

Legal Notice No.....

THE ENERGY ACT (No. 1 of 2019)

IN EXERCISE of the powers conferred by Sections 208 of the Energy Act, 2019, the Cabinet Secretary for Energy makes the following Regulations. The purpose of these Regulations is to promote universal access to electricity using mini-grids.

THE ENERGY (MINI-GRID) REGULATIONS, 2022

PART I – PRELIMINARIES

- | | |
|------------------------|---|
| Citation | 1. These Regulations may be cited as the Energy (Mini-Grid) Regulations, 2022. |
| Application | 2. These Regulations shall apply to the development and operation of all Mini-Grids with installed capacity of up to 1 MW. |
| Interpretations | 3. In these Regulations, unless the context otherwise requires –

“ <i>The Act</i> ” means the Energy Act, No 1 of 2019;

“ <i>Authority</i> ” means the Energy & Petroleum Regulatory Authority established under Section 9(1) of the Act;

“ <i>Bulk Supply Tariff</i> ” means a set of prices, rates and charges, for power bought by Mini-Grid Developer for retail;

“ <i>Cabinet Secretary</i> ” means the Cabinet Secretary for the time being responsible for energy;

“ <i>Commissioning Reports</i> ” means the reports recording the activities and test results of the mini-grid commissioning process prepared by an Engineer;

“ <i>Connection Point</i> ” has the same meaning as defined in the Distribution Code;

“ <i>Consumer</i> ” has the same meaning as defined in the Act;

“ <i>Consumer Service Charter</i> ” means a declaration of service standards of the Mini-Grid Developer to Consumers;

“ <i>Consumer Supply Contract</i> ” means a contract approved by the Authority between a Mini-Grid Developer and a Consumer for the purchase of electrical energy; |

“Corporation” means the Rural Electrification and Renewable Energy Corporation as established under Section 43 of the Act;

“Date of Application” means the date when the Authority has confirmed to the Mini-Grid Developer that an application is complete;

“Distribution Code” means the Kenya National Distribution Code;

“Distribution Licence” has the same meaning as defined in the Act;

“Distribution System” has the same meaning as defined in the Act;

“Effective Date” means the date of execution of the Memorandum of Understanding or the date of grant of approval for the EOI, whichever is the later;

“Energy Supply Agreement” means an approved contract for purchase of electrical energy in bulk by a Mini-Grid Developer for purposes of retailing to consumers;

“Engineer” means a professional engineer or consulting engineer registered under the Engineers Act, 2011;

“EOI” means an Expression of Interest;

“Generating Licence” has the same meaning as defined in the Act;

“Grid” means a national integrated power delivery system that transmits and delivers electric power to Consumers at any voltage level;

“Grid Operator” means the entity responsible for operating the Grid;

“Host County Government” means a County Government within whose boundaries a Mini-Grid is developed and operated;

“INEP” means Kenya’s prevailing Integrated National Energy Plan developed under the Act;

“KNES” means the prevailing Kenya National Electrification Strategy;

“Licence” means Generating Licence and Distribution Licence;

“Local Community” means persons residing within a given geographical coverage that is to be served by a Mini-Grid;

“Mini-Grid” means any electricity supply system with an installed capacity of up to 1 MW, supplying electricity to more than one Consumer and is not connected to the Grid;

“Mini-Grid Developer” means a person who establishes, owns and operates a mini-grid;

“Mini-Grid Tariff Model” means a template issued by the Authority for computation of tariffs to be charged by a Mini-Grid Developer;

“National Environment and Management Authority (NEMA)” means the Authority established under Section 7 of the Environmental Management and Coordination Act No. 8 of 1999;

“National Uniform Tariff” means retail tariff applicable for Consumers connect to the Grid;

“Performance Standards” means minimum electricity quality requirements that a licensee must achieve in their undertaking;

“Person” has the same meaning as defined in the Act;

“Private Mini-Grid” means a Mini-Grid developed and owned by a person other than a public entity;

“Public Mini-Grid” means a Mini-Grid that is owned and operated by a public sector entity including the National Government, a County Government, or any State Corporation;

“Retail Tariff” means a set of prices, rates, charges for sale and supply of electricity approved by the Authority for the Mini-Grid Developer;

“Tariff” has the same meaning as defined in the Act;

“Tariff Control Period” means the duration in which the Retailed Tariff shall be applicable;

“Tribunal” means the Energy and Petroleum Tribunal established under the Act.

General Principles 4.

- (1) A person who wishes to be licensed as a Mini-Grid Developer shall apply to the Authority for a Retail Tariff approval and a Licence in accordance with these Regulations.
- (2) A Mini-Grid Developer is responsible for the location of the Mini-Grid with reference to the supply options for grid expansion, grid intensification and grid densification in Kenya as articulated in the KNES and INEP.
- (3) A Mini-Grid may be developed as a response to a call for bids by the Cabinet Secretary or on application by a Mini-Grid Developer.
- (4) The Mini-Grid Developer shall obtain an approval from the Host County Government.
- (5) In approving a Mini-Grid, the Host County Government shall take into consideration the:
 - a. site availability;
 - b. alignment of the Mini-Grid to County Energy Plan; and
 - c. Mini-Grid Developer's engagement with the Local Community.

PART II - APPROVAL AND PERMITS

**Mini-Grid Site
Exclusivity**

- 5.**
- (1) A person who intends to develop a Mini-Grid shall submit an EOI application to the Cabinet Secretary for development of a Mini-Grid(s) in the form set out in **First Schedule**.
 - (2) The Cabinet Secretary shall process an EOI application and communicate the decision to the Mini-Grid Developer within thirty (30) days from the date of receipt of the application.
 - (3) Where the Cabinet Secretary approves an EOI application, the approval shall grant the applicant site exclusivity to develop a mini-grid.
 - (4) The Cabinet Secretary shall provide reason(s) in writing, where he declines to approve an EOI.

- (5) Upon an EOI approval, the Mini-Grid Developer shall enter into a Memorandum of Understanding with the Local Community. The Memorandum of Understanding shall have the minimum requirements specified in the **Second Schedule**.
- (6) A Mini-Grid Developer shall apply for a Retail Tariff approval from the Authority within twelve (12) months of the Effective Date of the Memorandum of Understanding.
- (7) A Mini-Grid Developer who does not comply with Regulation 5(6) shall lose site exclusivity.
- (8) In the event that a Mini-Grid Developer wishes to relinquish a Mini-Grid site before development, he will notify the Community, Host County Government, Cabinet Secretary and the Authority in writing of his intention.

**Requirements for
tariff approval,
review, and
adjustment**

- 6. (1) An application for Retail Tariff approval shall be made electronically or in any other manner that the Authority may approve from time to time in the form set out in the **Third Schedule**. The Feasibility Study Report submitted as part of the Retail Tariff Application shall include designs approved by an Engineer with details set out in the **Fourth Schedule**.
- (2) The Authority shall, within fifteen (15) days of receipt of the Retail Tariff application, inform the applicant whether the application is complete.
- (3) The Authority or its designated agent shall before approval of the Retail Tariff undertake a stakeholder engagement. The Authority shall give a notice of at least seven (7) days to the Mini-Grid Developer who shall notify the Local Community prior to the stakeholder engagement.
- (4) The Authority shall publish its decision on the Retail Tariff application within sixty (60) days from the Date of Application in accordance with the provisions of Section 23 of the Act.
- (5) The Tariff Control Period for an approved Retail Tariff shall be three (3) years.
- (6) An application for a Retail Tariff review shall be made at least sixty (60) days before expiry of the existing Retail Tariff.

**Licence
Application**

7. (1) A Mini-Grid Developer shall apply for a Licence within twelve (12) months from the date of publication of the Retail Tariff.
- (2) A Mini-Grid Developer shall before making a Licence Application, issue a notice by public advertisement, pursuant to provisions of Section 119 and 120 of the Act. The public advertisement shall be in the form set out in the **Fifth Schedule**.
- (3) An application for a Licence shall be made electronically in the form set out in the **Third Schedule** with one (1) hard copy submitted to the Authority.
- (4) The Licence application shall be accompanied by licence application fees set out in the **Sixth Schedule** and Physical Planning Approval from the Host County Government specifying the geographical coverage of the Mini-Grid.
- (5) The Mini-Grid shall, as part of the Licence application, submit the proposed Consumer Supply Contract, Consumer Service Charter and Consumer Complaints and Dispute Handling Procedure for approval by the Authority in the form set out in the **Seventh Schedule**.
- (6) The Authority shall, within fifteen (15) days of receipt of the Licence Application, inform the applicant whether the application is complete.
- (7) The Authority shall review the Licence application in accordance with the provisions of Section 121 (1) of the Act and inform the applicant of its decision within sixty (60) days from the Date of Application.
- (8) Where a Licence is approved by the Authority, the Mini-Grid Developer shall pay the fees specified in the **Sixth Schedule**
- (9) A Mini-Grid Developer shall within twelve (12) months of grant of a Licence construct and commission generation and distribution infrastructure which can serve at least 30% of the targeted Consumers.
- (10) A copy of the Commissioning Report in Regulation 7(9) shall be filed with the Authority.

	(11)	The Authority may suspend or revoke a Licence issued to a Mini-Grid Developer who fails to meet the threshold specified in Regulation 7(9), in accordance with the provisions of Section 102 of the Act.
Form of Licence	8.	The Authority shall issue the Licence in the form set out in the Eighth Schedule .
Date of Commencement, Duration, and Relinquishment	9.	<p>(1) A Licence issued under these Regulations shall come into operation on the date of its issue, and shall continue for a duration of the number of years specified in the Licence subject to the provisions of the Act and these Regulations.</p> <p>(2) A Mini-Grid Developer may voluntarily relinquish an operating Mini-Grid at any time before the expiry of the Licence by giving at least six (6) months' written notice to the Authority.</p> <p>(3) Upon relinquishment of a Licence, the Mini-Grid Developer:</p> <ul style="list-style-type: none"> a. shall at its own cost decommission the Mini-Grid infrastructure and assets within three (3) months or as may be directed by the Authority; or b. with the approval of the Authority may transfer the Mini-Grid assets to another Mini-Grid Developer or Grid Operator. <p>(4) The Authority may require the Mini-Grid Developer to continue operating the mini-grid prior to exercising the options under Regulation 9(3).</p>
Suspension or Revocation of Licenses	10.	<p>(1) The Authority may suspend or revoke a Licence issued under these regulations in accordance with the provisions of Section 102 of the Act.</p> <p>(2) Upon revocation of a Licence, the provisions of Regulation 9(3) shall apply.</p>
Public Mini-Grids	11.	In the case of Public Mini-Grids, the implementing agency shall apply for a Licence as provided in Regulation 7 before commencing construction.

PART III – OPERATION

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|---|------------|--|
| Performance Standards and Reporting | 12. | <p>(1) A Mini-Grid Developer shall be responsible for the construction, operation and maintenance of a Mini-Grid in compliance with applicable performance standards and the Distribution Code.</p> <p>(2) A Mini-Grid Developer shall provide reports to the Authority on the performance of a Mini-Grid as specified in the Ninth Schedule.</p> |
| Health, Environmental and Safety Obligations | 13. | <p>A Mini-Grid Developer shall comply with all applicable health, safety, and environmental laws.</p> |
| Insurance | 14. | <p>A Mini-Grid Developer shall maintain insurance policies to cover risks associated with construction, operation and maintenance of a Mini-Grid.</p> |
| Accounts and Records | 15. | <p>A Mini-Grid Developer shall maintain its books of account in accordance with the provisions of Section 129 of the Act.</p> |
| Connection Agreements, Metering and Billing | 16. | <p>A Mini-Grid Developer shall enter into a Consumer Supply Contract in the form set out in the Seventh Schedule with each Consumer willing to connect to the Mini-Grid.</p> |
| Handling of complaints | 17. | <p>A Mini-Grid Developer shall establish and disseminate to consumers procedures for consumer complaints and dispute handling in accordance with the Energy (Complaints and Disputes Resolution) Regulations 2012.</p> |
| Accidents/Incidents Reporting | 18. | <p>A Mini-Grid Developer shall notify the Authority of any accident or incident within 48 hours in accordance with the provisions of Section 129 of the Act.</p> |

PART IV – INTERCONNECTION

- | | | |
|---|------------|---|
| Extension of Grid to a Mini-Grid | 19. | <p>(1) The Grid Operator shall notify the Mini-Grid Developer, the Corporation and the Authority of its intention to extend the Grid to a mini-grid area at least twelve (12) months before the extension.</p> <p>(2) The Mini-Grid Developer, on receipt of the notification, shall notify the Grid Operator, the Corporation and the Authority of the preferred interconnection option to operate as:</p> |
|---|------------|---|

- a. An independent power producer selling to the Grid operator where the Mini-Grid Developer may decommission the distribution assets or sell these assets to the Corporation;
- b. A Mini-Grid Developer purchasing power from the Grid in addition to its existing generation for sale to the Consumers. The Mini-Grid Developer shall enter into an Energy Supply Agreement with the Grid Operator, which shall be submitted to the Authority for approval, in accordance with provisions of Section 164 of the Act; or
- c. Any other operating model as approved by the Authority.

(3) The Mini-Grid Developer, the Grid Operator and the Corporation shall conclude the negotiations on the interconnection option within twelve (12) months of receipt of the notification in Regulation 19(2).

(4) The Mini-Grid Developer shall apply to the Authority for modification of their Licence to reflect the adopted option after the negotiations.

(5) Where a Mini-Grid Developer opts to sell assets, the compensation shall be based on the depreciated value of the assets.

For compensation to be payable, the Mini-Grid at the time of granting of the EOI, must have met siting requirements in the KNES or INEP.

(6) Conflicts arising from the interconnection options shall be referred to the Authority for arbitration.

Offences and Penalties	20.	The offences and penalties specified in Sections 118, 168, 169, 210, 219, 220 and 221 of the Act shall apply to these Regulations.
Local Content	21.	A Mini-Grid Developer shall comply with local content requirements in accordance with the provisions of Section 206 of the Act.
Decommissioning	22.	Decommissioning of Mini-Grids shall be in accordance with provisions of Section 186 of the Act.

Appeals

- 23.** Any person aggrieved by a decision or Order of the Authority may appeal to the Tribunal in accordance with provisions of Section 24 of the Act.

FIRST SCHEDULE (r. 5(1))

EXPRESSION OF INTEREST APPLICATION FORM

Instructions to Applicants:

Please complete the Expression of Interest Application Form in full. Where information requested is not relevant or not available, please indicate such or provide relevant alternative information.

A. Applicants Details (Mini-Grid Developer)	
Name of Applicant:	..... ..... ..... .....
Main Office Physical Address:	Building Name..... LR/Plot No..... Street/: Town/County:
Postal Address:	..... .....
Website (<i>where available</i>):	..... .....
Telephone/Mobile Number:	.....
Email Address:	..... ..... .....

Incorporation/registration certificate number <i>(Attach Copy)</i>	.....
Income tax registration (PIN) certificate number <i>(Attach Copy)</i>	..... .....
Description of Applicant's business activities	....................
Description of experience with Mini-Grids	....................
B. Details of the Contact Person <i>(Details of person to whom correspondence or enquiries concerning the application should be directed)</i>	
Name:	..... .....
Position Held:	..... .....
Mobile Number:	..... .....
Email:	..... .....

1. REGISTRATION DETAILS OF THE APPLICANT

(Check the relevant option)

- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ Public Limited Company

- Private Limited Company
- Cooperative Society
- Other (Specify).....

2. OWNERSHIP DETAILS

(Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable)

Name	Nationality	Share Capital
.....
.....
.....

(Insert additional lines as appropriate)

State if you are or any of your partners/directors is an un-discharged bankrupt. *(If so, indicate the names)*

- a)
- b)
- c).....

(Insert additional lines as appropriate)

3. PROPOSED MINI-GRID DETAILS

3.1.Site of Mini-Grid (*Village, Sub-County, County and Landmark*)

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3.2. Global Positioning System Co-ordinates of the Power Generation Plant (decimal format)

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3.3. Estimate Distance from the existing National Grid and/or nearest Mini-Grid

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3.4.Socio-demographic and economic characteristics of the site(*Population, number of households, businesses, institutions, households main source of energy, main economic activities*)

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3.5. Generation

	Technology	Capacity (kW)	Description
	Solar		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Wind		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Hydro		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Geothermal		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Biomass		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Diesel		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Other		Make: Capacity Factor: Estimated Annual Generation (kWh):
	Total		
	Storage		Make: Technology: Rating (kWh):

3.6. Availability of land for the project (*Land Ownership; private, public and site accessibility*)

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3.7. Source of financing for the Mini-Grid (*Debt, equity, grant, other*)

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...

3.8. Is approval issued under the Public Private Partnership Act, 2013 (*Yes/No*)

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...
If Yes, Attach evidence

3.9. Is the project approved by Host County Government (*Yes/No*)

If Yes, Attach evidence

3.10. Indicative tariff

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...

3.11. Expected date of commencement of operation.....

3.12. Estimated Total project development costs.....Kshs

a) DECLARATION BY THE APPLICANT

I/we hereby declare that the information provided in this application is true to the best of my/our knowledge.

Dated thisday of
.....20.....

Name

.....

Title.....
.....

Signature.....

....

For Official Use Only

Project Reference Number	
Date of submission of application	
Date of receipt of application	

Application form complete?	Yes		No	
Date of review				
Decision of Review	Approved		Rejected	
Date of Response to the Applicant				

SECOND SCHEDULE (r. 5(5))
GUIDELINES FOR PREPARATION OF A MEMORANDUM OF
UNDERSTANDING

1. The Memorandum of Understanding (MoU) shall include the following clauses:
 - a. Name and address of the parties to the MoU;
 - b. Purpose of the MoU;
 - c. Duties of the parties;
 - d. Potential job opportunities in the development and operation of the Mini-Grid.
 - e. Measures to be taken by the Mini-Grid Developer in conserving the environment, natural resources and cultural sites.
 - f. The Mini-Grid decommissioning process and timelines.
 - g. A schedule of activities proposed to be undertaken and the timelines.
 - h. The term of the MoU.
 - i. The dispute resolution process for any disputes arising under the MoU.
 - j. Variation and termination of the MoU
 - k. Any other clause that may be agreed between the parties.
2. The community shall, establish a Community Committee which shall negotiate the terms of the MoU on behalf of the community.

NOTE:

The Community Committee shall be comprised of at least fifteen community members amongst whom a chairperson and secretary will be nominated by the rest of the members. The fifteen (15) members shall include amongst them at least:

- a. One woman representative

- b. Two representatives of the youth of either gender from the community.
 - c. One representative of persons with disability in the community.
- 3. Where the community is already organized under a leadership structure pursuant to a written law such as the Community Land Act, 2016, the community shall utilize the already existing leadership structure to negotiate the MoU and the above provision shall not be applicable.

THIRD SCHEDULE (r. 6(1), 7(3))

MINI-GRID TARIFF/ LICENCE APPLICATION FORM

The Director General
Energy and Petroleum Regulatory Authority
P.O. Box 42681, 00100 GPO

NAIROBI

I/We

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ereby apply for tariff approval/to be licensed as a Mini-Grid Developer in accordance with the Energy (Mini-Grid) Regulations, 2022. I/ We commit to comply with provisions of the Energy (Mini-Grid) Regulations, 2022, and any standards, codes, rules and by-laws relating to prudent development and operation of Mini-Grids.

1. NATURE OF APPLICATION

(Tick as appropriate)

- ☐ New
- ☐ Retail Tariff Renewal/ Licence Extension

2. PARTICULARS

A. Applicant's Details (Mini-Grid Developer)	
Name of Applicant:	..... ..... ..... .....
Personal Identification Number:	..... .....
Main Office Physical Address:	Building Name..... LR/ Plot No.....

	Street/: Town/County:
Postal Address:	..... .....
Website (<i>where available</i>):	..... .....
Telephone/Mobile Number:	.....
Email Address:	..... ..... .....
B. Details of the Contact Person <i>(Details of person to whom correspondence or enquiries concerning the application should be directed)</i>	
Name:	..... .....
Position Held:	..... .....
Mobile Number:	..... .....
Email:	..... .....

3. REGISTRATION DETAILS OF THE MINI-GRID DEVELOPER

(Check the relevant option)

- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ Public Limited Company

- Private Limited Company
- Cooperative Society
- Other (Specify).....

4. OWNERSHIP DETAILS

(Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable)

Name	Nationality
.....
.....
.....

(Insert additional lines as appropriate)

State if you are or any of your partners/directors is an un-discharged bankrupt. *(If so, indicate the names)*

- a)
- b)
- c).....

(Insert additional lines as appropriate)

5. MINI-GRID DETAILS

5.1.Site of Mini-Grid (*Village, Sub-County, County and Landmark*)

.....

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.....

5.2. Global Positioning System Co-ordinates of the Generation Power Plant (decimal format)

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.....

.....

5.3. Generation

Technology	Capacity (kW)	Capital Cost (Kshs)	Description
Solar			Make: Capacity Factor: Estimated Annual Generation (kWh):
Wind			Make: Capacity Factor: Estimated Annual Generation (kWh):
Hydro			Make: Capacity Factor: Estimated Annual Generation (kWh):
Geothermal			Make: Capacity Factor: Estimated Annual Generation (kWh):
Biomass			Make: Capacity Factor: Estimated Annual Generation (kWh):
Diesel			Make: Capacity Factor: Estimated Annual Generation (kWh):
Other			Make: Capacity Factor: Estimated Annual Generation (kWh):
Total			
Storage			Make: Technology: Rating (kWh):

(for tariff application)

5.4.Expected date of commencement of operation.....

5.5.Total project development costs.....Kshs

5.6.Summary of tariff model outputs

Consumer Category	Number	Fixed Charge (KShs/Month)	Tariff Components	
			Energy Charge (KShs/kWh)	Demand Charge (KShs/kWh)
Anchor				
Business				
Institutions				
Residential				

Capital Structure (%Equity:%Debt)	
Cost of Equity	
Cost of Debt	
Weighted Average Cost of Capital (%)	

5.7. Connection Fee Details

Connection fee	KShs:			
Mode of recovery	Lump sum (√)		Instalment (√)	No

5.8. Benchmarking outputs

		Per customer	Per kW	Total	Unit
Opex	Plant lifetime total O&M Costs				KSh
	Distribution				KSh
	Retail Metering and Reticulation				KSh
	General Utility Property Plant & Equipment				KSh
	Intangible Assets (Financing-Related)				KSh
	PVIF of Replacement Investments				KSh
	TOTAL CAPEX				KSh

Subsidies	Grants/Contributions/Connection Payments				KSh
	Present Value of Required Subsidy				KSh

6. ACCOMPANYING DOCUMENTATION

The application for retail tariff approval and the Licence application shall be accompanied by the following supporting documents. The documents shall be submitted online with one (1) paper/hard copy.

6.1. Company and Director's Documents

- a) Certified copy of Business Name Registration Certificate or Certificate of Incorporation and Memorandum and Articles of Association in case of a company (whichever is applicable);
- b) Certified Form CR12 from the registrar of companies not older than two (2) months from the date of issue;
- c) Valid tax compliance certificate from the Kenya Revenue Authority;
- d) If Kenyan, a copy of National Identity Card, or if non-Kenyan, copies of pages first two and last two pages of your passport;
- e) Certified copy of valid Work Permit for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya;
- f) Proof of occupancy of Main Company Office;
- g) PIN certificate.

(The documents above shall be valid during the application of both retail tariff approval and licence)

6.2. Retail Tariff Approval Application

- a) Approval from the Host County Government;
- b) Expression of Interest approval issued by the Cabinet Secretary;
- c) Duly completed Mini-Grid Tariff Model issued by the Authority and as revised from time to time with the input of key Mini-Grid sector stakeholders;
- d) Feasibility Study Report;
- e) Project approval by the National Environmental Management Authority;
- f) The Memorandum of Understanding, a document endorsing appointment of Community Representatives, and minutes and attendance register of the meeting confirming the appointment;
- g) Proof of land ownership (Title Deed or Lease Agreement) for the proposed generation plant location;
- h) Source of financing for the Mini-Grid;

- i) The Mini-Grid Developer's audited accounts for the last three years, where applicable.

6.3.Licence Application

- a) Physical Planning Approval issued by the Host County Government;
- b) Public Notice in two (2) local newspapers of wide circulation;
- c) Evidence of a physical office accessible to the consumers and other stakeholders or of dedicated on-site staff and a customer service;
- d) Proposed Consumer Supply Contract;
- e) Proposed Consumer Service Charter;
- f) Way leave/Easement agreement(s) for the Distribution Network;
- g) Proposed Consumer Complaints and Dispute Handling Procedure which shall *inter alia* cover the following:
 - i. How to contact the Mini-Grid Operator;
 - ii. How to lodge a complaint to the Mini-Grid Operator;
 - iii. Complaint handling process; and
 - iv. How to handle complaints that endanger persons and property

h) **DECLARATION BY THE APPLICANT**

I/we hereby declare that the information provided in this application is true to the best of my/our knowledge.

Dated thisday of
.....20.....

Name
.....

Title.....
.....

Signature.....
.....

FOURTH SCHEDULE (r. 6(1))

GUIDELINES FOR THE FEASIBILITY REPORT

A feasibility report submitted by a Mini-Grid Developer during Retail Tariff application shall include

- i. Project Description: location, ownership, capacity, technology;
- ii. Socio-demographic and economic characteristics of the local community
- iii. Existing source of electricity;
- iv. An assessment of the sustainability of the energy resource;
- v. Load forecasts segregated by Consumer types;
- vi. An assessment of the technical and financial viability of the project;
- vii. Description of the financing arrangements for the project;
- viii. An assessment of the social and economic benefits and costs of the proposed project;
- ix. Willingness and Ability-to-Pay Analysis of the potential consumer;
- x. Details of Retail Tariffs for Mini-Grids within 15KM;
- xi. Power generation plant and distribution system drawings approved by an engineer
- xii. Power flow analysis
- xiii. Home wiring;
- xiv. Proposed metering scheme;
- xv. Billing system: post or prepaid;
- xvi. Future grid integration proposals;
- xvii. Earthing requirements;
- xviii. System protection and controls;
- xix. Applicable standards; and
- xx. Safety manual and procedures.

FIFTH SCHEDULE (r. 7(2))
PUBLIC NOTICE TEMPLATE
THE ENERGY ACT
(NO. 1 of 2019)
(MINI-GRID DEVELOPER)

**APPLICATION FOR ELECTRIC POWER GENERATING AND DISTRIBUTION
LICENCE**

NOTICE is hereby given that *(Mini-Grid Developer)*, having its registered offices at *(Office and Postal address)* in the Republic of Kenya (*'the Applicant'*), pursuant to the provisions of Section 117 of the Energy Act, 2019, will on *(date)* make an application to the Energy and Petroleum Regulatory Authority(the Authority) for the Electric Power Generating and Distribution Licence (Mini-Grid) for *(installed capacity and technology)* in *(site name)* in *(County name)*. The grant of the Licence will NOT have adverse effect on any public authorities, Counties, companies or persons within the area of the undertaking.

A copy of the application (subject to confidentiality consideration) will be available (once lodged) for inspection by the public at the registered office of the Applicant and the Authority headquarters. Any public authority, County, company or person desirous of making any representation on or objection to the application must do so by a letter addressed to the Authority and marked on the outside of the cover enclosing it “*(Mini-Grid Developer)* application_ representation” on or before the expiry of fifteen (15) days from the date of the application and a copy of such representation or objection must be forwarded to the registered office of the Applicant.

Dated the *(date)*

(Name of Mini-Grid Developer)

SIXTH SCHEDULE (r. 7(4), (8))

**PAYMENT SCHEDULE FOR LICENCE APPLICATION AND ANNUAL FEES FOR
MINI-GRID GENERATING AND DISTRIBUTION LICENCE**

The Applicant shall pay an application fee of KSh 10,000 per site during Licence application.

The annual licence fees shall be Ksh. 200 per kW of the onsite capacity from all technologies.

SEVENTH SCHEDULE (r. 7(5), (16))

A. ELECTRICITY SUPPLY CONTRACT TEMPLATE

THIS CONTRACT is made on the (date) day of (month, year) **BETWEEN** (*name of Mini-Grid Developer*), a company incorporated under the Companies Act Chapter 486 of the Laws of Kenya having its registered office at (*Physical address*), in the Republic of Kenya and of Post Office Box Number (*postal address*) (*hereinafter referred to as “Developer”*) which expression shall where the context so admits include its successor(s) and assign(s) of the one part;

AND

Mr/Mrs/Ms _____ holder of (National Identity Card) Number _____ of Post Office Box Number _____, in the Republic aforesaid, e-mail address _____ and telephone number _____ (*hereinafter referred to as the “Consumer”*) which expression shall where the context so admits include his/her personal representative(s) and heir(s) on the other; (*delete if inapplicable*)

WHEREAS:

1. The Developer is licensed to generate, purchase, distribute, sell and supply electrical energy to its consumers at a prescribed charge and for these purposes to undertake to carry out and perform the necessary works, installations and services (*hereinafter collectively referred to as the “services”*).
2. The Consumer has applied for and agreed to accept responsibility in regard to the Developer’s electrical energy supply and services and has agreed to pay for such electrical energy supply and services.

3. The Developer has agreed to provide the Consumer with electrical energy and services upon the terms and conditions hereinafter appearing:-

IT IS HEREBY AGREED as follows: -

1. DEFINITIONS

- 1.1 In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Terms and Conditions of Supply.
- 1.2 Unless the context or express provision otherwise requires:-
- a) “ADMD” is the abbreviation for ‘After Diversity Maximum Demand’. This is factored from the Consumer’s electrical energy requirements (*or load*) and is calculated by the Developer guided by -
 - (i) The information contained in the Enquiry for Supply Form
 - (ii) The Wiring Installation Certificates
 - b) “Charges” means the collectivity of consumption, statutory and other charges
 - d) “kVA” is the abbreviation for kilovolt amperes and is a term to measure demand of power drawn by the Consumer

2. DOCUMENTS MAKING UP THE CONTRACT

- 2.1 The following documents shall constitute the Contract between the Developer and the Consumer and each shall be read and construed as an integral part of the Contract:-
- a) this Contract Agreement
 - b) the Terms and Conditions of Supply
 - c) the schedule of Retail Tariffs
 - d) the Enquiry for Supply Form
 - e) the Design Plan
 - f) the Supply Application Data Form
 - g) the Installation Certificates
- 2.2 In the event of any ambiguity or conflict between the contract documents listed above, the order of precedence shall be the order in which the contract documents are listed in 2.1 above except where otherwise mutually agreed in writing.

3. SUPPLY AND PROVISION OF ELECTRIC ENERGY AND SERVICES

- 3.1 In consideration of the payments for charges to be paid by the Consumer, the Developer has agreed to provide the Consumer with electric energy and services under the provisions of the Contract at the times and in the manner prescribed by the Contract.
- 3.2 The Consumer has agreed to accept responsibility as provided for and in accordance with the terms and conditions of the contract with regard to the Developer's electrical energy supply and services.

4. SRN, AMOUNT, TYPE AND LOCATION OF SUPPLY

- 4.1 The supply of electrical energy and services will be made to the Consumer as follows -
- 4.1.1 On Supply Reference Number (SRN) _____
- 4.1.2 Type and amount of deposit _____
- 4.1.3 With a maximum demand of supply (ADMD) not exceeding _____ kVA
- 4.1.4 With Voltage _____ V
- 4.1.5 With a meter connection type of _____ phase.
- 4.1.6 On Plot or Land Reference Number _____
- 4.2 Geographical Co-ordinates for the supply terminals _____

5. AUTHORISED LOAD

- 5.1 In consideration of the payment of charges to be made to the Developer by the Consumer, the Consumer shall take an authorized supply of electrical energy at the supply premises using the SRN and not exceeding the ADMD and through the meter connection type as stated above by the Developer in this contract.

6. COMMENCEMENT DATE

- 6.1 The Commencement Date of the contract shall be the date first entered above after both the Developer and the Consumer have executed this Contract Agreement.

7. EFFECTIVE DATE

- 7.1 For new or uprated or decrease in load installations, the Effective Date of the contract shall be the date immediately after the completion of both of the following, unless

dictated otherwise:-

7.1.1 When the meter is installed on the supply premises, where such installation is necessary

7.1.2 When electric energy reaches the installed meter at the supply premises and is available for consumption

7.2 For supply premises that are taken over by the Consumer, the Effective Date of the contract shall be three (3) working days after the Commencement Date.

8. PAYMENT FOR SERVICES

8.1 The Consumer shall pay the Charges as and when due in respect of the supply of electric energy as provided under the Contract.

8.2 The Charges shall be regulated by the Energy & Petroleum Regulatory Authority and are subject to periodic review.

9. CHANGES TO CONTRACT

Any amendment, change, addition, deletion or variation to this Contract shall be expressly agreed in writing by the parties.

10. WAIVERS AND FORFEITURES

10.1 No failure or delay to exercise any power, right or remedy by the Developer shall operate as a forfeiture or waiver of that right, power or remedy.

11. NOTICES

11.1 Any notice required to be given by any Party shall be deemed to have been sufficiently served, if where delivered physically one (1) working day after such delivery; notices sent by post shall be deemed served five (5) days after posting.

11.2 For the purposes of Notices, the address of the parties shall be as follows:-

11.2.1 For the Developer –

The Mini Grid Developer Office Located at:

Head of the nearest Branch Office where the supply premises are situated.

11.2.2 The Consumer – The address of the Consumer shall be that specified in this contract :

.....
.....

.....

12. DECLARATION & INDEMNITY

- 12.1 The Consumer confirms that s/he has read and understood the Terms and Conditions regarding electric supply and services and that the details and information given in and with regard to this Contract are true and correct.
- 12.2 The Consumer hereby agrees to fully indemnify the Developer against any loss, claim, expense or demand made against the Developer as a result of any false or inaccurate information or misrepresentation provided in this Contract.

13. GOVERNING LAW

- 13.1 This Contract shall be governed in accordance with the laws of Kenya.

14. ENTIRE AGREEMENT

- 14.1 This constitutes the entire Contract between the parties as respects the electrical energy supply and services.

IN WITNESS whereof the parties have respectively attested to this Agreement the day and year first hereinbefore mentioned.

SIGNED by Developer

APPLY DEVELOPER STAMP HERE

SIGNED by the **CONSUMER**

PASSPORT PHOTO

PIN NO.

Full Name as per the ID

ID NO.

Signature.....

B. GUIDELINES FOR PREPARATION OF THE CONSUMER SERVICE CHARTER

A consumer service charter shall include

- i. Process of application for connection of electricity supply to the Consumer;
- ii. Timeframes for connection to electricity after application;
- iii. Expected quality of supply and quality of service parameters;
- iv. Determination and payment for electricity supplied;
- v. Disconnection and reconnection of electricity supply;
- vi. Electricity supply interruptions;
- vii. Illegal connection and sanctions, metering, and rights and obligations of the Mini-Grid developer/operator;
- viii. Consumer obligations and rights; and
- ix. Attendance to Consumer in service centres, or through community-based Consumer service agents, on telephone or in correspondence;

EIGHTH SCHEDULE (r.8)

FORM OF LICENCE



Issued to

(Name of Mini-Grid Developer)

In respect of

(Details of undertaking)

By

ENERGY AND PETROLEUM REGULATORY AUTHORITY

Dated:

LICENCE REF NO.

(STATE TYPE OF LICENCE)

(Energy Act No. 1 of 2019)

1. Definitions and Interpretation

- (1) Any word or expression defined in the Act or the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya shall, unless the context otherwise requires, have the same meaning ascribed thereto when used in this Licence.
- (2) Any reference to a statute shall include any statutory amendments, modification or re-enactment thereof and subsidiary legislation made thereunder after the date when this Licence comes into force and effect.

- (3) In this Licence, unless the context requires otherwise-

“Act” means the Energy Act No. 1 of 2019 and includes any subsidiary legislation made thereunder;

“Authority” means the Energy and Petroleum Regulatory Authority established under Section 9 of the Act;

“Grid Code” means the Kenya National Distribution Code;

“Lenders” means any financial institutions, which have provided loans or hedging facilities to the Licensee for purposes of developing the power plant and associated infrastructure and includes their agents, trustees, transferees and assigns;

“Licensee” means the holder of this Licence, being (*insert name and address of Mini-Grid Developer*), a company incorporated in (*insert country of issue*) under Certificate of Incorporation (*insert number*) and includes its successors and permitted transferees;

2. Grant of *(state type)* Licence

IN EXERCISE of the powers conferred by the provisions of sections 11, 117 and 122 of the Energy Act No. 1 of 2019, the Authority, **HEREBY GRANTS this (state type of) LICENCE to** *(insert name of Mini-Grid Developer)*, a company incorporated in the Republic of Kenya having its registered office at *(insert physical and postal address)* to *(nature of undertaking)* at *(location of the undertaking)* as more particularly described in this *(undertaking)* Licence.

3. Undertaking to which this Licence Relates

This Licence is specific and limited to the *(describe the undertaking)* located within *(GPS coordinates)* in *(insert physical location; village, sub-county, county)*. This plant is owned, maintained and operated by the Licensee.

For the avoidance of doubt, it is hereby stated that the Licence does not authorize or entitle the Licensee to carry out any other undertaking except the undertaking herein specified and licensed.

4. Duration of Licence

This Licence shall come into force and effect on *(Commencement Date)* and shall continue in operation from the Commencement Date for a duration of *(insert number)* years subject to the provisions of the Act and to the terms and conditions specified herein.

5. Amendment, Transfer or Renewal of the Licence

- (1) This Licence may be amended, transferred or renewed in accordance with Section 119(1) and Section 122 (3) of the Act.
- (2) If the Licensee wishes to renew this Licence after its expiration date of *(insert date)*, the Licensee shall submit to the Authority an application for renewal not later than thirty-six (36) months prior to the expiration of this Licence.
- (3) The Authority shall have the right to accept or reject the application for renewal in light of the Licensee's performance during the period preceding the application for renewal.

6. Suspension or Revocation of the Licence

The conditions of this Licence are subject to suspension or revocation in accordance with the terms herein specified and Section 126 of the Act.

7. Exceptions and Limitations on the Licensee's Obligations

If the Licensee is prevented from performing any of its obligations under this Licence because of Force Majeure:

- (1) The Licensee shall notify the Authority of the obligations it is prevented from performing as soon as reasonably practicable; and
- (2) The Authority may suspend those obligations and the Licensee will not be liable to perform those obligations, for so long as the Force Majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under this Licence, or other reasonable precautions and the inability cannot reasonably be circumvented by the Licensee at its expense through the use of alternative sources, work-around plans or other means.

8. Liability under Tort and Contract Laws of Kenya

Notwithstanding any provisions of this Licence, the Licensee is subject to liability under tort and contract laws of Kenya.

9. Establishment of an Office in Kenya

- (1) The Licensee shall at the commencement of this Licence provide to the Authority an electronic, postal and physical address of an office in Kenya at which communication from the Authority may be sent or delivered.
- (2) The Licensee shall maintain such offices until this Licence expires or is revoked under the Act.

10. Acquisition of Any Property for Purposes of this Licence

The Licensee shall ensure that any compulsory acquisition or taking of property by the Licensee for purposes related to the electric power undertaking by virtue of this Licence shall be made in compliance with the law and in particular Article 40 of the Constitution of Kenya.

11. Disposal of Assets, Change in Capital and Change in Control

- (1) The Licensee shall be required, for the duration of the Licence, to notify the Authority of any of the following:
 - (a) Any action that may lead to a decrease of the Licensee's share capital existing on the date this Licence was issued;
 - (b) Any acquisition by a third party of more than 25% of the Licensee's share capital;
 - (c) A Change in Control of the Licensee;
 - (d) The intention of the Licensee to increase or decrease its authorized capital or its paid up capital.
- (2) The Licensee shall be required, for the duration of the Licence, to obtain the prior written approval of the Authority for any of the following:
 - (a) Subject to paragraph (4), disposal of any part of the Licensee's electric power undertaking (including any of the assets forming part of the undertaking) by means of sale, transfer, merger, lease or any other means; and

- (b) Any action that may lead to a decrease of the Licensee's share capital existing at the time this Licence was issued that may affect the financial, technical or operational qualifications on which the granting of this Licence was based.
- (3) For the purposes of Paragraph (1) (c) above and notwithstanding anything to the contrary contained in this Licence, a person shall be considered to have control of the Licensee if the person exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the Licensee's affairs, and in particular, but without prejudice to the generality of the foregoing, if the person possesses or is entitled to acquire a majority of the issued share capital of the Licensee or to exercise a majority of the voting rights in the Licensee.
- (4) For the purpose of paragraph (2) (a), the Licensee shall have the right to dispose of an asset or part of its undertaking without the prior approval of the Authority if the Authority has issued a directive granting a general consent for the disposal of the assets of a specified description or below a specified value, and the Licensee has provided, prior to the disposal, the Authority with evidence that the asset or part of undertaking to be disposed off falls within the provisions of such directive or if the disposal is for operational purposes in the ordinary course of business.
- (5) Without prejudice to paragraph (4) above, the Licensee may apply by notice to the Authority for permission of disposal of assets, specifying assets to be disposed and the reasons, or for the approval of any of the actions set out in paragraph (2) (b) above.
- (6) The Licensee may dispose of the relevant assets, or may undertake any of the actions set out in paragraph (2) (b) above, as specified in the notice referred to in paragraph (5), if:
 - (a) The Authority confirms in writing that it consents to such disposal or action; or
 - (b) The Authority does not inform in writing of any objection to such disposal or action within thirty (30) days of the notice;
 - (c) Paragraph (4) above applies, or
 - (d) The Licensee is obliged by law or final order of a competent court to dispose of the relevant asset or part of its undertaking, but without prejudice to the Authority's power to revoke this Licence as a result of such disposal.

12. Transferability of this Licence, and other Licenses

- (1) Subject to paragraph (2) herein below, the Licensee shall not transfer or otherwise divest himself of any rights, powers or obligations conferred or imposed upon him by this Licence without the written consent of the Authority.
- (2) The Authority hereby consents to the transfer of the undertaking and the Licence to the secured Lenders or to parties duly nominated by them under the terms and conditions of the financing agreements relating to the undertaking.
- (3) Subject to the provisions of Section 117 of the Act and to this Licence, the Licensee may apply for other Licences for electric power undertakings in any area within the Republic of Kenya.
- (4) The Licensee shall not purchase or acquire any undertaking or associate himself with any public authority, company, person or body of persons supplying electrical energy under any Licence, except with the authority of the Authority.
- (5) If the Licensee contravenes the provision of paragraph (1) above it shall be liable to the revocation of its Licence, in addition to such other action as the Authority may deem fit.

13. Provision of Information to the Authority and other Licensees

- (1) The Licensee shall on request by the Authority provide it with any information relating to its activities conducted under or in connection with this Licence, as the Authority may consider necessary for the purpose of performing the functions assigned to it by or under the Act.
- (2) After the end of each financial year, the Licensee shall submit to the Authority an annual performance report indicating the quality of service and performance of the Licensee during the previous year against the Performance Standards established in Paragraph 24 below.
- (3) The Licensee shall also furnish to other licensees such information as may be reasonably required by those licensees in order to ensure the secure and efficient operation, co-ordinated development and inter-operability of the electricity network.
- (4) The information requested in paragraphs (1) and (2) shall be provided by the Licensee:
 - (a) As soon as possible and not later than the date specified in the request, and
 - (b) In such form and manner as the Authority or other licensee may require.

- (5) The Licensee shall submit annual reports to the Authority on his undertakings that encompass the financial and technical aspects, performance within one hundred and eighty (180) days of the end of the Licensee's financial year, or such other period approved by the Authority, and such other reports as required by the Authority.
- (6) For purposes of this Condition, "information" shall include any plans, drawings, specifications, designs, documents, reports, accounts, statistics, registers (including registers relating to the Licensee's Members or Directors from time to time) or planned annual maintenance schedules (whether or not prepared specifically at the request of the Authority or other licensee) of any description specified in the request.
- (7) The Authority or any person authorized by the Authority in writing may:
 - (a) At all reasonable times, enter upon the premises of the Licensee and inspect or investigate any plant, machinery, books, accounts and other documents found thereat and take copies thereof, and/or
 - (b) Require the Licensee to furnish to the Authority books, accounts, records and other documents in such form as the Authority may demand.
- (8) The Authority may require that the accuracy of any documents or particulars be verified by a person who, in the Authority's opinion, is competent to verify such documents or particulars or render a professional opinion thereon.
- (9) A person authorized by the Authority, shall produce proof of such authorization at the request of any person affected by its activities.
- (10) The Licensee shall submit the following financial data to the Authority when requested by the Authority:
 - (a) the Licensee's financial statements for each Financial Year, together with the report of an external auditor and his or her remarks on such financial statements;
 - (b) any other financial data the Authority may specify with a reasonable prior notice.
- (11) The Authority may ask for other reports as needed to fulfil its responsibilities.

14. Monitoring of Compliance

- (1) The Licensee shall give officers of the Authority or any person or persons duly authorized by the Authority access to the licensee's plant, premises or installations for the purposes of any inspection under the Act or for ascertaining if the provisions of the Act or this Licence are being complied with.
- (2) The Licensee shall also comply with the provisions of the Grid Code in respect of inspection and testing of its plant, premises or installations by other licensees.
- (3) Entry into the Licensee's plant, premises or installations pursuant to sub-paragraphs (1) and (2) of this Paragraph shall be upon reasonable notice to the Licensee.

15. Events of which Licensee must promptly notify the Authority in Writing

The Licensee shall promptly notify the Authority in writing of the occurrence of any of the following events:

- (a) Any accident by electric shock, and also of any other accident of such kind as to have caused, or to have been likely to have caused loss of life or personal injury, and of any explosion or fire, which has arisen from and in the course of the generation, transformation, conversion, transmission, distribution or supply of electrical energy by the Licensee, or which has arisen in or about any generating station, substation, switch station, factory, works or electric supply lines of the Licensee and also notice of any loss of life or personal injury occasioned by any such accident, explosion or fire;

Provided that such notice shall be sent by the earliest practicable post and/or electronic means, after the accident, explosion or fire occurs, or, as the case may be, after the loss of life or personal injury becomes known to the licensee.

- (b) Any event which threatens the Licensee's financial ability to discharge its obligations under this Licence or Consumer Supply Agreement;
- (c) Any forced outage affecting a significant portion of the undertaking which is likely to subsist for a continuous predetermined duration specified in the notice of outage;
- (d) Changes relating to the physical, electronic and postal address of the Licensee in Kenya;

- (e) Any change in the composition or structure of the shareholding of the Licensee affecting the original or subsequent subscribers to the Licensee's registered memorandum of association; or in the event that the securities of the Licensee become listed in a securities exchange, any transaction with the effect of making a single person control five percent (5%) or more of the voting power at any general meeting of the Licensee; or
- (f) Any transfer of the undertaking and Licence under Paragraph 12.

16. Confidentiality and Use of Information

- (1) The Licensee shall maintain the confidentiality of the information and data it possesses on other Licensees, in accordance with the agreements with such Licensees, where applicable, and may not disclose such information to third parties other than the Authority except when requested by laws or relevant authorities, or to the extent authorised by the concerned Licensee, or required in relevant Codes or Regulations.
- (2) The Licensee shall ensure (and shall procure that its affiliates shall also ensure) that all information received by it relating to other licensees is not used by the Licensee or its affiliates for any:-
 - (a) purpose other than that for which it was provided or for a purpose permitted by this Licence or the Grid Code;
 - (b) commercial advantage in the provision of any service other than a service comprised in the undertaking.
- (3) The Licensee may request the Authority not to disclose commercially sensitive information provided by the Licensee to the Authority pursuant to this Licence. Upon satisfaction of the Authority that the information is commercially sensitive, the Authority shall not disclose any part of or all of such information, as applicable, without the prior approval of the Licensee. These restrictions shall not apply to information:
 - (a) Which is in the public domain; or
 - (b) Which is, or becomes, publicly known or available otherwise than through the action of the Authority; or
 - (c) Relating to performance and the level of compliance of the Licensee with the Performance Standards; or

- (d) Required pursuant to an order of a competent court or pursuant to a statute or regulation in force within the Republic of Kenya.

17. Environmental, Health and Safety Obligations

- (1) The Licensee shall comply with the provisions of all environmental, health and safety laws in force in Kenya.
- (2) The Authority may, after consultations with the appropriate authorities, issue orders relieving the Licensee of its obligations under paragraph (1) hereof relating to environmental laws to the extent that such exemption is permitted under the applicable environmental laws.
- (3) The Licensee shall carry out its undertaking in a manner that is designed to protect the health and safety of persons employed by the Licensee at the undertaking and the users of the service and other members of the public who would be affected by its operations.

18. Insurance

The Licensee shall adopt and implement reasonable and prudent policies in relation to the management and insurance of risks associated with the undertaking.

19. Licence Fees

- (1) The Licensee shall, at the times stated hereunder, pay to the Authority fees of the amount specified in, or determined under, sub-paragraphs (2) and (3) of this Paragraph.
- (2) Within 30 days after the commencement of this Licence, the Licensee shall pay to the Authority's account Licence fees of KShs.(Amount) only.
- (3) In respect of the year beginning on the expiration of twelve calendar months from the Commencement Date of this Licence, and in every subsequent year, the Licensee shall pay to the Authority's account an annual fee of KShs.(Amount) only.
- (4) The fee shall be paid by the Licensee to the Authority within thirty (30) days of the annual anniversary of the Commencement Date of this Licence until expiry.

20. Payments to the Licensee

- (1) The payments to be made to the Licensee in respect of electrical energy sold or network services provided pursuant to this Licence shall be in accordance with the approved Retail Tariff.
- (2) Except as stated in the approved Retail Tariff by the Authority, no rebate or reduction in the maximum prices will apply in consideration of any stated improvement in the conditions of the demand by reason of load factor, time of the demand or other circumstances of the demand.

21. Accounts and Audit

- (1) In the event that the Licensee holds other Licences in addition to this Licence, unless specifically exempted by the Authority or treated as a single undertaking by the Authority, the Licensee shall ensure that the accounts of each undertaking under each licence shall be kept separate and distinct and in the manner and form prescribed by the Authority.
- (2) The Licensee shall maintain its books of accounts (relating to its undertaking by virtue of this Licence) in the form and particulars prescribed by the Authority under the Act.
- (3) The Licensee shall ensure that the accounts pertaining to the Licensee's undertaking are examined and audited by such competent and impartial persons appointed by the Licensee.
- (4) The Authority may at any time, and at the Licensee's expense, require auditors appointed by the Licensee and approved by the Authority, to investigate and report to it upon any such particular matter or things relating to or arising out of the accounts of the Licensee in respect of the undertaking to which this Licence relates.
- (5) The Licensee shall give to the auditor and his or her personnel access to such of the books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall when required furnish to him/her and them all vouchers and information requisite for that purpose, and shall afford to them all facilities for the proper execution of their duty.
- (6) The Licensee shall ensure that any report made by the auditor, or such portion thereof as the Authority may direct, shall be appended to the annual statement of accounts of the Licensee.

22. Fair Competition and Restriction to Horizontal or Vertical Integration

- (1) The Licensee shall:
 - (a) Not show undue preference to, or exercise unfair discrimination against, any person or other licensees, in respect of its undertaking;
 - (b) Not engage in any practice or enter into any arrangement that has the object or the likely effect of preventing, restricting or distorting competition in the generation, transmission, distribution or supply of electrical energy; and
 - (c) Comply with every direction issued by the Authority for the purpose of preventing any practice or arrangement that has the object or effect of preventing, restricting or distorting such competition.
- (2) The Licensee shall not directly or indirectly acquire shares or interest in another electric power undertaking within the Republic of Kenya without the prior written consent of the Authority, which consent shall not be unreasonably withheld.

23. Compliance with the Grid Code

- (1) In planning, operating and maintaining the undertaking, the Licensee shall fully comply with the Grid Code.
- (2) In case the Licensee finds that it is, or will be, unable to comply with any provision of the Grid Code at any time, then it shall make such reasonable efforts as are required to remedy such non-compliance as soon as reasonably practicable and immediately notify the Authority.
- (3) The Authority may, following consultation with the Licensee and other licensees or users that may be affected, and for good cause shown, issue directives relieving the Licensee of its obligations to comply with specific provisions of the Grid Code in respect of such parts of the Licensee's undertaking and/or to such extent or duration as may be established in such directives.

24. Performance Standards and Quality of Supply and Service

- (1) The Licensee shall conduct its undertaking in the manner which achieves performance standards and quality of supply and service levels to which it is subject, as may be established or approved by the Authority, or any other applicable standard established in Codes or Regulations issued under the Act.
- (2) The Licensee shall prepare a report, within ninety (90) days after this Licence becomes effective, indicating the minimum performance standards and quality of supply and service levels as well as its plans to meet them as stipulated in sub-condition (1) hereof.

- (3) The Licensee shall submit from time to time, as provided for in the performance standards or in Authority monitoring procedures, the information required to enable the Authority monitor its compliance with the performance standards and quality of supply and service levels.
- (4) The Licensee shall not be in breach of its obligations under this Licence if he has failed to meet the Performance Standards or any other standard established in Codes directly due to Force Majeure, provided that the Licensee has used reasonable efforts, to the extent reasonably possible, to comply with the Performance Standards or any other applicable operating standard established in Regulations and Codes, as the case may be.

25. Compliance with Regulations, Decisions and Orders of the Authority

- (1) The Licensee shall fully comply with the regulations, rules, codes, standards, guidelines, directions, decisions or orders issued by the Authority in the discharge of its functions under the Act.
- (2) At the written request of the Authority, the Licensee shall participate to the extent specified by the Authority in the development and/or review of any regulations, rules, codes, standards and guidelines to be prescribed or prescribed by the Authority under the Act.

26. Review of Authority Decisions

- (1) The Licensee shall have the right to apply to the Authority for review of its decisions in relation to revocation or amendment of this Licence or any other decision that affects the Licensee's undertaking or its rights under this Licence.
- (2) If requested by the Licensee in the prescribed manner, the Authority may review its decisions that affect the Licensee's undertaking or its rights under this Licence, including its decision in relation to revocation or amendment of this Licence.

27. Adherence to the Terms of the Licence and Penalties

- (1) Where the Authority is satisfied that the Licensee has contravened any of the conditions of this Licence, the Authority may issue an order requiring the Licensee to take specific actions or to refrain from taking specific actions in order to rectify the contravention.

- (2) Prior to issuing such order, the Authority shall inform the Licensee of its intention to issue the order and the grounds upon which the order will be issued and provide the Licensee an opportunity to make a representation in accordance with the procedure, including time period, specified by the Authority in a directive.
- (3) Without limiting any other right or remedy available to the Authority under the Act, the Authority may specify in the order a penalty for each day the Licensee is in default of compliance. The penalty specified by the Authority shall not exceed the limits (if any) for such penalties set by the Act or other applicable legislation. If the Licensee fails to make payment on any amount of penalty to the Authority, interest shall accrue at the rate established by the Laws of Kenya.

28. Revocation of Licence

- (1) Subject to Section 126 of the Act, the Authority may at any time revoke this Licence if:
 - (a) The undertaking or the execution of the works related thereto has not commenced at the expiry of twenty four months from the date on which this Licence was granted, except where the Authority is satisfied that this occurred as a result of events beyond the reasonable control of the Licensee in which case the Authority shall substitute such period as it in its sole discretion considers reasonable in all the circumstances) or at the expiry of any extended period which the Authority may allow;
 - (b) The Authority is satisfied that the Licensee is either willfully or negligently not operating in accordance with the terms and conditions of this Licence or the provisions of the Act or any regulations thereunder;
 - (c) The Licensee at any time after the commencement of this Licence makes representation to the Authority that the undertaking cannot be carried on with profit, and ought to be abandoned, and, upon inquiry the Authority is satisfied that the representation is true;
 - (d) The Licensee agrees in writing with the Authority that this Licence should be revoked;
 - (e) Any amount (unless this is being contested in good faith by the Licensee with recourse to the appropriate administrative and judicial procedures) payable by the Licensee under any of the conditions of this Licence or Regulations prescribed under the Act is unpaid for thirty (30) days after it has become due and remains unpaid for a period of thirty (30) days after the Authority has given the Licensee notice that the payment is overdue;

- (f) The Licensee is unable to pay its debts (unless this is being contested in good faith by the Licensee with recourse to all appropriate judicial procedures and measures) or has any voluntary arrangement proposed in relation to it or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
- (g) The Licensee fails to comply with a final order of the Authority issued under the Act and such failure is not rectified to the satisfaction of the Authority within sixty (60) days after the Authority has given notice of such failure to the Licensee,
Provided that no such notice shall be given by the Authority before the expiration of the period within which an appeal under Section 24(1) of the Act may be made to the Tribunal;
- (h) The Licensee ceases to carry on the undertaking authorized by this Licence;
- (i) The Licensee goes into liquidation or makes arrangement with its creditors' or an administrator or a receiver/manager is appointed over the whole or any material part of the Licensee's assets or undertaking (other than by the Lenders);
- (j) The Licensee passes any resolution for winding up other than a resolution previously approved in writing by the Authority;
- (k) The Licensee becomes subject to an order for winding up by a court of competent jurisdiction;
- (l) It is established that the Licensee submitted information the Licensee knew or had reason to know to be false when making its application for this Licence, and
- (m) The Licensee purchases or acquires the undertaking of, or associates itself with, any public or local authority, company, person or body of persons generating or transmitting or distributing electrical energy under any Licence without the authorization of the Authority.

29. Replacement of a Licence

This Licence may be replaced in accordance with Section 127 of the Act,

This Licence was granted on *(date and place)*.

IN WITNESS WHEREOF the Common Seal of the
Energy and Petroleum Regulatory Authority was
hereto affixed pursuant to the powers of the
Authority given on the *(date)*

)

)

In the presence of

)

)

)

)

(Name)

)

DIRECTOR GENERAL

)

)

)

and

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)

)

(Name)

)

CORPORATION SECRETARY

)

NINTH SCHEDULE (r. 12(2))
REPORTING REQUIREMENTS

TYPE OF REPORT	TIMELINES
Accidents and incidents	Accidents to be reported at the earliest time possible but not later than 48 hours after occurrence in a prescribed format Keep a record of incidents
Revenue flows	Quarterly
Technical and commercial losses	Quarterly
Capacity Factor	Quarterly
Consumer Numbers, Classes and Categories	Quarterly
Consumer/Stakeholder complaints	Quarterly
Generated energy (kWh) from each source	Quarterly
System Average Interruption Frequency Index (SAIFI)	Annually
System Average Interruption Duration Index (SAIDI)	Annually
Average duration of daily service	Annually
Overall availability	Annually
Sales (kWh)	Quarterly
Power interruptions/outages	Not later than 24 hours for outages which affect more than 25% of the Consumers and quarterly for other interruptions.

