**TRIPARTITE AGREEMENT**

**BETWEEN**

**XXXXXX**

**(DISTRIBUTION LICENSEE)**

**AND**

**XXXXXXX**

**(OPERATOR)**

**AND**

**[LARGE COMMERCIAL & INDUSTRIAL COMPANY NAME]**

**(INTERCONNECTED CUSTOMER)**

**FOR THE DEVELOPMENT AND DEPLOYMENT OF [X] KW INTERCONNECTED SOLAR PV + BATTERY + DIESEL DISTRIBUTED ENERGY SYSTEM (MINI-GRIDS) AT [LARGE COMMERCIAL & INDUSTRIAL COMPANY NAME]**

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# CONTRACT SUMMARY[[1]](#footnote-2)

|  |  |
| --- | --- |
| **Nature of Contract** | This is a tripartite agreement between the operator of the Mini-Grid (“**Operator**”), distribution licensee (the “**DisCo**”) and the customer (“**Interconnected Customer**”) for the development of an interconnected solar PV+ battery diesel distribution energy system for usage by the Customer. Under this agreement, the Operator seeks to construct and operate a Power Solution and connect to the DisCo’s distribution network for the supply of power to the Interconnected Customer with demand below 1MW. The power solution will be developed based on the mini-grid regulation. The template can also be used for an on-site power solution that plans to distribute power to additional customer, resale to the grid or investors require an additional regulatory protection due to grid investment or the solution for a particular customer is off-site |
| **Term** | 10 years with an option to terminate subject to the terms of the termination clause. Upon expiry of the Term, Parties also have an option to renew on terms to be mutually agreed. |
| **Minimum Consumption** | The minimum consumption of electricity shall be [xxkWh] in total every 6 months |
| **Pricing** | * The Operator shall purchase and pay a DisCo Grid Tariff (for all electricity from the DisCo while the Interconnected Customer shall pay for all electricity consumed from both the Operator and the DisCo grid through a blended tariff.
* DisCo Grid Tariff will include a Premium Fee for improved service and to support the payment of recoverable expenditure and DisCo to recoup grid upgrade costs.
* Should the Disco’s supply to the Interconnected Customer fall below the Grid Availability Standard of X%[[2]](#footnote-3), the DisCo is liable to pay the Operator a fee (Recoverable Expenditure).
 |
| **Billing** | The Operator is responsible for billing and collecting and settling the tariff due to it as well as to the DisCo. |
| **Escalation Mechanism** | The tariffs and minimum consumption are adjustable subject to changes in the market conditions (changes to the inflation rate, increase in diesel price). The Disco Grid Tariff shall also be adjusted where there is a change to the grid tariff/ band. |
| **Availability Standards** | * The Operator is responsible for providing the Interconnected Customer with 95% power availability between the hours of [X:XXam-X:XXpm] while the Disco is responsible for providing the Interconnected Customer with XX% power availability between the hours of [X:XXpm-X:XXam].
* The Operator is also responsible for providing backup to the DisCo’s performance.
* Failure of either Party to meet the respective availability standards attracts pre-determined consequences (including penalties and termination).
 |

**THIS** **AGREEMENT** is made on this XX day of MONTH, XXXX

**AMONG:**

**XXXXX**, a company duly incorporated under the laws of the Federal Republic of Nigeria with registration number **RC No. XXXX** having its registered office at XXXXXXXX, hereinafter called the “Disco”, which expression shall where the context so admits include its successors-in-title and assigns.

**AND**

**XXXXXXX**, a company duly incorporated under the laws of the Federal Republic of Nigeria with registration number RC XXXXX, having its registered office at XXXXXX, hereinafter called the “Operator”, which expression shall where the context so admits include its successors-in-title and assigns.

**AND**

**[LARGE COMMERCIAL & INDUSTRIAL COMPANY NAME]**, a company duly registered under the laws of the Federal Republic of Nigeria with registration number **[Placeholder]**, having its registered office at **[Placeholder]**, hereinafter called the “**Interconnected Customer**”.

In this Agreement, the DisCo, Operator and Interconnected Customer are referred to collectively as **“Parties”** and individually as **“Party”**.

# RECITAL/ BACKGROUND

1. The Operator is in the business of constructing, operating and maintaining Mini-Grids and associated generation assets.
2. Pursuant to Section 68 of the Electricity Act, 2023 (“**EA**”), the Nigerian Electricity Regulatory Commission (the “**Commission**”) has issued to the DisCo a Distribution License to distribute and trade (retail supply) electricity within its Franchise Areas within XXXXX of the Federal Republic of Nigeria, which includes the Distribution Network.
3. The Operator seeks to connect to DisCo’s Distribution Network as described in Schedule 1 below and operate a Mini-Grid on the Interconnected Customer’s premises, supplying electricity to the Interconnected Customer under the terms set out in this Agreement.
4. The DisCo has agreed to allow the Interconnected Customer to operate in an island mode as part of a Mini-Grid (described in Schedules 1 and 2).
5. This Agreement sets out the conditions for the connection and operation in Recital C above, which include but are not limited to the following:
	1. the construction and ownership rights of relevant infrastructure;
	2. the tariff for electricity generated and supplied by the Operator;
	3. the Operator and DisCo hours of supply and reliability requirements;
	4. the financing of DisCo grid upgrades directly relevant to this Agreement and the subsequent repayment by the DisCo to the Operator;
	5. the availability of stable nominal voltage at the Customer Point of Interconnection of the Operator with the Distribution Network and
	6. the agreement of the Interconnected Customer to purchase electricity from the Operator covering supplies from the Mini-Grid and the Distribution Network at a blended rate.

**NOW THEREFORE, given** the preceding and in consideration of the mutual benefits to bederived contained herein, and other good and valuable consideration, the sufficiency of which is at this moment acknowledged, and intending to be legally bound, the Parties at this moment agree as follows:

# DEFINITIONS AND INTERPRETATIONS

* 1. In this Agreement, each of the following words and expressions shall have the following meanings:

“**Agreement**” means this tripartite agreement as amended, restated, or modified in any way

“**Anti-Corruption** means (a) the United States Foreign Corrupt Practices

**Laws**” Act of 1977; (b) the United Kingdom Bribery Act 2010; and (c) all applicable national, regional, provincial, state, municipal or local laws and regulations that prohibit tax evasion, money laundering, or otherwise dealing in the proceeds of crime or the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to, any Government Official or any other person

“**Applicable Laws**” means the Constitution of the Federal Republic of Nigeria (1999( (as amended), any national, state or local law, statute, bye-law, ordinance, decree, directive, regulation, standard, circular, guideline, rule, code, delegated or subordinated legislation, judicial act or decision, judgment, order, proclamation, directive, executive order, other legislative measure, binding actions or enactments of the Federal Republic of Nigeria, the Commission or any other Relevant Authority in Nigeria currently in force and as may be amended or supplemented from time to time.

“**Assets and** means those assets and infrastructure within the

**Infrastructure**” Mini-Grid owned and operated by the Operator.

**“Authorization”** means any applicable approval, consent, exemption (including waiver), license, order or permit of or duly issued by or from any Relevant Authority required for the due performance by any Party of any covenant or obligation hereunder and includes the Authorizations already obtained before the date of this Agreement.

**“Business Day”** means any day other than a weekend or public holiday in Nigeria.

**“Change in Law”** means (a) the adoption, promulgation, bringing into effect, repeal, amendment, reinterpretation, change in the application, change in interpretation or modification after the date of this Agreement or any Applicable Laws by any Relevant Authority;

(b) the imposition of any material condition not required as of the date hereof in connection with the issuance, renewal or modification of any Authorization by any Relevant Authority; or

 (c) the change or modification of the Distribution License by the Relevant Authority or the imposition of other obligations imposing a cost on the DisCo;

 In case any of the above establishes a material increase in cost, a material reduction in revenue, or material delay in schedule or makes unenforceable, invalid or void any material obligation of the Parties.

**“Commission”** means the Nigeria Electricity Regulatory Commission.

 **“Customer Point of** means the point of electricity delivery to the

**Interconnection”** Interconnected Customers including electricity from both the Mini-Grid and the DisCo’sDistribution Network

 **“Date of Commercial** means the date after which all testing and commissioning.

**Operation”** has been completed by Good Industry Practices and is the initiation date to which the Operator can start producing electricity for sale to the Interconnected Customer under this Agreement.

**“Default Interest** means the rate of 2% per annum above the Central Bank of

**Rate”** Nigeria Monetary Policy Rate, or (where not available) the interest rate charged by the Nigerian Bulk Electricity Trading Plc on Disco’s monthly invoice plus two per cent (2%) on the outstanding sum due to the Disco from the Mini-Grid Operator.

**“Disco** refers to the tariff for the kWh supplied by the

**Extraordinary Backup** Operator when the DisCo does not meet the

**Tariff”** Grid Availability Standard during a given month, and charged to the DisCo. This tariff is based on the cost of the fossil fuel and the agreed maintenance cost.

**“DisCo Grid Tariff”** refers to the tariff [X4] NGN/kWh the Operator shall purchase electricity from the DisCo for resale to the Interconnected Customer during the Grid Priority Hours. Tariff detail is provided in Schedule 7.

**“Distribution** means any connection of cables, service lines, and

**Network”** overhead lines, electrical apparatus/equipment, and a design voltage of 33kV and below are used to transport electric power on a distribution system and are owned and operated by the DisCo.

**“Effective Date”** means seven days following approval of this Project by the Commission and the fulfilment/waiver of the Conditions Precedent in Clause 2 of this Agreement or as agreed otherwise by the Parties.

**“Electricity Supply** refers to the number of kWh calculated – if the DisCo’s

**Discrepancy”** Distribution Network was below [XX%] availability during a given month – by subtracting the percentage availability of the grid during the Grid Priority Hours during the given month from [XX%] and then multiplying it by the total kWh supplied during Grid Priority Hours during the respective month.

**“Expert”** means any competent person jointly appointed by the Parties for the purposes specified in Clause 22.4

**“Full Title Guarantee”** means, in respect of any asset to be transferred under this Agreement, as the case may be, that such asset is transferred with full title guarantee and free from all charges, liens, other encumbrances and third-party claims.

**“Generation Assets”** means the generation assets of up to X MW of capacitythat will supply the Interconnected Customer with electricity, owned by the Operator, includingbut not limited to solar photovoltaics, batteries, diesel gensets, that form part of the Mini-Grid**.**

**“Good Industry** means, in respect of any task and circumstance, exercising

**Practices”** that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected from a skilled and experienced undertaking engaged in the same type of task under the same or similar circumstances, and includes undertaking such task.

“**Government officials**” means any official or employee of any government, or any agency, ministry, or department of a government (at any level), a person acting in an official capacity for a government regardless of rank or position, official or employee of an entity wholly or partially controlled by a government (for example, a state-owned oil company), political party and any official of a political party; candidate for political office, officer or employee of a public international organisation, such as the United Nations or the World Bank, or immediate family member (meaning a spouse, child, sibling, parent, or household member) of any of the preceding.

**“Grid Availability** means the level of availability of power defined in Clause.

**Standard”** 8.2 from the DisCo’s Distribution Network at the Grid Point of Interconnection.

**“Grid Metering** all meters and metering devices, equipment, electrical

**System”** circuitry, recording equipment, communications equipment and related equipment used for measuring electricity delivered by the Distribution Network.

**“Grid Point of** means the point at which the DisCo’s Distribution

**Interconnection”** Network interconnects to the Mini-Grid or Interconnected Customer; the point of electricity delivery from the DisCo’s Distribution Network to the Mini-Grid.

**“Grid Priority** means between [X: XX pm and X: XX am] daily.

**Hours”**

**“Initial Term”** shall have the meaning ascribed in Clause 3.4.

**“Market Conditions”** refers to the macro-economic and interconnected customer-specific conditions on which all tariffs in this document are based, as set out in paragraph 1.6 of Schedule 6. If the Market Conditions go above or below the thresholds detailed in Schedule 6, it can trigger the Parties to apply for a tariff adjustment per the terms of this Agreement.

**“Metering Code”** means the Nigeria Metering Code approved by the Commission for use in measuring the flow of energy within Nigeria's transmission and distribution systems.

**"Metering Systems”** means the Grid Metering System (as defined in Clause 15.1) and the Mini-Grid Metering System (as defined in Clause 15.2), as the case may be.

**“Mini-Grid**” means the electricity supply system, including the Generation Assets and Mini-Grid Metering System and cabling between the Generation Assets and the Customer Point of Connection and associated and ancillary plant and equipment, situated on Interconnected Customer’s site, [connected to the Distribution Network] and supplying power from both the Generation Assets and the Distribution Network to the Customer Point of Connection (excluding the **Necessary Prior** **Distribution** **Network** **Upgrades**).

**“Mini-Grid** means the level of availability of power defined in Clause.

**Availability** 8.4 from the Mini-Grid at the Customer Point of

**Standard”** Interconnection.

**“Mini-Grid Metering** all meters and metering devices, equipment, electrical

**System”** circuitry, recording equipment, communications equipment and related equipment used for measuring electricity delivered to the Interconnected Customer by the Generation Assets of the Operator or from the Distribution Network of the DisCo.

**“Mini-Grid Priority "** means daily between **[X: XX am and X: XX pm]**.

**Hours”**

“**Mini-Grid** means the Nigeria Electricity Regulatory Commission

**Regulations**” Regulations 2016 for Mini-Grids up to 1MW as amended occasionally.

**“Minimum** means the minimum kWh the Interconnected

 **Consumption**” Customer shall accept from the Operator (which includes electricity from the Mini-Grid Generation Assets and the Distribution Network) every 12 months, as defined in Clause 9.2.

“**Necessary Prior** means the necessary upgrades to the Distribution

**The Distribution** Network performed by the DisCo before the

**Network Upgrades”** Date of Commercial Operation as detailed in Clause 7.7 and listed in Schedule 3.

**"Permit”** means a permit or equivalent granted by the Commission to the Operator for the construction, operation maintenance and ownership of the Mini-Grid.

**“Project”** means**:**

1. the development, financing, design, engineering, procurement, manufacture, factory testing, transportation, construction, erection, installation, equipping, completion, testing, commissioning, insurance, ownership, operation, maintenance and decommissioning of the Mini-Grid;
2. the supply and sale of electricity to the Interconnected Customer, and
3. all activities incidental to any of the foregoing in accordance with this Agreement.

**“Property”** means the Interconnected Customer premises [located at (include the address of the Interconnected Customer/specified in Schedule XX]

**“Recoverable Expenditure”** refers to the liability the DisCo incurs to the Mini Grid Operator for the value of electricity the Operator supplies the Interconnected Customer when the DisCo Distribution Network falls below the Grid Availability Standard during the Grid Priority Hours during a given calendar month**.**

**“**Related Party” means a Party to this Agreement (a) its subsidiaries, directors or employees, contractors, agents; or (b) any other person or entity, including that party’s affiliates (and its subsidiaries, employees, or directors)] when acting for or on behalf of a party to this Agreement or otherwise involved in the performance of this Agreement.

**“Relevant Authority”** means any court, local, national or supranational agency, inspectorate, minister, ministry, administrative or regulatory body, authority, industry body, official or public or statutory person having (in each case) jurisdiction by Applicable Laws over either or both of the Parties, this Agreement, the Mini-Grid or other aspects of the subject matter of this Agreement and in each case within Nigeria.

**“Renewal Term”** shall have the meaning ascribed in Clause 3.5.

**“Restricted Jurisdiction”** means a country, state, territory, or region subject to comprehensive economic or trade restrictions under Trade Control Laws applicable to any Party. As of the date of this Agreement, Restricted Jurisdictions include Cuba, Crimea and Sevastopol (and other non-government-controlled territories of Ukraine), Iran, North Korea, Sudan and Syria.

“**Restricted Party**” means any individual, legal person, entity or organisation that is:-

1. resident, established or registered in a Restricted Jurisdiction or otherwise targeted by Trade Control Laws;
2. directly or indirectly owned or controlled (as these terms are interpreted under the relevant Trade Control Laws), or acting on behalf of persons, entities or organisations described in (a) or (b); or
3. director, officer or employee of a legal person, entity or organisation described in (i) to (iii).

**“Sanctions”** means any trade restrictions or economic sanctions administrated or enforced by the United Nations Security Council, the European Union, Her Majesty’s Treasury of the UK or the US Department of Treasury’s Office of Foreign Assets and Control, and U.S. Department of Defence or any other recognised sanctions authority.

**“Scheduled** means an instance in which the available capacity or

**Maintenance Outage”** performanceof the DistributionNetworkor Mini-Grid is subject to a material reduction affecting electricity supplies to the Interconnected Customer that: a) has been scheduled and agreed to by either Disco or Operator; and b) is for inspection, testing, preventive maintenance, corrective maintenance, repairs, replacement or improvement of the distribution network or generating assets.

**“Signature Date”** means the date this Agreement is executed by all the Parties.

**“Technical Codes”** shall have the same meaning in the Mini-Grid Regulations.

“**Trade Control Laws**” means any laws concerning trade or economic sanctions or embargoes, Restricted Party lists, trade controls on the imports, export, re-export, transfer or otherwise trade of goods, services or technology, anti-boycott legislation and any other similar regulations, rules, restrictions, orders or requirements having the force of law about the above matters and in force from time to time, including those of the European Union, the United Kingdom, the United States of America or any government laws about the above matters applicable to a Party.

**“Transmission** means that the DisCo, outside of its control, does not

**Network Failure”** receives electricity supply from the transmission system substation that supplies the distribution feeder that supplies the Interconnected Customer for more than two (2) hours during the Grid Priority Hours and which can be verified by the Transmission Company of Nigeria (TCN).

“**Transmission** means the amount of excess electricity the Power

**Network Failure Cost**” Producer provided to the Interconnected Customer that is directly due to Transmission Network Failure(s) and is above the 10% grid backup supply the Operator is expected to provide per the Grid Availability Standard and multiplied by the DisCo Extraordinary Backup Tariff to calculate the monetary cost of that excess electricity

**“Unscheduled Outage**” means an instance in which the available capacity or performance of the Distribution Network or Mini-Grid is subject to a reduction affecting electricity supplies to the Interconnected Customer, which is not a Scheduled Outage.

* 1. In this Agreement, except where the context otherwise requires:
		1. Any reference to “this Agreement” includes the Schedules and Annexures to it, each of which forms part of this Agreement for all purposes, and where any such Schedule or Annexure conflicts with the provision of this Agreement, the relevant provisions of this Agreement (excluding the Schedules and Annexures) shall apply;
		2. A reference to an enactment or statutory provision shall include a reference to any subordinate legislation made under the relevant enactment or statutory provision or subordinate legislation as from time to time amended, consolidated, modified, re-enacted or replaced;
		3. Words in the singular shall include the plural and vice versa;
		4. A reference to a Clause, paragraph, Annexure or Schedule shall be a reference to a Clause, paragraph, Annexure or Schedule (as the case may be) of or to this Agreement;
		5. A reference to this Agreement and any other document referred to in this Agreement is a reference to such document as amended, varied, or supplemented at any time;
		6. If a period is specified as **from** a given day or the day of an act or event, it shall be calculated exclusive of that day;
		7. If a period of time is specified as **to** a given day or the day of an act or event, it shall be calculated inclusive of that day;
		8. A reference to "writing" or "written" shall include any legible reproduction of words delivered in permanent and tangible form (including email);
		9. a reference to "includes" or "including" shall mean "includes without limitation" or "including without limitation";
		10. The headings in this Agreement are for convenience only and shall not affect its interpretation.

# CONDITIONS PRECEDENT

2.1 Subject to Clause 3.1 (*Commencement and Term*), this Agreement shall become effective (the “**Effective Date**”) seven days upon approval by the Commission and satisfaction of the conditions precedent stated in this Clause (“**Conditions Precedent**”) or waived in writing[[3]](#footnote-4) by the relevant Party on or before the Date of Commercial Operations in accordance with this Clause 2.

* 1. Operator’s Conditions Precedent
		+ - The Operator shall:
		1. procure all Authorizations required for the due performance of its obligations under this Agreement;
		2. Complete the construction, installation and commissioning of the Mini-Grid;
		3. Perform jointly with the DisCo and the Interconnected Customer initial calibrations and accuracy tests for the Metering Systems;
		4. undertake the installations and cabling works required to connect the Mini-Grid to the Grid Points of Connection;
		5. undertake the installations and cabling works required for the connection of the Mini-Grid to the Customer Point of Interconnection and
		6. Undertake jointly with the DisCo and the Interconnected Customer an analysis of the physical condition of the Distribution Network at the Grid Point of Interconnection to ascertain that the Distribution Network at the Grid Point of Interconnection is in good condition and is in accordance with the requirements of the Technical Codes
	2. The DisCo’s Conditions Precedent

The DisCo shall:

* + 1. Procure all Authorizations required for the due performance of its obligations under this Agreement;
		2. before the Effective Date, provide the Operator with a copy of its plan to execute the Necessary Prior Distribution Network Upgrades and any relevant planned Distribution Network upgrades as relates to the Distribution Network that serves the Interconnected Customer and procedures to ensure the Operator’s connection standard complies with the Technical Codes;
		3. Provide the Operator and confirmation that the Necessary Prior Distribution Network Upgrades have been implemented;
		4. Connect the Distribution Network to the Grid Point of Interconnection;
		5. Undertake jointly with the Operator and the Interconnected Customer an analysis of the physical condition of the Distribution Network at the Grid Point of Interconnection to ascertain that the Distribution Network at the Grid Point of Interconnection is in good condition and that it is by the requirements of the Technical Codes;
		6. Complete the installation of the Grid Metering System and
		7. Perform jointly with the Operator and the Interconnected Customer initial calibrations and accuracy tests for the Metering Systems.
	1. The Interconnected Customer’s Condition Precedent

The Interconnected Customer shall:

* + 1. Procure all applicable Authorizations required for the due performance of its obligations under this Agreement;

2.4.3 provide sufficient land, rooftop, or other identified space agreed upon by the Parties within Interconnected Customer’s boundaries, as will be required by the Operator, for the safe installation and operation of the Generation Assets as depicted in the map in Schedule 2; complete all internal wirings or reticulations to be utilised by the Interconnected Customer after the Customer Point of the Interconnection;

* + 1. perform jointly with the DisCo and the Operator initial calibrations and accuracy tests for the Metering Systems; and
		2. Undertake jointly with the DisCo and the Mini Grid Operator an analysis of the physical condition of the Distribution Network at the Grid Point of Interconnection to ascertain that the Distribution Network at the Customer Point of Interconnection is in good condition and it is in accordance with the requirements of the Technical Codes.
	1. Cooperation
		1. Each Party, upon request of the other Party and at such other Party’s expense, shall use reasonable endeavours to assist the other Party in satisfying each Condition Precedent for which such other Party is primarily responsible under this Clause, but shall have no obligation to execute any agreement referenced therein or related thereto.
		2. Anyone other Party may waive compliance of one or more of the Conditions Precedent set forth in this Clause in its sole discretion, or, with the permission of the other Parties, convert such Condition Precedent into a contractual obligation to be performed after the Effective Date of this Agreement, in which case the other Party shall not have a responsibility to satisfy such condition as a Condition Precedent except as may be agreed by the Parties.
		3. If any Party fails to satisfy its Conditions Precedent, it shall give notice to the other Party giving reasons for the delay or failure to satisfy the Condition Precedent and the revised date by which it is reasonably expected that the Condition Precedent shall be satisfied.
		4. Upon such notification per Clause 2.5.6, the Parties may mutually agree on an extension of time for the satisfaction of such Conditions Precedent.
		5. Either Party may terminate this Agreement with immediate effect by giving notice to the other Party if the Conditions Precedent have not been satisfied or waived in accordance with this Agreement [12] months after the Signature Date (“**Long Stop Conditions Precedent Satisfaction Date**”), subject to any extension pursuant to Clause 2.5.4.
		6. From the date of such termination, the Parties shall have no further rights against each other. They shall be released from all further obligations under this Agreement, subject to any rights and obligations that may have accrued before the date of such termination.
		7. If the Parties are unable to achieve the Date of Commercial Operations as a result of the failure of a Party to fulfil its Conditions Precedent, which is not a Force Majeure event, and such Conditions Precedent have not been waived by the other Party, the Party in default shall bear the cost incurred by the other Party on the Mini-Grid project. Where no specific Party is in default, Parties shall bear their respective costs.
		8. Where the Date of Commercial Operations is delayed as a result of Force Majeure, Clause 18.3 and 18.4 *(Force Majeure*)shall apply.

# COMMENCEMENT AND TERM

* 1. This Agreement shall commence on the Effective Date save for Clauses 1 (*Definitions and Interpretations*), 2 (*Conditions Precedent*), 3 (*Commencement and Terms*), 5 (*Duties and Obligations of the Parties*), 6 (*Ownership*), 7 (*Connection of the Generation Assets et al*.), 16 (*Representation and Warranties*), 17 (*Termination*), 18 (*Force Majure*), 19 (*Confidential Information*), 20 (*Conflict of Interest*), 21 (*Amendment and Waivers*), 22 (*License*), 23 (*Notices*), 24 (*Counterparts*), 25 (*Severability*), 26 (*Entire Agreement*), 27 (*Successors and Assigns/Subcontracting and Assignment*), 28 (*Cost*), 29 (*Governing Law and Dispute Resolution*), 30 (*Information and Data Protection*), 31 (*Indemnification*), 32 (*Mutual Non-circumvention Clause*) and any other provision in this Agrement, though not expressly mentioned in this Clause, which by its nature ought to be effective from the Signature Date, shall commence on the Signature Date.
	2. The sale of electricity from the DisCo to the Operator and from the Operator to the Interconnected Customer shall commence on the Date of Commercial Operation, at which time any supply agreement between the Interconnected Customer and DisCo is suspended.

* 1. Subject to the earlier termination in accordance with Clause 17 of this Agreement, the initial duration of this Agreement shall be ten (10) years (“**Initial Term**”) from the Date of Commercial Operation.
	2. Upon the expiration of the Initial Term, this Agreement may be renewed by the mutual written agreement of the Parties, subject to the satisfactory performance of the Operator, and upon such terms and for such periods as may be agreed among the Parties (“**Renewal Term**”).
	3. From the Effective Date, any other exclusivity agreement entered between the Parties in respect of the Mini-Grid, if not terminated will be deemed to have been terminated.

# RIGHT TO GENERATE AND SELL ELECTRICITY IN DISCO’S SERVICE TERRITORY

* 1. The DisCo hereby grants the Operator the right to connect to the DisCo’s Distribution Network for the purpose of receiving electricity from the DisCo and supplying it to the Interconnected Customer as detailed in Schedule 1 for the duration of the Term subject to the Mini-Grid complying with the requirements of the Technical Codes.
	2. The Operator confirms that it has undertaken or shall undertake an analysis of the physical condition of the Distribution Network at the Grid Point of Interconnection, to determine whether the infrastructure of the DisCo at the Grid Point of Interconnection is in good condition and conform with the requirements in the Technical Codes.
	3. Pursuant to Clause 4.1, the Operator shall have the right to connect such amount of Generation Assets up to a total generation capacity of 1MW to the Interconnected Network sufficient to cover the demand by the Interconnected Customer within the Maximum Capacity and the technical limits of the Interconnected Network.

# DUTIES AND OBLIGATIONS OF THE PARTIES

* 1. Subject to the terms of this Agreement, the DisCo shall:
		1. pay the compensation prescribed in Clause 17.4.1. in the event of termination of this Agreement or termination of the DisCo’s obligations under this Agreement which occurs pursuant to Clause 17.3.1, Clause 17.3.2, Clause 17.3.4, Clause 17.3.5, and Clause 17.3.6;
		2. pay the compensation prescribed in Clause 17.5.1 in the event of termination of this Agreement or termination of the DisCo’s obligations under this Agreement;
		3. make available to the Operator such information and documents in its possession and control and such reasonable assistance required for the performance of its obligations under this Agreement;
		4. meter and bill the Operator for power supplied to the Interconnected Customer from the Distribution Network;
		5. operate, maintain and carry out such repairs to the Distribution Network in the course of its operations in accordance with the Technical Codes to maintain a Grid Availability Standard of [XX%] during the Grid Priority Hours (as outlined in Clause 8.2) or pay the Operator the Recoverable Expenditure (as detailed in Clause 11.4 and 11.5), and not provide less than an average of [XX%] power availability during the Grid Priority Hours for any 3 consecutive months;
		6. prior to the Date of Commercial Operation, make the Necessary Prior Distribution Network Upgrades as detailed in Clause 7.7 to maintain the DisCo reliability required in 8.2 during the Grid Priority Hours;
		7. not tamper with, alter, hack or otherwise compromise the Mini Grid including the Mini-Grid Metering System;
		8. repay the Operator for the Necessary Prior Distribution Network Upgrades as detailed in Clause 7.9; and
		9. carry out its obligations under this Agreement in accordance Good Industry Practice and Applicable Laws.
	2. Subject to the terms of this Agreement, the Operator shall:
		1. undertake such restorations to the land, rooftop, and environment required to restore it back to good condition in the event of termination of this Agreement pursuant to Clause 17.1.1, Clause 17.1.2, Clause 17.1.3, Clause 17.1.5, Clause 17.2.1, and Clause 17.2.3;
		2. develop, finance, build, own, and operate the Generation Assets to supply electricity to the Interconnected Customer at the locations set out in Schedule 2, within [twelve (12) months] from the Signature Date, failure of which can lead to the early termination of this Agreement, without any liability to the DisCo, subject to the granting of any relevant Authorization by a Relevant Authority;
		3. ensure that the Interconnected Customer has availability to power as required in Clause 8.4;
		4. operate, maintain and carry out such repairs to the Assets and Infrastructure in the course of its operations to maintain its reliability requirements and in accordance with the Technical Codes, including the responsibility to refuel and maintain backup diesel generators as needed[[4]](#footnote-5);
		5. buy electricity from the DisCo for resale to the Interconnected Customer during the Grid Priority Hours as defined in Clause 10.1;
		6. finance the Necessary Prior Distribution Network Upgrades listed in Schedule 3 as detailed in Clause 7.8 and 7.9;
		7. bill the Interconnected Customer for all electricity received monthly (from both the DisCo’s Distribution Network supply and the Mini-Grid) and collect the respective amount from the Interconnected Customer, and then settle with the DisCo for electricity received from the Distribution Network minus any payments due from the DisCo pursuant to this Agreement;
		8. adhere to the Interconnected Customer’s site access and safety protocols;
		9. obtain the necessary approvals from the Commission required by the Operator to undertake the activities in Clause 4.3 above; and
		10. report reliability metrics including (grid availability hours, duration of outages, and voltage variation) to the DisCo in writing on a monthly basis, by the 15th day of the following month.
		11. carry out its obligations under this Agreement in accordance with the Mini-Grid Regulations, Good Industry Practice, Technical Codes, the standards and requirements of the Commission and the Standards Organization of Nigeria.
		12. be responsible for making the necessary repairs to the Assets and Infrastructure; and ensure that such repairs conform to the requirements of the Technical Codes; and
		13. procure and install all meters required for the execution of the Agreement and for the metering of customers provided that the Operator shall ensure that only an existing and duly licensed meter asset provider of the DisCo shall supply and install approved meters in accordance with the meter asset provider’s agreement with the DisCo.
	3. Subject to the terms of this Agreement, the Interconnected Customer shall:
		1. pay the compensation prescribed in Clause 17.5.2.2.1 in the event of termination of this Agreement which occurs pursuant to Clause 17.1.7, 17.3.7, 17.3.8, Clause 17.3.9, Clause 17.3.10 and Clause 17.3.11;
		2. without prejudice to any other payment obligation of the Customer under or pursuant to this Agreement, pay the Operator the Blended Tariff, in arrears on a monthly basis during the Term;
		3. ensure that the land/rooftop/location provided pursuant to Clause 5.5.2 above shall be at no cost to the Operator;
		4. coordinate with the Operator, the DisCo and Relevant Authority as needed to implement this Agreement;
		5. ensure that none of its personnel, agents or visitors touch or tamper with the Mini-Grid;
		6. ensure an enabling work environment free of any harassment of, or encumbrances to, the personnel or agents of the Operator during and after the construction of the Mini-Grid;
		7. procure such security measures that are reasonably necessary and required by the Operator to prevent any vandalism and/or electricity theft within the Mini-Grid;
		8. provide the Operator access to the roof where solar PV is agreed to be installed by the Interconnected Customer and Operator as detailed in Schedule 2 for the purpose of installation, maintenance, and repairs to the Mini-Grid and Generation Assets; and
		9. pay the Operator for the cost of removal and reinstatement of solar PV panels and relevant equipment and loss of income during that downtime in the case that the Interconnected Customer requests or requires the solar PV panels and relevant equipment be temporarily or permanently removed from the rooftop location where the solar PV panels are installed per Schedule 2.
	4. Relocation of Generation Assets
1. At the Interconnected Customer’s request, the Operator may relocate the Generation Assets from a particular Property (“**Old Site**”) to another Property (“**Relocation Site**”) and provide the Services at the Relocation Site, provided that:
2. the Interconnected Customer shall send the Operator a written request for relocation from the current Property not later than thirty (30) Business Days before the relocation is required;
3. the Interconnected Customer shall send the DisCo a written notification of relocation from the current Property at [least ninety (90) days] before relocation is required;
4. the Operator has assessed the Relocation Site and made a finding in writing that the Project can be carried out in respect of the Relocation Site.
5. the Parties shall execute an addendum (or a new agreement) reflecting the details of the relevant Relocation Site, and the provisions of this Agreement shall become applicable to the Relocation Site.
6. the Interconnected Customer shall pay all costs associated with the uninstallation of the Generation Assets and their relocation to a Relocation Site, as agreed by the Parties in writing;
7. the Interconnected Customer shall remain liable to pay the Blended Tariff in accordance with the terms of this Agreement in respect of such Site until the day that the Systems are uninstalled from the Site; and
8. the Operator shall have no obligation to relocate the Systems at a Site to a Relocation Site until: (1) it has received payment from the Interconnected Customer of the agreed invoiced sum of the relocation costs; and (2) it has conducted a power audit, agreed with the DisCo regarding the Relocation Site (including terms of Necessary Prior Distribution Network Upgrades), and confirmed the suitability of the Relocation Site in which case the following shall apply:
9. If the relocation is requested to occur before the Operator recovers the total cost of financing the Necessary Prior Distribution Network Upgrades, the Operator would also finance the Necessary Prior Distribution Network Upgrades for the Relocation Site, paid for by the DisCo in accordance with an agreed Necessary Prior Distribution Network Upgrades Repayment Schedule through reduction in the Disco Grid Tariff revenues. In addition, the outstanding cost and duration of the Necessary Prior Distribution Network Upgrades of the Old Site would be recovered from the Interconnected Customer through an increased Blended Tariff as agreed by Parties.
10. If the relocation is requested to occur after the Operator recovers the total cost of financing the Necessary Prior Distribution Network Upgrades, the Operator can proceed to relocate to the Relocation Site and the terms of Clause 7.9 shall apply.
11. Where the Relocation Site is outside the jurisdiction of the Disco under this Agreement, the Operator and the Interconnected Customer shall negotiate with the licensed distribution company at the Relocation Site to agree on terms similar to those under this Agreement otherwise, this Agreement shall be terminated and Clause 17.5.2(b) (*Termination*) shall apply.
12. For the avoidance of doubt and unless otherwise a different agreement is executed between Parties, the Parties agree that the provisions of Clause 3 (*Commencement and Term*), and such other relevant provisions in this Agreement, shall become applicable to the Relocation Site from the Term start date (“**Term Start Date**”) of the addendum. Once the Generation Assets are uninstalled, the terms applicable to the original Site shall be suspended for no longer that four (4) months (“**Suspension Period**”) and will resume from the Date of Commercial Operation of the Relocation Site It is understood by Parties that the after the Suspension Period , if Parties are unable to achieve the Date of Commercial Operation, the Operator shall have the right to terminate the Agreement in line with clause 17.5.2(b) (*Termination*).
13. Where the Interconnected Customer cancels a relocation request, it shall pay the Operator any accrued costs and evidenced expenses which the Operator incurred.

# OWNERSHIP

* 1. The Mini-Grid installed by the Operator on the Interconnected Customer’s land/rooftop/location shall remain the property of the Operator.
	2. The Interconnected Customer covenants that it will not during the period of the Term pledge, encumber, transfer or hypothecate the Mini-Grid to any person. The Interconnected Customer confirms as applicable that (a) no person has a lien on the Property (b) it will obtain from any person that has a lien on the Property an acknowledgement, in form and substance satisfactory to the Mini Grid Operator, confirming that the Mini-Grid is not subject to such lien, which acknowledgment will be obtained promptly following execution of this Agreement, and in any event prior to the date Mini Grid Operator commences installation of the Mini-Grid. The Interconnected Customer covenants that in case of encumbrance of the Interconnected Customer’s real property, the Interconnected Customer shall ensure that it is explicitly stipulated in the relevant mortgage or other agreement that the Mini-Grid is not part of the mortgaged or otherwise encumbered property.
	3. This Agreement constitutes notice to the Interconnected Customer that Mini Grid Operator may grant a lien or other security interest in respect of its rights under this Agreement, the receivables hereunder, its ownership interest in the Mini-Grid (installed by the Operator), and any related rights in favour of any lender. The Interconnected Customer acknowledges notice of, and consents to, the granting of the security referred to in this Clause.
	4. The Necessary Prior Distribution Network Upgrades are initially financed by the Operator and owned by the Operator over a period of X years from the date of payment for such works. DisCo is responsible for paying back the finance over a period of X years. In the event the X years period is insufficient to recover the finance of the Necessary Prior Distribution Network Upgrades, Parties shall after to extend the period for such additional period as may be necessary to recover the finance. After the term of X years (or such extended period), when the finance in the Necessary Prior Distribution Network Upgrades is recovered, the ownership of the assets will transfer to the DisCo with Full Title Guarantee.

# CONNECTION OF THE GENERATION ASSETS TO THE DISTRIBUTION NETWORK AND UPGRADES OF THE DISTRIBUTION NETWORK

**Generation Assets Connections**

* 1. Except where Parties agree to do otherwise, the Operator shall install the Generation Assets, connect them to the Distribution Network, and construct all the foundations, buildings, fencing and other infrastructure required for installing, securing and accessing the Generation Assets. The Operator shall maintain the Generation Assets for its generation activities and operations.
	2. The Generation Assets shall be as depicted in Schedule 4.
	3. The Operator can subcontract the activities outlined in this Clause 7 and elsewhere under this Agreement, but the Operator bears the responsibility for meeting its terms of this Agreement.

**Distribution Network Maintenance and Upgrades**

* 1. Prior to commencement of the Date of Commercial Operation of this Agreement, the DisCo will make the Distribution Network upgrades as detailed in Schedule 3 needed to maintain the required reliability detailed in Clause 8.2 during Grid Priority Hours (“**Necessary Prior Distribution Network Upgrades**”). The capital expense of the grid upgrades detailed in Schedule 3 shall be financed by the Operator. The DisCo is responsible for installing the equipment detailed in Schedule 3 and covering the labor costs for installation.
	2. All Prior Necessary Distribution Network Upgrade costs will be reviewed based on industry and market rates before approval for recovery.
	3. The DisCo will repay the Operator for financing the Necessary Prior Distribution Network Upgrades detailed in Schedule 3 through payments of NGN [X1] per month, reflecting the cost of capital as detailed in Schedule 3, starting one month after the Date of Commercial Operation.
	4. Subject to the approval of the Commission, and except where the DisCo and Operator agree otherwise, and excluding the Necessary Prior Distribution Network Upgrades, the DisCo shall bear the costs for any additional Distribution Network upgrades or maintenance required to meet the DisCo’s reliability requirements as outlined in Clause 8.

# AVAILABILITY OF ELECTRICITY FROM THE DISTRIBUTION NETWORK AND MINI-GRID

* 1. The DisCo undertakes to the Operator that the Distribution Network shall be available daily to supply electricity to the Interconnected Customer for (X)hours between the hours of [X:XXpm and X:XX am] (“**Grid Priority Hours**”) in accordance with the requirements of Clause 8.2.
	2. The DisCo undertakes to the Operator to make electricity available from the Distribution Network to meet the Interconnected Customer’s demand requirements [XX%] of the time during the Grid Priority Hours which constitutes the **Grid Availability Standard**.
	3. Subject to Clause 8.4, the Operator shall ensure that its Generation Assets will provide electricity between the hours of [X:XX am and X:XX pm] daily (“**Mini-Grid Priority Hours**”) to the Interconnected Customer and, in the case that power from the Distribution Network is not available, will provide backup power during the Grid Priority Hours without a planned downtime to transition between the Distribution Network supply and the Mini-Grid supply.
	4. The Operator warrants to the Interconnected Customer, an availability of power to meet the Interconnected Customer’s capacity requirements [XX%] of the time at all times of day (averaged annually) which constitutes the **Mini-Grid Availability Standard**.
	5. For the purpose of clarity, power is considered as available from the Distribution Network if the grid voltage and frequency at the Grid Point of Interconnection does not deviate more than plus/minus 2.5% from the nominal values as specified in Schedule 5, and as defined in the Technical Codes.
	6. For the purpose of clarity, power is considered as available to the Interconnected Customer if the voltage and frequency at the Customer Point of Interconnection does not deviate more than plus/minus 5% from the nominal values as specified in Schedule 5, and as defined in the Technical Codes.
	7. If electricity from the Distribution Network is available during the Grid Priority Hours, the Operator will purchase from the DisCo and provide to the Interconnected Customer electricity from the Distribution Network in an amount equal to what is required by the Interconnected Customer during the Grid Priority Hours.
	8. Each Party shall make every reasonable effort to prevent Unscheduled Outages. The Operator is not responsible for damage to the Interconnected Customer’s equipment due to an Unscheduled Outage.

# SALE OF ELECTRICITY BETWEEN THE OPERATOR AND THE INTERCONNECTED CUSTOMER

* 1. The Operator shall sell electricity derived from both the Generation Assets and the Distribution Network to the Interconnected Customer for a tariff of [X2] NGN/kWh (“**Blended Tariff**”), where X2 is set in Schedule 6. Except as other provided in Clause 9.2, the Client shall remain obligated to pay the Operator for all power consumed pursuant to this Agreement.
	2. The Interconnected Customer shall accept and offtake a minimum of [X3] kWh total every 6 months (“**Minimum Consumption**”) commencing on the Date of Commercial Operation. If the Interconnected Customer does not offtake the agreed Minimum Consumption, the Interconnected Customer will pay the deficit between the number of kWh consumed and the Minimum Consumption number of kWh multiplied by the weighted average Blended Tariff for that time period as stipulated in 9.1 and Schedule 6.

# SALE OF ELECTRICITY BETWEEN THE DISTRIBUTION NETWORK MAIN GRID AND THE OPERATOR

* 1. In accordance with Clause 5.2.5, the Operator shall purchase electricity from the DisCo for resale to the Interconnected Customer for a tariff of [X4] NGN/kWh during the Grid Priority Hours (“**DisCo Grid Tariff**”) (whereby X4 is the value provided in Schedule 7).
	2. Notwithstanding the provision of Clause 10.1 above, where the DisCo seeks to increase the availability of electricity supply from the Distribution Network above the Grid Priority Hours, the DisCo shall inform and obtain the approval of the Operator in writing.
	3. The Operator can purchase electricity from the DisCo outside of the Grid Priority Hours (i.e., during the Mini-Grid Priority Hours to complement its generation assets), but it is not obligated to. The DisCo is not obligated to provide electricity supply during the Mini-Grid Priority Hours.

# UNDERPERFORMANCE

**Underperformance by the Operator**

* 1. If power is not available at the power voltage and frequency levels defined in Clause 8.6, then the Operator will remedy the situation within [X] timeframe. Until the situation is remedied, the Interconnected Customer may choose to self-operate a supply solution until the Operator restores power availability in compliance with Clause 8.6 but must coordinate the switch with the Operator. But in that case, the Interconnected Customer takes on operational responsibility (e.g., if their genset creates power quality issues and damages equipment, the Operator is not responsible).
	2. In the event the Operator provides less than an average of [95%] power availability over 3 consecutive months, reviewed on a rolling basis, by reasons not due to a Force Majeure event, Transmission Network Failure, or breach by the Interconnected Customer of its obligations under this Agreement, provided the Interconnected Customer had to obtain power from another source other than the Operator (or the DisCo), the Operator shall pay the liquidated damages reflected in the table below, by reducing the amount payable by the Interconnected Customer for the given month.

|  |  |
| --- | --- |
| **Mini-Grid Availability Standard Deviation** | **Operator Liquidated Damages (% of Previous Month’s Blended Tariff)** |
| 95 – 100% | 0% |
| 90 – 94.9% | 10% |
| 85 – 89.9%  | 20% |
| 80 – 84.9%  | 30% |
| 70 – 79.9% | 40% |
| 60 – 69.9% | 50% |
| 50 – 59.9% | 60% |
| 49.99% or less | 100% |

**Underperformance by the DisCo**

In accordance with the obligation of the DisCo to meet the Grid Availability Standard under the terms as provided in Clause 8, the Operator shall purchase electricity from the DisCo in accordance with Clause 10.1. However, where electricity is not made available by the DisCo from the Distribution Network during the Grid Priority Hours as required in Clause 8.1, the Operator shall be required to supply electricity to the Interconnected Customer from its Generation Assets to maintain reliable supply to the Interconnected Customer. If the DisCo Distribution Network falls below the Grid Availability Standard during the Grid Priority Hours in a given calendar month, the DisCo will be liable to pay the Operator the **Recoverable Expenditure**, to be deducted from the Premium Fee portion in the DisCo invoice monthly.

The Recoverable Expenditurefor any given month is calculated by subtracting the percentage availability[[5]](#footnote-6) of the grid during the Grid Priority Hours during the month from the agreed X%, and then multiplying it by the total kWh supplied during Grid Priority Hours during the respective month and multiplying that by the DisCo Premium Fee or Extraordinary Backup Tariff.

* 1. The Recoverable Expenditure will be subtracted from the Premium Fee amount the Operator owes the DisCo for electricity supplied from the Distribution Network each month. When the Recoverable Expenditure is greater than the amount the Operator owes the DisCo for electricity supplied from the Distribution Network for a given month, the remaining liability the DisCo owes the Operator will be carried over to the subsequent invoice(s) until the full amount is recovered each quarter. Each twelve (12) months, the DisCo will settle any debts owed to the Operator for the Electricity Supply Discrepancy within 60 days of receiving an invoice from the Operator. In the event of termination or expiration of this Agreement, the DisCo shall pay any outstanding Recoverable Expenditure within 60 days of the termination or expiration of the Agreement.

# PAYMENT TERMS

* 1. By the 5th Business Day following the last day of the month for each month of the Agreement period, the Operator shall provide the DisCo with a schedule for the prior month detailing any amounts due by the DisCo to the Operator, including for the repayment of the financing for the Necessary Prior Distribution Network Upgrades detailed in Clause 7.8 and any Recoverable Expenditure as detailed in Clause 11.
	2. By the 7th Business Day following the last day of the month for each month of the Agreement period, the DisCo shall provide the Operator with an invoice for the prior month detailing the net amount the Operator owes the DisCo or the DisCo owes the Operator. The invoice will detail the amount of electricity the Operator purchased from the DisCo and any amounts due by the DisCo from the schedule detailed in Clause 12.1.
	3. Within 14 business days following the issuance of an invoice from the DisCo, the net amount the Operator owes the DisCo shall be payable into a bank account designated by the DisCo.
	4. Where the Operator fails to pay the DisCo for the net of any amounts due to the DisCo pursuant to Clause 12.3, on the day it is due and payable, interest shall accrue at the Default Interest Rate on the unpaid balance from the date on which payment is due until the date on which payment is received by the DisCo, Where the Operator fails to pay the DisCo for two consecutive invoices, the DisCo has the right to bill the DisCo Grid Tariff to the customer directly. The Operator still reserves the billing for grid premium fee to guarantee supply during Grid priority period.
	5. Pursuant to Clause 12.5, each twelve (12) months, the DisCo will settle any debts owed to the Operator for the Electricity Supply Discrepancy within 30 days of the Operator issuing an invoice to the DisCo. Where the DisCo fails to pay the invoice on the date it is due and payable, interest shall accrue at the Default Interest Rate on the unpaid balance from the date on which payment is due until the date on which payment is received by the Operator.

* 1. By the 5th Business Day following the last day of the month for each month of the Agreement period, the Operator shall provide the Interconnected Customer with an invoice for electricity supplied during the prior month.
	2. Within 15 days following the issuance of an invoice from the Operator, the amount the Interconnected Customer owes the Operator shall be paid by the Interconnected Customer into a bank account designated by the Operator.
	3. Where the Interconnected Customer fails to pay the Operator for electricity supplied pursuant to Clause 12.8, on the day it is due and payable, interest shall accrue at the Default Interest Rate on the unpaid balance from the date on which payment is due until the date on which payment is received by the Operator. [[6]](#footnote-9)Furthermore, where the payment of any invoice issued to the Interconnected Customer under this Agreement is overdue: the Operator shall have the right to not procure or pay for diesel; and the Interconnected Customer shall have the obligation to procure and pay for diesel from the Operator’s diesel vendor (or such other diesel vendor acceptable to the Operator) by (1) directly paying the invoice of the diesel vendor or (2) prepaying for diesel to the Operator for onward payment of the invoice of the diesel vendor, which prepayment shall be reflected in the invoice for the Blended Tariff.
	4. In the event that Interconnected Customer fails to make full or timely payments (in accordance with the provisions of this Agreement), of any sums due under this Agreement after same has been demanded, The Operator may, upon the expiration of five (5) days after making a demand for outstanding sum(s) due from Interconnected Customer, whether pursuant to an invoice by Operator or otherwise,. Operator shall have the right to terminate this Agreement in accordance with Clause 17.3 and Clause 17.5.2(b) or temporarily cease delivery of the electrical power to the Interconnected Customer.

# TARIFF SCHEDULE AND ADJUSTMENTS

* 1. The Operator shall provide electricity to the Interconnected Customer at the tariffs agreed by Parties in this Agreement and as outlined in Schedule 6, approved by the Commission and compliant with the Mini-Grid Regulation.
	2. Parties agree that the initial Blended Tariff referred to in Clause 9.1 (subject to Clause 13.3), the Minimum Consumption referred to in Clause 9.2, and the Grid Availability Standard referred to in Clause 8.2 shall be subject to review or adjustment biannually(twice a year) commencing on the Date of the Commercial Operation (and subsequently, biannually), unless otherwise agreed to by all Parties.
	3. Notwithstanding any provision of this Agreement to the contrary, where there is a Commission approved change to the DisCo Grid Tariff through annual, minor or extraordinary reviews or where the Grid Availability Standard is changed by the Parties which affects the Multi-Year Tariff Order (MYTO) Tariff Band the Interconnected Customer falls under, Parties agree to cause the Blended Tariff referred to in Clause 9.1 to be reviewed within two business days of Commission approval in order to reflect such change(s). The Blended Tariff can be modified to take effect immediately in proportion to the DisCo Grid Tariff change and the amount of electricity from the DisCo’s Distribution Network consumed by the Interconnected Customer within the next billing cycle.
	4. The current state of the Market Conditions detailed in Schedule 6 will be reviewed by the Parties every month. If the Market Conditions in Schedule 6 exceed the high threshold or go below the low thresholds set out in paragraph 1.6 of Schedule 6 at that time, the Parties agree to review and adjust the Blended Tariff Schedule referred to in 9.1, the Minimum Consumption referred to in Clause 9.2, and the Grid Availability Standard referred to in Clause 8.2 in order to reflect such change(s).

* 1. The Blended Tariff Schedule can be adjusted according to Clauses 13.3 and 13.4 and the procedures in the Mini-Grid Regulations. Where there is a conflict between the Mini-Grid Regulations and this Tripartite Agreement in respect of the Blended Tariff, this Tripartite Agreement takes precedence.
	2. The Parties agree that an inspection of accounts for the purpose of an adjustment of tariffs may be carried out by the Commission.
	3. Parties shall keep a historical record of accounts beginning on the Effective Date and commensurate to the Initial Term and any Renewal Terms of the Agreement and keep this available for 5 years after termination of the Agreement.

# SCHEDULED MAINTENANCE OUTAGES

* 1. The Operator is entitled to Scheduled Maintenance Outages at its own cost. The schedule for Scheduled Maintenance Outages shall be established as follows:
		1. any Scheduled Maintenance Outages shall be during the hours of Grid Priority Hours and planned in consultation with the Interconnected Customer at least 5 days in advance.
	2. The DisCo is entitled to Scheduled Maintenance Outages to ensure reliability from its supply feeder to the Interconnected Customer. The schedule for Scheduled Maintenance Outages shall be established as follows:
		1. any Scheduled Maintenance Outages shall be during the hours of Mini-Grid Priority Hours.
	3. The Operator shall cooperate and use their reasonable endeavors to accommodate any reasonable request by a Party to reschedule any Scheduled Maintenance Outage provided:
		1. such request would not defer maintenance required at a particular time by Good Industry Practices;
		2. the Party requesting a schedule change agrees to compensate the other Parties for any reasonable additional costs and expenses caused by such a rescheduling;
		3. for the avoidance of doubt, any of the Parties shall be entitled to reschedule a Scheduled Maintenance Outage(s) without compensating the other Parties if and to the extent that such rescheduling meets the conditions in Clauses 14.1.1 and 14.2.1 above, and the rescheduling is required for health or safety reasons, to avoid damage (or the threat of imminent damage) to the Interconnected Customer’s facility or equipment, or if such rescheduling is required by Good Industry Practices.
	4. Unscheduled and Forced Outages
		1. Either Parties shall advise each other of the need of any Unscheduled Outage, together with the proposed commencement date, in arrears if the interruption was immediate and estimated duration of the work to be undertaken to restore delivery shall be provided.
		2. If the interruption is not immediate, Parties shall agree the period during which such unscheduled outage may be undertaken.

# METERING SYSTEM

* 1. The DisCo at its cost and expense shall in compliance with the Metering Code, procure, install and maintain all meters and metering devices, equipment, electrical circuitry, recording equipment, communications equipment and related equipment used for measuring electricity delivered by the Distribution Network at the Grid Point of Interconnection (collectively referred to as the “**Grid Metering System**”).
	2. The Operator at its cost and expense shall in compliance with the Metering Code and the Technical Code to procure, install and maintain all meters and metering devices, equipment, electrical circuitry, recording equipment, communications equipment and related equipment used for measuring electricity delivered to the Interconnected Customer by the Generation Assets of the Operator (collectively referred to as the “**Mini-Grid Metering System**”).
	3. **Compliance, Integrity and Accuracy of Metering System**
		1. The specifications, operation and measurement accuracy of the Metering Systems shall comply with the standards and specifications set out in the Metering Code and Technical Code, and with Applicable Law and Good Industry Practices.
		2. Operator may maintain additional meters for operational purposes which shall conform to the Metering Code.
		3. Upon request by the DisCo or the Operator, upon five (5) days’ notice and not more frequently than once a month, the DisCo, Operator, or Interconnected Customer may request an inspection or test of the Metering Systems.
		4. Parties agree that the Operator may, at its own cost and expense, install and maintain its own Metering Systems for the purpose of measuring the accuracy and integrity of the DisCo’s Metering Systems.
		5. The Operator, the DisCo, and the Interconnected Customer undertake not to tamper with or otherwise interfere in anyway with any part of the Metering System, and shall use reasonable precautions in accordance with Applicable Law, Good Industry Practices and the Metering Code to ensure that the Metering System is secure and is not tampered with by any other person.
		6. If, at any time, any Party discovers that any part of the Metering System has been tampered with, or as a result of any other action or inaction such device may be unfit for the purpose of such device, that Party shall report such event to the other Parties and Parties will correct the metered volumes and provide payment reconciliation accordingly.

# REPRESENTATION AND WARRANTIES

* 1. Each Party represents and warrants to the other, on the date of this Agreement, and continuing throughout the Term that:
		1. it is duly organized under the Applicable Laws of its jurisdiction of formation and that it has the requisite legal power and authority to enter into, and carry out its obligations under, this Agreement;
		2. it shall continue to have all necessary corporate power and authority (corporate and regulatory) to carry on its business as presently conducted and to perform its obligations under this Agreement;
		3. the execution and delivery of this Agreement and the consummation of the transactions contemplated thereby have been duly authorized by all necessary corporate actions on its part;
		4. Agreement constitutes legal, valid and binding obligations enforceable against it in accordance with the terms hereof;
		5. the execution of this Agreement is not prohibited by its constituent documents nor does its execution contravene provisions of any Applicable Law;
		6. neither it nor any of its owners, subsidiaries, directors or officers is subject to Sanctions, or is owned or controlled by a person that is subject to Sanctions.
		7. it is not engaged in any activity, production, use, distribution, business, or trade involving any of the items on the exclusion list of the European Development Finance Institution (EDFI) (available on EDFI’s website—https://www.edfi.eu/wp/wp-content/uploads/2017/09/EDFI-Exclusion-List\_-September-2011.pdf).
		8. it has an internal anti-bribery and corruption policy and it or (any of its directors or shareholders) has not been found by any judicial, administrative, supervisory, or criminal process, or alleged under any judicial, administrative, supervisory or criminal inquiry, to have committed or engaged in any act that gives rise to any corrupt practice, fraudulent practice, anti-competitive practice, money laundering or terrorism financing
		9. the execution, delivery, and performance of this Agreement have been duly authorized by all requisite actions and will not constitute a violation of:
			1. any statute, judgment order, decree or regulation of any court, commission, government authority or arbitral tribunal applicable or relating to itself, its assets or its functions, or
			2. any other documents, or to the best of its knowledge any indenture, contract or agreement to which it is a party or by which it may be bound.
		10. there are no actions, suits or proceedings pending or, to the best of its knowledge threatened against it before any court, government authority or arbitral tribunal that could reasonably be expected to restrain it from performing or result in a material adverse effect on its ability to perform its duties and obligations under this Agreement; and
		11. no representation or warranty made by it herein contains any untrue or misleading statement.
	2. The Operator, the Interconnected Customer, and the DisCo hereby mutually indemnify and hold harmless each other in full against any and all costs, expenses, damages, losses, suits, claims and liabilities, including claims from the Customer and third-party claims, arising out of or in connection with a breach of representations and warranties, and the execution and performance of this Agreement.

# TERMINATION

* 1. **Termination by Interconnected Customer**

The Interconnected Customer may terminate this Agreement on written notice to the Operator where it has already utilized the Dispute Resolution procedures outlined in Clause 29 and still wishes to terminate this agreement and where:

* + 1. The Operator’s Permit expires and is not renewed within 60 days of the expiration, or the Permit is cancelled by the Commission;
		2. The Operator abandons the Project for over 3 consecutive months after the Date of Commercial Operation.
		3. The installation of the Mini-Grid has not been completed and is not in commercial operation (in other words, the Date of Commercial Operation does not occur) within 12 months after the Signature Date by reasons not due to a Force Majeure event or a breach of the Interconnected Customer obligations under this Agreement (or as agreed between the Parties);
		4. The Operator becomes unable to pay its debts (as defined by section 4 of the Bankruptcy Act 1979 and section 572 of the Companies and Allied Matters Act 2020) or makes any arrangement or composition with its creditors generally or has a receiver, manager, liquidator, administrator or trustee in bankruptcy appointed or suffers any event analogous to the foregoing in any jurisdiction;
		5. The Operator is found to commit a breach of Clause 5.2 and fails to remedy the breach within 60 days (or such other extended timeline as may be agreed among the Parties) after receiving the notice of breach executed by the Interconnected Customer.
		6. The Operator is found to provide less than an average of [90%] power availability over 12 consecutive months or less than [95%] power availability over two (2) consecutive 12-month periods (where the power availability is averaged each 12-month period – i.e. if Year 1’s power availability is below [95%], and Year 2’s power availability is below [95%]), and the Operator and Interconnected Customer fail to agree to a remedy within 30 days (or as agreed between the Parties) after the Interconnected Customer notified the Operator.
		7. The Interconnected Customer is unable to consume the amount of electricity required to meet the Minimum Consumption for two (2) consecutive twelve (12) month periods, and the Parties are not able to agree upon a reduced Minimum Consumption level or alternative solution within 60 days of the Operator or Interconnected Customer notifying the Parties.

* 1. **Termination by DisCo**

The DisCo may terminate this Agreement on written notice to the other Parties where it has already utilized the Dispute Resolution procedures outlined in Clause 29 and still wishes to terminate this agreement, and where:

* + 1. The DisCo integrates the Interconnected Customer into the Distribution Network before the expiration of the Initial Term or Renewal Term, which may only be invoked in the event of the following:
1. Changes due to applicable law or regulation or planned distribution network expansion.
2. the Operator fails to pay any amount due to the DisCo, provided that the DisCo has given the Operator not less than 30 days notice to remedy such failure and the non-payment has not been cured within such 30-day period;
3. the Operator commits a material breach of this Agreement, other than that provided in Clause 17.2.1 (i) above, which in the case of a breach which is capable of remedy has not been remedied within 30 days (or such other period as may be agreed by the Operator and the DisCo) of the DisCo notifying the Operator of the breach.
	* 1. The Operator becomes insolvent and unable to pay its debts (as defined by section 4 of the Bankruptcy Act 1979 and section 572 of the Companies and Allied Matters Act 2020) or makes any arrangement or composition with its creditors generally or has a receiver, manager, liquidator, administrator or trustee in bankruptcy appointed or suffers any event analogous to the foregoing in any jurisdiction;
		2. Any of the representations made by the Operator under this Agreement is not true and correct in all material respects and this has a material adverse effect on the DisCo or the performance of the Mini-Grid’s Operation under this Agreement; or
	1. **Termination by Operator**

The Operator may terminate this Agreement on written notice to the other Parties where it has already utilized the Dispute Resolution procedures outlined in Clause 29 and still wishes to terminate this agreement, and where:

* + 1. The DisCo does not provide an average monthly power availability of [X%[[7]](#footnote-10)] during the Grid Priority Hours for any 3 consecutive months (where the power availability is averaged each month separately – i.e. if Month 1’s power availability is below [X%], Month 2’s power availability is below [X%], and Month 3’s power availability is below [X%]) for reasons not related to a Transmission Network Failure, and fails to remedy the problem within 30 days (or as agreed between the Parties) after the Operator notifies the DisCo,
		2. The DisCo’s Distribution License expires and is not renewed within 60 days of its expiration or the DisCo’s Distribution License is cancelled by the Commission;
		3. The DisCo becomes unable to pay its debts (as defined in section 572 of the Companies and Allied Matters Act 2020) or makes any arrangement or composition with its creditors generally or has a receiver, manager, liquidator, administrator or trustee in bankruptcy appointed or suffers any event analogous to the foregoing in any jurisdiction;
		4. The DisCo commits a material breach of this Agreement which in the case of a breach which is capable of remedy, has not been remedied within 30 days (or such other period as may be agreed by the Operator and the DisCo) of the Operator notifying the DisCo of the breach;
		5. Any of the representations made by the DisCo under this Agreement is not true and correct in all material respects and this has a material adverse effect on the Operator or the performance of the DisCo’s obligations under this Agreement.
		6. DisCo does not make the Necessary Prior Distribution Network Upgrades within 12 months of the Effective Date and the Parties have not agreed to a remedy within 30 days of the Operator notifying the DisCo of the breach;
		7. the Interconnected Customer commits a breach of Clause 5.5 which has an adverse effect on the Project and fails to remedy this breach within 30 working days (or as agreed between the Parties) of receiving the notice of breach;
		8. there are repeated incidents of vandalism, thefts of electricity which endanger the financial viability of the Operator’s energy supply and has a material adverse effect on the Project.
		9. the Interconnected Customer becomes insolvent and unable to pay its debts (as defined by section 572 of the Companies and Allied Matters Act 2020) or makes any arrangement or composition with its creditors generally or has a receiver, manager, liquidator, administrator or trustee in bankruptcy appointed or suffers any event analogous to the foregoing in any jurisdiction;
		10. Any of the representations made by the Interconnected Customer under this Agreement is not true and correct in all material respects and this has a material adverse effect on the Operator or the performance of the Interconnected Customer’s obligations under this Agreement;
	1. **Termination of DisCo Obligations**
		1. Where the DisCo is at fault for termination:
			1. Where Clause 17.3.1, Clause 17.3.2, Clause 17.3.3, Clause 17.3.4, Clause 17.3.5, and Clause 17.3.6 occur and the DisCo’s obligation in this Agreement is terminated, the DisCo shall pay compensation to the Operator as provided in the Mini-Grid Regulations;
			2. Where Clause 17.3.1, Clause 17.3.2, Clause 17.3.3, Clause 17.3.4, Clause 17.3.5, and Clause 17.3.6 occur and the DisCo’s obligation to provide electricity to the Interconnected Customer per this Agreement is terminated, the Operator and the Interconnected Customer remain obligated by this Agreement on the following basis:
				1. The Operator shall remain obligated to provide electricity for sale to the Interconnected Customer during the Mini-Grid Priority Hours without the obligation to backup grid supply during the Grid Priority Hours;
				2. The Interconnected Customer shall purchase electricity from the Operator during the Mini-Grid Priority Hours at the Blended Tariff in schedule in Schedule 6 until the Operator proposes a revised tariff for electricity supplied during the Mini-Grid Priority Hours, the Grid Priority Hours and a revised Minimum Consumption within 60 days of the DisCo’s obligation to supply electricity per this Agreement terminating (or such other period as may be agreed by the Operator and the Interconnected Customer); and
				3. The Interconnected Customer will either accept or reject a revised tariff for electricity supplied during and/or outside the Mini-Grid Priority Hours and a revised Minimum Consumption within 60 days of receiving a letter with the proposed values from the Operator (or such other period as may be agreed by the Operator and the Interconnected Customer). For the avoidance of doubt, where the Interconnected Customer and the Operator are aligned on the revised tariff electricity supplied during and/or outside the Mini-Grid Priority Hours and a revised Minimum Consumption, this Agreement shall take the form of a bilateral arrangement and the Disco’s obligations contained under this Agreement shall become inapplicable (without prejudice to any obligations that had arisen prior to termination of Disco’s obligations).
			3. If the Operator’s proposed revised tariff and Minimum Consumption is rejected and the Interconnected Customer and Operator cannot agree on a revised tariff and Minimum Consumption or alternative arrangement within 60 days (or such other period as may be agreed by the Operator and the Interconnected Customer), the Agreement shall be terminated pursuant to Clause 17.4.1 unless the Parties agree to an alternative arrangement.
	2. **Consequences of Termination**
		1. If the DisCo’s obligation is terminated or the Agreement is terminated pursuant to Clause 17.3.1, Clause 17.3.2, Clause 17.3.3, Clause 17.3.4, Clause 17.3.5, Clause 17.3.6, Clause 17.1.7, 17.3.7, 17.3.8, Clause 17.3.9, Clause 17.3.10, and Clause 17.3.11, the DisCo shall repay the Operator any outstanding amount owed to the Operator for the Necessary Prior Distribution Network Upgrades financed by the Operator detailed in Schedule 3 within 12 months of the Operator notifying the DisCo’s that the DisCo’s obligations are terminated (or other period agreed upon by the Operator and DisCo). In any termination event, the Operator reserves the right to withhold last payment(s) to the DisCo in order to settle the outstanding amount owed for the Necessary Prior Distribution Network Upgrades.
			1. If the Agreement is terminated where the Operator is at fault pursuant to Clause 17.1.1, Clause 17.1.2, Clause 17.1.3, Clause 17.1.4, Clause 17.1.5, Clause 17.1.6, Clause 17.2.1, Clause 17.2.2, Clause 17.2.3, and Clause 17.2.4, the DisCo is not obligated to continue repay the Operator any outstanding amount owed to the Operator for the Necessary Prior Distribution Network Upgrades from the date of termination.
		2. The consequences of termination by the Operator and the Interconnected Customer shall be as follows:
			1. Where the termination is as a result of the Operator’s breach:
				1. Where termination occurs, pursuant to Clause 17.1.1, Clause 17.1.2, Clause 17.1.3, Clause 17.1.4, Clause 17.1.5, Clause 17.1.6, Clause 17.2.1, Clause 17.2.2, and Clause 17.2.3, the Operator shall undertake such restorations to the land, rooftop, and environment required to restore it back to good condition.
			2. Where the termination is as a result of the Interconnected Customer’s breach:
				1. Where termination occurs, pursuant to Clause 17.1.7, 17.3.7, 17.3.8, Clause 17.3.9, Clause 17.3.10, and Clause 17.3.11, the Interconnected Customer shall have the option to:
1. (if offered by the Operator) purchase the Mini-Grid at Fair Value from the Operator,
2. pay the Operator a termination fee of 25% of the book value of the Mini-Grid assets if the termination occurs between year 1 and year 10, before the expiration the Term of the Agreement, where the date is from the Date of Commercial Operation; in addition shall pay the balance of the grid upgrades cost, if the grid upgrades cost has not been paid in full by the disco as at the date of termination (see Schedule 4 for details on asset cost, depreciation schedule and termination fee) , or
3. pay to the Operator other compensation as agreed to by the Parties and/or the Commission.

* + 1. The DisCo may set off any liability of the Operator to pay the amount the Operator owes the DisCo for electricity supplied from the Distribution Network or any other costs (where applicable) to the DisCo against any compensation due from the DisCo to the Operator.
		2. The Operator may set off any liability of the DisCo to pay the amount the DisCo owes the Operator for Electricity Supply Discrepancy or any other costs (where applicable) to the Operator against any compensation due from the Operator to the DisCo.
		3. Subject to the provision of this Agreement, where termination of this Agreement occurs, the DisCo would immediately re-integrate the Interconnected Customer in order to provide electricity supply for as long as necessary until/if another Operator is ready to take over operations.
	1. Upon termination, the Operator shall:
		1. at its own cost remove the Operator’s Mini-Grid which it has not agreed to or does not intend to transfer to the Interconnected Customer, or negotiate a separate contract with the Interconnected Customer involving the use of those assets, or transfer the Generation Assets to the Interconnected Customer at Fair Value or other agreed upon amount; and
		2. at its own cost, disconnect any connection of its Generation Assets to the Distribution Network and restore the connections which existed prior to the connection of its generators or alternative arrangement agreed upon by the Parties.
	2. On the termination date, the Operator shall:
		1. deliver up to the DisCo all materials, documents, records, data and other information of whatever nature in the Operator’s possession, custody or power belonging to the DisCo and relating to the Distribution Network and Grid Point of Interconnection, and the performance of the obligations under this Agreement and required for the continued operation and maintenance of the Distribution Network;
		2. deliver up to the Interconnected Customer all materials, documents, records, data and other information of whatever nature in the Operator’s possession, custody or power belonging to the Interconnected Customer and relating to the Generation Assets and Customer Point of Interconnection, and the performance of the obligations under this Agreement and required for the continued operation and maintenance of the Generation Assets transferred to the Interconnected Customer.

# FORCE MAJEURE

* 1. A Party is not liable for failure to perform its obligations if such failure is as a result of:
		1. natural disasters (including fire, flood, earthquake, storm, hurricane or other natural disaster);
		2. war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, government sanction, blockage, embargo, labour dispute, strike (excluding any strikes by staff of either the DisCo or Operator), pandemics, epidemic, Transmission Network Failure outside of the DisCo’s control, a delay by the Relevant Authority in issuing any Authorization necessary; provided that a Party has made all necessary applications for such Authorization in a timely and correct manner (“**Force Majeure**”).
	2. In the case of Force Majeure due to a **Transmission Network Failure** outside of the DisCo’s control, which is defined as the DisCo not receiving electricity supply from the transmission system substation that supplies the distribution feeder that supplies the Interconnected Customer for more than two (2) hours during the Grid Priority Hours and which can be verified from the Transmission Company of Nigeria (TCN), the DisCo shall notify the Parties within 7 days and provide evidence of the hours during which the Transmission Network Failure caused the DisCo to not be able to meet its obligation to supply power.
		1. The Operator’s obligation to provide [95%] reliability of power supply to the Interconnected Customer is not suspended unless agreed otherwise by the Operator and the Interconnected Customer.
		2. In a given month, if the DisCo is able to meet its Grid Availability Standard despite the Transmission Network Failure(s) occurring in the same month, then no action is needed.
	3. If any Force Majeure Event occurs by reason of which a Party is unable to perform any of its obligations under this Agreement (or any part thereof), the Party shall inform the other Parties immediately no later than seven (7) days of the occurrence of a Force Majeure with full particulars thereof and the consequences thereof.
	4. The Party affected by the Force Majeure shall do what is reasonably within its means to rectify, prevent and reduce to a minimum and mitigate the effect of any delay occasioned by any Force Majeure Event, including recourse to alternate sources of services, equipment and materials; and as soon as reasonably possible, and in accordance with Good Industry Practice, ensure the resumption of normal performance of this Agreement after the cessation of any Force Majeure Event or its effects and shall otherwise perform its obligations under this Agreement to the extent not excused under this Clause.
	5. **Effects of a Force Majeure Event**

An Affected Party shall not be liable for any delay or failure in performing its obligations, including achieving the conditions for transfer of the Grant Assets, due to a Force Majeure Event or the effect on the Affected Party of the Force Majeure Event, provided that no relief shall be granted to the Affected Party to the extent that such failure or delay:

(a) was caused by the failure of the Affected Party to comply with its obligations under Clause 5 or any other terms and conditions under this Agreement.

# CONFIDENTIAL INFORMATION

* 1. A Party shall not intentionally disclose or allow to be disclosed to any third party any Confidential Information concerning the other Parties or any information obtained under this Agreement and in furtherance to the execution of the Mini-Grid unless:
		1. the disclosure is expressly assented to in writing by the Party to which the Confidential Information belongs;
		2. the disclosure is subject to a legal obligation of disclosure.
	2. Each Party, after consultation with the others, shall adopt reasonable procedures to preserve the Confidential Information of the other Parties.
	3. No information shall constitute Confidential Information if:
		1. the information is generic in nature, or has at the relevant time become public knowledge or has been in the public domain, other than as a result of disclosure by the Parties or their representative;
		2. the information has at the relevant time become, already in the possession of the Parties free from any obligation of confidentiality to either of the Parties or any other person and has not been acquired by any person in breach of any obligations of confidentiality.
		3. the information is required to be disclosed by law or order of any court, tribunal or agency of competent jurisdiction or by any governmental body, department or agency having jurisdiction of it or by any equivalent laws or regulations of institutions or other equivalent authorities in jurisdictions outside Nigeria; or
		4. the information is expressly stated in writing to be non-confidential.

# CONFLICT OF INTEREST

The Parties to this Agreement declare that there is no existing conflict of interest which would affect their entry into this Agreement.

# AMENDMENT AND WAIVERS

1. No amendments to this Agreement shall be effective unless it is in writing and signed by the Parties or their authorized representatives.
2. Save where expressly set out herein to the contrary, a waiver of any term or provision of this Agreement shall only be effective if given by a written instrument executed by the Party waiving the provision of this Agreement and no forbearance, indulgence or inaction by any Party at any time to require performance of any of the provisions of this Agreement nor any single or partial exercise of any such right shall, in any way, affect, depreciate or prejudice the right of such Party to require performance of that provision in the future

# LICENSE

1. The Customer hereby grants, to the Operator and its agents, employees, contractors, subcontractors, assignees and relevant governmental authorities (the “**Relevant Parties**”) a non-exclusive license, easement and all other required rights to enable the Relevant Parties, use and have access to, on, over, under and across the Property and the Facility (including the roofs, rooms, cubicles, access ways, cable ways, connection points for electricity, water, air conditioning, and telecommunications, and other facilities on the Property) (collectively, the “Premises”) for the purposes of:
	* 1. designing, installing, constructing, altering, protecting, operating, maintaining, repairing, inspecting, monitoring or removing the Mini-Grids, as the Operator may from time to time require in order to properly carry out its obligations or enforce its rights under the Principal Agreement;
		2. for any other purpose that may from time to time be useful or necessary in connection with the activities set out in Clause 1.1 above, and under the Principal Agreement.
2. During the term of this Agreement, the Customer shall ensure that rights granted to the Operator under this Agreement to use and access to the Property are preserved and protected. the Customer shall not, of its own accord, permit any third parties to interfere with such rights or access. Notwithstanding the provisions of this Agreement, the ownership to the Mini-Grids shall remain with the Operator.
3. The Customer represents and warrants to the Operator that the Customer holds full legal and valid title to the Property and no lien or other encumbrance to which the Property may be subject would reasonably be expected to adversely impact the Operator’ rights hereunder.

# NOTICES

* 1. All notices or other documents to be furnished by the Parties under or in connection with this Agreement shall be in English language and shall be sent to the addresses stated above and marked for the attention of the persons designated in this Clause 23. Notices and other documents may be sent by hand delivery, registered post, courier or email, provided that lawsuits arising out of or in connection with this Agreement may not be served by email.
	2. The addresses and contacts for the service of notices and other documents are as follows (or such other address or contacts as may be subsequently notified by the relevant Party in accordance with this Clause 23):

If to DisCo:

[Address]

Attention:

Tel: [Placeholder]

E-mail Address:

If to Operator:

[Address]

Attention: [Title]

Tel: [Placeholder]

E-mail Address: [Placeholder]

If to Interconnected Customer:

[Address]

Attention: [Title]

Tel: [Placeholder]

E-mail Address: [Placeholder]

Each Party shall notify the other in writing promptly of any change in the above address or contact person.

* 1. Except as referred to in Clause 23.4, a notice will be deemed to have been served:
		1. in the case of any communication made by letter, when delivered by hand, by recognized courier at the address set out in Clause 23.2; and
		2. if sent by email, on delivery to the recipient’s server and provided no error message is received by the sender.

* 1. If the deemed time of service is not during normal business hours, being between the hours of 09:00 and 17:00, the notice will be deemed served at the opening of business on the next Business Day.

# COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

# SEVERABILITY

* 1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

If one Party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

# ENTIRE AGREEMENT

* 1. This Agreement constitutes the entire Agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
	2. Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

# SUCCESSORS AND ASSIGNS/SUBCONTRACTING AND ASSIGNMENT

* 1. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successors and assigns.
	2. The Interconnected Customer may not assign or sub-contract any of its rights or obligations under this Agreement to any other third party without first obtaining the express written consent of the Operator, such consent not to be unreasonably withheld or delayed. the Operator may, without the consent of the Interconnected Customer, grant a lien or other security interest as speculated under Clause 6.4.
	3. The Interconnected Customer and DisCo permit the Operator to sub-contract its installation and maintenance obligations under this Agreement, provided that the Operator shall remain fully responsible for the performance of its obligations under this Agreement and the Operator shall procure that the sub-contractor complies with the obligations of the Operator under this Agreement as if it were a party to this Agreement. The Operator shall contractually impose no less onerous terms than those contained in this Agreement, in its agreement with its permitted sub-contractor(s).
	4. The Operator shall be entitled to transfer the ownership of the Generation Assets to its subsidiary, affiliate, or related company (the “**Transfer**”) without the consent of the Interconnected Customer provided that the Operator shall be responsible for the performance of its obligations under this Agreement, including but not limited to the provision of the Services. Where the Operator intends to transfer responsibility for the performance of its obligations under this Agreement to its subsidiary, affiliate, or related company, the Operator shall obtain the prior written consent of the Interconnected Customer and the DisCo before effecting such transfer.

# COST

Except as otherwise agreed, each Party shall bear its own costs incurred in connection with the negotiations, preparation and execution of this Agreement.

# GOVERNING LAW AND DISPUTE RESOLUTION

* 1. **Governing Law**

This Agreement and any disputes or claims arising out of or in connection with its subject matter or formation including non-contractual disputes or claims) are governed by and construed in accordance with the laws of the Federal Republic of Nigeria.

* 1. **Dispute Resolution**
		1. Except as otherwise expressly provided in this Agreement, any dispute between the Parties under this Agreement shall be resolved amicably by the Parties.
		2. In the event that such dispute cannot be resolved within one (1) month, to the Parties shall use the procedure set out in the Commission’s Dispute Resolution Mechanism pursuant to section 25 and Annex 10 of the Mini-Grid Regulations 2016.
		3. The Parties acknowledge and agree that, except as expressly provided in this Agreement, the provisions of Annex 10 (Dispute Resolution Mechanism) of the Mini-Grid Regulations constitute the sole remedy of the Parties.
	2. **Expert Determination**
		1. In the event that the Parties are unable to resolve any dispute of a technical nature (a “**Technical Dispute**”) or of a commercial nature with respect to billing, metering or any matter (a “**Commercial Dispute**”), then such dispute shall be settled by an expert determination in accordance with the provisions of this Clause 29.3.
		2. Any Party may, by notice in writing (“Notice of Expert Determination”), give notice that it requires a Dispute to be referred to Expert Determination, and call on the other party to agree on the identity of the person to be appointed as Expert.
		3. The Expert shall be appointed on the mutual agreement of the Parties.
		4. If within ten (10) Days of the Notice of Expert Determination, the Parties are unable to agree on the identity of the person to be appointed as an Expert, either Party shall be entitled to submit a request to the CIArb and the Expert shall be appointed by the Chairman of the Lagos Chapter of the CIArb. The Chairman shall endeavour to appoint the Expert within fifteen (15) Days of service of the request, or as soon as reasonably practicable thereafter.
		5. The Expert shall, in consultation with the Parties and within seven (7) Days of its appointment, determine and give written notice to the Parties of the time and place of a preliminary conference (“**Preliminary Conference**”) which the Parties shall attend.
		6. Prior to the Preliminary Conference, the Expert may advise on any conditions he or she wishes to impose (including provision of security for the fees and expenses of the Expert) and request the agreement of the Parties to such conditions.
		7. At the Preliminary Conference, the Parties and the Expert shall discuss and agree on the issues in Dispute, or formulate a procedure by which those issues can be clarified and agreed; plan and agree on the determination process including a timetable for provision of submissions, documents and any other evidentiary material; make arrangements for confidentiality agreements to be signed by all persons taking part in the determination process, make such other planning and administrative arrangements as may be required in relation to the determination process, including in respect of the terms of appointment of the Expert.
		8. The Expert shall be independent of, and act fairly and impartially as between the Parties, giving each party a reasonable opportunity of putting its case and dealing with that of the other Party, and a reasonable opportunity to make submissions on the conduct of the determination process.
		9. The Parties shall continue to perform their contractual obligations notwithstanding the existence of the determination process.
		10. No later than thirty (30) Days after receiving the submissions and evidentiary material from the Parties, the Expert shall determine the Dispute between the Parties and notify such determination in writing to the Parties and the Expert’s determination shall contain a statement of reasons in such form as the Expert considers reasonably appropriate, having regard to the amount and complexity of the Dispute.  The Expert’s determination may include provision for the payment of interest on any monetary sum determined, in such amount as the Expert considers reasonable or as provided in this Agreement.
		11. Unless otherwise agreed in writing by the Parties or in the face of manifest error or fraud, the determination of the Dispute by the Expert shall be final and binding on the Parties. If a determination is found to have been given in manifest error or fraud, the Dispute shall be referred to arbitration in accordance with the Mini Grid Regulations.
		12. All costs of the Expert Determination and all fees payable to the Expert shall be borne by the Party against whom the Dispute is determined.

# INFORMATION AND DATA PROTECTION

* 1. Any information and data provided by a Party (hereinafter referred to as “**the Data Provider**”) to another Party (hereinafter referred to as “**the Data User**”) and used by the Data User directly or indirectly in the performance of the Agreement shall remain at all times the property of the Data Provider. It shall be identified, clearly marked and recorded as such by the Data User on all media and in all documentation.
	2. The Data User shall take all reasonable precautions to preserve the integrity and prevent any corruption or loss, damage or destruction of the Data Provider’s data and information.
	3. In the event of termination of this Agreement, the Data User shall when directed to do so by the Data Provider, instruct all its agents and sub-contractors to, erase all information and data provided by the Data Provider and all copies of any part of the information and data provided by the Data Provider from the Data User’s systems and magnetic data.
	4. The Data User agrees to comply and have adequate measures in place to ensure that its staff, advisor, financier, consultant etc. complies at all times with the provisions and obligations contained in the Nigeria Data Protection Regulations 2019 (and as may be amended from time to time).
	5. All personal data acquired by the Data User from the Data Provider shall only be used for the purposes of this Agreement and shall not be further processed or disclosed without the consent of the Data Provider.
	6. Nothing in this Agreement shall oblige a Party in this Agreement to disclose any information to another party if it is of the view that to do so would be a breach of the Nigerian Data Protection Regulation 2019 and the GDPR.
	7. Each party shall indemnify and hold the other harmless for any breach of the Nigeria data protection Regulation 2019 and other relevant Regulations pertaining to this clause and Data Protection which renders the innocent party liable for any costs, fines, claims or expenses howsoever arising.
	8. In fulfilment of their obligations under this Clause the Operator and the DisCo shall have in place and will maintain at all times the Information Standards which will deal comprehensively with the protection of the confidentiality, integrity and security of all and any information supplied to them.
	9. Parties shall ensure that there are audit and accounting procedures in place to deal with the requirements of this clause.
	10. Parties shall ensure that their staff, consultants, privies, financiers, advisors etc. are reliably trained to ensure awareness of (and compliance with) their obligations under this clause.
	11. Further to this undertaking, the Operator and the DisCo agree to:

 i. Provide each other with such information and access to their premises (upon giving reasonable notice) as may be reasonably required to satisfy themselves that the obligations referred to in the clause are complied with.

ii. Make such application for a change in their notification and take such other steps as may be reasonably practicable to afford each other’s access to information, which is reasonably required in connection with or for any purpose connected with the rights and obligations under this Agreement.

iii. Take all reasonable steps to ensure that all their agents, partners and sub-contractors comply with all the provisions set out above whenever they are processing each other’s Customers/Staff Personal information or data relating to this contract.

# INDEMNIFICATION

Each Party respectively, as an Indemnifying Party, shall indemnify, defend, and hold harmless the other Party, as an Indemnified Party, from and against all losses or damages relating to third party claims for personal injury or property damage arising from:

the breach of any representation, covenant or obligations of the Indemnifying Party under this Agreement; and

from any other act, omission or event for which the Indemnifying Party is liable pursuant to this Agreement.

1. **ANTI-BRIBERY AND CORRUPTION COMPLIANCE**
	1. Each Party warrants and represents that neither it nor any of its Affiliates has made or will make, directly or indirectly any offer, payment, promise to pay, or any offer, gift, promise to give or authorization of the giving of anything of value to or for the use or benefit of any official or employee of the government of the Federal Republic of Nigeria or any political party or political party official or candidate for office, where such payment, gift, promise or advantage would violate any Applicable Laws or any applicable anti-bribery and anti-corruption regulations and codes of practice.
	2. Parties shall comply with all applicable anti-bribery and anti-corruption laws in any relevant jurisdiction (including those in the Federal Republic of Nigeria) and all applicable anti-bribery and anti-corruption regulations and codes of practice.
	3. Parties shall warrants and represent that they maintain and will maintain adequate policies and procedures to comply with Anti-Corruption Laws as well as adequate internal controls, including but not limited to using reasonable efforts to ensure that all transactions are accurately recorded and reported in its books and records to reflect truly the activities to which they pertain, such as the purpose of each transaction, with whom it was entered into, for whom it was undertaken, or what was exchanged.
	4. Parties shall retain such books and records for the period required by applicable law or a Party’s own retention policies, whichever is longer.
	5. In the event any Party becomes aware that it has breached an obligation in this paragraph, such Party will promptly notify the other Parties, subject to the preservation of legal privilege.
	6. Parties warrant that they have used and will use reasonable efforts to require any subcontractors, agents, or any other third parties to also comply with the foregoing requirements in this clause.
	7. Parties will provide information (which unless publicly available will include documentary evidence) in support of the any Party’s ongoing Know Your Customer (“KYC”) and Due Diligence process requirements, about its ownership, officers, and corporate structure (including any changes thereto).
	8. Only a Party (and not its Affiliates or a third party) shall make payments to the other Party, except with that other Party’s prior written consent.
2. **ANTI – TERRORISM**
	1. Each Party hereby represents and warrants that whatever consideration/payment that may be derived from this Agreement shall be used in compliance with all applicable anti-terrorist financing and asset control laws, including, but not limited to, the Terrorism (Prevention) Act and all United Nations Conventions on anti-terrorism.
	2. In this regard, the Parties agree to take all reasonable steps to ensure that no person or entity expected to receive such consideration/payment in connection with the implementation of this Agreement is named on any list of suspected terrorists. Parties undertake to fully comply with the provisions of the Terrorism (Prevention) Act.

# MUTUAL NON-CIRCUMVENTION CLAUSE

Each Party hereby irrevocably agrees and warrants that it and its Affiliates shall not, directly or indirectly, interfere with, circumvent, attempt to circumvent, avoid or bypass other Parties to this Agreement, or obviate or interfere with the relationship of any Party and its contacts for the purpose of gaining any benefit, whether such benefit is monetary or otherwise. This is without prejudice to the Operator’s right to install additional systems at the Property in respect of a separate contractual arrangement between the Inteconnected Customer as customer and Operator as service provider.

# TRADE CONTROLS

Parties confirm and warrant that they are knowledgeable about Trade Control Laws applicable to the performance of its agreement including the lists of Restricted Parties. Parties shall comply with all applicable Trade Control Laws in the performance of this agreement and in particular Parties undertake that they shall not, and shall procure that their Related Parties shall not, do anything in connection with the performance of this agreement which causes any Party to (a) be exposed to a risk of being added to any Restricted Party list or otherwise becoming the target of any national, regional or multilateral trade or economic sanctions under Trade Control Laws; or (b) be in breach of any Trade Control Laws

# INSURANCE

Each Party shall be responsible for obtaining and maintaining appropriate and necessary insurance coverage. The insurance coverage shall be obtained from a reputable insurance company and shall provide adequate protection against all risks and liabilities that may arise during the course of this Agreement.

# EXECUTION PAGE

**IN WITNESS WHEREOF** the Parties hereto have caused their respective common seals to be hereunto affixed the day and year first above written.

Signed by the within named

**XXXXX Plc. on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**...............................................**  **..............................................**

**[PLACEHOLDER] [PLACEHOLDER]**

**Authorised Signatory Authorised Signatory**

The common seal of the within named

**[OPERATOR] on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Has hereunto been affixed in the presence of:

**...............................................**  **..............................................**

**[PLACEHOLDER] [PLACEHOLDER]**

**[Placeholder Title] [Placeholder Title]**

The common seal of the within named

**[INTERCONNECTED CUSTOMER] on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Has hereunto been affixed in the presence of:

**...............................................**  **..............................................**

**[PLACEHOLDER] [PLACEHOLDER]**

**[Placeholder Title] [Placeholder Title]**

# SCHEDULE 1 – INTERCONNECTION PLAN

[Placeholder- to be added by Operator. Schematic and single-line diagram depicting Interconnected Customer, DisCo grid, and Generation Assets interconnection]

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

# SCHEDULE 2 – MAP OF THE INTERCONNECTED CUSTOMER SITE AND MINI-GRID LAYOUT ON SITE

The Interconnected Customer will also provide survey plan and geographic coordinates where needed and available.

[Placeholder - to be added by Operator.]

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

# SCHEDULE 3 – LIST OF NECESSARY PRIOR DISTRIBUTION NETWORK UPGRADES

**1.1 List of Assets and Costs of Assets:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Asset**  | **Quantity**  | **Specification**  | **Condition**[[8]](#footnote-11) | **Cost per Asset (NGN)** | **Total Costs of Assets (NGN)** |
|  |  |  |  |  | [Cost per Asset multiplied by Quantity] |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**Total capital cost:** NGN [X]

|  |  |
| --- | --- |
| **Year** | **Monthly Liability (NGN per month)** |
| Year 1  |  |
| Year 2 |  |
| Year 3 |  |
| Year 4 |  |
| … |  |
| Year X |  |

**1.2 DisCo Necessary Prior Distribution Network Upgrades Repayment Schedule:** The DisCo will incur a liability to the Operator monthly for the first X years of the Project for the amount below. The repayment includes a 12% cost of capital.

Signature DisCo:

Signature Operator:

# SCHEDULE 4 – DETAILS OF FIXED INFRASTRUCTURE FOR GENERATION ASSETS

[Placeholder - to be added by Operator. Details on generation assets to be installed, including relevant spec sheets.]

|  |  |  |
| --- | --- | --- |
| **Equipment** | **Quantity** | **Capacity** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**Asset costs (NGN):**

|  |  |
| --- | --- |
|  |  |
|  |  |

**Depreciation Schedule** (straight-line depreciation) **and Termination Fee** (if terminated by the Interconnected Customer)**:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Solar Book Value** (20-year lifespan) | **Battery Book Value** (10-year lifespan) | **Termination Fee** |
| Year 1 |  |  |  |
| Year 2 |  |  |  |
| Year 3 |  |  |  |
| Year 4 |  |  |  |
| Year 5 |  |  |  |
| Year 6 |  |  |  |
| Year 7 |  |  |  |
| Year 8 |  |  |  |
| Year 9 |  |  |  |
| Year 10 |  |  |  |

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

# SCHEDULE 5 *–* BOUNDARY VALUES OF THE DISTRIBUTION NETWORK MAIN GRID

The Distribution Network is considered as available if the grid voltage and frequency at the Grid Point of Interconnection does not deviate more than +/- 5% from the following values. The Mini-Grid is considered as available if the voltage and frequency at the Customer Point of Interconnection does not deviate more than +/- 5% from the following values.

Grid Voltage Nominal Value: 400 V

Grid Frequency Nominal Value: 50 Hz

In case of complaints, by either the Operator or the Interconnected Customer, these values shall be checked by the DisCo at least 2 times in a period of one month and with a time interval between the 2 measures of at least 5 days at the Grid Point of Interconnection, and confirmed by the Operator.

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

# SCHEDULE 6 – INTERCONNECTED CUSTOMER BLENDED TARIFF SCHEDULE, DISCO EXTRAORDINARY BACKUP TARIFF, AND TARIFF ADJUSTERS

* 1. **Blended Tariff:** The Interconnected Customer shall pay the Operator for electrical energy at the price of NGN[X2] per kWh (“**Blended Tariff**”) delivered and measured with the Metering System at the Customer Point of Interconnection, which includes all electricity delivered to the Interconnected Customer whether it’s from the Mini-Grid or the DisCo’s Distribution Network. The Blended Tariff is subject to review and adjustment due to triggering events and conditions as specified in 1.3 and 1.6 below.
	2. **Summary of Blended Tariff Schedule Adjustments:** The Blended Tariff can be adjusted due to and only due the following unless otherwise agreed by all Parties, as detailed in Clause 13:
* Upon announcement of a Commission approved change in grid tariffs:
	+ Changes to the DisCo Grid Tariff in Schedule 7 as detailed in Section 1.5 by the next billing cycle.
* Every Months:
	+ If any Market Condition in Section 1.6 exceeds or is below the thresholds outlined, a tariff adjustment can be applied for as detailed in Section 1.7.
	1. **Changes to the Minimum Consumption, Extraordinary Backup Tariff, and the Grid Availability Standard:** Parties can only apply for changes to the Minimum Consumption referred to in Clause 9.2 and the Grid Availability Standard referred to in Clause 8.4 every month when there is a review of the Market Conditions and the relevant Market Conditions in Section 1.6 exceeds or is below the thresholds outlined as detailed in Clause 13.
	2. **Changes to DisCo Grid Tariff:** The tariff schedule in Section 1.1 above assumes the Operator shall pay the DisCo DisCo tariff described in Schedule 7 (DisCo Grid Tariff). As stated in Clause 13, where there is a Commission-approve change to the DisCo Grid Tariff through annual, minor or extraordinary reviews, Parties agree to review the Blended Tariff Schedule referred to in Section 1.1 to take effect immediately and be reflected in the next bill in order to reflect such change(s). The Blended Tariff Schedule can be modified in proportion to the DisCo Grid Tariff change and the amount of electricity from the DisCo’s Distribution Network grid consumed.
	3. **Market Condition Thresholds:** The Market Conditions and their respective thresholds referred to throughout this Agreement are below.

|  |  |
| --- | --- |
| **Market Condition Variable** | **% Change in Market Condition (Increase or Decrease)** |
| Nigerian Naira Inflation Annual (calculated over 3 years), according to the Nigerian National Bureau of Statistics[[9]](#footnote-12) | ± 8% |
| Change in Foreign Exchange Rate between the Nigerian Naira and the United States Dollar, according to Nigerian Central Bank official exchange rate as may be reflected in the I & E Window, as communicated by FMDQ (Financial Markets Dealers Quotation) OTC Plc | ±5% |
| Diesel Fuel Price Change (based on the actual average purchase price of diesel demonstrated through invoices from the Operator over 3 consecutive months) | ± 2.5%  |
| Change in Interconnected Customer consumption habits, resulting in needing more or less electricity or usage of diesel generator than planned  | ± 20%  |
| Availability of grid supply from the DisCo’s Distribution Network during Grid Priority Hours Averaged over 3 Years (% of time grid is available) | Low Threshold: XX%High Threshold: XX% |

* 1. **Adjustment in Blended Tariff Schedule:** Any adjustments approved by the Commission through annual, minor or extraordinary reviews, shall apply to the Blended Tariff Schedule in Section 1.1. The adjustment of the price will be based on Clause 9, Clause 13, and the Mini-Grid Regulations where not in conflict with this Agreement.
	2. **[[10]](#footnote-13)Diesel Genset Maintenance:** The customer is required to maintain a 250-hour service regime on its generator(s), to ensure the generator(s) are able to run when needed.

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

# SCHEDULE 7 – DISCO GRID TARIFF SCHEDULE

**DisCo Grid Tariff Schedule:** The Operator shall pay the DisCo for electrical energy at the price of NGN[X4] per kWh delivered and measured with the Metering System at the Grid Point of Interconnection (“**DisCo Grid Tariff**”). The DisCo Grid Tariff shall be in accordance with the schedule as shown below which is subject to the DisCo tariff order. This tariff is tied to Tariff Band X (average of x-x hours of supply per day) for an MD-1 customer upon agreement with DisCo, unless the definition of Tariff Band X changes or the Grid Availability Standard is modified by the Parties.

In addition, the DisCo’s improved service to guarantee availability during Grid Priority Hours is considered a premium service. The Premium Fee for the service is calculated based on the Customer’s average annual consumption, the cost of grid upgrade and the standard operating expenses of the DisCo which is paid quarterly

|  |  |  |
| --- | --- | --- |
| **Year** | **DisCo Grid Tariff (N/kWh) [*Placeholder tariffs – Insert Band X, MD-1 customer tariffs***  | **DisCo Premium Fee (N/kWh)** |
| X | X | **X** |
| X | X | **X** |
| Year X Onwards | Pending MYTO review | Pending DisCo review |

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

# SCHEDULE 8 – PROJECT IMPLEMENTATION PLAN

[Placeholder – to be added by Operator]

Signature DisCo:

Signature Operator:

Signature Interconnected Customer:

1. this summary will be adjusted based on alignment on the termsheet [↑](#footnote-ref-2)
2. 90% is recommended but need to be agreed between both Disco and the operator as the avaliability will be evaluated based on the agreed hours of supply from the grid [↑](#footnote-ref-3)
3. This is essential if the operator plans to sell excess power to the grid or developed as an off-site solution that will require the use of the Discos network to deliver contracted energy to the interconnected customer [↑](#footnote-ref-4)
4. Applies if there is an investment in diesel generator [↑](#footnote-ref-5)
5. Percentage availability: Converting grid hours actual availability against the grid total priority hours. [↑](#footnote-ref-6)
6. Applies if the Operator is providing a backup genset. [↑](#footnote-ref-9)
7. Change based on grid availability agreed, for example, if 90 then this can be 75% [↑](#footnote-ref-10)
8. Equipment condition is regarded as either ‘working,’ ‘partially working’, ‘faulty’ and ‘offline’. All assets must be ‘working.’ [↑](#footnote-ref-11)
9. The inflation and diesel fuel price thresholds are based on historical data from movement in the Consumer Price Index of the Nigerian National Bureau of Statistics. [↑](#footnote-ref-12)
10. Operator not providing the genset. If provided by operator adjustment is needed [↑](#footnote-ref-13)