

THE UTILITY REGULATORY AUTHORITY

PROVISIONAL GENERATION LICENCE

TERMS AND CONDITIONS

1. Interpretation

In this provisional generation licence, unless the context otherwise requires -

“Act” means the Electricity Act (as amended);

“applicable law” means the Electricity Act, the Utility Regulatory Act (as amended), regulations, rules, standards, codes, and laws that are in force and effect in the Republic of Mauritius;

“Authority” means the Utility Regulatory Authority established under Section 4 of the Utility Regulatory Authority Act (as amended);

“codes” means the generation, transmission, distribution and system operation codes collectively or any combination of more than one code as developed and updated by the Authority, from time to time;

“Commercial Agreements” means Power Purchase Agreements (PPAs), Connection Agreements, Energy Supply and Purchase Agreement (ESPA), and other commercial agreements required to operate the generating station and sell electricity;

“distribution” means the conveying of electricity to customers over electric lines of less than 66kV by any licensee licensed for that purpose;

“distribution system” means that part of the electric system that operates below 66kV from the point of the outgoing isolators of a Feeder at Transmission substations transforming to 22 V and 6.6kV, consisting of apparatus and meters owned and maintained by the Distribution Licensee or Transmission Licensee used for the distribution of electricity;

“Fees” means those fees as prescribed in the Schedule of the Electricity (Licensing, Registration and Fees) Regulations 2022 (as may be amended);

“generating station” means any facility used for the generation of electricity;

“generation code” means the rules made by the Authority that govern generation activities in the electricity sector;

“governance code” provides background information which puts the codes in context, provides an overview of the legal authority for the codes, sets out the purpose and organisation of the codes, provides the procedure for revision of and compliance with the codes, provides guidance on interpretation of the codes, and defines the terms and definitions applicable to the codes;

“grid” means the interconnection facilities and any other transmission system or distribution system, transmission or distribution facilities on the system operator side of the interconnection boundary through which the electrical energy output from the generating unit will be distributed by the system operator to users of electricity;

“interconnection boundary” means the physical point where the user and the grid are connected, or the physical point where a large customer is connected to the transmission system;

“interconnection facilities” means all plant and apparatus used for the interconnection of a generating station, generating unit, energy storage or variable renewable generating station to the distribution or transmission system;

“interested party” means any person who has a recognisable stake (and therefore standing) in a matter;

“large customer” means customers who by virtue of the magnitude of the characteristics of their demand are connected directly to the transmission system or to the distribution system;

“licensee” means the holder of a provisional generation licence;

“licensed activity”, in relation to this licence, means the obtaining of project finance, testing plant reliability or developing a project;

“National Grid Code” comprises of the governance code and each of the codes;

“Provisional Generation Licence” means a licence issued under the Electricity (Licensing, Registration and Fees) Regulations 2022 (as may be amended) for the purpose of initial commencement of the energy project;

“Permanent Generation Licence” means a licence issued under the Electricity (Licensing, Registration and Fees) Regulations 2022 (as may be amended), subsequent

to the provisional generation licence and upon the generating station achieving initial Commercial Operation Date.

“Scheduled Commercial Operation Date” means the planned date at which all testing of a generating station will be completed and certified by the relevant party for commercial use with the system as specified in Annex 1B;

“system” means the interconnection facilities and any other transmission system or distribution system, transmission or distribution facilities on the system operator side of the interconnection boundary(ies) through which the electrical energy output from the generating units(s) will be distributed by the system operator to users of electricity;

“system operator” means the operator of a transmission, distribution, load dispatching or similar systems;

“transmission” means the conveying of electricity over electric lines of 66kV or more between a generating station and an electrical substation, or between generating stations or between electrical substations;

“transmission system” means electrical facilities used for transmission;

“user” means any person using the transmission system or distribution system, as more particularly identified in each section of the respective code, and in the governance code, the term means any person (other than licensee) to whom the codes apply;

“variable renewable generating station” means a renewable energy generating station with continuously varying power output following the availability of primary energy such as wind, solar photovoltaic and others.

2. Issue of the Provisional Licence

- (1) The Authority hereby authorizes (**insert name, Licence No, Address**), subject to applicable law, these terms and conditions to carry out the licensed activity of generation.
- (2) The terms and conditions are applicable to generating station(s) listed under Annex 1A.
- (3) The Buyer of the contracted energy is defined under Annex 1B.
- (4) The provisional generation licence is being issued to facilitate: the obtention of project finance, testing plant reliability and developing the project including the obtention of all applicable permits and clearances.

- (5) The issuance of this Provisional Generation Licence does not imply approval of the proposed power plant, nor authorise the construction or operation of the proposed power plant. The acquisition of this provisional licence is only the first step of the licensing process.

3. Term

The provisional generation licence shall enter into force on the **(insert date of issue)** and shall remain in force up to the scheduled Commercial Operation Date of ... **(insert date)**, unless renewed or otherwise revoked pursuant to these terms and conditions or applicable law.

4. Transfer, Extension, Amendment, Renewal, Suspension and Revocation

- (1) Not less than **three (3) months** before the expiration of the provisional licence and subject to these terms and conditions being complied with, the licensee may apply for the renewal of the provisional generation licence or may apply for a permanent generation licence.
- (2) The Authority shall upon receipt of the application described in paragraph 4(1), either:
- (a) renew the provisional generation licence;
 - (b) reject the application; or
 - (c) issue a permanent generation licence.
- (3) During the term of the provisional generation licence, the licensee may apply to the Authority to amend the provisional generation licence, and such amendment shall enter into force upon approval by the Authority and upon such terms and conditions as the Authority may establish.
- (4) Upon extension or renewal of the provisional generation licence, the Authority may amend, vary, modify, extend or revoke the licence terms and conditions, pursuant to applicable law.
- (5) The licensee shall not transfer the provisional generation licence to any person without the prior written consent of the Authority.
- (6) The Authority may, at any time, suspend the Licence by giving not less than 14 days' notice in writing to the Licensee –
- (a) if any amount payable under Condition 6(2) (Payment of Fees) is unpaid 30 days after it has become due and remains unpaid for a period of 30 days after the Authority has given the Licensee notice that the payment is overdue – provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable becomes due;

- (b) if the Licensee fails to comply with an order (within the meaning of section 38 of the Act) and such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice in writing of such failure to the Licensee – provided that no such notice shall be given by the Authority before the proceedings are finally determined;
 - (c) if the Licensee fails to pay any financial penalty (within the meaning of sections 36, 38, 40 or 44 of the Act) by the date for such payment and such payment is not made within 3 months after the Authority has given notice in writing of such failure by the Licensee – provided no such notice shall be given before any proceedings are finally determined;
 - (d) if the Licensee fails to pay any amount due to the Authority payable as part of an award or any costs determined as part of an interim award howsoever payable by the due date specified in either such award; or
 - (e) if the Licensee fails to conduct the licensed activity in accordance with the terms and conditions of the Licence, the provisions of the Act and applicable law and does not immediately take all appropriate means to remedy the failure.
- (7) Without prejudice to paragraph (6), the Authority may forthwith suspend the licence where –
- (a) the Authority considers that it is in the public interest to do so; and
 - (b) the urgency of the matter so requires.
- (8) A suspension effected under paragraph (7) shall lapse after 21 days unless –
- (a) the suspension has been revoked prior to that period; or
 - (b) a notice has been served under paragraph (6) during that period.
- (9) The Authority may, at any time, on receipt of a complaint by any interested party or on its own initiative, amend the terms of, or revoke the Licence by giving not less than 14 days' notice (24 hours' notice in the case of a revocation under paragraphs (a) to (e) of this Condition) in writing to the Licensee stating the reasons for which it proposes to do so and to allow the Licensee to make any written representations to object to the proposal if the Licensee –
- (a) agrees in writing with the Authority that the Licence should be amended or revoked;
 - (b) fails to make good any amount payable under Condition 6(2) (Payment of Fees) which is unpaid 30 days after it has become due and remains unpaid for a period of 90 days after the Authority has given the Licensee notice that the payment is overdue – provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable becomes due;
 - (c) no longer has an active commercial agreement with the Single Buyer (applies only in case Licensee is connected to the grid);
 - (d) contravenes the Act;
 - (e) has ceased to carry on the licensed activity;

- (f) fails to conduct the licensed activity in compliance with these terms and conditions and the applicable law and fails to remedy such failure as may be notified to it by the Authority within the time frame specified by the Authority;
 - (g) has submitted false information when making its application for the Licence;
 - (h) transfers the provisional generation licence to any person without the prior written consent of the Authority;
 - (i) is unable to pay its debts (within the meaning of Part II of the Insolvency Act);
 - (j) passes a resolution for Voluntary Winding Up (within the meaning of Part III of the Insolvency Act); or
 - (k) is subject to Winding Up by a court of competent jurisdiction (within the meaning of section 401 of the Insolvency Act).
- (10) Without prejudice to paragraph (9), the Authority may forthwith revoke the licence where –
- (a) the Authority considers that it is in the public interest to do so; and
 - (b) the urgency of the matter so requires.

5. Provision of information

- (1) Subject to paragraph (2) of this Condition, the Licensee shall furnish to the Authority, in such manner and at such times as the Authority may reasonably require, such information and shall provide and furnish to it such reports, as the Authority may reasonably require or as may be necessary for the purpose of performing the functions conferred on it by or under the Act.
- (2) This condition shall not require the Licensee to produce any documents or give any information which it could not be compelled to produce or give in evidence in civil proceedings before a court.
- (3) The Licensee shall not destroy, tamper, or conceal any information book, accounts, or other document likely to be required in relation to a request made by the Authority.
- (4) The power of the Authority to call for information under paragraph (1) of this Condition is in addition to the power of the Authority to call for information under or pursuant to any other condition. There shall be a presumption that the provision of information in accordance with any other condition is sufficient for the purposes of that condition, but that presumption shall be rebutted, if the Authority states in writing that in its opinion such further information is, or is likely to be, necessary to enable it to exercise functions under the condition in question.

6. Obligations of the Licensee

- (1) At all times during the term of the provisional licence, the licensee shall be obliged to-

- (a) comply with -
 - (i) orders and directions of the Authority;
 - (ii) applicable law; and
 - (iii) these terms and conditions.
- (b) submit to the Authority its audited financial statements not later than 6 months from the end of its financial year;
- (c) notify the Authority within **Seven (7) working days** after it becomes aware of the following events -
 - (i) if it is unable to conduct its licensed activity;
 - (ii) if the conduct of its licensed activity would or might lead to the breach of any of these terms and conditions;
 - (iii) any material changes in circumstance that adversely affects or may adversely affect performance of the licensed activity.
 - (iv) A receiver or liquidator has been appointed for the licensee; and
 - (v) If any action taken for voluntary winding up or dissolution of the Licensee's company or any order pursuant to the Insolvency Act is made for the compulsory winding up of the Licensee's company.

(2) Payment of fees -

- (a) The Licensee shall pay the Authority an Annual Fee as prescribed in the Schedule of the Electricity (Licensing, Registration and Fees) Regulations 2022 (as may be amended) in respect of the period that the Licensee holds the Licence.
- (b) The amounts determined in accordance with paragraph 6(2)(a) shall be paid by the Licensee to the Authority in one instalment being due for payment by 01st January in each year, provided that if the Authority has not given notice of the amount of the installment, at least 30 days before the payment date stated above, the Licensee shall pay the amount due within 30 days from the actual giving of notice by the Authority to the Licensee (whenever notice is given).
- (c) When the Licensee fails to pay the amount determined in accordance with paragraph 6(2)(a) within 30 days of the due date set out in paragraph 2 of this Condition, it shall pay simple interest on the amount at the rate which is from time to time equivalent to the base rate plus 1% of the Bank of Mauritius or, if there is no such base rate, such base rate as the Authority may designate for the purposes hereof.

7. Notices

- (1) Any correspondence or notice to be given under any of these terms and conditions by both parties shall be in writing and shall be deemed to have been properly served if hand-delivered or sent by registered post at the address set out below or such other address which may be from time to time specified in writing to each other -

Licensee:

The Director

(insert name of company)

(insert address)

Telephone: **(insert no)**

Email: **(insert email address)**

Authority:

Chief Executive Officer

The Utility Regulatory Authority

One Exchange Square

Level 8, Tower A, Wall Street

Ebene Cybercity, Mauritius

Telephone: +230 454 8070/454 8079

(2) Any notice given under the provisions of paragraph 7 (1) shall be deemed to have been duly served and received -

- (a) at the actual time of delivery, if delivered personally;
- (b) **seven (7) working days** subsequent to the date of postage, if sent by registered post.

8. Whole Licence

This Licence constitutes the entire license and supersedes all prior understandings and agreements between the Licensee and the Authority.

Annex 1A

Terms and conditions of this provisional generation licence are applicable to the listed generating station(s):

No	Name of Generating Station	Licensed Activity	Location	Installed Capacity		Technology



Annex 1B

Buyer:

Name	Capacity	Point of Delivery	PPA Duration	Scheduled Commercial Operation Date
				(insert date)