to produce;
- “licence” means an authorization issued by the Authority to a Small Power Producer or Small Power Distributor to generate and sell electricity and may be issued for a single location or, at the discretion of the Authority, for multiple locations using the same or different generation or distribution technology;
- “licensee” means a holder of a licence;
- “main-grid” means the interconnected electricity transmission network of Mainland Tanzania, to which the largest cumulative capacity of electricity

- generating facilities are connected;
- “margin” means the average difference between a retail tariff and a bulk supply tariff;
- “mini-grid” means an electricity distribution network physically isolated from the main-grid, which has a generator connected in its network, operated by its owner or a third party;
- “Minister” means the Minister responsible for electricity matters;
- “Ministry” means the Ministry responsible for electricity matters;
- “national uniform tariffs” means a tariff structure for electricity in which all customers in a specified tariff category are charged the same price regardless of the geographic location and differences in the cost of supply;
- “provisional licence” means a licence issued by the Authority to allow a Small Power Producer or Small Power Distributor developer to conduct preparatory activities like carrying out assessments, studies and other activities necessary for application of a licence;
- “provisional registration” means a temporary authorization by the Authority to a person who has applied for registration without submission of an environmental clearance, provided that the applicant submits to the Authority proof of initiation of the process to acquire the environmental clearance;
- “Rural Energy Agency” means the Rural Energy Agency established under the Rural Energy Act;
- “regional grid” means an electric power system that serves one or more regions of Mainland Tanzania that may or may not be connected to the main-grid;
- “registration” means an authorization by the Authority to

- any person who is exempted from obtaining a licence to construct, generate and sell electricity from a Small Power Producer at a single location, or at the discretion of the Authority, at multiple locations using the same generation or distribution technologies;
- Cap. 414 “regulatory levy” means the levy charged up to 1% of the gross revenue of a Small Power Project Developer which is charged pursuant to section 43 of the Energy and Water Utility Regulatory Authority Act;
- “renewable energy” means energy which comes from natural resources, which are renewable;
- “request for proposals” means an invitation to Qualified Small Power Project Developers to submit a binding offer to install and operate a small power plant as prescribed in these rules based on the terms and conditions listed in the Request for Proposals and the Qualified Bidders subsequent bid and the acronym RFP shall be construed accordingly;
- “request for qualifications” means an invitation for Small Power Project Developers to seek qualification to bid for tender for small power project with capacity from 1MW to 10MW, as shall be prepared by a DNO and approved by the tender Board, and the acronym RFQ shall be construed accordingly;
- “retail tariff” means the tariff charged to customers;
- “site” means an area or a piece of land considered for the construction of an electricity generation plant or electricity distribution infrastructure and its associated activities;
- “site reference number” means the identification number assigned by a Distribution Network Operator in a Letter of Intent to a proposed site;

- “seller” means a Small Power Producer, Very Small Power Producer or any other entity that sells electricity to a Distribution Network Operator;
- “small power distributor” means an entity that generates and sells, or purchases electricity under a bulk supply tariff from a Distribution Network Operator or some other bulk supplier and resells it at retail prices to Customers;
- “small power producer” means an entity producing electricity with a generating capacity between 100kW up to 10MW at a single site using renewable energy, fossil fuels, a cogeneration technology, or some hybrid system combining a renewable fuel source with other fuel sources mentioned above and either sells the generated power at wholesale to a Distribution Network Operator or at retail directly to a customer or customers;
- “small power project” or in its acronym “SPP” means a facility that is developed by a Small Power Producer or a Small Power Distributor that is isolated or connected to the Distribution Network Operators’ grid and the acronym “SPP” shall be construed accordingly;
- “small power project developer” means an entity generating electricity in the capacity between one hundred kW up to ten MW using renewable energy, fossil fuels, a cogeneration technology, or some hybrid system combining fuel sources and either sells the generated power at wholesale to a DNO or at retail directly to a customer or customers, and the development may have an installed capacity greater than ten MW but shall only export power at the interconnection point not exceeding ten MW, and the term “Small Power

- Producer” shall be construed accordingly;
- “small power project tariff methodology” means a method and a formula developed by the Authority and agreed to by stakeholders to compute a standardized small power project tariff;
- “small power project unit” means a group of employees within the Distribution Network Operators responsible for performing the activities described in rule 55 (2);
- “standardized power purchase agreement” means the power purchase agreement entered between a Distribution Network Operator and the seller for the sale of electric power;
- “standardized small power producers tariff” means the tariff agreed on in the Standardized Power Purchase Agreement;
- “tender Board” means the tender Board of a respective publicly owned Distribution Network Operator;
- “Tribunal” means the Fair Competition Tribunal established under the Fair Competition Act;
- “very small power producer” or in its acronym “VSPP” means an electricity generator with an installed capacity of:
- (a) less than 15kW at a single site selling power to at least thirty retail customers; or
 - (b) between 15kW and 100kW at a single site that either sells power at wholesale to a Distribution Network Operators or at retail directly to a customer;
- and the acronym “VSSP” shall be construed accordingly; and
- “working group” means a team of sector stakeholders and experts with the composition and responsibilities specified under Part VI of these Rules.

PART II
PRELIMINARIES TO SMALL POWER PROJECT DEVELOPMENT

Determination of
strategic areas

4.-(1) An area shall be deemed to be of strategic nature if it offers technical benefits to a Distribution Network Operator.

(2) For an area to be of “technical benefit”, an SPP developer shall be able to demonstrate that:

(a) the proposed project will improve the voltage profile towards the standard nominal voltage or to bring it within the standard tolerance levels of +/- 10% of the standard nominal voltage; or

(b) the proposed project will reduce Distribution Network Operator’s system losses by at least 10% of the existing losses.

(3) A Small Power Project developer shall not develop an SPP:

(a) in areas other than those declared to be of strategic nature under this Part; or

(b) where the proposed total installed capacity of a small power project exceeds the maximum demand of the local distribution network.

(4) A determination on whether an area is of strategic value or not shall be made by a Distribution Network Operator:

(a) on his own motion; or

(b) upon receipt of a project proposal from a project developer.

(5) A Distribution Network Operator shall, upon receipt of a request from a project developer under sub-rule (4) (b), make a decision within thirty days from the date of receipt of such request whether the proposed area of project development is a strategic area or not.

(6) A DNO shall immediately publish in

newspapers of wide circulation in Tanzania, the list of areas that has been determined to be of strategic nature in terms of sub-rules 4 (a) and (5).

(7) Notwithstanding the provisions of this rule all off-grid areas that are being served by a DNO using diesel, heavy furnace oil or furnace oil engines shall be deemed as strategic areas.

(8) The provisions of this rule shall not apply to existing SPP projects whose development has reached a stage of signing of SPPA.

Criteria for
development of
VSPP's

5.-(1) A VSPP shall only be developed in a remote area where the Ministry has certified in the letter of support under sub-rule (4) that such area is suitable for development of VSPP.

(2) No person shall develop a VSPP without applying and obtaining a letter of support from the Ministry.

(3) The application for letter of support under sub-rule (2) shall be by way of a letter to the Ministry which shall include the following:

- (a) copy of a valid business plan;
- (b) project implementation schedule;
- (c) introduction letter from local authorities (City, Municipal, District or town Council);
- (d) for mini-hydro projects, evidence of land ownership and water rights; and
- (e) for projects aiming at connection to a DNO, copy of a study report on potential technical benefits to the DNO.

(4) The letter of support issued by the Ministry shall be in the form as prescribed in the First Schedule.

(5) The letter of support issued under sub-rule (4) shall cease to have effect, if an VSPP developer fails to

commence construction of the facility within twelve months from the date of issuance of the said letter.

(6) A person who uses the letter of support issued under subrule (4) for any other purpose other than for showing Government's support to the respective project commits an offence and is liable, upon conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years or both.

(7) The provisions of this rule shall not apply to existing VSPP projects whose development has reached construction stage.

Submission of
quarterly reports

6.-(1) A VSPP developer shall, after receipt of a letter of support from the Ministry under rule 5 (4), submit to the Authority and a copy thereof to the Ministry the quarterly progress report on the implementation of the VSPP project.

(2) Any letter of support in respect of which no quarterly report has been submitted as required under subrule (1) for the period of more than six months shall cease to have effect.

Appeal
against decision
of DNO

7. In the event a project developer is aggrieved by the decision of a Distribution Network Operator under rule 4 (5), he may appeal to the Authority for determination.

PART III
PROCUREMENT OF SMALL POWER PROJECTS
Sub-Part I

Procurement of Small Power Projects through Unsolicited Proposals

Procurement
through
unsolicited
proposals

8.-(1) Development of Small Power Project from unsolicited proposals shall be done through executing a letter of intent with a Distribution Network Operator that confirms the physical ability of a Distribution Network

Operator to purchase electricity from a Small Power Producer delivered at the interconnection point.

(2) The provisions of sub-rule (1) shall not preclude a Distribution Network Operator from receiving power from another Small Power Producer at a different interconnection point if a Distribution Network Operator has sufficient capacity to receive power from the Small Power Project and sufficient demand to consume the additional power.

Application
procedure

9.-(1) A Small Power Project developer shall apply to a Distribution Network Operator for a letter of intent by filling in the application form as prescribed in the Second Schedule.

(2) The application under sub-rule (1) shall be accompanied by:

- (a) a certified true copy of originals of the entity incorporation or registration;
- (b) a copy of a title deed, lease agreement or any other documentation evidencing ownership of land or permission for the use of land;
- (c) introduction letter from the local authority (City, Municipal, town or District) showing proof on land ownership or land use;
- (d) for developers of mini hydros, proof of water rights;
- (e) proof on declaration of a site to be of strategic nature in terms of rule 4;
- (f) copy of valid business plan; and
- (g) pre-feasibility study report.

Acknowledge-
ment

10.-(1) A Distribution Network Operator shall, not later than seven working days after receiving a request for a letter of intent, notify the applicant that the request has been received.

(2) A Distribution Network Operator shall, within fourteen business days after receipt of a request, evaluate such request and inform the applicant if the request is incomplete.

(3) Where the request is found to be incomplete, the Distribution Network Operator shall require the applicant to correct the request.

(4) The applicant shall, not later than fourteen working days after receipt of the notification in sub-rule (3), submit a complete and correct request.

(5) A Distribution Network Operator shall, not later than fourteen working days after receipt of a complete and correct request, assign a site reference number to the application.

(6) After a site reference number has been assigned, the number shall be used to refer to the site in any subsequent documentation and correspondence between a Distribution Network Operator and a Small Power Project developer regarding the site, including:

- (a) a standardized power purchase agreement or any other agreement;
- (b) the interconnection certificate; and
- (c) the interconnection test record.

(7) Distribution Network Operator may, where necessary, conduct site visits to assess connectivity of the proposed power plant before issuance of a letter of intent.

Notice of
decision

11.-(1) A Distribution Network Operator shall, not later than thirty working days after receipt of a request for a letter of intent or after correction of the application, notify the applicant in writing of its decision either to grant or deny such request, provided, that no application shall be unreasonably denied.

(2) Where a Distribution Network Operator grants the application, it shall publish details of the said grant in at

least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili.

(3) A Distribution Network Operator shall, in making its decision, either to grant or deny an application for a letter of intent take into consideration:

- (a) the ability of the Distribution Network Operator's electrical network to accept power from a power plant of the proposed type, size and power export capacity at the proposed location;
- (b) its determination as to whether the proposed project conflicts with other projects in terms of power demand and government future plans for electrification of the relevant area;
- (c) its determination that all preparatory works for obtaining ownership or use rights of land have been done; and
- (d) viability of the project.

(4) A person who is aggrieved by the decision of a Distribution Network Operator under sub-rule (1) may appeal to the Authority.

Term of letter of intent

12.-(1) The term of a letter of intent shall, in the absence of any contrary provision, be for a period of twelve months from the date of issuance.

(2) A Distribution Network Operator shall not issue a letter of intent regarding the same site to any other party, unless the letter of intent has been terminated.

(3) A Distribution Network Operator may extend the validity of a letter of intent for a period of six months at a time, provided that the maximum term including extension of time shall not exceed eighteen months.

(4) The extension of time shall be effective from the date of expiry of the original term of the letter of intent.

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Environmental
and social
clearance

13. A Small Power Project developer shall obtain all necessary approvals on environmental and social clearance pursuant to relevant laws.

Interconnection
point

14. A Small Power Project developer and a Distribution Network Operator shall identify an interconnection point.

Reservation of
network
capacity

15. A letter of intent shall, in the case of sites operating on hydroelectric indicate the exclusivity of the interconnection to a Small Power Project.

Preliminary
engineering
assessment and
estimate of
interconnection
cost

16.-(1) Save for projects that are within the specified distance to the Grid substation, a Distribution Network Operator shall, not later than forty five days after issuing a letter of intent, issue to a Small Power Project developer:

- (a) a preliminary engineering assessment of whether the proposed interconnection point, in its existing condition, can accommodate the full amount of power proposed to be delivered to the Distribution Network Operator;
- (b) an estimate of the likely interconnection costs; and
- (c) a determination of whether additional engineering assessment is necessary;

(2) Where additional engineering is required under subrule (1) (c), the Distribution Network Operator shall follow the guidelines for engineering assessment in the Distribution Network Operator's engineering standards as approved by the Authority.

(3) Where a Distribution Network Operator intends that a Small Power Project developer pays for any engineering costs, it shall inform the developer of the said costs and await written acceptance prior to initiating any

work.

System upgrades

17.-(1) A Distribution Network Operator shall, where it is reasonably determined that the interconnection point in its present condition cannot accommodate the full amount of power proposed to be delivered by a Small Power Project developer, estimate the costs required to upgrade the distribution system to ensure sufficient capacity at the proposed interconnection point.

(2) A Distribution Network Operator may, after estimating the distribution system upgrade costs, require a Small Power Project developer to bear the costs of upgrading the network:

Provided that, the Distribution Network Operator may carry out the upgrade itself subject to terms and conditions agreed with the Small Power Project Developer prior to such upgrading.

(3) A requirement that Small Power Project developer undertake distribution system upgrades as described in sub-rule (1) is subject to agreement by the Small Power Project Developer and such agreement shall be in writing and specify the works to be carried out in accordance with the Distribution Network Operator's standards.

(4) A Small Power Project developer which disagrees with the Distribution Network Operator's upgrade requirements may terminate the letter of intent.

(5) Where a Small Power Project developer upgrades the Distribution Network Operator's distribution system, the ownership of all improvements beyond the interconnection point shall be transferred to the Distribution Network Operator upon commissioning and subject to any agreements concluded by the parties.

(6) Where the parties fail to agree on suitable upgrades or costs, an aggrieved party may refer the matter

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to the Authority for determination.

Appeal
Against decision
of Authority
Cap.285

18. A person who is aggrieved by the decision of the Authority may appeal to the Tribunal under the provisions of the Fair Competition Act.

Installed
capacity

19.-(1) A Small Power Producer may have an installed capacity which is greater than ten MW but shall only export power at the interconnection point not exceeding ten MW.

(2) A Distribution Network Operator may, where the proposed generation capacity of a Small Power Project developer exceeds ten MW, set a maximum generation capacity that allow to connect with the distribution system at the proposed interconnection point.

Application for
interconnection
and sale of
electricity

20.-(1) A Small Power Project developer shall, not later than twelve months after receipt of a Letter of Intent, deliver to the Distribution Network Operator an application for interconnection and sale of electricity.

(2) Where a Small Power Project developer fails to submit an application within a specific time, a letter of intent shall lapse and the Distribution Network Operator may issue a letter of intent to a different Small Power Project developer for the same site.

Distance

21. A Distribution Network Operator shall bear the cost for interconnector line for projects that are within ten kilometers from the point of interconnection at the time the Standardized Power Purchase Agreement is signed:

Provided that, where the DNO is unable to bear such costs, it shall negotiate with an SPP developer with a view to seeing the possibility of the latter meeting the said costs subject to terms and conditions to be agreed upon.

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Obligation to pay interconnection costs 22. Subject to rule 21, a Small Power Project developer shall bear all interconnection costs beyond ten kilometers.

Sub-Part III

Procurement of Solicited Small Power Projects

Procurement of solicited projects 23.-(1) A public owned Distribution Network Operator shall not procure a solicited power project save as it is provided under these Rules.

(2) Without prejudice to sub-rule (1), a private Distribution Network Operator may procure a solicited power project using the procedure prescribed under these rules or use their own procedures:

Provided that, such procedures are competitive and have been approved by the Authority.

Issuance of request for qualifications 24.-(1) A Distribution Network Operator may, after declaring or identifying an area as a strategic area in terms of rule 4(3)(a), issue request for qualification documents inviting small power project developers to submit bids for qualification.

(2) The RFQ documents under sub-rule (1) shall be issued to prospective developers in accordance with the Public Procurement Act, regulations made under the Public Procurement Act and these rules as appropriate.

(3) Project developers shall, upon issuance of request for qualification documents by a Distribution Network Operator and if they so wish, submit to the Distribution Network Operator a completed qualification questionnaire detailing:

- (a) developer contact information;
- (b) project development consortium commercial information;
- (c) development experience with small power

- plants;
- (d) the proposed construction site location and description; and
- (e) where appropriate, a proof that the project shall be implemented in an area declared to be strategic in terms of rule 4.

Validity of bids 25. The Request for Qualification shall remain open for a period of forty-five days and any response to the Request for Qualification submitted after the deadline specified in the Request for Qualification shall not be accepted.

Multiple bids 26. A Small Power Project Developer may submit multiple bids for projects to be developed in the same site as long as the cost of interconnection and the required system upgrade to accommodate the interconnection are factored in a bid price:
Provided that, bids from such developer shall not exceed 30% of the total declared procurement capacity.

Evaluation of bids 27.-(1) Bids received by a Distribution Network Operator shall be evaluated in accordance with the Public Procurement Act and its regulations and these rules as appropriate.
(2) A Distribution Network Operator shall:
(a) within sixty days after the deadline date for the receipt of the bids evaluate the bids and prepare recommendations to the tender Board; and
(b) in evaluating the bids received, seek to identify developers who are capable of constructing and operating a small power project, and the bid shall be evaluated on a pass or fail basis.
(3) The key factors for passing qualification evaluation shall be whether the bidder:

- (a) possesses technical capability to develop a small power project;
- (b) demonstrates financial solvency and commercial good standing; and
- (c) possesses land rights and zoning approvals for a proposed project site or clearly demonstrates commitment or assurance of land acquisition through title deed or lease agreement from a legal owner.

(4) A Distribution Network Operator shall, within seven days after the tender Board has made its decision, publish the results list of qualified bidders and notify the unqualified bidders about the results.

Issuance of
Request for
Proposals

28.-(1) A Distribution Network Operator shall, within thirty days after the announcement of qualified bidders, issue the request for proposals and such request shall remain open for the period of fifteen months.

(2) A Distribution Network Operator shall only issue request for proposal to qualified bidders inviting them to submit binding project proposals.

(3) Qualified bidders shall include the following information in their project proposals to a Distribution Network Operator:

- (a) statement of any changes to the information submitted at qualification stage;
- (b) bid price as the per-unit (kWh) price fixed for the term of a standardized power purchase agreement, at which a successful bidder proposes to sell electricity to the Distribution Network Operator, subject to indexation as per the Schedule;
- (c) declaration of standardized power purchase agreement acceptance;
- (d) proof of land rights or any preliminary

- arrangements for securing land rights or right of use for constructing and operating the facility;
- (e) proof on environmental protection standards and requirements to operate a power plant or any preliminary arrangements towards securing the same;
- (f) bid security payment, which is only refundable, without interest, if:
 - (i) the bid is unsuccessful;
 - (ii) the qualified bidder properly submits a bid withdrawal form to a Distribution Network Operator prior to publication of the list of preferred bidders; or
 - (iii) a preferred bidder makes a second bid security payment;
- (g) for solar and wind projects, exemplary solar plant or wind farm design and performance; and
- (h) Power of Attorney to complete the tendering and project implementation.

Evaluation of bids

29.-(1) A Distribution Network Operator shall evaluate the project proposals received in response to the RFP in accordance with the provisions of the Public Procurement Act, regulations made under the Public Procurement Act and these rules as appropriate.

(2) Without prejudice to the provisions of sub-rule (1), a Distribution Network Operator shall evaluate each binding project proposal using the same criteria as prescribed in the RFP, and the passing proposals shall be ranked in order of bid price from the lowest price to highest up to the capacity to be procured as stated in the RFP.

Selection of preferred bidders

30. A Distribution Network Operator has the right to reject any project proposal for which the bid price exceeds the Authority's approved technology-specific

tariffs over the term of the standardized power purchase agreement.

Capacity

31. A capacity:

- (a) withdrawn by any preferred bidder shall be offered to the next-lowest price project proposal that passed the evaluation; or
- (b) awarded to a preferred bidder but not operating within 24 months may be re-tendered in a subsequent capacity addition round.

Notification of preferred bidders

32.-(1) A Distribution Network Operator shall notify preferred bidders and offer them an opportunity to execute a standardized power purchase agreement after posting a second bid security payment.

(2) The second bid security shall be reimbursable, without interest, only in the event that the preferred bidder:

- (a) reaches commercial operation of the small power project within 12 months for solar projects and 24 months for wind projects and other projects, all counted from the date Distribution Network Operator announces the preferred bidders; or
- (b) properly submits a successful bid withdrawal form for more than twenty percent of its bid capacity not more than 6 months from the date Distribution Network Operator announces the preferred bidders.

Preferred bidders

33. Preferred bidders who choose to execute a standardized power purchase agreement with a Distribution Network Operator shall proceed through the remaining project development steps, which include:

- (a) establishment of a business entity, pursuant to the laws of Tanzania, which has no other

- business or purpose than building, owning, and operating the small power project, including entering into all necessary agreements to build and operate the project, receive financing under the loan agreements, and sell electricity to the Distribution Network Operator;
- (b) obtaining a provisional licence from the Authority, and the information and documentation requested through the request for qualification and request for proposal should be sufficiently comprehensive to obtain a provisional license, but the preferred bidders shall still need to make a formal application;
 - (c) reaching financial close with all lenders that provide the necessary debt finance in accordance with the loan agreements;
 - (d) execution of the standardized power purchase Agreement, direct agreement, implementation agreement, transmission or distribution agreement, connection direct agreement as required in a form and manner directed by the Authority, a Distribution Network Operator and lenders, respectively;
 - (e) executing the contracts or sub-contracts necessary for engineering, procurement and construction of the small power projects;
 - (f) executing the contracts or subcontracts necessary for operations and maintenance of the small power project for the duration of the Agreement;
 - (g) completing physical construction of the small power project and interconnection facilities;
 - (h) commissioning the small power project; and
 - (i) commencing commercial operations and successfully exporting electricity to the

Distribution Network Operator.

Appeal
against decision
of tender Board

Cap. 410

34. A person who is aggrieved by the decision of the tender Board under this Part may appeal to the Public Procurement Regulatory Authority pursuant to the provisions of the Public Procurement Act, as the case may be.

PART VI
POST PROCUREMENT ACTIVITIES

Sub-Part I

Signing of a Standardized Power Purchase Agreement

Signing of a
standardized
power purchase
agreement

35.-(1) A power purchase agreement entered into between a Distribution Network Operator and the seller for the sale of electricity power shall be made in the standardized power purchase agreement form as prescribed in the Third Schedule.

(2) The signing of a standardized power purchase agreement shall be done after a small power project developer has won a tender under solicited proposals or acquired a letter of intent under unsolicited proposals and thereafter receiving approval for interconnection.

(3) The agreement shall be concluded within the validity period of the letter of intent after a Distribution Network Operator has delivered a detailed statement of interconnection costs to the small power project developer.

(4) The term of the standardized power purchase agreement shall be for a period of twenty operating years after reaching commercial operation date.

(5) The parties to the standardized power purchase agreement shall, after coming into force of these Rules, be at liberty to re-negotiate the terms of their existing agreement with a view to complying with the term prescribed in these rules.

(6) A Small Power Project developer shall sell electricity to a Distribution Network Operator pursuant to the standardized power purchase agreement, provided that this provision shall not bar the Small Power Project developer from selling electricity to any other entity subject to the terms and conditions that the parties may agree upon.

Sub-Part II

Licensing and Registration Procedures

Licensing
requirements
GN. No.
287 of 2019

36. A Small Power Project developer shall, upon signing a standardized power purchase agreement with a Distribution Network Operator, apply to the Authority for a licence as per the provisions of the Electricity (Generation, Transmission and Distribution Activities) Rules 2019.

Mandatory
registration
for generating
projects below
1 MW

37.-(1) A Small Power Producer, Small Power Distributor or a Very Small Power Producer shall not commence commercial operation unless the project has been licensed or registered by the Authority, as appropriate.

(2) The application for registration shall be in a prescribed form and shall include the following information:

- (a) name and address of the applicant;
- (b) entity registration documents;
- (c) description of the geographic area;
- (d) description of the generation and distribution infrastructures;
- (e) initial size of the generating facility;
- (f) a description of the generating technology that will be used;
- (g) environmental clearance;
- (h) details of any grants or loan granted to the developer in respect of the project;
- (i) proof of land use rights; and

(j) any other information as may be required by the Authority.

(3) Without prejudice to sub-rule (2), provisional registration may be effected by the Authority at any stage before commissioning of the project by way of a letter without submission of an environmental clearance, provided that the applicant submits to the Authority proof of initiation of the process to acquire the environmental clearance.

(4) The Authority shall and upon completion of the construction or installation and submission to the Authority the proof thereof, register the Small Power Producer, Small Power Distributor or Very Small Power Producer and issue a registration certificate.

(5) The registered Small Power Producer, Small Power Distributor or Very Small Power Producer shall notify the Authority of the new facility, and the Authority shall determine whether to register a new facility or amend the previous registration to include the new additional facility provided that the operator has met the requirements.

Exclusive rights
to mini-grids
operators

38. Notwithstanding the provisions of these rules and the terms and conditions of a licence or a certificate of registration issued by the Authority, an operator of a mini-grid shall, subject to the provisions of rule 42, have exclusive rights for distributing power in its area of service as it shall be identified in a licence or registration certificate issued by the Authority.

Sub-Part III
Commissioning Procedures

Commercial
operation date

39.-(1) The commercial operation date shall be not later than the commercial operation date specified in a standardized power purchase agreement.

(2) A Small Power Project developer shall submit quarterly progress reports to a Distribution Network Operator and the Authority indicating its progress towards achievement of the commercial operation date.

(3) Where a Small Power Project developer fails to achieve the commercial operation date within the timeframe established in the standardized power purchase agreement, the agreement shall be void, unless both parties agree to an extension and such extension is approved by the Authority.

(4) The Authority shall, in deciding whether or not to approve the extension of the commercial operation date, take into consideration:

- (a) whether the renewable energy resource can be allocated to another Small Power Project developer;
- (b) whether the resources of the Distribution Network Operator can be allocated to another use;
- (c) milestones achieved in project development; and
- (d) the circumstances of the delay.

(5) A Small Power Project developer who fails to submit quarterly progress reports to the Distribution Network Operator and the Authority commits an offence and shall be liable to a fine of three million shillings.

Interconnection
certificate

40.-(1) A Small Power Project developer who has concluded a standardized power purchase agreement with a Distribution Network Operator may supply power to the Grid only after the Distribution Network Operator has verified that the interconnection and the installed connection equipment comply with the standards specified in the agreement and the technical guidelines approved by the Authority.

(2) A Distribution Network Operator shall issue the

interconnection certificate as evidence of a Small Power Project's compliance with the standards.

(3) A DNO shall ensure that the interconnection certificate under sub-rule (2) is issued as soon as possible and in any event not more than fourteen days after the verification under sub-rule (1).

Testing prior to interconnection

41.-(1) A Small Power Project developer shall complete commissioning testing after all the construction work the installation of all required equipment has been completed and prior to dispatching power into the Distribution Network Operator network.

(2) A Small Power Project developer may, for lack of capacity or for any other reason, request the Distribution Network Operation to conduct testing of interconnection facilities.

(3) A Distribution Network Operator that receives request under subrule (1) shall provide to the Small Power Project developer an estimate of costs, if any, expected to be incurred by the Distribution Network Operator and reimbursed by the Small Power Project developer during the commissioning of interconnection facilities.

(4) A Small Power Project developer shall:

- (a) acknowledge acceptance of the costs prior to Distribution Network Operator's carrying out of the interconnection facilities tests; and
- (b) prior to the commencement of the sale of electricity, demonstrate to a Distribution Network Operator, that all necessary licences and permits have been obtained.

Sub-Part IV
Connection to the Main-Grid

Connection to
the main-grid

42.-(1) A DNO or REA, as the case may be, shall notify an SPP developer, SPD or VSPP developer of the intention to connect the mini grid to the main-grid six months prior to the intended connection.

(2) Upon receipt of the notification under sub-rule (1), a Small Power Producer, Small Power Distributor or Very Small Power Producer as the case may be, may apply to the Authority for the right to operate as:

- (a) a Small Power Producer selling electricity to a Distribution Network Operator; or
- (b) a Small Power Distributor that purchases electricity from a Distribution Network Operator connected to the main-grid under a bulk supply tariff and then resells some or all of that electricity to the Small Power Distributor's retail customers.

(3) The Authority shall, within a reasonable and in any event not later than thirty days after receipt of the application in sub-rule (2), make a decision to such application.

(4) The Authority shall, in making a decision under sub-rule (3):

- (a) take into account, *inter alia*, the interest of the population that was being served by the mini-grid that is about to be connected to the main-grid; and
- (b) ensure that the mini-grid network is of the standard that allow interconnection with the main-grid.

(5) On receipt of the notification under sub-rule (1) and if an SPP, SPD or VSPP developer wishes to be compensated instead of pursuing any of the options in sub-

rule (2), such SPP, SPD or VSPP developer shall, notify a DNO or REA, as the case may be, of the intention to be compensated.

(6) Upon receipt of the request for compensation under sub-rule (5), a DNO or REA, as the case may be, shall initiate the process for asset compensation:

Provided that, no compensation shall be made to a VSPP developer unless he submitted a letter of support issued by the Ministry under rule 5.

(7) A Distribution Network Operator may purchase the Small Power Producer, Small Power Distributor or Very Small Power Producer's distribution assets in the following circumstances:

- (a) where both parties agree about the said purchase; and
- (b) where a DNO network has reached an area operated by a Small Power Producer, Small Power Distributor or Very Small Power Producer and the said network offers a lower tariff compared to what is being charged in the said area.

(8) In the event a Distribution Network Operator purchases the Small Power Producer, Small Power Distributor or Very Small Power Producer's distribution assets, under sub-rule (7) (a) such purchase shall be based on the agreed terms between the parties.

(9) In the event a Distribution Network Operator purchases the Small Power Producer, Small Power Distributor or Very Small Power Producer's distribution assets under sub-rule (7) (b), such purchase shall be based on the following principles:

- (a) the valuation of a mini-grid's distribution assets shall be based on the Rural Energy Agency average capital cost for installing distribution equipment in rural areas measured on a cost per

kilometer basis over a recent calendar or fiscal year minus depreciation measured from the date when the mini-grid's assets were installed provided that:

- (i) if the mini-grid's distribution capital costs were fully or partly financed through grants, compensation shall be reduced in the same percentage of the capital cost financed by grants;
 - (ii) in case the mini-grid's distribution assets are built in accordance with the standards set by the Tanzania Bureau of Standards and that the standards are lower than the Rural Energy Agency standards, the calculations specified above shall be discounted to reflect the difference; and
 - (iii) meters shall not be included in the calculation of distribution assets unless they are the same meters used by the Distribution Network Operator or, if different, are compatible with the Distribution Network Operator's billing and collection system.
- (b) the mini-grid owner may continue to add assets over time to meet increasing demand, and the calculation of depreciation shall reflect the fact that the mini-grid's accumulated distribution assets may have been installed at different times;
- (c) a Small Power Producer, Small Power Distributor or Very Small Power Producer owner will be eligible to receive compensation if the following conditions are met:
- (i) the distribution facilities have been built at least in accordance with the Tanzania Bureau of Standards that would allow the

- Distribution Network Operator to provide retail service to the Very Small Power Producer or Small Power Project's customers;
- (ii) the connection to the Main Grid takes place within two to fifteen years of the mini-grid's date of commercial operation;
 - (iii) the Small Power Producer or Very Small Power Producer is registered or licensed with the Authority; and
 - (iv) the Small Power Producer or Very Small Power Producer provides proof that the Ministry responsible for electricity supported the project prior to its development.

(10) In the event a Distribution Network Operator purchases the Small Power Producer or Small Power Distributor's distribution assets, under sub-rule (9) (c), such purchase shall be based on the principles set forth in the SPPA.

(11) Where the mini-grid owner or Distribution Network Operator cannot agree on the eligibility of an asset for transfer to the Distribution Network Operator or compensation amount for the transfer of the mini-grid's distribution assets under sub-rule (10), either party may request the Authority to determine eligibility and a fair compensation value.

(12) The Authority may hire a third party entity to assist it in making of the determination.

(13) If the conditions in sub-rule (9)(c) are met, the Distribution Network Operator shall have an obligation to purchase the offered distribution assets of the Small Power Producer or Very Small Power Producer using the compensation rules specified in sub-rule (9)(a) and (b).

(14) Where a Small Power Project developer who has previously been operating as a Small Power Producer on an isolated mini-grid requests the Authority to operate as

Small Power Producer selling bulk electricity to a Distribution Network Operator connected to the Main-Grid under sub-rule (1)(a):

- (a) the Small Power Producer shall have the right to sell power to the main grid if it satisfies the same rules as those that apply to other Small Power Projects connected to the Main-Grid;
- (b) the Mini-Grid Standardized Power Purchase Agreement shall terminate and the parties thereto shall conclude a new Standardized Power Purchase Agreement that shall come into force when the Main-Grid is interconnected with the Small Power Project; and
- (c) thereafter, the applicable tariff shall be:
 - (i) for Standardized Power Purchase Agreements executed before August, 2015, the main-grid Standardized Small Power Project tariff calculated on the basis of avoided cost principles shall apply; and
 - (ii) for Standardized Power Purchase Agreements executed after August, 2015, the main-grid Standardized Small Power Project tariff calculated on the basis of technology specific cost principles shall apply.

An entity seeking to operate as a Small Power Distributor

43.-(1) Where a Small Power Project developer or a new entity seeks to operate as a Small Power Distributor shall submit a request to a Distribution Network Operator with a copy to the Authority asking the Distribution Network Operator to:

- (a) indicate whether sufficient electricity is available for a bulk purchase for resale to retail customers; and
- (b) prescribe a bulk supply tariff for the purchase of electricity from the Distribution Network

Operator.

(2) Where a Distribution Network Operator fails to deliver a written response to the request within thirty business days, the entity seeking to operate as Small Power Distributor may apply to the Authority with a copy submitted to the Distribution Network Operator.

(3) The application under sub-rule (2), shall include a proposed retail tariff and a proposed bulk supply tariff.

(4) The Authority shall consider the application submitted under sub-rule (2), and if the proposed retail tariff:

- (a) is the same as the national uniform tariff, it shall allow the application as long as both the Small Power Distributor and Distribution Network Operator remain commercially sustainable; or
- (b) is higher than the national uniform tariff, the applicant shall be required to submit the proposed margin that would be added to the bulk supply tariff using the pricing principles specified in rule 45(2).

PART IV

TARIFFS

Sub-Part I

Tariff Setting

Bulk supply tariffs

44. A bulk supplier of electricity to a Small Power Distributor shall, upon approval of the Authority, charge a tariff which shall be computed based on the tariffs that are charged to similarly situated Small Power Distributors.

SPP tariff

45.-(1) A Small Power Project operator shall charge a tariff that has been approved by the Authority.

(2) The computation of the tariff under sub-rule (1) shall be based on:

- (a) avoided cost principle for Standardized Power Purchase Agreements signed before 1st August 2015 and such tariff shall be revised annually; and
- (b) technology specific costs for Standardized Power Purchase Agreements executed after 1st August 2015.

Application for
retail tariff

46.-(1) A Small Power Producer that sells electricity to retail customers, shall charge a tariff approved by the Authority, at a maximum and limited to the sum of:

- (a) operating costs;
- (b) depreciation on capital, whether supplied by the Small Power Producer or Small Power Distributor or others;
- (c) interest expenses;
- (d) reserves to deal with emergency repairs and replacements; and
- (e) taxes, and a reasonable return on equity that reflects the risks faced by the Small Power Producer or Small Power Distributor.

(2) A Small Power Distributor that sells electricity to retail customers shall charge a tariff limited to a maximum sum of:

- (a) the reasonable cost of electricity purchased from the Distribution Network Operator or other suppliers;
- (b) operating costs;
- (c) depreciation on capital, whether supplied by the Small Power Distributor or others;
- (d) interest expenses;
- (e) reserves to deal with emergency repairs or replacements;
- (f) taxes; and
- (g) a reasonable return on equity that reflects the

risks faced by the Small Power Distributor.

(3) For purposes of calculating a reasonable return on capital, the regulatory asset base should not include any grants received from the Rural Energy Agency, Government or donors for the purpose of lowering tariff levels.

(4) A Small Power Producer or Small Power Distributor, may for the purpose of facilitating predictability and reduce the number of separate regulatory filings, propose a multi-year tariff setting formula for review by the Authority.

(5) A Small Power Producer or Small Power Distributor may, in order to facilitate commercial sustainability, and subject to the Authority's approval, propose tariffs for specific customer categories or for customers within a single category, that takes account the ability to pay of the respective customers.

Sales to eligible customers

47.-(1) Where a Small Power Producer reaches an agreement with an eligible customer to sell electricity to that entity under a power purchase agreement, the Authority shall exempt such agreement from the requirement of tariff approval.

(2) A Small Power Project developer in sub-rule (1), shall provide the Authority with a copy of the power purchase agreement and the agreed-upon tariff.

Retail tariff structure

48.-(1) A Small Power Producer and a Small Power Distributor selling electricity to retail customers shall be permitted to propose a retail tariff structure, including, conventional kWh tariffs, flat tariffs, power tariffs or a combination of the above.

(2) The retail tariff structure proposed by a Small Power Producer and a Small Power Distributors may include on-bill financing such as financing of connection

charges, financing of internal wiring, upgrades necessary to meet minimum electrification requirements, or electrical end-use equipment for productive uses, as well as associated administrative costs.

(3) A Small Power Producer and a Small Power Distributor shall, while measuring and regulating customer's energy consumption, use conventional kilowatt-hour meters, power limiters, prepaid meters or devices with the combination of these functions.

(4) For avoidance of doubt, full cost recovery does not imply automatic approval of any booked costs.

(5) The Authority shall ensure that the proposed costs for serving retail customer reflects prudently incurred costs and a reasonable level of efficiency.

(6) A Small Power Project or Small Power Distributor may sell power to retail customers at the national uniform tariff, provided that, they demonstrate to the Authority that such tariff shall nevertheless ensure commercial sustainability of the project.

Community to
be notified of
tariff application

49.-(1) A Small Power Producer or a Small Power Distributor shall ensure that they inform the community intended to be supplied with the services, about any tariff application which is due to be submitted to the Authority.

(2) The communication in sub-rule (1), shall be either by way of public meetings, television, radio broadcast or the use of public notices to the community in both Kiswahili and English.

(3) A Small Power Producer or Small Power Distributor shall submit to the Authority, together with the tariff application, proof that they have informed the community about the application.

(4) A Small Power Producer or Small Power Distributor above 100 kW shall be required to submit a tariff application for approval by the Authority before it is

allowed to charge tariffs to its customers.

Backup tariffs

50.-(1) A Distribution Network Operator shall provide backup power to a Small Power Producer who wishes to receive backup power from the Distribution Network Operator, subject to the following conditions:

- (a) the Small Power Producer enters into a separate contract with a Distribution Network Operator for purchase of backup power;
- (b) the Small Power Producer is not charged any construction costs, connection fees or fees for deposits for these backup services;
- (c) if the three most recent consecutive billing periods show a power import load factor of 15% or less, then the Distribution Network Operator charges the Small Power Producer a tariff for backup power that comprises only an energy (kWh) charge and no demand (kVA) charge,

Provided that the energy charge shall be not higher than the Distribution Network Operator's general usage (T1) tariff; and

- (d) if the import load factor exceeds 15%, then the demand charge (TZS per kVA) and energy charge (TZS per kWh) shall be equal to the same tariff that other customers are charged.

(2) The request for contract shall not be unreasonably withheld by the Distribution Network Operator.

VSPP selling at wholesale

51.-(1) Where a Very Small Power Producer intends to sell electricity at wholesale to a Distribution Network Operator, he shall apply and obtain a Letter of Intent as well as a power purchase agreement and interconnection agreement.

- (2) Notwithstanding sub-rule (1), the Power

Purchase Agreement entered by a Very Small Power Producer and a Distribution Network Operator shall be of the same nature and effects as a power purchase agreement entered between a Small Power Producer and an eligible customer.

Retail tariff for VSPP in Mini-Grids

52.-(1) Very Small Power Producer who intends to sell electricity to retail customers connected to Mini-Grids shall apply to the Authority for an approval of tariffs by submission of a tariff application and the operator shall inform the community it serves on the details of the tariff application to be submitted to the Authority.

(2) Before submission the tariff application to the Authority, the operator shall inform the community of the proposed tariffs.

(3) The communication shall either be by way of public meetings, television, radio broadcast or public notice. The media for communication shall either be in Kiswahili or both Kiswahili and English, in the location of the project.

(4) In evaluating the reasonableness of tariff, the Authority shall use the same pricing principles listed for Small Power Projects and Small Power Distributors and those specified in the Standardised Tariff Methodology.

(5) All existing Very Small Power Producers shall, within three months after coming into force of these rules, apply to the Authority for a tariff.

GN No 452 of 2017

(6) The application for a tariff under sub-rule (4) shall be as per the Energy and Water Utilities Regulatory Authority (Tariff Application and Rate Setting) Rules, 2017.

Offence

53. Any Small Power Producer, Small Power Distributor or Very Small Power Producer who sells or offer for sale electricity to a community using a tariff that is

not approved by the Authority, commits an offence and shall, upon conviction, be liable to pay a fine not exceeding three million shillings or imprisonment for a term not exceeding three years or both.

Sub-Part II
Working Group

Composition of
working group

54.-(1) There shall be a working group on small power development comprising of:

- (a) one member each from the Ministry and Rural Energy Agency who shall be responsible for overseeing policy and financial support matters;
- (b) two members from the Authority to be able to address technical and commercial issues;
- (c) two representatives from a Distribution Network Operator or the association of Distribution Network Operators, if any;
- (d) one representative appointed by the Authority from among academic institutions with sufficient knowledge in Small Power Projects who shall provide advice on academic concepts;
- (e) one representative from Small Power Producers to be nominated by the developers;
- (f) one representative from other stakeholder's groups that the Authority believes to have a direct interest in small power development;
- (g) one representative from the Council; and
- (h) one representative from Small Power Distributors.

(2) Each institution may designate an alternate member with sufficient knowledge and skills to handle the requisite tasks under the working group.

(3) Members shall select, from among themselves, a chairperson to serve for a term of twelve-months.

(4) Where the chairperson is not available during a meeting, members may nominate any person to chair that particular meeting.

(5) Each institution may designate a non-voting invitee to provide technical expertise, subject to chairperson's approval.

(6) The Authority shall coordinate and facilitate the activities of the working group.

(7) The Authority shall, where the Distribution Network Operators, Small Power Producer or Small Power Distributors fail to nominate representatives as required, proceed in nominating any person from the Distribution Network Operator, Small Power Producer and Small Power Distributors to act as such.

(8) The Authority may recommend to an institution to terminate the nomination or appointment of the member due to ineffectiveness of the member, and such institution shall act in accordance with the recommendation of the Authority.

Responsibilities
of the Working
Group

55.-(1) The Working Group shall meet and transact business as required by the Authority and it shall regulate its own procedures.

(2) The Working Group shall be responsible for, *inter alia*:

- (a) acting as a representative and key stakeholders on matters concerning development of Small Power Projects and Small Power Distributors;
- (b) advise the Authority on matters related to annual computations of Standardized Small Power Project Tariffs and other regulatory matters affecting small power development;
- (c) advise the Authority on modification or general improvement of its Rules and guidelines related to small power development; and

(d) give advice to the Authority as a working group or, in the absence of a shared Working Group view, as individual members or organizations from the Working Group.

(3) Members of the general public may provide the Authority with their separate views on matters related to the development of Small Power Projects.

(4) The written views provided to the Authority by the working group, individual members or other organizations and individuals shall be made available to the general public.

PART VI
SMALL POWER PROJECT UNIT

Small power
Project Unit

56.-(1) A Distribution Network Operator shall establish a Small Power Project Unit that will serve as a single point of contact to help coordinate interactions with various divisions within the Distribution Network Operator.

(2) A Small Power Project Unit shall:

- (a) facilitate the issuance of letters of intent;
- (b) facilitate the conclusion of Standardized Power Purchase Agreements;
- (c) review Small Power Project progress reports;
- (d) facilitate and coordinate the activities of a Small Power Project and a Distribution Network Operator in the construction and installation of interconnection and metering equipment and, as required in upgrading of the Distribution Network Operator system;
- (e) conduct such other activities incidental thereto;
- (f) upon initial interconnection, witness interconnection testing and facilitate the issuance of an Interconnection Certificate by the Distribution Network Operator;

- (g) monitor Small Power Producer performance and maintain a database of power production; and
- (h) represent a Distribution Network Operator as an active participant in the Working Group on Small Power Development to review a Standardized Small Power Project Tariff.

PART XII
REPORTING AND COMPLIANCE MONITORING

Expansion plans 57.-(1) A Distributor Network Operator, after consultation with Rural Energy Agency shall, on or before the 31st July of each year, make available to the public upon request a document indicating the names of the villages and districts to which they intend to expand their distribution system to serve new customers in the coming 12 months, 24 months and 36 months.

(2) A Distribution Network Operator shall, on the 31st July of each year, publish in newspapers of wide circulation a list of signed standardized power purchase agreements and letter of intents for the previous year, which shall include the following information:

- (a) project name, technology;
- (b) MW of export capacity;
- (c) location including GPS coordinates;
- (d) whether off-grid or on-grid;
- (e) letter of intent date; and
- (f) expected commercial operation date.

Reporting requirements 58.-(1) A Small Power Producer, a Very Small Power Producer or a Small Power Distributor shall, submit an annual report to the Authority on the conduct of its facilities and operations in the format to be prescribed by the Authority.

(2) The annual report shall be submitted to the

Authority not later than one hundred and twenty days after the end of the financial year and any other reports as requested by the Authority.

Penalty

59. A Small Power Project developer, Small Power Distributor or Very Small Power Producer who:

- (a) refuses to furnish information or to provide statement required by the Authority or knowingly furnishes any false information or statement to the Authority commits an offence and shall be liable to a fine of three million shillings; and
- (b) refuses to furnish information as required or knowingly provides any false information or statement to the Authority for the second time shall be liable to a fine of ten million Shillings and shall have its licence, registration or provisional licence, as the case may be, suspended for a period of twelve months.

Compliance
Audit

60.-(1) A Small Power Producer or a Small Power Distributor shall, as directed by the Authority from time to time, conduct an audit of its financial, commercial and technical operations with a view to checking its compliance with:

- (a) these rules;
 - (b) any agreement relevant with the conduct of a Small Power Project or Small Power Distributor;
 - (c) relevant laws; and
 - (d) any relevant codes.
- (2) The compliance audit shall be conducted by:
- (a) an independent auditor; or
 - (b) any other expert of required expertise hired by a Small Power Producer or a Small Power

Distributor and approved by the Authority.

(3) A Small Power Producer or a Small Power Distributor shall, within ninety days after completion of the audit, deliver to the Authority the results of such audit.

(4) Notwithstanding the audit procedure provided under sub-rules (1), (2) and (3) the Authority may, on its own, conduct a technical, financial and commercial audit at any time.

(5) The audit may be done by the Authority itself or by an independent auditor who shall be appointed by the Authority.

PART XIII GENERAL PROVISIONS

Treatment of
Carbon Credits

61. All Carbon Credits shall be provided, as per procedure prescribed by the Clean Development Mechanism Guidelines.

Declaration of
any grant

62.-(1) An SPP developer or VSPP developer shall declare to the Authority the details of any grant received or expected to be received as part of the development of an SPP or VSPP.

(2) An SPP developer or VSPP developer who contravenes the provisions of sub-rule (1), commits an offence and shall, on conviction, be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding three years or both.

General penalty

63. A Small Power Project developer, a Small Power Distributor, a Very Small Power Producer or a Distribution Network Operator who contravenes the provisions of these rules for which no specific penalty is prescribed shall be liable to a fine of not less than shillings three million.

Electricity Act

GN. No. 491(contd.)

Revocation and
saving
GN No.
462 of 2019

64.-(1) The Electricity (Development of Small Power Projects) Rules, 2019 are hereby revoked.

Transition
provisions

65. Any rights and obligation imposed by these Rules to the development of small power projects shall not affect the rights of the parties to an already executed Standardized Power Purchase Agreement entered into under the revoked Rules.

(2) Notwithstanding the revocation of the Electricity (Development of Small Power Projects) Rules, 2019, all orders, exemptions or directives made or issued or deemed to have been made or issued under those Rules shall be deemed to have been made under those Rules, and shall remain in force until specifically revoked by direct reference or otherwise expire or cease to have effect.

Electricity Act

GN. No. 49I(contd.)

—————
FIRST SCHEDULE
—————

SAMPLE LETTER OF SUPPORT
(Made under Rule 5 (4))

MINISTRY'S LOGO AND ADDRESS

[Mini-grid Developer's Address]

RE: MINISTRY'S SUPPORT ON THE MINI-GRID PROJECT CALLED [NAME OF THE PROJECT]

Reference is made on the above captioned subject.

Please be informed that, the Government through the Ministry of Energy and in accordance with the requirements of Rule 5 (3) of *the Electricity (Development of Small Power Projects) Rules, GN No.....*, support implementation of your mini-grid project located at [village] in [district, region] as it is in line with the National Energy Policy (NEP) 2015, which emphasizes on utilization of renewable energy sources for rural electrification.

Furthermore, implementation of your project is anticipated to contribute to the Government's efforts of providing modern energy services to the Tanzania's rural communities.

You are kindly reminded that failure to commence implementation of the project within twelve months from the date hereof, will render this support to cease to have effect.

[Signature]

[Name of the Officer]

For: **PERMANENT SECRETARY**

Electricity Act

GN. No. 49I(contd.)

SECOND SCHEDULE

LETTER OF INTENT APPLICATION FORM
(Made under Rule 9(1))

EWURA LOGO

Form No.....

THE ELECTRICITY (DEVELOPMENT OF SMALL POWER PROJECTS) RULES, GN No.....

LETTER OF INTENT APPLICATION FORM
(Made under Rule.....of GN No.....)

1.	Name of Applicant	
2.	Registration in Tanzania (Fill Where Appropriate)	(a) Certificate of Incorporation No..... (b) Certificate of Compliance No..... (c) Certificate of Registration (d) TIN No..... (e) VAT No.....
3.	Physical and Postal Address	(a) Physical Address (i) Street No..... (ii) Plot No..... (iii)Block No..... (iv)House No..... (b) Postal Address..... (c) Telephone No..... (d) Mobile No..... (e) Facsimile..... (f) E-mail Address..... (g) Website Address.....
4.	Legal Status of the Applicant (Tick Where Appropriate)	<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Public Limited Liability Company <input type="checkbox"/> Private Limited Liability Company <input type="checkbox"/> Parastatal Organization <input type="checkbox"/> Government Agency

Electricity Act

GN. No. 49I(contd.)

		<input type="checkbox"/> Cooperative Society <input type="checkbox"/> Non-Governmental Organization <input type="checkbox"/> Others (Specify).....
5.	Contact Person	(a) Name (b) Title (c) Postal Address..... (d) Telephone No..... (e) Mobile No..... (f) E-mail Address.....
6.	Names and Share Percentage or Number of Shares of Each Partner:	(a)No. of Shares/Share %..... (b)No. of Shares/Share %..... (c)No. of Shares/Share %..... (d)No. of Shares/Share %..... (e)No. of Shares/Share %..... <i>(Use Additional Sheet if Necessary)</i>
7.	Names of Directors:	(a) (b) (c) (d) (e) <i>(Use Additional Sheet if Necessary)</i>
8.	Name of Chief Executive Officer	
9.	The location (longitude and latitude) to be marked on a survey map; If hydropower, identification of the river/stream/canal where the plant is located, head and flow involved, if applicable. <i>(Use Additional Sheet if Necessary)</i>	
10.	Resource type	

Electricity Act

GN. No. 491(contd.)

11.	<p>The installed power capacity (MW) and planned power export (MW), expected annual energy generation (GWh).</p>	
12.	<p>Declaration of the applicant</p>	<p>I..... (insert name) being..... (insert title/position) hereby declare that I am authorized to make this application on behalf of the applicant and that to the best of my knowledge the information supplied herein is correct and that within a reasonable period of time after notice, I undertake to provide whatever additional information EWURA may require in order to evaluate this application.</p> <p>SWORN/AFFIRMED at.....) by the said.....who is identified to) me by...../known to me personally) the latter being known to me) DECLARANT personally this.....day of) 2020)</p> <p>BEFORE ME:</p> <p style="text-align: center;">..... COMMISSIONER FOR OATHS</p>

Electricity Act

GN. No. 491(contd.)

THIRD SCHEDULE

(Made under rule 35(1))

STANDARDIZED POWER PURCHASE AGREEMENT
FOR PURCHASE OF ELECTRIC ENERGY FROM A GENERATION FACILITY

BETWEEN

.....
(The Buyer)

AND

.....
(The Seller)

DATED
.....

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STANDARDIZED POWER PURCHASE AGREEMENT FOR PURCHASE OF GRID-CONNECTED ELECTRIC ENERGY

This Standardized Power Purchase Agreement (“SPPA”) for the Purchase of Electric Energy (hereinafter "Agreement") is entered into on the date signed below, by and betweenwith a registered office address of....., Tanzania (hereinafter referred to as “the Buyer”), and, with a registered office address of....., Tanzania, the owner of the Small Power Project identified above and described in the APPENDIX I, (hereinafter referred to as "the Seller") for a period of years (hereinafter referred to as “the Term”).

WHEREAS it is the policy of the United Republic of Tanzania to encourage private sector Small Power Project development and production of power;

WHEREAS it is the responsibility of the Ministry of Energy and Minerals (MEM) in administering the National Energy Policy, to facilitate Small Power Project development and power sale;

WHEREAS the Authority has been empowered by the Energy and Water Utilities Regulatory Authority Act, Cap.414 to approve wholesale power sale terms and tariffs, and has approved the form of this Agreement for sales of power from Small Power Producers;

WHEREAS the Buyer has requirements to obtain additional electric energy, and has available transmission capacity to accept and utilize such energy;

WHEREAS such electric energy can be supplied to the Buyer by the Seller, subject to the warranties and representations in this Agreement;

WHEREAS the Seller has submitted to the Buyer a proposal for sale of electric energy from a Small Power Producer's Facility;

WHEREAS the Small Power Producer's tender for sale to the Buyer of electric energy qualifies as eligible under the Small Power Producers program in Mainland Tanzania, and under which the Buyer is authorized by EWURA to enter binding agreements with owners or operators of Small Power Projects;

WHEREAS the Seller and the Buyer are companies duly organized and validly existing under the laws of the Government of Tanzania, each possesses all requisite corporate and legal authority to execute this Agreement, and each is permitted by applicable laws and regulations to sell or purchase independently produced power; and

WHEREAS the Seller wishes to deliver and sell, and the Buyer wishes to purchase and to accept delivery of, the offered electric energy to be produced by the Seller from the Facility described in the APPENDIX I, all pursuant to the terms and subject to the conditions as set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the sufficiency of which are stipulated by the Parties, the Seller and the Buyer hereby agree as follows;

ARTICLE 1: DEFINITIONS

1.1 When used with initial capitalizations, whether in the singular or in the plural, the following terms shall have the following meaning:-

- (a) Agreement: This document, including all Appendices, as may be amended from time to time;
- (b) Applicable Law: All principal laws, treaties, proclamations, regulations and rules that are customarily treated in the United Republic of Tanzania as having legally binding force;
- (c) Authorisation: All such permits, approvals, consents, grants or certificates of registration, notifications, concessions, acknowledgments, agreements, licenses, decisions or similar items required to be obtained from any Government Authority or other relevant governmental entity for the Seller or for the construction, financing, ownership, operation and maintenance of the Facility;

- (d) Authority: The Energy and Water Utilities Regulatory Authority (EWURA), established by Section 4 of Cap. 414 of the Laws of Tanzania. The terms “Authority” and “Regulator” may be used interchangeably;
- (e) Buyer’s Default Purchase Price means the total of:-
- (i) Termination cost;
 - (ii) the Debt and all fees, costs, expenses, early termination or close-out payments and breakage costs in connection with any Financing Agreement outstanding at the Termination Date; provided that if any portion of the Debt was not paid by Seller to the Lenders as required under the Financing Agreements, such portion, together with all default interest, shall be deducted from the Buyer’s Default Purchase Price;
 - (iii) Equity Amount Outstanding;
 - (iv) All amounts owed by Buyer to Seller; and
 - (v) an amount equal to the revenue which would have been expected to be generated by the Seller for a period of twelve (12) months or until the end of the Term (whichever is shorter) assuming that no Buyer Event of Default had occurred and the Agreement had not terminated.
- (f) Calculation Date: the actual date on which termination of the Agreement by either Party in accordance with its terms takes effect;
- (g) Check Meter: The meter used to check the measurement and recording of Metered Energy and input at the Delivery Point in addition to the Main Meter;
- (h) Commercial Operations Date: The earlier of: (1) the day on which the Seller notifies the Buyer that power deliveries can commence consistent with the terms of this Agreement, or (2) the day on which the Seller commences deliveries of electric energy to any buyer consistent with applicable law, including but not limited to, the Buyer, which shall, for the avoidance of doubt, exclude delivery of electric energy during any commissioning period;
- (i) Contracted Capacity: The export capacity of the generating facility not exceeding the limit declared for Small Power Producers’ facility at the time of signing of this Agreement;
- (j) Contract Year: The twelve month period beginning with the Commercial Operations Date and each succeeding twelve month period;

- (k) Contract Price (Energy Charge): Price for each technology as per the SPPT approved by the Authority or as agreed by the Parties;
- (l) Deemed Energy: has the meaning given in Article 2.9;
- (m) Deemed Energy Payments: has the meaning given in Article 5.3;
- (n) Default Interest Rate: Two percentage points above the prevailing USD LIBOR rate;
- (o) Delivery Point: The point where the Buyer's transmission or distribution system connects with the power output of the Facility, and whereto the Seller's metering of power output initially takes place including those protection, metering, electric line(s), and other facilities required, in the opinion of the Buyer, to connect the electric systems of the Buyer and the Seller. The terms "Delivery Point" and "Point of Supply" may be used interchangeably;
- (p) Due Date: Thirty (30) days from the date the invoice was received by the Buyer;
- (q) Electricity Market: is a system enabling purchases, through bids to buy; and enabling sales, through offers to sale;
- (r) Emergency: A condition or situation which is likely to result in disruption of service to the Buyer's customers, is likely to cause a major fault in the Buyer's transmission system, or is likely to endanger life or property;
- (s) Energy: The electric energy produced by the Facility measured in kWh generated by the Facility and delivered by the Seller to the Buyer pursuant to the terms of this Agreement;
- (t) Energy Charge: The price which the Buyer will pay to the Seller per kWh of Energy as stated in the APPENDIX III;
- (u) Equity Amount Outstanding: means the sum equal to all Equity Contributions made in cash or in kind prior to the Calculation Date less the sum of all Equity Distributions made in cash prior to the Calculation Date; provided that, if such difference shall result in an amount that is less than zero (0), such amount shall be deemed to be zero (0);

- (v) Equity Contribution: means the quantum of any amount of cash actually paid or advanced to the Seller by any of its shareholders whether in the form of equity or a shareholder loan that constitutes Equity;
- (w) Equity Distribution: means the quantum of any amount returned by the Seller to its shareholders whether in the form of dividends, redemption of capital, and repayment of shareholder loans qualifying as Equity or otherwise;
- (x) Event of Default: An event as defined in Article 3.2;
- (y) Facility: All of the Seller's electrical prime movers and generators, together with all protective and other associated or auxiliary equipment of the Seller, and rights to own or use land associated with the electrical prime movers and generators, necessary to produce electric energy pursuant to this Agreement;
- (z) Financing Agreement: a contract entered between the Seller and the Lender(s) outlining the terms of financing development of the Small Power Project;
- (aa) Financing Costs: means all principal amounts and all costs associated with financing the development, ownership, operation and transfer of the Facility incurred pursuant to the financial agreements;
- (bb) Good Utility Practice: Those practices, methods and acts with regard to adequate materials, resources, supplies, fuel, personnel, maintenance, repairs, monitoring, testing, and operation in the international utility industry at a particular time, in the exercise of reasonable judgment based on the facts known or that should have been known at the time of a decision, that would have been expected to accomplish the desired result in a manner consistent with the law, regulations, codes, equipment manufacturers' recommendations, safety, environmental protection and economy;
- (cc) Interconnection Guidelines: The Buyer's interconnection standards and requirements on grid connection relevant to a Small Power Producer's facility interconnection to the Buyer's transmission or distribution grid, as stated in the APPENDIX II;
- (dd) Interconnection Point: The point where the Seller's electric output line or electric system feeds into the electric system of the Buyer. The terms "Interconnection Point" and "Point of Common Coupling" may be used interchangeably;

- (ee) Interconnection Facilities: All the facilities to be constructed by or for the Buyer to a specified distance to the grid substation, as stated in the Electricity (Development of Small Power Projects) Rules enable it to receive energy in accordance with this Agreement. The metering system as specified in the Guidelines for Grid Interconnection of Small Power Projects in Tanzania;
- (ff) Lenders: the financial institutions or project financier whose particulars shall be disclosed by the Seller to the Buyer upon reaching the financial closure;
- (gg) Main Meter: The meter used to measure and record Metered Energy and input at the Delivery Point;
- (hh) Metered Energy: All Energy expressed in kWh as recorded by the Main Meter or the Check Meter;
- (ii) Metering System: The Main Meter and the Check Meter and all associated equipment;
- (jj) Must Take Facility: A facility where the Buyer must take and purchase all of the Metered Energy, not exceeding the contracted capacity, to be generated by the Facility and delivered and sold to the Buyer, subject only to such necessary directions or protocols as may be issued by the Buyer for the protection of its electric system;
- (kk) Net Electrical Output: Energy from the Plant measured in kilowatt hours (kWh) which is generated at the Plant and delivered to the Buyer at the Delivery Point;
- (ll) Party or Parties: The Seller or the Buyer, or both, and their successors in interest to any or all of the rights and obligations hereunder;
- (mm) Plant Availability: means in respect of any Contract Year, the percentage of the total time within the Contract Year during which the Facility is Available. For this purpose, the Facility shall be considered to be "Available" at any time if it is capable of generating Energy and is connected to the Delivery Point by facilities which are themselves capable of delivering the Energy generated by the Facility to the Delivery Point;
- (nn) Prudent Operating Practice: In relation to either Party, standards of practice obtained by exercising that degree of skill, diligence, prudence and foresight which could reasonably be expected from a skilled and experienced person engaged in either electricity generation, transmission or distribution under the same or similar circumstances and conditions;

- (oo) Reasonable and Prudent Operator: a person seeking in good faith to perform its contractual obligations and in so doing and in the general conduct of its business exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaging in the electricity generation and/or transmission business in the same or similar circumstances and conditions;
- (pp) Required Plant Availability: has the meaning given in Article 2.12;
- (qq) Restructuring: unbundling of Tanzania Electric Supply Company Limited as outlined in the Tanzania Electricity Supply Industry (ESI) Reform Strategy and Roadmap;
- (rr) Scheduled Outage: An outage at the Facility which is scheduled in advance for the purpose of performing maintenance on the Facility;
- (ss) Seller's Interconnection Facilities: *[Insert project description of the Facilities]*;
- (tt) Small Power Producer: A producer of electric energy that sells pursuant to this Agreement up to ten (10) MW of such output, or is otherwise deemed eligible for executing this Agreement;
- (uu) Small Power Project: A project of any capacity that generates electric energy and provides pursuant to this AGREEMENT up to ten (10) MW of the installed capacity at any given time, or is otherwise deemed eligible for executing this Agreement;
- (vv) Term: The period commencing on the Commercial Operation Date and ending at 23:59 hours on the last date of the Month in which the twentieth (20th) anniversary of the Commercial Operation Date occurs unless this Agreement is terminated prior to such date pursuant to the terms of this Agreement;
- (ww) Termination Costs: Reasonable costs incurred by Seller (including employee severance costs and contract breakage costs such as EPC contract) as a direct consequence of termination of this Agreement;
- (xx) Termination Date: means the actual date on which termination of the Agreement by either party in accordance with its terms takes effect; and

- (yy) Unscheduled Outage: An outage at the Facility which is not a Scheduled Outage.

ARTICLE 2: DELIVERY, SALE AND PURCHASE OF THE BUYER'S ENTITLEMENT

- 2.1 Delivery of Entitlement. Upon the Commercial Operations Date and thereafter the Seller agrees to deliver and sell to the Buyer at the Delivery Point, all Metered Energy for the term of this Agreement as specified in Article 3 and at the price as specified in Article 5.
- 2.2 Acceptance and Purchase of Entitlement. Upon the Commercial Operations Date and thereafter, the Buyer agrees and covenants to accept into its transmission system and to purchase for the term of this Agreement as specified in Article 3 and at the price as specified in Article 5, the Energy when delivered by Seller at the Delivery Point.
- 2.3 Environmental Attributes. Any environmental attributes recognized under any international, national or other laws or regulations, associated with the ownership or generation of power from the Facility, including but not limited to carbon credits or attributes created pursuant to the Kyoto Protocol or any successor laws, are not included in the Energy transferred to the Buyer and shall remain the property, and under the control, of the Seller.
- 2.4 Operation of Facility. The Seller agrees to operate the Facility in accordance with Good Utility Practice. Unless specifically allowed pursuant to this Agreement, the Seller shall not sell or deliver Energy to any third party, except to the extent that Energy is required by the Facility for its operation or with the Buyer's prior written approval.
- 2.5 Forecasts. Prior to the Commercial Operations Date and thereafter on or before each subsequent Contract Year, the Seller shall furnish to the Buyer an annual forecast of its anticipated operations that includes the following:-
- (a) Scheduled Outages for the year; and
 - (b) anticipated monthly energy generation plan which has taken into consideration the Scheduled Outages.
- 2.6 Scheduled Outages. The Seller shall attempt to coordinate any Scheduled Outage, subject to Good Utility Practice, with the Buyer's reasonable written request. The Seller shall notify the Buyer one month in advance of Scheduled Outages, including a non-binding estimate of expected length of each outage, and as soon as possible, of any Unscheduled Outages, including a non-binding estimate of expected length of each outage.

- 2.7 Transmission System Operation. The Buyer shall operate and maintain its transmission system and the Facility interconnection in accordance with Good Utility Practice so as to permit the delivery of the Energy to the Buyer's system. The Buyer shall work with the Seller to balance load and support voltage on its transmission and distribution system so as to maximize the ability of the Buyer's transmission system to accept the Energy.
- 2.8 Interruption of Acceptance and Purchase. Subject to Article 2.9 below, the Buyer may interrupt, reduce or cease to purchase and accept delivery of all or a portion of the Energy, to the extent that such interruption, reduction or cessation is necessary, under Good Utility Practice, in order for the Buyer to install equipment, make repairs, replacements, investigations or inspections of the Buyer's electric system. Subject to Article 2.9 below, whenever the Buyer's system or the systems with which it is directly interconnected experience an Emergency, or whenever it is necessary to aid in the restoration of service on the Buyer's system or on the systems with which it is directly or indirectly interconnected, the Buyer may, in its sole discretion, curtail or interrupt the taking of all or a portion of the buyer's entitlement or any electric energy hereunder, provided such curtailment or interruption shall continue only for so long as it is reasonably and minimally necessary under Good Utility Practice.
- 2.9 Deemed Energy. at any time after two years from the Commercial Operation Date, in the event that the Buyer's Facilities are not available to the Seller through either a fault, or a back down instruction (given by the Buyer in accordance with Good Utility Practice, intended to ensure the safety and integrity of the interconnected Facilities) that has lasted for more than eight (8) hours, or a combination thereof ("**Interruption Event**") the Buyer shall be liable for the energy that would otherwise have been produced by the Seller. ("**Deemed Energy**").

The Interruption Event shall not include the period of Planned Maintenance, which shall be communicated by the Buyer at the beginning of each year during the term of this Agreement subject to provisions of Article 5.3.

"Subject to Articles 2.10 and 2.11, the Buyer shall make payments to the Seller for such Deemed Energy in accordance with the provisions of Article 5.3, provided that the Buyer shall be relieved of its obligation to make such payments in respect of an aggregate maximum of four hundred thirty two (432) hours of Interruption Events in each Contract Year, which shall be exclusive of the 7 days of Buyers Planned Maintenance as specified in 5.3.1

- 2.9.1 Under no circumstance will the deemed energy calculated be less than zero or more than energy that could have been delivered to the Buyer based on the annual energy production.
- 2.9.2 The Seller will send a daily report to the Buyer on the day following any event of Deemed Energy that has happened the previous day, if any.
- 2.9.3 In order for the Buyer to verify the results of the Deemed Energy calculation, the Buyer can at any moment demand an independent audit of instrument calibration, calculations, procedures and software and will have

- unlimited access to the database of the interconnection point meters, as well as the Seller's SCADA system. The Buyer will receive back-ups of the Seller's database at any time the Buyer may demand such a back-up.
- 2.9.4 Storage of data: All data related to the calculation of Deemed Energy will be stored safely by both parties for at least two years or until such time as both Parties have agreed on the amount of Deemed Energy for a certain year.
- 2.9.5 Deemed Energy payments shall only be permitted if the Buyer's Facilities are under the Buyers control.
- 2.10 Island mode. The Buyer shall ensure that its network system allows the Seller to operate up to 85% of the contracted capacity in an island mode in case of any fault in the grid system. In case the Buyer's system cannot enable the Seller's facility to operate at 85% of the contracted capacity in an island mode, the Buyer shall be liable for deemed energy proportionally to the Buyer's capacity not supplied.
- 2.11 Notwithstanding Articles 2.9, 2.10 and 5.3, the Buyer shall be liable for Deemed Energy Payment only if the Seller's facility has the self-capability to black start and operate in an island mode.
- 2.12 Plant Performance: From the Commercial Operations Date, the Seller shall deliver to the Buyer, energy of not less than 85% of the annual forecasted energy generation. After the end of the second year after the COD, the seller shall be liable to compensate the Buyer for performance below 85%. The energy not delivered for the year will be calculated as provided in section 4 of APPENDIX III.
- 2.13 Interruption of Delivery. The Seller may interrupt, reduce or cease to deliver Energy to the Buyer only in accordance with Good Utility Practice or to the extent that the Seller reasonably determines that such interruption, reduction, or cessation is necessary in order to install equipment in, make repairs, replacements, investigations and inspections of, or perform maintenance on the Facility which directly affect, the delivery of the Energy to the Buyer. The Seller shall, prior to initiating any interruption, reduction or refusal to deliver the Energy to the Buyer, use its best efforts to provide the Buyer a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.
- 2.14 Coordination. Because the Seller's Facility is a Must Take Facility, the Buyer shall use its best efforts to coordinate and to minimize any periods of interruption, reduction, cessation, or curtailment of acceptance of electric energy from Seller as provided for in this Article with the periods of previous Scheduled Outage at the Facility. Prior to initiating any interruption, reduction or cessation of the acceptance of Energy from Seller, the Buyer shall use its best efforts to provide the Seller with a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.

- 2.15 Power Factor. The Seller agrees to operate the Facility in parallel with the Buyer's system and to deliver the Buyer's Entitlement at the Delivery Point and at the voltage level and power factor specified in APPENDIX III, which the Buyer may establish on a project specific basis to parallel its system requirements to provide ancillary services. Unless otherwise requested by the Buyer, the Seller's Facility must be capable of operating at a power factor of 0.8 lagging, and the Seller shall operate the Facility at a power factor between 0.8 and 1.0 at the point of delivery to the Buyer, subject to the response time of control equipment to transient conditions on the Buyer's system.
- 2.16 Synchronization. The Seller shall notify in writing the Buyer at least 30 days prior to synchronizing or operating the Seller's generators at the Facility for the first time in parallel with the Buyer grid system, and coordinate such commencement of operation with the Buyer at this first time and at future times that it resynchronizes or begins again to operate after a cessation of operation in parallel with the Buyer grid.
- 2.17 Standards. The Seller shall comply with all applicable Standards relevant to the design, construction, financing, ownership, operation or maintenance of the Facility as issued or approved by the relevant body

ARTICLE 3: TERM, DEFAULT, TERMINATION AND MILESTONE

- 3.1 Term. As of the date and when signed below by all Parties, the Seller has elected, and the Buyer agrees, that this Agreement shall commence and, subject to the termination provisions set forth in this Agreement, shall continue for the entire Term specified . Notwithstanding the foregoing, the applicable provisions of this Agreement shall remain in effect after termination hereof to the extent necessary to provide for final billings, billing adjustments, payments, and effectuation of all rights hereunder. At the end of this Agreement, the Seller shall opt to sale the facility to the Buyer at a price of One United States Dollar or enter and participate in the Electricity Market.
- 3.2 Default. A Party shall be deemed to be in default under this Agreement if it experiences each or any of the Events of Default, including:-
- (a) the adjudged bankruptcy, dissolution, or liquidation of either Party, in which case the bankrupt, dissolved, or liquidated Party shall be deemed to be the Party in default hereunder;
 - (b) either Party fails to perform or observe any of the material obligations of this Agreement, and such failure shall not be rectified or cured within ninety (90) days after written notice thereof to the nonperforming Party, provided that the defaulting Party commences within the applicable period reasonably to effect such cure and at all times thereafter proceeds diligently to complete such cure as quickly as possible, subject to the

provisions of Article 6. It shall not be an Event of Default if such failure of a Party to perform is caused by an action or inaction of the other Party;

- (c) failure of any Party to make an undisputed payment when due and nonpayment continues for more than ninety (90) days ;
- (d) the dissolution or reorganization of the Buyer such that he or his successor cannot perform his obligations hereunder, either of which shall be deemed to be an Event of Default by the Buyer;
- (e) either Party contests and denies the enforceability of this Agreement, in which case the Party contesting enforceability shall be deemed to be the Party in default hereunder.

3.3 Default Procedure and Cure

3.3.1 Notice. Upon the occurrence of an Event of Default, in each and every case, the non-defaulting Party shall give written notice to the defaulting Party and, subject to any cure period herein, may pursue any remedies provided for in this Agreement or under law, and may terminate this Agreement by giving such written notice to the other Party upon the expiry of any applicable cure period specified herein; provided that should the Buyer claim any Event of Default against the Seller, it shall notify and afford Lenders reasonable time, access and opportunity to remedy or cure any event giving rise to the default, and shall cooperate with Lenders to this end.

3.3.2 Step-in Rights. If an Event of Default or Emergency occurs and the Seller is prevented from satisfying its obligations hereunder despite its best efforts, including restoring the operation of the Facility, the Sponsor or Lender (hereinafter called “the Person”) may elect to provide notice to all Parties as provided herein, of their intention to step into the rights and obligations of the Seller and attempt to remedy such Event of Default or Emergency (hereinafter “Step in Rights”). The Person shall only exercise such Step-in Rights under this Article if it has the skills and means to carry out the work necessary to remedy the Event of Default or Emergency in accordance with the laws of the United Republic of Tanzania and Good Utility Practice.

3.3.3 Return of Facility following Step-in. The Person exercising the Step in Rights shall as soon as possible return control of operations of any facilities over which it has assumed control or operation to the Seller and in the event that the seller has disappeared, the Person will proceed or appoint another operator to operate the facility.

3.4 Specific Performance. If money damages would not be a sufficient remedy in the event of default or breach of this Agreement, each Party acknowledges that the Party not in breach shall be entitled to specific performance, including, without limitation, injunction and specific performance, to remedy such breach or

threatened breach, and that such remedy shall not be deemed the exclusive remedy for breach hereunder.

- 3.5 Termination Due to Buyer's Default. In the event that the Seller elects to terminate this Agreement after the power plant has been successfully commissioned due to a default by the Buyer, then either Party may require that within one hundred and twenty (120) days of the Termination Date the Buyer shall pay the Buyer's Default Purchase Price to the Seller and the Seller shall sell the Facility to the Buyer (or its nominee) at the Buyer's Default Purchase Price. Notwithstanding the foregoing, the Seller and the Buyer may agree on alternative arrangements to sell the Facility to another party as part of the compensation due to the default of the Buyer.
- 3.6 Milestone. The Commercial Operation Date shall be within three (3) years, for hydropower and eighteen (18) months for other resources, all counted from the date of signing the Agreement. The Seller is required to submit quarterly progress reports to the Buyer indicating progress towards Commercial Operation Dates. If the Seller does not achieve Commercial Operation Date stated above, he shall be liable to pay Liquidated Damages prescribed in Paragraph 3.6.1, unless both Parties agree to an extension for the explicit purpose of completing the construction, testing and commissioning the Facility.
- 3.6.1 If the Plant has not been commissioned on or before the Commercial Operations Date, the Seller shall pay to the Purchaser two and one half Dollars (US\$ 2.5) per kilowatt of the Contracted Capacity (prorated daily) per month for each day by which the plant is delayed beyond its Commercial Operations Date.
- 3.6.2 Notwithstanding the contents of Paragraph 3.6.1, above, the cumulative amount of such payment shall not exceed [□].
- 3.6.3 Payments made in accordance with Paragraph 3.6.1 above, shall be liquidated damages for the detrimental impact of such delay upon the Purchaser's generation planning.
- 3.7 Facility Price at the Expiry of the Agreement. At the end of this Agreement, the Seller shall opt to sale the facility to the Buyer at a price of One United States Dollar or enter and participate in the Electricity Market

ARTICLE 4: INTERCONNECTION, METERING AND OPERATION

- 4.1 Delivery Point Responsibility. The Seller shall make all reasonable arrangements at its own expense necessary to transmit and deliver the Energy not exceeding the Contracted Capacity to the Buyer at the Delivery Point. The Buyer shall cooperate with the Seller in these arrangements.
- 4.2 Interconnection
- 4.2.1 The Seller at its sole expense shall design, purchase, construct, operate and maintain the Seller's Interconnection Facilities.

- 4.2.2 Where metering is located at the Buyer substation, the Seller shall pay for upgrading of metering at the grid substation to monitor bidirectional real and reactive power on the transmission line to which the Facility interconnects.
- 4.2.3 The Buyer shall have the right to review the design as to the adequacy of the protective apparatus provided. The Seller shall be notified of the results of such review by the Buyer in writing within thirty (30) days of the Buyer's receipt of all specifications related to the proposed design. Any flaws perceived by the Buyer in the proposed design shall be described in the written notice. Any additions or modifications required by the Buyer shall be incorporated by the Seller.
- 4.3 Interconnection Standards. The Buyer equipment, transmission, and distribution requirements and standards, including the Interconnection Guidelines, shall apply to the installation and to the operation of all of the Seller's Interconnection Facilities.
- 4.4 Interconnection Compliance. Upon reasonable prior notice, the Buyer has the right to inspect the Seller's Interconnection Facilities to ensure compliance with Good Utility Practice and the Interconnection Guidelines. Such access shall not interfere with the Seller's normal business operations. If, in the opinion of the Buyer, the Seller's Interconnection Facilities are not being so operated and maintained, the Buyer shall notify the Seller in writing of any such discrepancies in a sufficient level of technical detail which the Seller shall correct promptly. Until such correction, the Buyer is not required to accept and pay for the buyer's entitlement.
- 4.5 Induction Generators. If the Seller's Facility includes an induction-type generator(s), the Seller shall provide individual power factor correction capacitors for each such generator. Such capacitors shall be switched on and off simultaneously with each of the associated induction-type generator(s) of the Facility. The kVAr rating of such capacitors shall be the highest standard value which will not exceed such generators' no-load kVAr requirement. The Seller shall pay the Buyer, at prevailing rates approved by the Authority, the cost for all energy consumed from the Buyer to excite the induction generators, unless such energy is netted from that sold hereunder. Such payment shall be made as provided in Article 5.
- 4.6 Metering. The Seller shall, in accordance with Prudent Operating Practice, supply and install, test and commission the Main Metering System employed for purposes of measurement and billing under this Agreement. Metering and telemetering equipment shall comply with Good Utility Practice, be capable of registering and recording the instantaneous and bidirectional transfer of active and reactive power, kWh and kVArh, and capable of transmitting such data to such location(s) as may be specified by the Buyer. The Metering System shall be sealable and have mass storage and recording capability. The Seller shall provide a suitable location for the

Metering System if the Interconnection Point is at the Facility. The Buyer shall verify the correctness of meter before installation and be present during commissioning of the meter.

- 4.7 Check Meter. The Buyer, at its own expense shall design, finance, construct, install, own, operate and maintain a Check Meter (also known as backup meter) of same accuracy as the Main Meter. In case the Main Meter is required to be taken out of the circuit, the Check Meter shall be used for readings taken for the purpose of billing during the period until the primary meter is put back into the circuit.
- 4.8 Meter Reading. The Main Meter shall be read jointly by the Seller and the Buyer on the first day of each month (or such day as may be agreed upon by the Parties) for the purpose of determining the Net Electrical Output delivered into the Buyer's system since the preceding meter reading. The Seller shall provide the Buyer access to the Facility at all reasonable times upon reasonable prior notice for the purpose of reading or inspecting the Main Meter and the Check Meter, examining the operation of the Facility or other purposes reasonably related to performance under the terms of this Agreement. Such access shall not interfere with the Seller's normal business operations. All the Buyer's personnel shall follow all Facility safety and procedural rules while on the Facility premises.
- 4.9 Meter Accuracy. All Metering Systems measuring the output of the Facility shall be tested at least annually, at the Buyer's expense, in accordance with Good Utility Practice. At any reasonable time, either Party may request a test of the accuracy of any Metering System. Each Party shall bear the cost of a test requested by it. The results of meter calibrations or tests shall be available for examination by the Parties at all reasonable times. If, at any time, any Metering System is found to be inaccurate by more than one-half of one percent (0.5%), The Buyer shall cause such Metering System to be made accurate or replaced as soon as possible. Each Party shall be given reasonable advance notice of and have the right to be present at the breaking of the seals, testing, calibration and sealing of the Metering System. If either Party believes that there has been a Metering System failure or stoppage, it shall immediately notify the other Party. The Party owning the Metering System will then investigate and take corrective action if necessary.
- 4.10 Meter Calibration. Testing and calibration of the Metering System, and any verification of meter accuracy, shall be performed pursuant to the Buyer metering standards. Calibration shall occur before use of the meters to first record the output of the Facility. The Metering System shall be caused to be sealed and locked by their owner after calibration.
- 4.11 Transfer of Title to Power. At the Delivery Point, the contracted capacity and associated electric energy, and legal title to same, shall be deemed to be transferred from the Seller and delivered to possession of the Buyer. At such point, the Buyer shall be in exclusive control and possession of such capacity and associated electric energy and shall be solely responsible for same. Such electric energy transferred

shall be by alternating current 3 phase, 50 Hz nominal frequency, at the voltage specified in the APPENDIX II.

- 4.12 Operation. The Facility shall be operated by the Seller in a manner consistent with Good Utility Practice and proper safety.
- 4.13 Interconnection Liability. The Seller shall accept all liability and release the Buyer from and indemnify the Buyer against, any liability for faults or damage to the Seller's Interconnection Facilities, the Buyer electric system and the public, as a result of the operation of the Seller's Interconnection Facilities.
- 4.14 Data. Each Party shall annually report to the Authority and the Working Group on Small Power Development, a summary of power sale, operating and outage data by month for the calendar year, to allow the Authority to monitor Facility performance.

ARTICLE 5: BILLING AND PAYMENT

- 5.1 Billing. The Seller shall issue the Buyer an invoice for payment of electric energy delivered to and accepted by the Buyer under the terms of this AGREEMENT during such month, based on the results of the meter reading done jointly in accordance to Article 4.8.
- 5.2 Payment. The Buyer shall pay the Seller (or a trustee if so designated by the Seller) all amounts due for Metered Energy and not disputed by the Buyer and Deemed Energy Payments, on or before the Due Date, pursuant to the rates and subject to the terms set forth in the APPENDIX III. Any undisputed amounts unpaid after the Due Date shall bear interest payable to the Seller by the Buyer at the Default Interest Rate compounded on a monthly basis for each month or part thereof after the Due Date that any such amount remains unpaid. Either party in good faith may dispute any claimed delivery or billing error, amount, or payment by written notification to the other Party within one (1) year of receipt of a meter reading or other alternative billing information pursuant to Article 5.6, whether or not payment has been made by the Buyer. If dispute resolution pursuant to Article 5.6 is in favor of the Seller, the Buyer shall promptly thereafter pay the disputed amount plus interest computed at the Default Interest Rate to the Seller, compounded monthly, from the Due Date to the date payment is made. If resolution is in favor of the Buyer, the Seller shall refund any payment previously received of the disputed amount plus interest at the Default Interest Rate, compounded monthly, from the original Due Date to the date the refund is made. All such payments pursuant to this section shall be due within fifteen (15) days of the date of the final decision of such dispute resolution pursuant to Article 5.6.
- 5.3 Deemed Energy Payments: Commencing on the 1st day of the month that follows the end of the second year after the Commercial Operation Date, the Buyer shall pay to the Seller, in respect of each kWh of Deemed Energy during that month, the amount equal to the Tariff specified in the APPENDIX III in respect of Deemed

Generated Energy had it been generated and delivered to the Buyer at the Delivery Point subject to the following:-

- 5.3.1 The Buyer shall have no obligation to pay for Deemed Energy during periods of the Buyer's Planned Maintenance up to the maximum number of hours specified by the Buyer in accordance with Prudent Operating Practice for such Planned Maintenance, which shall not exceed seven (7) days annually;
 - 5.3.2 The Buyer shall be under no obligation to pay for Deemed Energy if the failure or inability of the Buyer to receive delivery of electrical energy from the Plant is caused by Force Majeure, other risk events or the Seller's facility failure to black start and operate in an island mode; and
 - 5.3.3 The Deemed Energy shall be computed as set out in the APPENDIX III of this Agreement.
 - 5.3.4 The invoice for Deemed Energy payments shall be separate from the monthly energy invoice.
- 5.4 Currency: Charges shall be determined in United States Dollars (USD) but prepared and payable in Tanzanian Shillings (TZS) based on the average number of shillings required to buy one US Dollar as published by the Bank of Tanzania on the date of invoice.
- 5.5 Estimation. In the event that any data required for the purpose of determining amounts owed to the Seller or payment hereunder are unavailable when required, such unavailable data shall be estimated by the Buyer, subject to any required adjustment based upon actual data in the next subsequent payment month. A failure of the Buyer to read its Main Meter shall not relieve the Buyer of the obligation to pay the Seller at the conclusion of each month for the power delivered at the Delivery Point.
- 5.6 Alternative Meter Data. To determine the amount of Energy delivered and accepted in any billing period, recordation of amounts, billing, and payment will be based on the first available of the following metering or estimation options, in descending order of applicability:-
- (a) the primary Facility meter measurement (s) when that meter for the period at issue satisfies the accuracy standard in Article 4.9;
 - (b) the Facility's Check Meter measurement when that Check Meter is positioned to record the electric energy delivered and accepted and when that meter satisfies the accuracy standard in Article 4.9;
 - (c) Where all meters fail to accurately register electric energy delivered and accepted, the average monthly data for the Facility from the same month in the prior Contract Year, if available, as reasonably adjusted for the particular billing period by any relevant available data affecting Facility generation regarding rainfall, stream flow, actual Facility fuel consumption, average heat rate, hours of operation, time of operation of generators, and/or native self-use of power output (collectively "Operating

Variations") during the period of meter failure, shall be employed, if applicable, to estimate the amount of electric energy delivered and accepted. Where such data are not reliably available, the average monthly energy delivered and accepted during the previous six (6) billing periods prior to meter failure (or fewer months if the Facility is less than six months from the Commercial Operations Date), as adjusted or normalized for outages or Operating Variations, shall be used to estimate energy delivered by the Facility for the billing period.

- 5.7 Set Off of Amounts Owed. Either Party may set off undisputed amounts owed by it to the other Party regarding the Facility against undisputed amounts owed by the other Party to it regarding the Facility under this Agreement.

ARTICLE 6: FORCE MAJEURE AND OTHER RISK EVENTS

6.1 Meaning of Force Majeure

- 6.1.1 In this Agreement, "Force Majeure" means: any event or circumstance or combination of events or circumstances:-
- (a) beyond the reasonable control of the Party affected by such event, circumstance or combination of events or circumstances (the "**Affected Party**");
 - (b) which could not have been prevented or avoided or overcome by the Party acting as a Reasonable and Prudent Operator;
 - (c) which materially and adversely affects the performance by that Party of its obligations or the enjoyment by that Party of its rights under or pursuant to this Agreement; and
 - (d) is not the direct result of a breach by the Affected Party of any other Project Document to which it is a party.
- 6.1.2 Without limitation to the generality of the foregoing, "Force Majeure" shall include the following events and circumstances to the extent that they satisfy the above requirements:
- (a) natural events ("**Force Majeure - Natural**") including:-
 - (i) acts of God (including lightning, fire, earthquake, volcano eruption, flood, storm, hurricane, cyclone, typhoon, tidal wave and tornado); epidemic or plague;
 - (ii) explosion or chemical contamination (other than resulting from an event or circumstance described in Clause 6.1.2.(b)(i)(C), in which case it shall be a Tanzania Political Event); and
 - (b) other events of Force Majeure ("**Force Majeure - Political**") including:-
 - (i) Force Majeure - Political which occurs inside or directly involves Tanzania ("**Tanzania Political Events**") including:-

- A. any act of war, whether declared or undeclared, or invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism or sabotage;
- B. nationwide strikes, works to rule or go-slows that extend beyond the Plant or are widespread or nationwide, or that are of a political nature, such as, by way of example and not limitation, labour actions associated with or directed against a Tanzania political party, or those that are directed against the Seller, or its Contractors as a part of a broader pattern of labour actions against companies or facilities with foreign ownership or management;
- C. radioactive contamination or ionizing radiation originating from a source in Tanzania or resulting from another Tanzania Political Event;

(ii) Force Majeure - Political which occurs outside Tanzania and does not directly involve Tanzania ("**Foreign Political Events**") including:-

- A. any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism or sabotage;
- B. strikes, works to rule or go-slows that are widespread or nationwide;
- C. radioactive contamination or ionizing radiation originating from a source outside Tanzania and not falling within Clause 17.1.2.1(c);

6.1.3 "**Force Majeure**" shall expressly not include the following conditions:-

- (a) normal wear and tear or inherent flaws in materials and equipment or breakdowns of equipment;
- (b) the economic hardship of an Affected Party or changes in market conditions;
- (c) any event caused by, or connected with, the Affected Party's
 - (i) negligent or intentional acts, errors or omissions;
 - (ii) failure to comply with any laws; or
 - (iii) breach of, or default under, this Agreement;
- (d) unavailability of:-
 - (i) fuel supply, reserves or transportation,
 - (ii) water service; or
 - (iii) electric transmission or distribution service sufficient to export the output of the Plant in whole or part, except to the extent such unavailability is itself due to Force Majeure;
- (e) failure to make a payment of money in accordance with the Seller's obligations under this Agreement;

- (f) any failure to take into account prevailing Site conditions;
- (g) inability to obtain or maintain adequate funding; and
- (h) delays resulting from reasonably foreseeable unfavourable weather conditions or other similar reasonably foreseeable adverse conditions.

6.2 Other Risk Events shall mean any expropriation (including any series of events which collectively constitute creeping expropriation), confiscation or compulsory acquisition of all or a portion of the facility.

6.3 Notification and Obligation to Remedy

6.3.1 In the event of the occurrence of a Force Majeure or other risk events that prevents a Party from performing its obligations hereunder (other than an obligation to pay money), such Party shall:-

- (a) notify as soon as reasonably practicable the other Party in writing of such Force Majeure or other risk events;
- (b) not be entitled to suspend performance under this Agreement for any greater scope or longer duration than is required by the Force Majeure or other risk events;
- (c) use all reasonable efforts to remedy its inability to perform and to resume full performance hereunder as soon as practicable;
- (d) keep such other Party apprised of such efforts on a continuous basis; and
- (e) provide written notice of the resumption of performance hereunder.

6.3.2 Notwithstanding the occurrence of a Force Majeure or other risk events, the Parties shall perform their obligations under this Agreement to the extent the performance of such obligations is not impeded by the Force Majeure or other risk events.

6.4 Consequences of Force Majeure or other risk events

6.4.1 During the pendency of a Force Majeure or other risk events, the Seller shall not be entitled to receive any payments from the Buyer; except that if such Force Majeure or other risk events affects only part of the Plant, then the Seller shall be entitled to receive Energy Payments for electrical energy actually delivered to the Buyer.

6.4.2 Neither Party shall be responsible or liable for, or deemed in breach hereof because of, any failure or delay in complying with its obligations under or pursuant to this Agreement which it cannot perform due solely to one or more Force Majeure or other risk events or its or their effects or by any combination thereof.

- 6.4.3 The periods allowed for the performance by the Parties of the obligation(s) referred to in Clause 6.4.1 shall be extended on a day-for-day basis for so long as one or more Force Majeure or other risk events continues to affect materially and adversely the performance of such Party of such obligation(s) under or pursuant to this Agreement.
- 6.4.4 Notwithstanding Clauses 6.4.1 and 6.4.3 above, no relief shall be granted to the Party claiming Force Majeure or other risk events pursuant to this Clause 6.4 to the extent that such failure or delay would have nevertheless been experienced by that Party had such Force Majeure or other risk events not occurred.
- 6.4.5 The Party not claiming Force Majeure or other risk events may immediately terminate this Agreement without further obligation, by delivering a Termination Notice on the other Party if an event of Force Majeure or other risk events delays the other Party's performance for a period greater than (a) six (6) consecutive Months prior to the Commercial Operations Date or (b) three (3) consecutive Months after the Commercial Operations Date.
- 6.4.6 In case the Agreement is terminated due to a Force Majeure, the Buyer may elect buy and the Seller shall sell the Facility at a price equivalent to Financing Costs Outstanding at the Calculation Date and Termination Costs.
- 6.4.7 In case the Agreement is terminated due to other risks events declared by the Government, the Buyer shall buy and the Seller shall sell the Facility at a price equivalent to Financing Costs Outstanding at the Calculation Date and Termination Costs.

ARTICLE 7: RELATIONSHIP OF PARTIES, LIMITATION OF LIABILITY AND INDEMNIFICATION

- 7.1 **Immunity:** Each Party waives all immunity, sovereign or otherwise and represents and covenants that it will not assert such immunity at law or at equity or urge or allow others on its behalf to assert such immunity, which it may now or in the future enjoy or could claim to the extent permitted by law.
- 7.2 **Third Party Beneficiaries.** With the exception of Lenders, the Parties do not intend to create any rights in, or grant any remedies to, any third party beneficiary that may claim under this Agreement.
- 7.3 **No Other Relationship.** Nothing in this Agreement shall be construed as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of electric energy generated at the Facility. No agency relationship of any kind is created by this Agreement.

- 7.4 Limitation of Liability. Notwithstanding Article 7.5 or any other provision of this Agreement to the contrary, neither the Buyer nor the Seller, nor their respective officers, directors, agents, employees, parent entity, Lenders, subsidiaries, or affiliates shall be liable or responsible to the other Party or its parent entities, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insurers, for incidental, exemplary, punitive, indirect or consequential damages of any nature, connected with or resulting from performance or non-performance of obligations pursuant to this Agreement, including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement).
- 7.5 Indemnity. Each Party shall defend, indemnify and save the other Party, its officers, directors, agents, employees, harmless from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses (including reasonable attorney's fee), suits, actions, or damages arising by reason of bodily injury, death, or damage to property sustained by any person or entity (whether or not a Party to this Agreement): (i) caused by or sustained on property or at facilities owned or controlled by the Party, except to the extent caused by an act of negligence or willful misconduct by an officer, director, subcontractor, agent, employee, parent entity, subsidiary, or affiliate of the other Party; or (ii) caused by an act of negligence or willful misconduct of the Party or by an officer, director, subcontractor, agent, employee, parent entity, subsidiary, or affiliate of the Party. If either Party receives notice of the assertion of any claim with respect to which indemnification is to be sought from the other Party, that Party shall give prompt notice thereof to the other Party. The Parties shall cooperate in the mutual defense of any such claim.
- 7.6 Adjusted Indemnity. If the Buyer and the Seller are both determined to have been negligent Parties or to have engaged in willful misconduct, the obligations to indemnify of the Seller and the Buyer shall be appropriately adjusted based on the percentage of the responsibility of each Party for such loss or indemnification event.
- 7.7 Insurance. The Seller shall insure the Facility for comprehensive general liability and property damage, and "all-risk" peril, from a recognized insurance provider lawfully permitted to provide insurance in The United Republic of Tanzania, with primary limits of liability at all times during the duration of this Agreement equal to not less than the replacement value of the Facility.

ARTICLE 8: DISPUTE RESOLUTION

- 8.1 Mutual Discussion. The Parties acknowledge that a dispute may arise between the Parties regarding the applicability, interpretation, payment, or enforcement of this Agreement. If any dispute arises among the Parties in connection with or arising out of this Agreement, the Party claiming the dispute shall notify the other Party and the Authority in writing of the dispute, and the Parties shall attempt informally to settle such dispute in good faith within a period of sixty (60) days thereafter.
- 8.2 Appeal to the Authority. If within sixty (60) days of notification a dispute is not resolved to the mutual satisfaction of the Parties, subject to an election being made pursuant to Article 8.3, any Party may appeal in writing after such sixty (60) day period but before eighty (80) days from such initial notification of a dispute, to the Authority to mediate and resolve the dispute. The Parties shall abide by and act in accordance with the Authority's written decision resolving such dispute pending a final legal appeal of such resolution.
- 8.3 Binding External Arbitration. In lieu of the option in Article 8.2, if after sixty (60) days of the initial notification but before eighty (80) days of such initial notification, such dispute is not resolved to the mutual satisfaction of the Parties in accordance with Article 8.2, such dispute (including the validity of this Agreement) shall be finally settled by arbitration in accordance with the Arbitration Act, Cap. 15 of the Laws of Tanzania. Unless the parties agree differently, the following shall apply: (a) the number of arbitrators shall be three (3); (b) the appointing authority shall be the Tanzania Institute of Arbitrators ; (c) the Arbitration shall be conducted and an award shall be rendered in the English language; (d) the seat of arbitration shall be Dar es Salaam and (e) the venue for arbitration shall be Dar es Salaam, unless Dar es Salaam becomes inaccessible due to a Force Majeure Event or any action of the Government of Tanzania makes it impossible to conduct arbitration in Dar es Salaam, in which case the venue for arbitration shall be determined by the arbitrators. The decision of the arbitrators shall be final and binding upon the Parties and shall not be subject to appeal.

ARTICLE 9: DELEGATION, ASSIGNMENT AND RESTRUCTURING

- 9.1 Assignment Delegation. This AGREEMENT shall inure to the benefit of and bind the respective successors, assigns, and delegates of the Parties. No assignment or delegation by the Seller of any of its rights, duties, or obligations hereunder shall be made or become effective without the prior written consent of the Buyer and the Authority in each case being obtained, which consent shall not be unreasonably withheld by the Buyer or its successors in interest, except that without the Buyer consent the Seller may (1) assign and/or delegate some or all of its rights and duties to an affiliate whose principal functions are to hold the ownership interest in or to operate the Facility, or (2) assign by way of security or otherwise and/or delegate some or all of its rights and duties to Lenders for purposes of financing, obtaining equipment, or construction of the Facility. A Party shall notify promptly the other Party in writing of any assignment or delegation that it makes.

- 9.2 Restructuring. The Buyer represents and warrants that as part of any restructuring in the electricity industry, it will cause any successor(s) assuming any or all of its transmission and distribution functions to fully assume in writing the power transmission obligations of the Buyer under this Agreement, and cause any successor(s) assuming any or all of its power supply or power purchase obligations to fully assume in writing such power supply or purchase obligations of the Buyer under this Agreement.
- 9.3 Opt-Out Election. If and after Restructuring is implemented during the term of this Agreement, and if allowed by the law, the Seller shall have the election, but not the obligation, by notice as provided herein to the Buyer and the Authority, at any time up until five (5) years prior to the Termination Date of this Agreement as specified herein, to unilaterally opt-out of and avoid this Agreement, but only for the purpose of participating in the Restructured power market.

ARTICLE 10: REPRESENTATIONS AND WARRANTIES

- 10.1 In addition to the provisions of Article 9, each Party represents and warrants to the other that:-
- (a) it is legally established to do business in the United Republic of Tanzania;
 - (b) the execution and performance of this Agreement is duly authorized as required by its enabling authority or its by-laws, and does not conflict with any law, rules, regulations or requirements affecting or binding that Party;
 - (c) this Agreement constitutes a valid, legal and binding obligation of the Party in accordance with the terms hereof;
 - (d) the execution, delivery and performance by the Party of this Agreement will not contravene any provision of, or constitute a material default under, any other agreement or instrument to which it is a Party or by which it is bound; and
 - (e) there is no legal or administrative action pending that prohibits or impairs the Party from performing under this Agreement or might materially and adversely affect the Party's ability to perform its obligations under this Agreement.

ARTICLE 11: MISCELLANEOUS

- 11.1 Modification. This Agreement may not be modified or amended except in writing signed on behalf of both Parties by their duly authorized officers and approved by the Authority.
- 11.2 Compliance. It shall be the Seller's obligation to take all necessary actions to satisfy all applicable legal requirements regarding the Facility.
- 11.3 Entire and Complete Agreement. This Agreement constitutes the entire and complete final agreement between the Parties relating to the subject matter hereof,

and all previous agreements, discussions, communications and correspondences with respect to the subject matter hereof are superseded by the execution of this Agreement. This contract shall comply with all relevant laws, regulations, Rules codes and policies of the Government of Tanzania and the Authority from time to time.

11.4 Choice of Law. The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of The United Republic of Tanzania.

11.5 Waivers. There shall be no implied waivers under this Agreement. The failure of either Party to require compliance with any provision of this Agreement at any time shall not affect that Party's right to later enforce same. It is agreed that the express waiver by either Party of performance of any of the covenants or conditions of this Agreement, or any breach thereof, shall not be held or deemed to be an implied waiver by that Party of any subsequent failure to perform the same or any other term or condition of this Agreement, or any breach thereof.

11.6 Severability. If any clause of this Agreement is ruled invalid or unenforceable by a court of competent jurisdiction, it shall not affect the remainder of the Agreement if it can be construed to effect its essential purpose without the invalid clause.

11.7 No Interpretation of Headings. The headings in this Agreement are descriptive only, and are not intended to affect the interpretation or meaning of the Agreement, and accordingly are not meant to be construed as part of obligations of any Party hereunder.

11.8 Notice

11.8.1 Any notice, invoice, or other communication which is required or permitted by this Agreement, except as otherwise provided herein, shall clearly specify that it relates to this Agreement, bearing the date of its creation, be in writing and delivered by personal service, electronic transmission with proof of receipt and reading, or telecopy, with a subsequent copy mailed postage prepaid, properly addressed, as follows:-

- (a) in the case of the Seller to the person, company, and address as indicated on the signature execution line below;
- (b) in the case of the Buyer to: Chief Executive Officer, Tanzania;
- (c) another address or addressee for notice, including designation of Lenders, may be specified or substituted by a Party in the manner provided herein;
- (d) each notice, invoice or other communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given and received for all purposes at such time as it is delivered to the addressee or at such time as delivery is refused by the addressee upon presentation.

11.8.2 Whenever a notice or other communication is required hereunder to be provided by the Buyer to the Seller, a copy of each such notice shall be provided to Lenders, if any, by similar mode of transmission at the address provided in writing to the Buyer by the Seller.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the ____ day of the month of _____, 20____ each signatory duly authorized by its respective entity to enter freely this Agreement and to be bound by the terms and conditions contained herein.

Electricity Act

GN. No. 491(contd.)

SIGNED BY:

NAME OF BUYER:

Name: _____

Title: _____

WITNESSED BY:

Signature:

Name: _____

Title: _____

SIGNED BY:

NAME OF SELLER:

Name: _____

Title: _____

WITNESSED BY:

Signature:

Name: _____

Title: _____

**APPENDIX I
DESCRIPTION OF SELLER'S FACILITY**

NAME OF FACILITY: []
LOCATION OF FACILITY: []
RIVER/HOST FACILITY (if applicable): []
EXACT DELIVERY POINT (feeder, pole or switch number):
[]
LOCATION OF METERING (meter number): []
NOMINAL CONNECTION VOLTAGE: []
RANGE OF VOLTAGE REGULATION: [] ONLINE; [] OFFLINE
TYPE OF FUEL: []; TYPICAL HEATING VALUE OF FUEL: []
TYPE OF POWER GENERATION TECHNOLOGY: []
NAMEPLATE CAPACITY RATING: [] kW
CONTRACTED CAPACITY: [] kW
CAPACITY FACTOR: []
EXPECTED ANNUAL PRODUCTION: [] kWh
RAMP RATE: [] MW/MINUTE UP; [] MW/MINUTE DOWN
MINIMUM RUN TIME: [] HOURS;
MINIMUM SHUT-DOWN TIME: [] HOURS
START-UP TIME: [] HOURS
DATE OF PLANNED COMPLETED CONSTRUCTION OF FACILITY: []
VOLTAGE DELIVERED TO THE BUYER: [] VOLTS

**APPENDIX II
GRID INTERCONNECTION REQUIREMENTS**

1. The relevant requirements stated in “Guidelines for Grid Interconnection of Small Power Projects in Tanzania (Parts A, B and C)” shall be applicable.
2. The delivery voltage at the Point of Supply shall be [___ kV ± ___%]
3. Special Requirements and Conditions:[TO BE PROVIDED INDIVIDUALLY FOR EACH FACILITY DEPENDING ON PROJECT CHARACTERISTICS AND TECHNOLOGIES]
4. The operating Power Factor of the Facility at the Delivery Point (Point of Supply) shall be [_____].
5. Interconnection Arrangement
[This will be a single-line diagram of the Interconnection similar to Figure A2 of the “Guidelines for Grid Interconnection of Small Power Projects in Tanzania: Part A”. The diagram shall show the generators, switchgear, transformers, protection systems and transmission lines, their capacity, rating, voltage levels, and identify the Point of Supply (POS) and Point of Common Coupling (PCC). A sample diagram is given on the next page.]

**APPENDIX III
DETERMINATION OF PAYMENTS**

1. Energy Charges

The Energy Charge (Contract Price) is expressed in US cents per kWh, exclusive of VAT, and is shown below.

Energy Charge (USc/kWh) = [●]

2. Payment Amounts

(a) Payment for Metered Energy: The Buyer shall pay the Seller an amount in respect of Metered Energy delivered by the Seller to the Buyer at the Delivery Point in any Month calculated as the product of:-

- (i) the prevailing Energy Charge in US cents per kWh (being the amount set out in Part 1 above); and
- (ii) Metered Energy (determined in accordance with the provisions of Article 4.8) for the Month expressed in kWh.

(b) Deemed Energy Payment: Subject to the provisions of Article 5.3, The Buyer shall pay the Seller an amount (a “**Deemed Energy Payment**”) in respect of Deemed Energy (if any) arising in any Month calculated as the product of:-

- (i) the prevailing Energy Charge in US cents per kWh (being the amount set out in Part 1 above); and
- (ii) Deemed Energy (if any, calculated on an hourly basis) for the Month expressed in kWh.

3. Computation of Deemed Energy

Within 14 days from the completion of two (2) years from Commercial Operations Date (COD), the Seller shall prepare a report showing Energy delivered on both a daily and monthly basis and submit to the Buyer. This shall be repeated at the end of each subsequent Operational year to reflect the previous two (2) years operating records.

- a) In each subsequent month, the Seller shall calculate and prepare qualified deemed hours (if any) and submit to the Buyer.
- b) the Seller shall indicate the date and time of beginning and ending of each interruption event to determined deemed hours

- c) Qualified deemed hour is the total number of deemed hours during the month, less any periods of Buyers Planned Maintenance as specified in 5.3.1.
- d) The deemed hours report shall form part of the monthly meter reading documentation, and shall be countersigned by the Buyer as confirmation.
- e) Within ten (10) days after the end of each annual financial period, the Seller shall prepare a Deemed Energy claim by:
 - i. Aggregating the monthly qualified deemed hours for the particular financial period less four hundred thirty two (432) hours to get the yearly deemed hours
 - ii. Calculating the energy delivered per hour using the average annual performance established in the latest two (2) year operating period then dividing by eight thousand seven hundred sixty (8,760) hours per year.
 - iii. Deemed Energy:
= Yearly deemed hours x energy delivered per hour
 - iv. Deemed Energy Payment
= Deemed Energy (kWh) x Applicable tariff during events

4. Calculation of Plant Production

Each subsequent year post the two (2) years from Commercial Operations Date (COD), the Seller shall prepare annual generation plan showing monthly energy to be generated and submit to the Buyer on the month before the beginning of each contract year.

- a) In each month, the Buyer shall record the actual energy delivered by the Seller's generation facility.
- b) At the end of each contract year, the Buyer shall compare the actual energy delivered and the annual generation plan submitted by the Seller. If the actual energy delivered is less than 85% of the energy specified in the annual generation plan, then the energy compensation payment shall be computed as follows:

$$\text{Energy Compensation Payment} = ((85\% * \text{Energy Planned for the year}) - \text{Energy Delivered during the year}) * [\bullet]$$

Dodoma,
....., 2020

NZINYANGWA E. MCHANY,
Director General