

Scaling Mini-Grids

SMG

Concession Agreement Term Sheet

*July 2022*

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Term Sheet of key terms of template Concession Agreement for the Scaling Mini-Grid Program

This Term Sheet is a summary of the principal terms that are included in the template Concession Agreement (the “Agreement”). It is intended to serve as a basis for analysing the key contractual risks and mitigants. All figures, terms and conditions are subject to change.

All capitalised terms, if not defined in the body of the Term Sheet, have the meaning given to them in Annex A (Defined Terms from the Concession Agreement).

|  |  |  |
| --- | --- | --- |
|  | **Parties:** |  |
|  | **Grantor** | [*Competent Authority*] |
|  | **Concessionaire** | [*Host country special purpose vehicle incorporated by the* *winning Mini-Grid Bidder*] |
|  | **Concession Period** | The date on which the conditions precedent to effectiveness of the Concession Agreement have been satisfied or waived (that is, the “Concession Effective Date”) until the date falling [*twenty-five (25) years*] after Concession Completion, unless terminated earlier or extended (the “**Initial Concession Period**”).  “Signing Date” will be the date the Parties sign the Concession Agreement. |
|  | **Project Agreements** | * 1. The Concession Agreement;   2. the Grant Agreement (defined as the agreement to be entered into between ……… [*insert relevant entity*] and the Concessionaire, pursuant to which ………… [*insert relevant entity*] shall agree to disburse the Viability Gap Funding, as defined in Section 45, to the Concessionaire on the terms and conditions set out therein, the “**Grant Agreement**”);   3. each Land Lease Agreement;   4. [*the Government Guarantee, defined as the guarantee to be given by [insert relevant ministry] to the Concessionaire in respect of the payment obligations of the Grantor under the Concession Agreement;*][[1]](#footnote-2); [*and*   5. *each Local Community Agreement[[2]](#footnote-3)*],   in each case, as may be amended from time to time. |
|  | **Financing Agreements** | All loan agreements, notes, indentures, security agreements, guarantees, hedging agreements and other agreements, documents and instruments entered into by Lenders relating to the debt financing of the development, design, procurement, construction and Commissioning, operation and maintenance of the Mini-Grids included in the Concession Area, or any part thereof, or relating to any financing that includes but is not limited to the funding for the aforementioned activities, in each case as the same may be amended from time to time and shall include any such agreements entered into in respect of an Expansion Financing or Additional Funding (as defined elsewhere in this Term Sheet). |
|  | **Transaction Documents** | The Financing Agreements and the Project Agreements. |
|  | **Mini-Grids** | 1. A [*small-scale*] distribution network (low or medium voltage), together with one or more power generation plants, designed to be capable of operating as an isolated system with clearly defined physical and electrical boundaries, [*but with the technical capability to be interconnected to other electricity grids*][[3]](#footnote-4), including ………… [*insert relevant host country grid(s)*] and comprises the related:    1. Generation and Storage Assets;    2. the Distribution Network;    3. the Mini-Grid Delivery Point and the Customer Connection Points; and    4. the Concessionaire Solar Home Systems[[4]](#footnote-5). |
|  | **Extension to Concession Period** | Automatic renewal for a single period of [*three (3)*] years upon expiry, unless either Party gives notice of an intention to terminate at least [*twenty-four (24)*] Months prior to the expiry date. |
|  | **Failure to achieve Concession Effective Date due to Grantor delay** | 1. If the date by which the Parties agree the Concession Effective Date will be achieved (that is, the “Target Concession Effective Date”) cannot be achieved because of:    1. an Excusing Event (as defined in Section 58) (other than a Natural Force Majeure Event) or a failure by the Grantor to satisfy a condition precedent for which the Grantor is responsible; or    2. a delay or failure in the satisfaction of a general condition precedent that is not attributable to the Concessionaire or any of its Contractors,   and in each case which is not caused by a Natural Force Majeure Event (a “**Grantor Delay Event**”),  then:   * + 1. the Parties may agree to extend the Target Concession Effective Date; or     2. the Concessionaire may extend the Target Concession Effective Date on a day-for-day basis for every day of delay so caused, or for such other period as may be agreed by the Parties; or     3. the Concessionaire may terminate the Concession at any time following the Target Concession Effective Date in accordance with the provisions allowing a termination for a Grantor Delay Event. |
|  | **Failure to achieve Concession Effective Date due to Concessionaire delay** | 1. If the Target Concession Effective Date cannot be achieved because of:    1. a Concessionaire Event of Default; or    2. failure by the Concessionaire to satisfy a condition precedent for which the Concessionaire is responsible,   In each case which is not attributable to a Grantor Delay Event or a Natural Force Majeure Event (a “**Concessionaire Delay Event**”), then:   * + 1. the Parties may agree to extend the Target Concession Effective Date; or     2. the Grantor may extend the Target Concession Effective Date on a day-for-day basis for every day of delay so caused, or for such other period as may be agreed by the Parties; or     3. the Grantor may terminate the Concession at any time following the Target Concession Effective Date in accordance with the provisions allowing for a termination for a Concessionaire Delay Event. |
|  | **Failure to achieve Concession Effective Date due to a Natural Force Majeure Event** | 1. If the Target Concession Effective Date cannot be achieved because of a Natural Force Majeure Event, then:    1. the Target Concession Effective Date shall be extended on a day-for-day basis for every day of delay so caused, or for such other period as may be agreed by the Parties; or    2. in the event of a Prolonged (Natural) Force Majeure Event, either Party may terminate the Concession in accordance with the provisions allowing a termination for a Prolonged Force Majeure Event. |
|  | **Development Securities:** | An irrevocable bank guarantee issued by a bank or a financial institution with international ratings for its long-term unsecured unsubordinated debt obligations from at least two of S&P/Fitch/Moody’s, such ratings being no less than [*insert ratings*], or as otherwise agreed between the Parties from time to time (an “**Acceptable Bank**”). |
|  | **Concessionaire Development Bond** | By the Signing Date, the Concessionaire shall provide an irrevocable bank guarantee in an amount of [*insert amount*] issued by an Acceptable Bank.  The Grantor shall be entitled to call on the Concessionaire Development Bond to cover its Development Termination Costs Reimbursement Amount where the Concession Agreement is terminated for a failure to achieve the Concession Effective Date due to a Concessionaire Delay Event. The recovery of the Development Termination Costs Reimbursement Amount is to be limited to the amount of the Concessionaire Development Bond.  The Concessionaire Development Bond shall be returned in full upon the earlier to occur of the Concession Effective Date or a termination of the Concession Agreement as a result of a failure to achieve the Concession Effective Date due to a Grantor Delay Event or a Natural Force Majeure Event. |
|  | **Grantor Development Bond** | By the Signing Date, the Grantor shall provide an irrevocable bank guarantee in an amount of [*insert amount*] issued by an Acceptable Bank.  The Concessionaire shall be entitled to call on the Grantor Development Bond to cover its Development Termination Costs Reimbursement Amount where the Concession Agreement is terminated for a failure to achieve the Concession Effective Date due to a Grantor Delay Event. The recovery of the Development Termination Costs Reimbursement Amount is limited to the amount of the Grantor Development Bond. The Grantor Development Bond shall be returned in full upon the earlier to occur of the Concession Effective Date and the failure to achieve the Concession Effective Date due to a Concessionaire Delay Event or a Natural Force Majeure Event. |
|  | **Exclusivity** | 1. The Grantor undertakes that:    1. no other Person shall be permitted to design, finance, construct, commission, operate or maintain Mini-Grids in the Concession Area, and shall procure that no other Governmental Authority or local community shall, directly or indirectly, permit any Person or take any action to solicit, initiate, encourage or assist in the submission of any proposal, negotiation or offer from any Person to design, finance, construct, commission, own, operate or maintain Mini-Grids in the Concession Area; and    2. no other Person shall be permitted to generate, supply, distribute or sell electricity to any Persons within the Concession Area other than Permitted Generation, and shall procure that no other Governmental Authority or local community shall, directly or indirectly, permit any Person or take any action to solicit, initiate, encourage or assist in the submission of any proposal, negotiation or offer from any Person to generate, supply, distribute or sell electricity to Persons within the Concession Area, 2. (the “**Concessionaire Exclusivity**”), except for:    * 1. electricity Self-Production by a Person within the Concession Area for its own consumption, and which will not be sold or distributed by such person to any other person (**“Self-Production”**); and      2. solar home systems with or without energy storage supply systems, whether or not supplied by the Concessionaire or a third party or connected to the Distribution Network (**“Solar Home Systems”**),   (“**Permitted Generation**”).  The Grantor must enforce the Concessionaire Exclusivity. Where this is not possible, a Political Force Majeure shall be deemed to have occurred and the Concessionaire shall be entitled to Terminate the Concession Agreement where such failure to enforce Concessionaire Exclusivity is Concession Wide, or to Remove an affected Mini-Grid Site/Lot and receive the relevant Buy-Out Amount for that affected Mini-Grid Site/Lot (which would be a Grantor Partial Buy-Out Amount) (please see Schedule 2 (*Termination*) for a summary of the Buy-Out Amounts) where such failure to enforce the Concessionaire Exclusivity is not Concession Wide. |
|  | **Land Issues:** |  |
|  | **Procurement of the Generation Sites – Grantor owned Land** | The Parties shall enter into a Land Lease Agreement for the Generation Site. The Grantor shall obtain or procure all required Consents to have control, quiet enjoyment, occupy and use of the site free and clear of any Liens (subject to all required assistance by the Concessionaire) for the performance of the Concession Works (defined as the design, construction, testing, Commissioning and completion of the Mini-Grids, any works in respect of the Additional Services, and the refurbishment and upgrading of any Existing Assets, the “**Concession Works**”) and the Concession Services (defined as the generation, storage, distribution, sale and supply of electrical power to Customers by the Concessionaire; the operation and management of the Mini-Grids; and the provision of any Additional Services, the “**Concession Services**”), in respect of the related Mini-Grid for the Concession Period. |
|  | **Procurement of the Generation Sites – Governmental Authority owned Land** | The Grantor shall procure that the relevant Governmental Authority that owns the Generation Site shall make it available to the Concessionaire and enter into a Land Lease Agreement for the Generation Site with the Concessionaire. The Grantor shall obtain or procure from the relevant Governmental Authority all required Consents to have control, quiet enjoyment, occupy and use of the site (subject to all necessary assistance by the Concessionaire) for the performance of the Concession Works and the Concession Services of the related Mini-Grid for the Concession Period. |
|  | **Procurement of the Generation Sites –Privately owned Land** | The Grantor shall, upon the request of the Concessionaire, exercise all rights available to it under Applicable Law to compulsorily acquire the Generation Site and then enter into a lease over it with the Concessionaire, or require the sale of the Generation Site by the Private Landowner to the Concessionaire, free and clear of Liens and any Environmental Liabilities, or require that the Private Landowner enter into a lease over it with the Concessionaire, and the Grantor shall give or procure all necessary assistance to the Concessionaire or said landowner to obtain all required Consents to have control, quiet enjoyment, occupy and use of such Generation Site free and clear of Liens for the occupation and use of the site (subject to all necessary assistance by the Concessionaire) for the performance of the Concession Works and the Concession Services in respect of the related Mini-Grid for the Concession Period. |
|  | **Access Rights** | The Grantor grants,and undertakes to cause any relevant Governmental Authority to grant, to the Concessionaire all access rights, land use rights and easements. Such rights shall extend to works on the ground and sub-soil level of land (the “**Access Rights**”) over public land as are necessary for the Concessionaire to perform the Concession Works and Concession Services on public land free and clear of any restrictions.  The Concessionaire shall prepare a list of the necessary Access Rights over public and private land that it will need for the Concession Works and the Concession Services and the establishment of the Mini-Grids (the “**Access Rights List**”).  The Access Rights List must be updated by the Concessionaire on any proposed extension or modification to the Distribution Network during the Concession Period.  Where any Access Rights are required with respect to private land, the Grantor shall exercise all rights available to it under Applicable Law, including the right to eminent domain, to make those Access Rights available to the Concessionaire, or to delegate to the Concessionaire the right to compulsorily require that those Access Rights be made available to the Concessionaire by any relevant Private Landowner. |
|  | **Environmental Liabilities** | Each Generation Site shall be made available to the Concessionaire free of any Environmental Liabilities[[5]](#footnote-6) other than those specified in any relevant feasibility study, and any Land Lease Agreement shall indemnify the Concessionaire against any pre-existing environmental liability.  Where a Private Landowner is to be expropriated with respect to a Generation Site or an Access Right prior to any of it being made available to the Concessionaire, the Grantor shall carry out the expropriation process at its cost, in accordance with the Environmental and Social Requirements.  Where there are any disused distribution assets and/or materials already within the Concession Area, the Concessionaire shall be entitled to dismantle those disused assets and materials. The cost of dismantling the disused assets and materials will be for the account of the Grantor. The Concessionaire shall not be required to use or accept any disused distribution assets or materials already in place within the Concession Area. |
|  | **General Concessionaire Obligations** | 1. The Concessionaire shall comply with:    1. Applicable Law;    2. the Design;    3. relevant Technical Standards, including communication protocols with any relevant operating platforms;    4. relevant Service Standards;    5. the Environmental and Social Requirements;    6. the Consents (as defined in Section 32); and    7. Good Industry Practice,   together, the “**Concession Standards**”. |
|  | **Design** | The Concessionaire may modify the agreed Design, provided that any modification to the Design is accompanied by an explanation in writing to the Grantor of the changes to the Design. Any modification must, if material, be submitted by the Concessionaire for approval to the Grantor, with a copy to the Independent Engineer, and must not have the effect of increasing the Tariff Cap.Following Concession Completion, where (i) demand for electrical energy from existing customers and/or (ii) demand from new customer Connections exceeds the current generating and distribution capacity of the Mini-Grids within the Concession Area (a “**Demand Increase**”), the Concessionaire shall be entitled to modify the Design and expand the Mini-Grids within the Concession Area to meet such Demand Increase and shall notify the Grantor of its Expansion plans [*following approval for such Expansion from the Regulator*] (an “**Expansion**”). |
|  | **Construction Programme and Milestone Schedule** | The Parties shall agree a construction and Connection milestone schedule to be set forth in schedule 11 (*Milestone Schedule*) of the Concession Agreement, the “**Milestone Schedule**”, which shall include a Target Concession Completion Date and a Longstop Concession Completion Date.  The Concessionaire must achieve Concession Completion on or prior to the Target Concession Completion Date and no later than the Longstop Concession Completion Date. It shall inform the Grantor if it expects to be unable to meet the Target Concession Completion Date.  The Target Concession Completion Date and Longstop Concession Completion Date shall be extended on a day-for-day basis when there is an Excusing Event.  If the Target Concession Completion Date cannot be achieved as a result of a failure to achieve the Target Completion Connections due to a Demand Event, such failure shall not be a Concessionaire Event of Default. If the Concessionaire so elects, Concession Completion shall be deemed to have occurred and the Concessionaire shall issue the Concession Completion Certificate on or before the Longstop Concession Completion Date. |
|  | **Demand Event** | 1. At the time of determination:    1. consumption of electricity by Connections within the Concession Area does not reach the projected demand assumed in the Demand Predictions; and    2. the number of Completed Connections achieved by the Concessionaire is below the Target Completion Connections,   and in each case, such event or events is/are not the result of the action or inaction of the Concessionaire or a Concessionaire Event of Default. |
|  | **Testing and Commissioning** | The Concessionaire shall develop the Commissioning and Testing Plan, with respect to the process and procedures for the technical commissioning and testing of the Mini-Grids, and submit it for approval by the Grantor and Independent Engineer at least two Months prior to the target date for the first Mini-Grid [*Site/Lot*] Technical Commissioning Date. At minimum, it should reflect the standard for commissioning and testing set forth in annex 1 (*Commissioning and Testing*) of schedule 6 (*Commissioning and Testing*) of the Concession Agreement. |
|  | **Mini-Grid Site/Mini-Grid Lot Technical Commissioning** | Large Mini-Grids will be commissioned on a per Mini-Grid Site basis, and Small Mini-Grids will be grouped together and commissioned by Mini-Grid Lot. Reference to Mini-Grid [*Site/Lot*] to be deleted as applicable for each Project.The Concessionaire shall give each of the Grantor and the Independent Engineer no less than [*fifteen (15)*] Business Days’ notice of the date proposed for the Mini-Grid[*Site/Lot*] Technical Commissioning tests and shall invite the Grantor and the Independent Engineer to witness the Mini-Grid[*Site/Lot*]Technical Commissioning tests. In the event that either the Independent Engineer or the Grantor is unable to attend the proposed date of the Mini-Grid [*Site/Lot*] Technical Commissioning tests, the Concessionaire shall provide alternative dates provided that any alternative date must be no later than [*seven (7)*] Business Days following the initial proposed testing date. Where it is not possible for either the Independent Engineer or the Grantor to attend the rescheduled Mini-Grid *[Site/Lot]* Technical Commissioning tests, the Concession Agreement provides for such tests to be rescheduled once more within [*seven (7)*] Business Days, following which they will take place without the Independent Engineer and/or the Grantor (as applicable) if they are still unable to attend.Upon completion of the Mini-Grid[*Site/Lot*]Technical Commissioning tests, if the Independent Engineer determines that there is pending or incomplete work to be implemented in respect of the Mini-Grid [*Sites within the Mini-Grid Lot*] (the “**Outstanding Works**”) before Mini-Grid [*Site/Lot*] Technical Commissioning can occur but that the Mini-Grid [*Sites within the Mini-Grid Lot*] [*is/are*] operationally functional: (i) the Independent Engineer shall instruct the Concessionaire to issue a Provisional Acceptance Certificate for [*that Mini-Grid/the Mini-Grid Lot*]; (ii) the Independent Engineer shall countersign the Provisional Acceptance Certificate and document in it the Outstanding Works to be completed by the Concessionaire; and (iii) the Concessionaire shall complete the Outstanding Works and upon completion, re-run the Mini-Grid [*Site/Lot*] Technical Commissioning tests before resubmitting a Final Acceptance Certificate to the Independent Engineer for approval.In respect of Mini-Grid Lots, where any Outstanding Works relate to the failure of a specific Mini-Grid Site or a limited number of Mini-Grid Sites, the Concessionaire shall be entitled to re-run the Mini-Grid Lot Technical Commissioning tests in respect of that specific Mini-Grid Site or those limited Mini-Grid Sites (as applicable) only, rather than in respect of each of the Mini-Grid Sites within the Mini-Grid Lot.Where the Independent Engineer determines that there are no Outstanding Works required in respect of the Mini-Grid [*Site/Lot*] or where Outstanding Works were required and have been completed to the satisfaction of the Independent Engineer: (i) the Independent Engineer shall instruct the Concessionaire to issue a Final Acceptance Certificate for that Mini-Grid; and (ii) the Independent Engineer shall countersign the Final Acceptance Certificate. Where the Independent Engineer does not respond to any request of the Concessionaire to confirm the Mini-Grid [*Site/Lot*] Technical Commissioning by instructing the Concessionaire to issue the Final Acceptance Certificate within [*seven (7)]* Business Days of the completion of the initial Mini-Grid *[Site/Lot]* Technical Commissioning test or any subsequent Mini-Grid Lot Technical Commissioning tests following the completion of Outstanding Works; or does not countersign the Final Acceptance Certificate issued by the Concessionaire on the instruction of the Independent Engineer or instruct the Concessionaire to issue a Provisional Acceptance Certificate confirming any Outstanding Works within [*seven (7)]* Business Days of the completion of the initial Mini-Grid [*Site/Lot*] Technical Commissioning tests or any subsequent Mini-Grid Lot Technical Commissioning tests following the completion of Outstanding Works, the Mini-Grid [*Site/Lot*] Technical Commissioning shall be deemed to have occurred and the Concessionaire shall inform the Grantor and the Independent Engineer of such deemed Mini-Grid [*Site/Lot*] Technical Commissioning. The date of such deemed Mini-Grid [*Site/Lot*]Technical Commissioning shall be the date the Final Acceptance Certificate was issued by the Concessionaire. |
|  | **Concession Commissioning** | “Concession Commissioning” means that:each Mini-Grid [*Site/Lot*] has achieved Mini-Grid [*Site/Lot*] Technical Commissioning;each Mini-Grid [*Site/Lot*] has commenced Mini-Grid Commercial Operations;in respect of each Mini-Grid [*Site/Lot*], the design and the Technical Standards are complied with; andin respect of each Mini-Grid [*Site/Lot*], the Environmental and Social Requirements are complied with; andthe Target Commissioning Connections, to be set forth in schedule 11 (*Milestone Completion*) of the Concession Agreement, have been achieved, and such Connections:comply with the required Customer Category Targets that apply for such Connections; andare Completed Connections (a Connection that has been supplied with electricity for a period of no less than [*three (3)*] Months, “**Completed Connections**”).Once:Mini-Grid [*Site/Lot*] Technical Commissioning has occurred in respect of the last Mini-Grid [*Site/Lot*] to achieve a Final Acceptance Certificate; andConcession Commissioning has occurred,the Concessionaire shall issue a Concession Commissioning Certificate, instruct the Independent Engineer to countersign such Concession Commissioning Certificate and provide a copy of the Concession Commissioning Certificate to the Grantor. Where the Independent Engineer does not respond to any request of the Concessionaire to confirm the Concession Commissioning by counter-signing the Concession Commissioning Certificate or confirming any Outstanding Works within [*seven (7)]* Business Days of the Concessionaire issuing the Concession Commissioning Certificate, Concession Commissioning shall be deemed to have occurred. |
|  | **Concession Completion** | 1. Concession Completionmeans the date on which the Concessionaire achieves the Target Completion Connections, as set forth in the Concession Completion Certificate. 2. When the Concessionaire has completed the targeted number of completion Connections [*a number to be agreed for each Concession*] (the “**Target Completion Connections**”), it shall submit a Concession Completion Certificate to the Independent Engineer for approval, detailing:    1. the number of Completed Connections;    2. the breakdown by Customer Category of the Completed Connections; and    3. the Target Connections within each Customer Category.   The Independent Engineer shall countersign the Concession Completion Certificate within [*seven (7)]* Business Days of receipt or explain any objections, following which the Concessionaire may correct and resubmit the certificate. Where the Independent Engineer does not respond to a request to confirm or reject Concession Completion, Concession Completion shall be deemed to have occurred on the date the Concessionaire issued the Concession Completion Certificate.  It is expected that a Milestone Schedule will be appended as a schedule to the Concession Agreement, and it will include the construction and target Connection milestones, broken down by Customer Categories per milestone. The Milestone Schedule is intended to mirror the milestones set forth in the Grant Agreement, which will allow the Concessionaire to apply for Grant amounts, namely:   * Milestone 1 – each Mini-Grid [*Site/Lot*] Technical Commissioning – which will entitle the Concessionaire to an advance payment of an allocated percentage of the total Grant amount available under the Grant Agreement prior to achieving the Concession Commissioning Date. * Milestone 2 – an “interim” Concession Commissioning milestone, which is only used as a milestone in the Grant Agreement, which is the achievement of [*50%*] of the Target Commissioning Connections ([*25%*] of the Target Completion Connections) – which would entitle the Concessionaire to an allocated percentage of the total Grant amount available under the Grant Agreement prior to achieving the Concession Commissioning Date. * Milestone 3 – Concession Commissioning, which would be the achievement of [*100%*] of the Target Commissioning Connections (being [*50%*] of the Target Completion Connections) – which would entitle the Concessionaire to an allocated percentage of the total Grant amount available under the Grant Agreement, which together with Milestone 1 and Milestone 2, would equal an aggregate amount of 50% of the total Grant amount available under the Grant Agreement. * Following Milestone 3, [*50%*] of the total Grant amount available under the Grant Agreement would remain available, and the Concessionaire would be entitled to apply for a Grant amount for each new Connection made after Concession Commissioning on a rolling basis, until such time as it has received the total Grant amount available under the Grant Agreement. The total Grant amount is based on a per connection amount for the Target Completion Connections so there will be no further Grant payments after Concession Completion is achieved. * Milestone 4 – Concession Completion. Pursuant to the Agreement, failure to achieve Concession Completion by the Longstop Concession Completion Date will result in a Concessionaire Event of Default. |
|  | **Concession Assets** | [*Include one of the following depending on the applicable legal regime, and if relevant*:]  The Grantor shall transfer ownership of any Existing Assets in the Concession Area required by the Concessionaire to perform the Project to the Concessionaire, free and clear of Liens and encumbrances, on or prior to the Concession Effective Date.  [**OR**]  The Grantor shall grant to the Concessionaire, free and clear of Liens and encumbrances, a right to use and take possession of any Existing Assets in the Concession Area required by the Concessionaire to perform the Project, on or prior to the Concession Effective Date, and such right shall be assignable to the Lenders under the Financing Agreements. |
|  | **Independent Engineer** | The Parties shall jointly appoint an Independent Engineer no later than the Concession Effective Date and shall ensure that an Independent Engineer is maintained for the Concession Period. The cost of the Independent Engineer shall be borne by the Concessionaire. The Independent Engineer shall be appointed from a pre-agreed list of engineers to be attached as annex 2 (*Independent Engineer List*) of schedule 16 (*Independent Engineer*) of the Concession Agreement (the “**Independent Engineer List**”).   1. The Independent Engineer shall:    1. review Access Rights;    2. review compliance with the Environmental and Social Requirements;    3. monitor construction progress [(*in the case of multiple small Mini-Grids, rather than large Mini-Grids, of an appropriate sample*)];    4. monitor compliance of equipment and material with specifications;    5. review the Design and any modifications [(*in the case of multiple small Mini-Grids, of an appropriate sample*)];    6. supervise equipment testing;    7. review the Commissioning and Testing Plan;    8. review and confirm commissioning certificates; and    9. analyse and assess any technical deviations. |
|  | **Customer Connection Points and Internal Wiring** | The Concessionaire will provide a Customer Connection Point for each customer, delivery of power to which shall be deemed to be delivery by the Concessionaire of electrical energy to that Customer. The Concessionaire will be responsible for installing, commissioning and maintaining such Customer Connection Points. Customers shall be responsible for the cost of any wiring or installation downstream of the Customer Connection Point.  [*Insert responsible government authority*] will be responsible for ensuring the conformity of a Customer’s Internal Wiring (defined as all wiring downstream of the Customer Connection Point that is situated on Customer property, the “**Internal Wiring**”) with applicable standards. The Concessionaire is authorised by the Grantor to carry out preliminary Internal Wiring Checks in respect of the Internal Wiring of that Customer. Where it is satisfied, the Concessionaire shall be authorised to issue a certificate approving the Connection of the Internal Wiring to the Distribution Network (a “**Preliminary Compliance Certificate**”), if the [*insert responsible authority*] has not done so in a timely manner, in order to facilitate Connections, but shall not bear any liability in respect of faulty or inadequate Internal Wiring.   1. Where a Customer has existing Internal Wiring that:    1. does not conform with the Internal Wiring Standards (to be set out in annex 1 (*Equipment Standards*) of schedule 4 (*Technical Standards*) of the Concession Agreement); and/or    2. the Concessionaire considers to be unsafe,   the Concessionaire shall be entitled to refuse to connect the Customer. |
|  | **Street Lighting** | The Concessionaire shall construct, operate and maintain Street Lighting at its cost, in accordance with Street Lighting standards specified in the Concession Agreement. |
|  | **General Reporting Requirements** | The Concessionaire shall report to the Grantor on the progress of the Concession Works every *[three (3)]* Months until and including the relevant Mini-Grid [*Site/Lot*] Technical Commissioning Date.  The Concessionaire shall connect to the Electronic Operating Platform, which shall be capable of allowing the Grantor to monitor operating standards remotely. To the extent remote monitoring is not possible, the Concessionaire shall provide the Grantor with quarterly reports of matters that cannot be electronically monitored.   1. The Concessionaire shall update the agreed Financial Model following:    1. the Concession Effective Date;    2. any Additional Funding or Expansion Financing;    3. the Concession Completion date;    4. each Tariff Review Date, as described in Section 41 and in Schedule 1 (*Tariff Regulation*) of this Term Sheet; and/or    5. the assessment of any Supplemental Tariff as a result of an Extraordinary Tariff Event. |
|  | **Environmental and Social Requirements** | 1. The Concessionaire shall abide by:    1. relevant IFC Performance Standards on Environmental and Social Sustainability dated 1 January 2012 (“**IFC Performance Standards**”);    2. relevant World Bank Group Environmental, Health and Safety Guidelines applicable to the construction and operation of the Mini-Grids included in the Concession Area; and    3. all Applicable Laws in respect of health, safety and the environment.   The Concessionaire, through its employees, Agents, Contractors and subcontractors, shall ensure that the Design, construction, operation, maintenance, management and monitoring of the Mini-Grids, the Mini-Grid Sites and all other Concession Assets and the provision of any Additional Services shall comply with the Environmental and Social Requirements.  **OPTION 1 – LARGE MINI-GRID SITES**   * 1. The Concessionaire shall implement the Environmental and Social Scoping Study and, in accordance with the Environmental and Social Scoping Study, develop:  an environmental and social impact assessment (ESIA) for each Mini-Grid Site; anda Stakeholder Engagement Plan.  * 1. Following the finalisation of the ESIA for each Mini-Grid Site and the Stakeholder Engagement Plan, the Concessionaire shall comply with each ESIA and the Stakeholder Engagement Plan.   2. From the Mini-Grid [*Site/Lot*] Technical Commissioning Date for each Mini-Grid Site, the Concessionaire shall, on [*a semi-annual/an annual*] basis, provide to the Grantor an E&S Monitoring Report in respect of that Mini-Grid Site.[[6]](#footnote-7)   **OPTION 2 – MULTIPLE SMALL MINI-GRID SITES**   * 1. The Concessionaire shall:      1. implement the E&S management framework (ESMF) developed for the Concession Area; and      2. shall develop an E&S management plan (ESMP), which shall cover each Mini-Grid Lot and be developed and implemented by the Concessionaire based on the recommendations set forth in the ESMF.   2. Following the finalisation of the ESMP, the Concessionaire shall comply with the ESMP.   3. From the Mini-Grid Lot Technical Commissioning Date for each Mini-Grid Lot, the Concessionaire shall, on [*a semi-annual/an annual*] basis, provide to the Grantor an E&S Monitoring Report in respect of that Mini-Grid Lot. |
|  | **Service Standards** | The Concessionaire shall comply with Service Standards (defined as service standards that shall apply to each Mini-Grid from its Mini-Grid *[Site/Lot]* Technical Commissioning Date, to be set forth in schedule 5 (*Service Standards*) of the Concession Agreement, “**Service Standards**”) to be specified for each category of Customer.  Any material Service Standard failure that affects [*insert percentage*][[7]](#footnote-8) or more Connections across the Concession Area for a continuous period of at least [*six (6)*] Months (a “**Persistent Service Standard Failure”**) will be a Concessionaire Event of Default. In jurisdictions where the Regulator may already apply a specific penalty regime for Service Standard failures, optionality has been included in the Concession Agreement to allow the application of different remedies in the event of a Persistent Service Standard Failure, which includes an reset of the Tariff Cap (please see Schedule 1 of this Term Sheet), or for the Concessionaire to compensate customers affected by the Persistent Service Standard Failure by way of a rebate on their prepayment accounts, calculated in accordance with compensation set by the Regulator. This provision will need to be adapted as necessary where there is an existing penalty regime. |
|  | **Customers and Customer Agreements** | 1. The Concessionaire shall connect its Distribution Network to any Person within the Concession Area, subject to:    1. a Customer entering into a Customer Agreement;    2. a Customer paying in full any connection fee required;    3. its right to disconnect or remove any illegal Connections or to suspend supply to any Person illegally connected to the Distribution Network, in compliance with Applicable Law;    4. where the balance of any prepaid Customer account has reached zero and the customer does not make any further prepayment on that account for a period of no less than [*twelve (12)*] Months, the Concessionaire’s right to disconnect such Customer and remove and redeploy the equipment in respect of that Customer Connection;    5. [*its right to disconnect or discontinue any supply where the relevant Customer has failed to pay within [*    6. *30] Business Days of payment being due*][[8]](#footnote-9); and    7. the Concessionaire connecting any Off-Grid Customers at its discretion or, at its choice, supplying Off-Grid Customers by means of a solar generation system.   An **Off-Grid Customer** means any Person within the Concession Area who the Concessionaire (acting reasonably) considers it would not be economically feasible to connect to a Distribution Network but who may be supplied with a Concessionaire Solar Home System.  The Concessionaire shall be entitled to connect Off-Grid Customers by way of a Concessionaire Solar Home System, provided that Solar Home Systems do not comprise more than [*insert percentage*][[9]](#footnote-10) of the Connections within the Concession Area.  The Concessionaire’s agreement with each Customer shall include provisions reflecting the general service and Technical Standards of the Concession.  Large Customers are those customers whose peak demand is expected to exceed [250] kilowatts (“**kW**”).  Where a Large Customer requires a service level that is higher than the Service Standards that it is entitled to, as set forth under schedule 5 (*Service Standards*) of the Concession Agreement, the Concessionaire and that Large Customer may enter into a contract for the Concessionaire to provide such higher levels of service to that Large Customer. The contract must specify:   * + - * 1. the service levels and standards to be provided by the Concessionaire to that Large Customer; and         2. the charges that the Large Customer shall pay for those service levels and standards   (a “**Bilateral Contract**”). Any Large Customer who enters into a Bilateral Contract will be designated a “**Special Customer**”.  The tariff, service levels and standards applicable to a Special Customer shall be governed by the Bilateral Contract and not by the tariff schedule and shall, for the duration of its term, be excluded: (a) when calculating the Average Tariff for a Quarter (as defined in Schedule 1 of this Term Sheet); and (b) from the restriction of the Tariff Cap (as defined in Schedule 1 of this Term Sheet). Notwithstanding the request of a Large Customer to enter into a Bilateral Contract, the Concessionaire shall not be obligated to accept a Large Customer as a Special Customer. |
|  | **Change of Ownership Interests** | 1. No Change of Control[[10]](#footnote-11) of the Concessionaire will be permitted during the Concession Period[[11]](#footnote-12) without the prior written consent of the Grantor other than:    1. any transfer required by any Applicable Law or by the operation of Applicable Law or by order of a court, tribunal, or government authority or agency with appropriate jurisdiction;    2. any transfer resulting from the creation or enforcement of a security interest by the Lenders pursuant to the Financing Agreements;    3. any transfer to a political risk insurance provider resulting from the enforcement of a political risk insurance policy;    4. any transfer between a sponsor and any Affiliate of such sponsor that is, directly or indirectly, wholly owned by the Sponsor or owns one hundred per cent (100%) of the Ownership Interests in the Sponsor (a “**Sponsor Affiliate**”); or    5. where any Ownership Interest has been transferred to an Affiliate of the Sponsor in accordance with (d) above, any transfer by that Affiliate to another Sponsor Affiliate.   Any change to the Ownership Interest of the Concessionaire that is not a Change of Control must be notified by the Concessionaire to the Grantor and will not be permitted to be made to a Prohibited Person (defined as a Person who – or who is owned or Controlled by, or is under the management, in any capacity of, any Person who – has been named on a list of sanctioned Persons promulgated by the United Nations Security Council or its committees pursuant to resolutions under Chapter VII of the Charter of the United Nations; or has been named on the World Bank’s list of ineligible firms (see [www.worldbank.org/debarr](http://www.worldbank.org/debarr), a “**Prohibited Person**”). With respect to the Grantor, any change in ownership of the Grantor from the Signing Date will require the prior approval of the Concessionaire [(*such approval cannot be unreasonably withheld*)]. |
|  | **Grid Expansion** | A “**Grid Expansion**” means any expansion of the Grid into the Concession Area by a Governmental Authority or any Person authorised by a Governmental Authority, or any private Person.  The Grantor will warrant that the Concession Area is not currently serviced by the national/regional electricity grid and is not part of an existing Grid Expansion plan intended to be implemented within [*five (5)*] years of the Target Concession Effective Date.  The Grantor shall inform the Concessionaire no less than [*twelve* (*12)*] Months (“**Grid Expansion Notice Period**”) in advance of any Grid Expansion of the Grid into the Concession Area (“**Grid Expansion Notice**”), and the Grid Expansion Notice shall include the date of the proposed Grid Expansion (the “**Grid Expansion Termination Date**”).  Any Grid Expansion without notice will be treated as an Expropriation.  [*Select either of the following options as appropriate*:]  The Concession Agreement shall terminate upon any Grid Expansion in accordance with the provisions for Termination for Grid Expansion, or where the Grid Expansion is not Concession Wide, the affected Mini-Grid Site/Lot may be Removed.  [OR]   1. The Concessionaire shall have [*nine (9)*] Months from the receipt of the Grid Expansion notice to elect, following such expansion, whether to:    1. terminate the Concession Agreement in accordance with the provisions for Termination for Grid Expansion, or where a Grid Expansion is not Concession Wide, to Remove the affected Mini-Grid Sites/Lots; or    2. continue to operate its Generation and Storage Assets and transfer its Distribution Assets in the Concession Area or, where a Grid Expansion is not Concession Wide, to continue to operate its Generation and Storage Assets in the affected Mini-Grid Sites/Lots and transfer its Distribution Assets in the affected Mini-Grid Sites/Lots only, to the Grantor or its designee, such election being to continue as a “**Small Power Producer**”; or    3. continue to operate its Distribution Assets and transfer its Generation and Storage Assets in the Concession Area or, where a Grid Expansion is not Concession Wide, to continue to operate the Distribution Assets at the affected Mini-Grid Sites/Lots and transfer the Generation and Storage Assets in the affected Mini-Grid Sites/Lots only, to the Grantor or its designee, such election being to continue as a “**Small Power Distributor**”; or    4. terminate the Concession Agreement and continue to operate and maintain the Mini-Grids as Interconnected Mini-Grids, or, where a Grid Expansion is not Concession Wide, Remove the affected Mini-Grid Sites/Lots and continue to operate and maintain them as interconnected Mini-Grids, such election being to continue as an “**Interconnected Mini-Grid**”.   If the Concessionaire is unable to agree to a new arrangement within the [nine (9)] Month decision period, it will be required to terminate the Concession Agreement or, where a Grid Expansion is not Concession Wide, Remove the affected Mini-Grid Site/Lot. |
|  | **Consents** | “**Consents**” means any applicable approval, consent, authorisation, exemption (including waiver), licence, order or permit of or duly issued by any Governmental Authority required for the due performance by either Party of any covenant or obligation hereunder and includes the Initial Consents.  “**Initial Consents**” are specific Consents which will be identified by the Parties, to be set forth in schedule 15 (*Initial Consents*) of the Concession Agreement.  The Concessionaire shall make or cause to be made to the relevant Governmental Authority, in a timely fashion, all required or appropriate applications (whether initial or renewal applications) for all Consents it is obligated to obtain pursuant to the Concession Agreement or Applicable Law for purposes of the Concession Works or Concession Services or the implementation of the Project, and shall ensure the payment in full of all fees required to be paid by the Concessionaire in respect of such Consent applications. The information supplied in the applications shall be complete and accurate in all material respects and shall satisfy the requirements of Applicable Law. Subject to the Concessionaire’s compliance with the foregoing, the Grantor shall, or shall cause each relevant Governmental Authority to, grant or issue in a timely manner the Consents applied for by the Concessionaire, including renewals of such Consents or re-issuances of such Consents.  The Grantor shall not, and shall procure that each relevant Governmental Authority does not, repudiate, terminate or cancel any Consent, whether obtained before or after the Signing Date, provided that the Concessionaire is not in material breach of any of the terms and conditions of such Consent (other than breaches resulting from a Change in Law).   1. Subject to compliance with Applicable Law and provided that the Concessionaire shall make or cause to be made all applications required to be made by the Concessionaire and its Contractors (as applicable) in a timely manner, and shall ensure the payment in full of all fees required to be paid by the Concessionaire and/or its Contractors (as applicable) for such applications, the Grantor shall ensure, and shall cause all relevant Governmental Authorities to ensure:    1. that the Concessionaire and its Contractors are entitled to import without restriction all equipment required for the Design, construction, installation, operation and maintenance of the Mini-Grids, including spare parts and replacements to the spare parts inventory;    2. that the Concessionaire and its Contractors are entitled to export without restriction all items of plant and machinery imported by it or them for the Project, for the purpose of repair or refurbishment, or sale of obsolete equipment, outside the Host Country and, in the case of repaired or refurbished equipment, to re-import the same; and    3. the expeditious issue of work permits, employment passes, visas and other associated permits to technically qualified individuals involved in the Design, financing, construction, installation, insuring, operation or maintenance of the Mini-Grids on behalf of the Concessionaire and/ or any Contractor.   Where a Consent is not to be granted by either the Grantor or a Governmental Authority, the Grantor shall provide all necessary support to the Concessionaire in obtaining such Consents.  The Concessionaire shall make timely application for all required Consents, supply complete and accurate information, diligently pursue such applications, and pay all required fees.  [*Any required Mini-Grid, generation or distribution licence shall be issued for a minimum period at least equal to the Concession Period or, where that is not legally possible, shall be renewed or re-issued to the Grantor on its expiry, for so long as is necessary for the Concessionaire to maintain the licence until the end of the Concession Period, provided that the Concessionaire is not in breach of its material obligations thereunder*.] |
|  | **Lapse of Consent** | A “**Lapse of Consent**” means:   1. the revocation of any Consent by a Governmental Authority; 2. subject to paragraphs (e) and (f) below, the failure to issue, renew or reissue, a Consent within [*thirty (30)*] BusinessDays of application by the Concessionaire for that Consent to be issued, renewed or reissued, as the case may be, and as a result the Concessionaire’s ability to perform its obligations under the Transaction Documents, EPC Contract or Operating Services Agreement is materially and adversely affected; 3. any Consent being made subject, subsequent to its granting, on renewal or otherwise, to any terms or conditions that materially and adversely affects the economic return of the Project and/or the Concessionaire’s ability to enjoy its rights and/or perform its obligations under the Transaction Documents, EPC Contract or Operating Services Agreement; 4. the change or modification of a Consent by a Governmental Authority (other than a change or modification of a Consent requested by the Concessionaire); 5. in the case of a customs clearance or other import-related approval, the non-issuance of any Consent required solely to import any item required for the Design, construction, installation, operation or maintenance of the Mini-Grids within [*twenty (20)*] Business Days of application by the Concessionaire or a Contractor(s); 6. in the case of any Consent required by a Contractor (other than any Consent contemplated by paragraph (a) above), the failure to issue, renew or reissue such Consent within [*twenty (20)*] Business Days of the application by either the Contractor(s) or the Concessionaire for that Consent to be issued, renewed or reissued, as the case may be, and as a result the (relevant) Contractor’s ability to perform its obligations under the EPC Contract(s) or Operating Services Agreement is materially and adversely affected; or 7. [*in relation to the* ………… *[Mini-Grid Licence/Generation or Distribution Licence] and/or* ………… *[insert any other key operational licence], a failure by the Governmental Authority to issue the* ………… *[insert relevant Mini-Grid Licence/Generation or Distribution Licence*],   in each instance despite the Concessionaire’s compliance with the applicable procedural and substantive requirements of Applicable Laws in respect of the relevant Consent.  Any Lapse of Consent will be a Political Force Majeure Event. |
|  | **Foreign Currency Exchange and Transfer of Funds** | *Generally*  The foreign currency exchange and transfer abroad of all funds related to the Concession will be governed by Applicable Law.  *Availability*  If Foreign Currency required for the Project (including meeting obligations under the related Project Agreements, making payments to foreign Contractors or advisors, making distributions to Shareholders of the Concessionaire, making required payments to Lenders and insurers or political risk insurers or in connection with required banking arrangements and reserving funds, or making debt payments or paying the provider of credit enhancement products, in connection with the enforcement by Lenders over any collateral security) is not available in required amounts through normal banking channels (subject to the Concessionaire having used its reasonable endeavours to seek the Foreign Currency for a period of no less than [*sixty (60)*] Days), then the Concessionaire shall promptly apply to the Grantor in writing and the Grantor shall, no later than [*thirty (30)*] Days following the date of the Concessionaire’s application, pay to the Concessionaire Foreign Currency in the amount required to make the relevant payments, in exchange for local currency at the Exchange Rate applicable on the date the Concessionaire first sought to convert the relevant local currency.  *Foreign Bank Accounts*  The Concessionaire shall be permitted to maintain foreign bank accounts.  *Free Transfer of funds*  The Concessionaire shall be permitted to transfer funds onshore to offshore to carry out the Concession and related matters.  If any restriction exists on the free and immediate transfer of Foreign Currency outside the Host Country, the Grantor shall (within [*three (3)*] Business Days of receipt of an application from the Concessionaire) remove any such restrictions in respect of the Concessionaire, or procure that any relevant Governmental Authority lifts such restrictions in respect of the Concessionaire, so that all amounts of Foreign Currency currently held by the Concessionaire within the Host Country are capable of being paid to an offshore account nominated for receipt of such Foreign Currency by the Concessionaire. |
|  | **Representations and warranties** | 1. Each Party shall make standard representations and warranties for a concession agreement of this type, including in respect of:    1. corporate existence;    2. power and authority;    3. execution and delivery;    4. enforceability;    5. disclosure of information;    6. no litigation;    7. compliance with Applicable Law;    8. Anti-Corruption Laws/Sanctionable Practices; and    9. sanctions[[12]](#footnote-13). |
|  | **Insurance** | The Concessionaire shall obtain and maintain insurance in accordance with Good Industry Practice, to be specified in further detail in the Concession Agreement. The Concessionaire may obtain insurance beyond these requirements at its discretion.  The Concessionaire shall not be required to take out any insurance if it is not available in the international or local insurance market or if it is (or any required term or condition of it is) not available on commercially reasonable terms. In this event, the Concessionaire shall notify the Grantor, consult with the Grantor as to the steps it will take to seek to mitigate such unavailability and shall, upon the reasonable request of the Grantor, approach the international and local insurance market at reasonable intervals at least Monthly, to determine whether the relevant circumstances have ceased to apply. Until such time as the insurance becomes available, the Grantor shall provide the Concessionaire with any shortfall in the amounts that it would otherwise have been able to recover under the required insurance.  Subject to the terms of the Financing Agreements, the Concessionaire shall apply any recoveries under Insurances to the repair or reinstatement of any lost or damaged Mini-Grid assets.  The Concessionaire shall inform the Grantor of any occurrence that could result in a claim above [*state threshold amount*]. |
|  | **Other Covenants** | The Concessionaire agrees that its sole activities shall be the Design, financing, construction, installation, insuring, operation and maintenance of the Mini-Grids included in the Concession Area and the provision of the Additional Services, and that it will not engage in any other activities without the prior written consent of the Grantor (which the Grantor may exercise in its sole discretion).  Each Party will abide by typical undertakings with respect to Sanctionable Practices and sanctions. |
|  | **Extraordinary Tariff Event** | 1. An Extraordinary Tariff Event means:    1. a Change in Law;    2. a Political Force Majeure Event (other than a Change in Law); or    3. any Grantor Event of Default.   Upon the occurrence of an Extraordinary Tariff Event that results in an increase in costs incurred by the Concessionaire and/or a decrease in the revenues received by the Concessionaire (a “**Cost/Revenue Impact**”), the Concessionaire shall be entitled to be compensated for the Cost/Revenue Impact attributable to that Extraordinary Tariff Event through the charging of a Supplemental Tariff, provided that it notifies the Grantor and the Regulator of that Extraordinary Tariff Event (please see Section 42 for a separate summary of an Supplemental Tariffs). |
|  | **Tariff Schedule and Tariff Cap** | 1. *Please see Schedule 1 to this Term Sheet for more detail on tariff regulation. Capitalised terms in this section not already defined in this Term Sheet refer to those set out in Schedule 1 of this Term Sheet.*   *Tariff Schedule*  The Concessionaire will charge its Customers for the sale and supply of electrical power and the provision of any Additional Services in accordance with the tariffs set forth in a schedule of charges the Concessionaire shall apply to its Customers (other than Special Customers) (the “**Tariff Schedule**”), as may be amended from time to time in accordance with the tariff provisions in the Concession Agreement.  The Concessionaire shall set its Tariff Schedule and set and reset the Tariff Cap in accordance with the tariff setting and adjustment formulas and methodology set forth in Schedule 1 (*Tariff Regulation*).[[13]](#footnote-14)  The Tariff Schedule[[14]](#footnote-15) will be determined by the Concessionaire, but it will be required to allocate tariffs according to: (i) Customer Category; and (ii) the applicable Services Standards. The Concessionaire may create additional Customer Categories and services to be provided for purposes of the tariff schedule, provided that the criteria for any additional Customer Category and services are defined clearly, objectively and rationally, so that each customer can be clearly assigned a customer category and all customers who satisfy the same criteria are included in the same customer category.  *The Concessionaire will publish its Tariff Schedule[[15]](#footnote-16) [on its website] no later than [ninety (90) Days] prior to the first Mini-Grid Technical Commissioning Date and thereafter maintain the Tariff Schedule [on its website], ensuring that the published Tariff Schedule is updated to reflect any changes to such Tariff Schedule permitted in pursuant to the Concession Agreement*.  The Concessionaire must ensure that the Tariff Schedule is not expected to produce an Average Tariff for a Quarter that exceeds the Tariff Cap applicable for the respective Quarter. Any Supplemental Tariff shall be excluded from the calculation of the Average Tariff for a Quarter.  *Tariff Cap*  The Starting Tariff Cap will be set as described in Clause 3.1 (*Starting* *Tariff Cap*) of Schedule 1 of this Term Sheet. |
|  | **Tariff Periods** | There will be several Tariff Periods (as described in Clause 2 (*Tariff Periods*) of Schedule 1 of this Term Sheet) during the Concession Period.  The first Tariff Period will start on the first Mini-Grid [*Site/Lot*] Technical Commissioning Date and shall end on the date falling [*five (5)*] Years thereafter or, where that date is not an Automatic Tariff Cap Adjustment Date (as defined in Section 41 below), on the next Automatic Tariff Cap Adjustment Date falling after that date.  Each subsequent Tariff Period will start on the last day of the previous Tariff Period (not including such date) and shall end on the date falling [*five (5)*] Years thereafter, except for the last Tariff Period, which shall end on the earlier to occur of:   * 1. the date falling [five (5)] Years after the last day of the previous Tariff Period (not including such date); and   2. the date of expiry or Termination (as applicable) of the Concession Agreement.   The Tariff Cap at the start of the first Tariff Period will be the Starting Tariff Cap, as set forth in Clause 3.1 (*Starting Tariff Cap*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet. |
|  | **Tariff Adjustments** | 1. *Capitalised terms used in this Section 41 but not previously defined in this Term Sheet or defined in this Section 41 will have the meanings given to them in Schedule 1 (Tariff Regulation) of this Term Sheet.* 2. *Automatic Tariff Cap Adjustment Date* 3. Automatic Tariff Cap Adjustment Date means the day prior to the start of each Quarter.[[16]](#footnote-17)   *Automatic Tariff Cap Adjustment* As described in Clause 3.2 (*Indexation of Tariff Cap*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet, the Tariff Cap shall be reset on each Automatic Tariff Cap Adjustment Date to allow for changes to the Exchange Rate, Consumer Price Index (CPI) and Fuel Price.*Periodic Tariff Review*The Tariff Cap shall be periodically reset following each Tariff Review Date, in accordance with the formulas set forth in Clause 4 (*Periodic Reset of Tariff Cap*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.“**Tariff Review Date**” means the date falling [•][[17]](#footnote-18) Days prior to the end of each Tariff Period.  1. *Supplemental Tariff* 2. Following the occurrence of an Extraordinary Tariff Event that has a Cost/Revenue Impact, the Concessionaire shall be entitled to charge a Supplemental Tariff. Please see Section 42 below. |
|  | **Extraordinary Tariff Event Supplemental Tariff** | 1. *Capitalised terms used in this Section 42 but not previously defined in this Term Sheet or defined in this Section 42, will have the meanings given to them in Schedule 1 (Tariff Regulation) of this Term Sheet.*    1. Upon the occurrence of an Extraordinary Tariff Event after the Concession Effective Date, the Concessionaire shall be entitled to be compensated for any Cost/Revenue Impact attributable to that Extraordinary Tariff Event through the charging of a Supplemental Tariff. The Concessionaire shall notify the Grantor and the Regulator, if applicable, of that Extraordinary Tariff Event no later than [*fourteen (14)*] Business Days after it becomes aware of the occurrence of that Extraordinary Tariff Event.    2. Where an Extraordinary Tariff Event has a Cost/Revenue Impact, the Concessionaire shall:       1. determine whether the Extraordinary Tariff Event is a Temporary Extraordinary Tariff Event or a Non-Temporary Extraordinary Tariff Event; and       2. shall establish a TEE Account and/or an EE Account (as relevant) to record the Cost/Revenue Impact attributable to that Extraordinary Tariff Event.   *Temporary Extraordinary Tariff Event*   1. A “**Temporary Extraordinary Tariff Event**” means an Extraordinary Tariff Event where the Cost/Revenue Impact attributable to that Extraordinary Tariff Event is expected to cease prior to the end of the Concession Period.   Where an Extraordinary Tariff Event is a Temporary Extraordinary Tariff Event, the Concessionaire shall:   * 1. record the Cost/Revenue Impact attributable to that Temporary Extraordinary Tariff Event in a TEE Account (as described in Clause 5 (*Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet, from the date of the start of the Extraordinary Tariff Event until the Impact End Date (defined as the end of the Cost/Revenue Impact attributable to that Extraordinary Tariff Event, the “**Impact End Date**”), in accordance with Clauses 5.1(a) and (b) (*Compensation for Temporary Extraordinary Tariff Event*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet); and   2. as soon as practicable following the Impact End Date, the Concessionaire shall notify the Grantor and the Regulator, if applicable, of the balance in the TEE Account attributable to the Temporary Extraordinary Tariff Event and the Concessionaire shall be compensated for the Cost/Revenue Impact by charging a Supplemental Tariff, in accordance with Clause 5.1(c) (*Disposition of the TEE Account when the Temporary Extraordinary Event has ceased*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.  1. *Non-Temporary Extraordinary Tariff Event* 2. A “**Non-Temporary Extraordinary Tariff Event**” means an Extraordinary Tariff Event where the Cost/Revenue Impact attributable to that Extraordinary Tariff Event is expected to apply for the Concession Period.  Where an Extraordinary Tariff Event is a Non-Temporary Extraordinary Tariff Event:  * 1. the Concessionaire shall record the Cost/Revenue Impact attributable to that Non-Temporary Extraordinary Tariff Event in an EE Account (as defined in Schedule 1 (*Tariff Regulation*) of this Term Sheet), from the date of the start of the Extraordinary Tariff Event until the start of the next Tariff Period, in accordance with Clauses 5.2(a) and (b) (*Compensation for Non-Temporary Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet); and   2. on each Tariff Review Date following the occurrence of an Extraordinary Tariff Event, the Concessionaire shall notify the Grantor and the Regulator, if applicable, of the balance in the EE Account and the Concessionaire shall be compensated for the Cost/Revenue Impact by charging a Supplemental Tariff in accordance with Clause 5.2(c) (*Disposition of the EE Account in the next Tariff Period*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet).  1. *Termination*  Upon a Termination after the Concession Effective Date, an amount equal to the balance of the Total Extraordinary Tariff Event Balance (as defined in Clause 5 (*Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet) on the Termination Date shall be paid to the Concessionaire by the Grantor. |
|  | **Compensation in lieu of a Tariff Cap Adjustment or the charging of a Supplemental Tariff** | 1. In the event that:    1. within [•] Days of any request, the Regulator fails to respond or prevents a reset of the Tariff Cap (in whole or in part) or the charging of a Supplemental Tariff (in whole or in part) to which the Concessionaire is entitled in accordance with the provisions that will be set forth in clause 11 (*Tariffs*), clause 17.11 (*Extraordinary Tariff Adjustment*) and schedule 8 (*Tariff Regulation*) of the Concession Agreement (set out in Schedule 1 of this Term Sheet); or    2. the Grantor or any Governmental Authority requests that any items (including tariffs and Supplemental Tariffs) in the Tariff Schedule are set at a lower level than the level to which the Concessionaire is entitled in accordance with the provisions for tariff adjustment that will be set forth in clause 11 (*Tariffs*), clause 17.11 (*Extraordinary Tariff Adjustment*) and schedule 8 (*Tariff Regulation*) of the Concession Agreement (set out in Schedule 1 of this Term Sheet),  (each of (a) and (b) above a “**Reduction Event**”), the Grantor shall compensate the Concessionaire for that Reduction Event, in accordance with Section 43(c) below.  * 1. Upon the occurrence of a Reduction Event, the Grantor shall pay to the Concessionaire on each Automatic Tariff Cap Adjustment Date falling after the occurrence of a Reduction Event the Tariff Cap Loss Amount notified to it by the Concessionaire at least [*three (3)*] Business Days prior to each Automatic Tariff Cap Adjustment Date. |
|  | **Billing** | Customers shall be billed in [*specify local currency*].  [*Special Customers may be billed in a Foreign Currency*]. |
|  | **Financing** | 1. The Concessionaire may procure funding for the Design, construction, operation and maintenance of the Mini-Grids by way of Debt and Equity.   The Concessionaire may raise additional Equity and incur additional Debt financing during the Concession Period to fund any Expansion in the Mini-Grids (“**Expansion Financing**”) and shall notify the Grantor in writing of such additional Expansion Financing.  If the Concessionaire determines that additional Debt is necessary during the Concession Period to fund additional costs not related to an Expansion or to refinance its Debt during the Concession Period (any “**Additional Funding**”), it shall be permitted to incur such Additional Funding. The Concessionaire shall be entitled to charge or assign its rights and interest under the Concession Agreement in favour of the Lenders; and subject to the terms and conditions of any Financing Agreement and any political risk insurance policy or guarantee, assign to any political risk insurer all or any part of its rights and interests under or pursuant to the Concession Agreement. The Grantor shall, as soon as reasonably practicable following a request by the Lenders or their agent, enter into the Direct Agreement with the Lenders (or their Agent) and the Concessionaire to enable Financial Close to occur.  The Concessionaire shall be entitled to receive all applicable payments of Viability Gap Funding[[18]](#footnote-19) (defined as grants to be made available to the Concessionaire under the Grant Agreement on achieving certain Connection milestones set forth therein, the “**Viability Gap Funding**”) under the Grant Agreement to be entered into between [*insert relevant entity*] and the Concessionaire free and clear of any and all taxes, withholding, stamp duties and registration fees under Applicable Law. |
|  | **Force Majeure Event** | 1. A “**Force Majeure Event**” shall mean any event or circumstance or combination of events or circumstances, and the effects thereof, beyond the reasonable control of a Party occurring on or after the Signing Date that materially and adversely affects the ability of that Party to perform any of its obligations or, in respect of the Concessionaire to enjoy its rights and benefits, under or pursuant to the Concession Agreement (the “**Affected Party**”) provided that:    1. such circumstance, event or condition, despite the exercise of diligence, cannot be reasonably prevented, avoided or overcome by the Affected Party;    2. the Affected Party has taken all reasonable precautions, due care and measures to prevent, avoid or overcome the effect of such circumstance, event or condition on its ability to perform its obligations under the Concession Agreement and to mitigate its consequences; and    3. such circumstance, event or condition is not the direct or indirect result of a breach or failure by the Affected Party to perform any of its obligations under the Concession Agreement or any other Transaction Document.   A Force Majeure Events include Political Force Majeure Events and Natural Force Majeure Events, provided that with respect to a Political Force Majeure Event, only the Concessionaire may be an Affected Party.   1. Force Majeure Events do not include:    1. normal wear and tear in materials and equipment or breakdowns in equipment due to normal wear and tear;    2. any solar resource variability caused by expected and foreseeable changes in meteorological conditions; and    3. any failure to make a payment of money in accordance with the Affected Party’s obligations. |
|  | **Political Force Majeure Event** | 1. “**Political Force Majeure Event**” means any of the following events or circumstances or any combination of events and/or circumstances, and the effects thereof, occurring inside or directly involving the Host Country (provided that they fall within the definition of Force Majeure Event):    1. any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, border dispute, embargo, civil war or revolution;    2. radioactive contamination or ionising radiation originating from a source in the Host Country or resulting from another Political Force Majeure Event;    3. any riot, insurrection, civil commotion, act or campaign of terrorism that is of a political nature, including actions associated with or directed against the Concessionaire (or its Contractors);    4. any act of sabotage against the Mini-Grids (excluding any act of sabotage against the Mini-Grids solely by any employee or employees of the Concessionaire or any of its Contractors and where such act of sabotage is not politically motivated);    5. an Expropriation;    6. any strike, lock-out, work-to-rule or go-slow that extends beyond the Mini-Grids, does not involve solely the workforce of the Concessionaire and its Contractors, and is:       1. part of an industry-wide, country-wide or region-wide strike, work-to-rule or go-slow; or       2. by the employees of any Governmental Authority;    7. a Lapse of Consent;    8. any Change in Law that:       1. makes unenforceable, invalid or void any material obligation of the Grantor under the Concession Agreement or any other Governmental Authority under any Transaction Document;       2. makes it unlawful for the Concessionaire or the Contractors to make or receive any payment, to perform any material obligation or to enjoy or enforce any material right under any Consent, the Concession Agreement or any other Transaction Document; or       3. places material restrictions or limitations on the ability of the Concessionaire to be paid in or to receive Foreign Currency or to pay its Lenders in Foreign Currency, or for any Foreign Sponsors (defined as Sponsors who are not incorporated under Applicable Law, the “**Foreign Sponsors**”) to repatriate any dividends (or distributions of capital or payments in respect of Equity) from the Concessionaire to any Foreign Sponsor, which restrictions or limitations remain in place for more than one hundred and eighty (180) Days without an arrangement being provided to exempt the Concessionaire or its Foreign Sponsors from all such restrictions and limitations; or    9. [*any unilateral modification of any tariff set forth in the Tariff Schedule by a Governmental Authority/Regulator (including, within [•] Days of any request for approval, (a) a failure to allow the implementation of a tariff setting or resetting pursuant to the formulas and methodology for tariff setting and adjustment (in whole or in part) or the charging of a Supplemental Tariff (in whole or in part) as set forth in Schedule 1 (Tariff Regulation), or (b) a failure by the Regulator to respond to any such request), except where the Grantor compensates the Concessionaire for a failure by the Regulator to set the Tariff Cap in accordance with Section 43 (Compensation in lieu of Tariff Cap Adjustment*)];[[19]](#footnote-20)    10. any archaeological or paleontological remains or anything related to the Host Country’s cultural heritage is discovered on or under any Generation Site or an area subject to an Access Right;    11. restrictions on exports to the Host Country imposed by other countries or international bodies;    12. any action or inaction of a Governmental Authority;    13. any Contractor or other counterparty to a Project Agreement, EPC Contract or Operating Services Agreement being affected by an event that would constitute a Political Force Majeure Event specified above (as applied to such Contractor); or    14. the occurrence of an event or any combination thereof, the effects of which are similar to, or analogous with, those listed above, including those occurring under any other Project Agreement. |
|  | **Change in Law** | 1. A standard Change in Law definition is included. Change in Law includes changes, modifications, amendments, repeals, revocation and expiration of any Applicable Laws or change in interpretation, the enactment or any new laws or imposition of material conditions not required from the Signing Date and other similar concepts following the Signing Date. Change in Law also includes any Change in Tax after the Signing Date. |
|  | **Natural Force Majeure Event** | 1. Any Force Majeure Event or any combination thereof that does not constitute, or is not caused by, a Political Force Majeure Event, including the following:    1. earthquake, flood, tsunami, storm, cyclone, typhoon, tornado, hurricane, extreme weather, meteorite, volcanic eruption, ash cloud, lightning or any other natural calamity;    2. fire, explosion, mudslides or chemical contamination (other than as resulting from a Political Force Majeure Event, in which case it shall be a Political Force Majeure Event);    3. epidemic, pandemic, drought, famine, disease, pestilence or plague, including any COVID-19 Related Health Event (defined as any epidemic or pandemic that results from COVID-19, a “**COVID-19 Related Health Event**”);    4. unanticipated environmental, geographical, topographical, subsurface, geological, hydrological or seismic conditions which were unknown and could not have been discovered by a reasonably prudent investigation given the circumstances and location; or    5. any Contractor or other counterparty to a Project Agreement, EPC Contract or Operating Services Agreement being affected by an event that would constitute a Natural Force Majeure Event specified above (as applied to such Contractor). |
|  | **Consequence of Force Majeure Event** | The Affected Party shall be relieved from the duty to perform its obligations that could not be performed as a result of a Force Majeure Event.  The Affected Party must give notice to the other Party [*five (5)*] Days after becoming aware of the Force Majeure Event.  The Affected Party must use reasonable endeavours to expeditiously remedy or mitigate the Force Majeure Event, but is not required to incur extraordinary costs or act other than in accordance with Good Industry Practice.  *Political Force Majeure Event*  Upon the occurrence, and during the continuance, of a Political Force Majeure Event, where the Concessionaire has suffered a Cost/Revenue Impact attributable to that Political Force Majeure Event, it shall be entitled to be compensated for that Cost/Revenue Impact, from the start of the Political Force Majeure Event until the earlier to occur of:   * 1. the Impact End Date; and   2. the Termination Date or Removal Date (as applicable),  in accordance with the Extraordinary Tariff Event provisions. Where a Political Force Majeure Event is a Prolonged Force Majeure Event, the Concessionaire shall be entitled:   * 1. in respect of a Political Force Majeure Event that is Concession Wide, to Terminate the Concession Agreement; and   2. in respect of a Political Force Majeure Event that is not Concession Wide, to a Removal of the affected Mini-Grid [*Sites/Lots*]; and   3. where the Concessionaire is compensated for the Cost/Revenue Impact attributable to any Political Force Majeure Event, the receipt of such compensation shall be without prejudice to the right of the Concessionaire to exercise its rights arising under clause 19.6 (*Termination or Removal for Prolonged Force Majeure Events*) of the Concession Agreement while such Prolonged Force Majeure Event is continuing.   Upon any Termination for a Force Majeure Event after the Concession Effective Date, an amount equal to the balance of the Total Extraordinary Event Balance (as defined in Clause 5 (*Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet) on the Termination Date shall be paid to the Concessionaire by the Grantor. |
|  | **Events of Default:** |  |
|  | **Concessionaire Events of Default** | 1. The following events are each a Concessionaire Event of Default, unless they result substantially from an Excusing Event:  the occurrence of any material breach by the Concessionaire of the Concession Agreement (other than (b)(iii)–(iv), (c) and (i)) that is not remedied within sixty (60) Days after a Remedy Notice from the Grantor;the occurrence of any of the following events[[20]](#footnote-21):the passing of a resolution by the Shareholders of the Concessionaire for the winding up of the Concessionaire except in the case of a solvent restructuring;the voluntary filing by the Concessionaire of a petition of bankruptcy, moratorium or other similar relief;the appointment of a liquidator in a proceeding for the winding up of the Concessionaire after notice thereto and due hearing, which appointment has not been set aside or stayed within [……………] Business Days of such appointment; orthe making by a court with jurisdiction over the Concessionaire of an order winding up the Concessionaire that is not stayed or reversed by a court of competent authority within [……………] Business Days;the Concessionaire does not pay by its payment due date any amount due and payable by the Concessionaire to the Grantor (and, where applicable, the Grantor has not been able to obtain payment pursuant to any bond issued on behalf of the Concessionaire pursuant to the Concession Agreement) within a period of [*forty-five (45)*] Business Days from such payment due date;the Concession Effective Date has not been achieved by the Target Concession Effective Date as a consequence of a Concessionaire Delay Event, unless caused by a Grantor Delay Event;Concession Completion has not occurred by the Longstop Concession Completion Date;a Change to the Ownership Interest that is not permitted under the Concession Agreement;transfer of the Concessionaire’s rights and obligations that are not permitted under the Concession Agreement;Abandonment by the Concessionaire for a period of more than *ninety (90)* consecutive Days;the occurrence of a Persistent Service Standard Failure[[21]](#footnote-22);any of the representations and warranties made by the Concessionaire prove to be materially inaccurate or misleading on the date on which they were made or given; ora breach of clause 10.3 (*Conduct of the Parties*) of the Concession Agreement by the Concessionaire (corrupt practices and violation of sanctions). |
|  | **Grantor Events of Default** | 1. The following events, unless they result from a Natural Force Majeure Event, a Concessionaire Event of Default or a breach by the Concessionaire of the Concession Agreement:    1. the occurrence of any material breach by the Grantor of the Concession Agreement (other than any breach that is referred to in (b), (e), (f), (g), (j) and (l) below (inclusive)) that is not remedied within sixty (60) Days after a Remedy Notice from the Concessionaire;    2. the failure by the Grantor to make any payment to the Concessionaire that it is obliged to make under the Concession Agreement within [*forty-five (45)*] Days of the due date for such payment, including but not limited to the payment of any Loss Amount;    3. the Concession Effective Date has not been achieved by the Target Concession Effective Date as a consequence of a Grantor Delay Event, unless caused by a Concessionaire Delay Event;    4. failure by the Grantor to comply with the obligations arising from the Direct Agreement, where such failure is not remedied within *thirty (30)* Business Days of notice of such failure;    5. any failure by the Grantor or any relevant Governmental Authority to maintain the Concessionaire Exclusivity and to comply with clause 4.2 (*Exclusivity*) of the Concession Agreement;    6. any failure to issue a Transfer Notice following receipt or delivery of a Removal Notice in accordance with the Concession Agreement;    7. any breach of clause 8.1 (*Grid Expansion Notice*) of the Concession Agreement by the Grantor;    8. default by any Governmental Authority of its obligations under any Transaction Document to which it is a Party;    9. transfer of the Grantor’s rights and obligations that are not permitted under the Concession Agreement;    10. the failure of the Grantor to procure the co-operation of any Governmental Authority, where such co-operation is required for the Grantor to meet its obligations under the Concession Agreement;    11. any breach of clause 5 (*Generation Sites and Access Rights*) of the Concession Agreement;    12. any of the representations and warranties made by the Grantor prove to be materially inaccurate or misleading on the date on which they were made or given;    13. any change in the ownership of the Grantor that is not approved by the Concessionaire; and    14. [*a unilateral modification of the Concession Agreement*][[22]](#footnote-23). |
|  | **Termination** | If a defaulting Party fails to remedy an Event of Default, or if a Force Majeure Event is prolonged, the Concession Agreement may be terminated as described below. |
|  | **Termination Compensation** | In respect of all termination scenarios in which a Buy-Out Amount is payable as described below, such Buy-Out Amounts are detailed in Schedule 2. |
|  | **Termination prior to Concession Effective Date:** |  |
|  | **Grantor Delay Event (which includes a Prolonged Political Force Majeure Event)** | The Concessionaire may terminate.  The Grantor shall pay documented Development Termination Costs of up to [*insert figure*] within [*thirty (30)*] Days, or the Concessionaire may draw on the Grantor Development Bond to reimburse such costs.  The Concessionaire Development Bond shall be returned undrawn.  All Feasibility Studies will become the property of the Grantor on payment of such amount. |
|  | **Concessionaire Delay Event** | The Grantor may terminate.  The Concessionaire shall pay documented Development Termination Costs of up to [*insert figure*] within [*thirty (30)*] Days, or the Grantor may draw on the Concessionaire Development Bond to reimburse such costs.  The Grantor Development Bond shall be returned undrawn.  All Feasibility Studies will become the property of the Grantor and shall be handed over within [*thirty (30)*] Days. |
|  | **Prolonged Natural Force Majeure Event – prior to the Concession Effective Date** | On the occurrence of a Natural Force Majeure Event that is a Prolonged Force Majeure Event prior to the Concession Effective Date, the Concessionaire may terminate the Concession Agreement.  The Grantor shall not be entitled to draw on the Concessionaire Development Bond and must return the Concessionaire Development Bond to the Concessionaire within [*fifteen (15)*] Business Days.  The Concessionaire shall not be entitled to reimbursement of its Development Termination Costs.  All Feasibility Studies shall become the property of the Grantor and shall be handed over to the Grantor within [*thirty (30)*] Days of the Termination Notice. |
|  | **Removals** | 1. A **“Removal”** means the removal of any non-performing or affected Mini-Grid Site [*and/or Mini-Grid Lot*] from the Concession as a result of a Grantor Event of Default, Concessionaire Event of Default, Prolonged Force Majeure Event or a Grid Expansion, which in each case is not Concession Wide. To “**Remove**” an affected Mini-Grid Site [*and/or Mini-Grid Lot*] shall be construed accordingly. 2. With respect to a Concessionaire Event of Default, a Grantor Event of Default, a Force Majeure Event and a Grid Expansion occurring after the Concession Effective Date, such an event or events which has/have, individually or collectively, an impact on Mini-Grids within the Concession Area, which:    1. prior to the Concession Technical Commissioning Date, represent [*insert percentage*][[23]](#footnote-24) or more of the projected revenues of the Concessionaire for the next succeeding twelve (12) calendar Months in accordance with the Financial Model; and    2. after the Concession Technical Commissioning Date, represent [*insert percentage*][[24]](#footnote-25) or more of the revenues of the Concessionaire for the preceding twelve (12) calendar Months, 3. are “**Concession Wide**”. 4. Where the Grantor Event of Default, Concessionaire Event of Default, Prolonged Force Majeure Event or Grid Expansion is not Concession Wide, the Concessionaire shall be entitled to a “Removal” of the affected Mini-Grid [*Sites/Lots*] rather than requiring a Termination of the Concession Agreement. 5. Upon a Removal, the Concessionaire shall be entitled to:    1. the Concessionaire Partial Buy-Out Amount, in the event of a Concessionaire Event of Default;    2. the Grantor Partial Buy-Out Amount, in the event of a Grantor Event of Default, Political Force Majeure Event or Grid Expansion;    3. the Distribution Partial Buy-Out Amount, in the event of the Concessionaire continuing as a Small Power Producer upon a Grid Expansion;    4. the Generation and Storage Partial Buy-Out Amount, in the event of the Concessionaire continuing as a Small Power Distributor;    5. an amount equal to the Termination Costs accrued up to the Grid Expansion Removal Date, in the event of the Concessionaire electing to become an Interconnected Mini-Grid; or    6. the Natural Force Majeure Event Partial Buy-Out Amount, in the event of a Natural Force Majeure Event.   The Concessionaire shall (or shall procure that) the relevant Project assets are transferred to the Grantor. |
|  | **Terminations after the Concession Effective Date:** | *Each Buy-Out Amount is described in more detail in Schedule 2 (Termination) of this Term Sheet.* |
|  | **Concessionaire Event of Default** | The Grantor may terminate.  The Concessionaire shall be entitled to the Concessionaire Buy-Out Amount (please see Schedule 2 (*Termination*) for a summary of the Buy-Out Amounts).  The Concessionaire shall transfer (or shall procure the transfer of) the Concession Assets or its Share Capital to the Grantor. |
|  | **Grantor Event of Default** | The Concessionaire may terminate and shall be entitled to the Grantor Buy-Out Amount. The Concessionaire shall transfer (or shall procure the transfer of) the Concession Assets or its Share Capital to the Grantor. |
|  | **Prolonged Force Majeure Event** | Either Party may terminate the Concession Agreement and the Concessionaire shall be entitled to the Natural Force Majeure Buy-Out Amount where a Prolonged Force Majeure Event is a Natural Force Majeure Event that is Concession Wide. The Concessionaire shall transfer (or shall procure the transfer of) the Concession Assets or its Share Capital to the Grantor.  The Concessionaire may Remove the affected Mini-Grid [*Sites/Lots*] and shall be entitled to the Natural Force Majeure Event Partial Buy-Out Amount where a Natural Force Majeure Event is a Prolonged Force Majeure Event that is not Concession Wide.  The Concessionaire may terminate the Concession Agreement and shall be entitled to the Grantor Buy-Out Amount in the case of a Political Force Majeure Event that is a Prolonged Force Majeure Event. The Concessionaire shall transfer (or shall procure the transfer of) the Concession Assets or its Share Capital to the Grantor.  The Concessionaire may Remove the affected Mini-Grid [*Sites/Lots*] and shall be entitled to the Grantor Partial Buy-Out Amount where a Political Force Majeure Event is a Prolonged Force Majeure Event that is not Concession Wide. |
|  | **Expropriation** | In the event of an Expropriation of the Shares of the Concessionaire, the Concession Agreement shall terminate immediately and an amount equal to the Grantor Buy-Out Amount shall be due from the Grantor to the Sponsors. In the case of an Expropriation of Assets, the Concessionaire shall have an immediate termination right, and an amount equal to the Grantor Buy-Out Amount shall be due from the Grantor to the Concessionaire. |
|  | **Termination for Grid Expansion** | *Each Buy-Out Amount is described in more detail in Schedule 2 (Termination) of this Term Sheet.*  Upon a Grid Expansion where the Grid Expansion is Concession Wide and the Concessionaire does not elect to continue as a Small Power Producer, Small Power Distributor or an Interconnected Mini-Grid, the Concession Agreement shall terminate, and the Grantor will pay the Concessionaire the Grantor Buy-Out Amount.  Upon a Grid Expansion where the Grid Expansion is Concession Wide and the Concessionaire elects to continue as a Small Power Producer, the Concessionaire shall: (i) continue to operate the Generation and Storage Assets; and (ii) transfer the Distribution Assets to the Grantor or its designee. The Grantor shall pay the Concessionaire the Distribution Buy-Out Amount.  Upon a Grid Expansion where the Grid Expansion is Concession Wide and the Concessionaire elects to continue as a Small Power Distributor, the Concessionaire shall: (i) continue to operate the Distribution Assets; and (ii) transfer the Generation and Storage Assets to the Grantor or its designee. The Grantor shall pay the Concessionaire the Generation and Storage Buy-Out Amount.  Upon a Grid Expansion where the Grid Expansion is Concession Wide and the Concessionaire elects to continue as an Interconnected Mini-Grid, the Concession Agreement shall terminate and the Grantor shall pay the Concessionaire an amount equal to the sum of the Total Extraordinary Event Balance on the Grid Expansion Termination Date and the Termination Costs of the Concessionaire.  Upon a Grid Expansion where the Grid Expansion is not Concession Wide and the Concessionaire elects to Remove the affected Mini-Grid [*Site/Lot*], the Grantor will pay the Concessionaire the Grantor Partial Buy-Out Amount.  Upon a Grid Expansion where the Grid Expansion is not Concession Wide and the Concessionaire elects to continue as a Small Power Producer in the affected Mini-Grid [*Site/Lot*], the Concessionaire shall: (i) continue to operate the Generation and Storage Assets in the affected Mini-Grid [*Site/Lot*]; and (ii) transfer the Distribution Assets in the affected Mini-Grid [*Site/Lot*] to the Grantor or its designee. The Grantor shall pay the Concessionaire the Distribution Partial Buy-Out Amount.  Upon a Grid Expansion where the Grid Expansion is not Concession Wide and the Concessionaire elects to continue as a Small Power Distributor in the affected Mini-Grid [*Site/Lot*], the Concessionaire shall: (i) continue to operate the Distribution Assets in the affected Mini-Grid [*Site/Lot*]; and (ii) transfer the Generation and Storage Assets in the affected Mini-Grid [*Site/Lot*] to the Grantor or its designee. The Grantor shall pay the Concessionaire the Generation and Storage Partial Buy-Out Amount.  Upon a Grid Expansion where the Grid Expansion is not Concession Wide and the Concessionaire elects to continue as an Interconnected Mini-Grid, the Parties shall Remove the affected Mini-Grid [*Site/Lot*] from the Concession. |
|  | **Excusing Event** | 1. An Excusing Event means:    1. a Grantor Event of Default;    2. any other breach of the Concession Agreement by the Grantor;    3. a relevant Change in Law; or    4. a Force Majeure Event. |
|  | **Assignment** | The Parties are not permitted to assign their interests in the Concession Agreement except that the Concessionaire may:   * 1. charge or assign its rights and interests under the Concession Agreement in favour of the Lenders; and   2. subject to the terms and conditions of any Financing Agreement and any political risk insurance policy or guarantee, assign to any political risk insurer all or any part of its rights and interests under or pursuant to the Concession Agreement. |
|  | **Dispute Resolution** | Disputes shall be escalated as follows:  First, to representatives of the Parties with decision-making authority (and in respect of a Technical Dispute, the Parties may have an additional period to consult the Independent Engineer), then:  Second, all Technical Disputes may be referred to an Expert agreed by the Parties within [*twenty (20)*] Days of the notice of referral or, failing such agreement, by the International Chamber of Commerce International (the “**ICC**”) Centre for Alternative Dispute Resolution (the “**Centre**”) in accordance with the provisions for appointment of experts under the Rules for Expertise of the International Chamber of Commerce, with certain Expert decisions not to be considered binding that may trigger a termination or are over a threshold value, following which the dispute may be referred to arbitration.  Any Party to an Expert determination of a Technical Dispute may challenge the Expert’s determination by referring it to arbitration as follows:   * 1. with respect to the Expert’s determination on a Technical Dispute that:  involves a claim by either Party of more than [X Dollars (US$x)];decides a matter that would entitle any Party to terminate the Concession; orthat does not involve a specified monetary claim by either Party, by delivering a written notice of dissatisfaction, together with the Expert’s determination, to the other Party, within fifteen (15) Days of receiving the determination; and   * 1. with respect to the Expert’s determination on a Technical Dispute that involves a claim by either Party of less than or equal to [X Dollars (US$x)][[25]](#footnote-26), solely on the following grounds:  a manifest error of fact or law, in which case such Party shall deliver a written notice of dissatisfaction within thirty (30) Days of receiving the determination; orfraud by the Expert or any failure by the Expert to disclose any relevant interest in the Project or either Party, in which case such Party shall deliver a written notice of dissatisfaction within thirty (30) Days of becoming aware of the alleged fraud or failure, in each case, together with the Expert’s determination to the other Party.  Alternatively, in most other cases where Disputes cannot be resolved by the Parties and are not Technical Disputes, they will be referred to arbitration under ICC Rules. A Party may seek interim relief in the courts of [*specify host country*]. |
|  | **Governing Law** | The laws of [*Host Country*], except that the arbitration agreement shall be governed by English law. |
|  | **Waiver of Sovereign Immunity** | The Grantor will waive sovereign immunity, except with respect to military property (including military aircraft and warships) customarily used for defence purposes and under the control of a military authority and diplomatic and consular property customarily used to discharge diplomatic and consular functions and under the control of a diplomatic or consular authority. |

ANNEX A: DEFINED TERMS FROM THE CONCESSION AGREEMENT

“**Abandonment**” means:

* + - 1. prior to the Concession Technical Commissioning Date, the voluntary cessation of the construction [*at all of the Mini-Grid Sites included within the Concession Area] [at all of the Mini-Grid Sites included in a particular phase of construction and the voluntary cessation of the operation and maintenance of all Mini-Grids included within Mini-Grid Lots that have reached Mini-Grid Lot Technical Commissioning][[26]](#footnote-27),* or the withdrawal of all, or substantially all, personnel by the Concessionaire from *[all of the Mini-Grid Sites included within the Concession Area*] [*all of the Mini-Grid Sites included in a particular phase of construction and the voluntary cessation of the operation and maintenance of all Mini-Grids included within Mini-Grid Lots that have reached Mini-Grid Lot Technical Commissioning*] for reasons other than an Excusing Event; and
      2. after the Concession Technical Commissioning Date, the voluntary cessation of the operation and maintenance [*at all Mini-Grid Sites included within the Concession Area*] for reasons other than an Excusing Event.

“**Acceptable Bank**” means a bank or a financial institution having international ratings for its long-term unsecured unsubordinated debt obligations from at least two of Standard & Poor’s Ratings Services, Fitch Ratings Limited and Moody’s Shareholders Service, Inc., such ratings being no less than ………… [●] (Standard & Poor’s Ratings Services or Fitch Ratings Limited) or ………… [●] (Moody’s Shareholders Service, Inc.), or as otherwise agreed between the Parties from time to time.

“**Access Rights**” has the meaning given to such term in Section 13 (*Land Issues – Access Rights*) of this Term Sheet.

“**Access Rights List**” has the meaning given to such term in Section 13 (*Land Issues – Access Rights*) of this Term Sheet.

“**Additional Concessionaire Amounts**” means:

the sum of:

* + 1. the balance of all trade and book debts and receivables that have accrued to the Concessionaire but are unpaid; and
    2. the book value of all inventory of the Concessionaire; *minus*

the value of any overdraft facility or short-term financial payables of the Concessionaire that are outstanding.

“**Additional Debt**” means any Debt of the Concessionaire pursuant to any Additional Funding.

“**Additional Funding**” has the meaning given to such term in Section 45 (*Financing*) of this Term Sheet.

“**Additional Services**” means the provision of additional services by the Concessionaire to Customers, which may include but not be limited to the provision of financing to Customers to assist with the purchase of household electrical appliances, or the provision of appliances or insurance services to Customers and/or the provision of internet services, telecoms services, water or other utility services to Customers, in each case as permitted by Applicable Law.

“**Affected Party**” has the meaning given to such term in Section 46 (*Force Majeure Event*) of this Term Sheet.

“**Affiliate**” means any Person that directly, or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, another Person.

“**Agents**” means, in relation to each Party, such Party’s directors, officers, employees, Contractors, agents, professional advisors and/or consultants.

“**Anti-Corruption Laws**” means any Applicable Law in the Host Country in relation to matters pertaining to the prevention of corruption, bribery and money-laundering.

“**Applicable Law**” means any decree, resolution, statute, act, order, rule, ordinance, law, decision, code, regulation (including implementing regulation), treaty, directive (to the extent having the force of law) or any interpretation by a Governmental Authority having jurisdiction over the matter in question, including in relation to any Tax, including any amendments, modifications, replacements or re-enactments thereof.

“**Asset Expropriation**” means the expropriation, compulsory acquisition, requisition, confiscation or nationalisation (including by way of any series of events or measures that (directly or indirectly) collectively have the effect of expropriation, compulsory acquisition, requisition, confiscation or nationalisation) by any Governmental Authority of any Mini-Grid or a part of it, or any other assets of the Concessionaire or the Contractors that are intended to form part of the Mini-Grids or to be used in connection with the construction, installation, testing, commissioning, operation or maintenance of any Mini-Grid or any Mini-Grid Site (prior to its transfer by the Concessionaire to the Grantor).

“**Automatic Tariff Cap Adjustment Date**” means the day prior to the start of each Quarter.

“**Average Tariff for a Quarter**” has the meaning given to such term in Clause 1 (*Limit on Tariffs*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Business Day**” means any day other than a Saturday or Sunday, on which business by and between banks may be carried out, and which is not a national public holiday, in the Host Country.

“**Buy-Out Amount**” means the Concessionaire Buy-Out Amount, the Grantor Buy-Out Amount, the Natural Force Majeure Buy-Out Amount, the Distribution Buy-Out Amount, the Generation and Storage Buy-Out Amount and any Partial Buy-Out Amount.

“**Centre**” means the International Chamber of Commerce International Centre for Alternative Dispute Resolution.

“**Change in Law**” means any of the following events after the Signing Date:

* 1. a change in, modification to or amendment, repeal, revocation or expiration of any Applicable Law;
  2. the enactment, adoption or promulgation of any new Applicable Law;
  3. a change in application, interpretation or enforcement of any Applicable Law;
  4. the imposition of any material condition not required as of the Signing Date in connection with the issuance, renewal or modification of any Consent by any Governmental Authority or the imposition of any new Consent;
  5. the change or modification of any Consent by a Governmental Authority or the imposition of other obligations imposing a cost on the Concessionaire or any Contractor; or
  6. a Change in Tax.

“**Change in Tax**” means the adoption, promulgation, bringing into effect, repeal, amendment, reinterpretation, change or failure in application against the provisions of the relevant legislation, change in interpretation or modification after the Signing Date of any Applicable Law by any Governmental Authority, relating to any tax, duty (including Customs Duties), licence fee or other revenue-producing measure, including any application of any tax (including withholding taxes on distributions to Shareholders to the extent such withholding taxes are final tax liabilities of the Shareholders and are not subject to any credit or adjustment, including any credit or adjustment against any other tax liability), duty, licence fee or other revenue-producing measure that is imposed on the Concessionaire or any Contractor and causes the Concessionaire to incur for itself or on behalf of any Contractor, any tax, withholding obligation, duty, licence, fee or similar revenue-producing fee in excess of those the Concessionaire would have incurred under the Applicable Laws in effect as of the Signing Date.

“**Change of Control**” means the Sponsor(s) ceasing to Control the Concessionaire. For the purposes of this definition, “**Control**” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Concessionaire, whether through the ownership of a majority or other controlling interest in the voting securities, equity or other Ownership Interest in the Concessionaire, or by agreement between Persons conferring such power or voting rights. “**Controlled”** has a corresponding meaning.

“**Coercive Practices**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of any person to influence improperly the actions of a person.

“**Collusive Practices**” means any arrangement between two (2) or more persons designed to achieve an improper purpose, including influencing improperly the actions of another person.

“**Commissioning and Testing Plan**” means the plan to be developed by the Concessionaire for the process and procedures for the technical commissioning and testing of the Mini-Grids.

“**Completed Connection**” means a Connection that has been supplied with electricity for a period of no less than[*three (3)*] Months.

“**Concession**” means the right granted by the Grantor to the Concessionaire to design, finance, construct, install, operate and maintain Mini-Grids and to provide the Concession Services and any Additional Services within the Concession Area pursuant to the terms of the Concession Agreement.

“**Concession Area**” means the area subject to the Concession, which will be set out in the Concession Agreement.

“**Concession Assets**” means all the assets comprising the Mini-Grids and all those assets (other than financial assets) owned by the Concessionaire to provide the Additional Services and for performing its obligations under the Concession Agreement.

“**Concession Commissioning**” means that:

* 1. each Mini-Grid [*Site/Lot*] has achieved Mini-Grid [*Site/Lot*] Technical Commissioning;
  2. each Mini-Grid [*Site/Lot*] has commenced Mini-Grid Commercial Operations;
  3. in respect of each Mini-Grid [*Site/Lot*], the Design and the Technical Standards are complied with;
  4. in respect of each Mini-Grid [*Site/Lot*], the Environmental and Social Requirements are complied with; and
  5. the Target Commissioning Connections have been achieved, and such Connections:

comply with the required Customer Category Targets that apply for such Connections; and

are Completed Connections.

“**Concession Commissioning Certificate**” means a certificate evidencing Concession Commissioning and which will be in the form to be prescribed in the Concession Agreement.

“**Concession Completion**” means the date on which the Concessionaire achieves the Target Completion Connections, as set forth in the Concession Completion Certificate.

“**Concession Completion Certificate**” means a certificate evidencing Concession Completion and which will be in the form to be prescribed in the Concession Agreement.

“**Concession Effective Date**” means the date on which all the conditions precedent to the effectiveness of the Concession Agreement, set out in schedule 2 of the Concession Agreement, have been satisfied or waived by the Parties of the Concession Agreement.

“**Concession Period**” means the period from the Concession Effective Date until the earlier to occur of the expiry of the Concession Agreement or an early Termination.

“**Concession Services**” means:

1. the generation, storage, distribution, sale and supply of electrical power to Customers by the Concessionaire;
2. the operation and management of the Mini-Grids; and
3. the provision of any Additional Services.

“**Concession Technical Commissioning Date**” means the date *Mini-Grid [Site/Lot]* Technical Commissioning occurs for the last Mini-Grid [*Site/Lot*] to achieve Mini-Grid [*Site/Lot*] Technical Commissioning.

“**Concession Wide**” means, with respect to a Concessionaire Event of Default, a Grantor Event of Default, a Force Majeure Event and a Grid Expansion occurring after the Concession Effective Date, such an event/s that has/have, individually or collectively, an impact on Mini-Grids within the Concession Area which:

1. prior to the Concession Technical Commissioning Date, represent [*insert percentage*][[27]](#footnote-28) or more of the projected revenues of the Concessionaire for the next succeeding twelve (12) calendar Months in accordance with the Financial Model, and
2. after the Concession Technical Commissioning Date, represent [insert percentage][[28]](#footnote-29) or more of the revenues of the Concessionaire for the immediately preceding twelve (12) calendar Months.

“**Concession Works**” means the Design, construction, testing, Commissioning and completion of the Mini-Grids, any works in respect of the Additional Services, and the refurbishment and upgrading of any Existing Assets.

“**Concessionaire Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Concessionaire Delay Event**” has the meaning given to such term in Section 9 (*Failure to achieve Concession Effective Date due to Concessionaire delay*) of this Term Sheet.

“**Concessionaire Development Bond**” has the meaning given to such term in Section 11 (*Development Securities*) of this Term Sheet.

“**Concessionaire Event of Default**” has the meaning given to such term in Section 51 (*Events of Default*) of this Term Sheet

“**Concessionaire Exclusivity**” has the meaning given to such term in Section 12 (*Exclusivity*) of this Term Sheet.

“**Concessionaire Financed Assets**” has the meaning given to such term in Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Concessionaire Partial Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Concessionaire Solar Home Systems**” means Solar Home Systemsprovided by the Concessionaire within the Concession Area.

“**Connection**” means each customer connection to a Mini-Grid in the Concession Area at a Customer Connection Point and any customer connected to a Concessionaire Solar Home System, in each case pursuant to a Customer Agreement.

“**Consent**” means any applicable approval, consent, authorisation, exemption (including waiver), licence, order or permit of or duly issued by any Governmental Authority required for the due performance by either Party of any covenant or obligation under the Concession Agreement and includes the Initial Consents.

“**Contractor**” means any Person with whom the Concessionaire contracts for the provision of goods and/or services relating to the Design, construction, operation and/or maintenance of any part of the Mini-Grids included in the Concession Area, and for the provision of the Additional Services, and shall include, but not be limited to, the EPC Contractor and the OSA Contractor.

“**Corrupt Practices**” means offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another person.

“**Cost/ Revenue Impact”** means an:

1. increase in the costs incurred by the Concessionaire, and/or
2. a decrease in the revenues received by the Concessionaire,

in the construction, ownership, operation and maintenance ofthe Mini-Grids.

“**COVID-19**” means the strain of coronavirus known as coronavirus infectious disease 2019 (COVID-19) and/or the causative virus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), including any mutations of COVID-19 and/or SARS-CoV-2, as recognised by the World Health Organization.

“**COVID-19 Related Health Event**” means any epidemic or pandemic resulting from COVID-19.[[29]](#footnote-30)

“**CPI**” has the meaning given to such term in Clause 3.2 (*Indexation of Tariff Cap*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Customer**”means each legal or natural Person with whom the Concessionaire has a Connection and to whom the Concessionaire supplies, distributes and sells electricity under a Customer Agreement.

“**Customer Agreement**” means an agreement entered into between the Concessionaire and each Customer to supply, distribute and sell electricity.

“**Customer Category**”[[30]](#footnote-31) means each of Customer Category 1, Customer Category 2, Customer Category 3 and SHS Customers.

“**Customer Category 1**” or “**CC1**” means domestic residential customers.

“**Customer Category 2**” or “**CC2**” means commercial and industrial customers.

“**Customer Category 3**” or “**CC3**” means any public institutions or services or any other entity that is legally owned by a Governmental Authority.

“**Customer Category Targets**” means, with respect to each Mini-Grid [*Site/Lot*],the number of Customers from within that Mini-Grid[*Site/Lot*] in each Customer Category required to be Connected.

“**Customer Connection Point**” means the metering and ready board or electrical supply board (as applicable) that will be installed at each Customer’s property when it is connected to the Distribution Network or, in respect of a Concessionaire Solar Home System, the installation point of that Concessionaire Solar Home System at the Customer’s property.

“**Customs Duties**” means those duties, taxes, charges or import fees imposed by Applicable Law on goods imported into, or exported from, the Host Country.

“**Day**” means each period of twenty-four (24) Hours commencing at 00:00 Hours. “**Daily**” shall be construed accordingly.

“**Debt**” means loans issued to the Concessionaire from Lenders pursuant to the Financing Agreements, and all amounts that may be due and payable by the Concessionaire thereunder at any time, including repayments of principal (whether scheduled or accelerated by the Lenders) and interest (including default interest), commissions, fees, expenses, costs, make-whole payments or other prepayment costs due thereunder, and any amounts due by the Concessionaire to hedge providers under interest rate or foreign exchange hedging instruments, and shall include any Expansion Debt and Additional Debt.

1. “**Debt Outstanding**” means the amount in [*insert debt currency*] required to pay any:
   1. principal;
   2. accrued interest, including any additional interest amounts accruing on unpaid overdue amounts under the Financing Agreements on account of the application of the relevant default interest margins pursuant to the Financing Agreements;
   3. fees or expenses;
   4. in the case of any loans made under the Financing Agreements at a fixed rate of interest, unwinding or redeployment costs associated with the early repayment of those loans as a result of an early termination of the Concession Agreement and as calculated on the terms set out in the relevant Financing Agreements;
   5. payments and costs incurred by the Concessionaire in connection with the early termination or closing out of any interest rate swap contracts or foreign exchange hedging contracts in connection with an early termination of the Concession Agreement; and
   6. other amounts due and payable pursuant to the Financing Agreements, without prejudice to any amounts expressly excluded from “Debt Outstanding” in this definition,

in each case, as such amounts are outstanding to the Lenders under the Financing Agreements, less:

* + 1. the amount of any cash balances that are within the control of the Lenders and indefeasibly and immediately available to be applied by the Lenders towards the reduction of the Debt Outstanding, including the balance of any debt service reserve or similar account; and
    2. the amount of any payments that the Concessionaire has received in connection with an early termination or closing out of any interest rate swap contracts or foreign exchange hedging contracts in connection with an early termination of the Concession Agreement.

1. Debt Outstanding shall not include (i) without prejudice to sub-clause (d) above, any other make-whole payments that may be payable to the Lenders under the Financing Agreements; or (ii) for the avoidance of doubt, any principal, interest, fees or expenses, breakage costs or other amounts outstanding under a Shareholder Loan.

“**Demand Event**” has the meaning given to such term in Section 17 (*Demand Event*) of this Term Sheet.

“**Demand Increase**” has the meaning given to such term in Section 15 (*Design*) of this Term Sheet.

“**Demand Predictions**” means the projected demand for, and consumption of, electricity within the Concession Area, as set forth in the Financial Model and which will be appended to the Concession Agreement.

“**Design**” means the Mini-Grid design, which is to be appended in schedule 3 of the Concession Agreement, as such design may be updated from time to time.

“**Development** **Termination Costs**” means the reasonable and documented development costs incurred by a Party (without double counting) up to the termination of the Concession Agreement, and those costs incurred as a result of the termination of the Concession Agreement, which shall include, but not be limited to:

1. all Taxes paid and other costs:
   * 1. already paid under or in connection with the Concession Agreement; and
     2. imposed on the Concessionaire as a result of the termination of the Concession Agreement;
2. all application fees and other costs paid in relation to any Consents;
3. all amounts paid as consideration, or in respect of any down-payment or for services already incurred under any Project Agreement;
4. amounts paid or payable by the Concessionaire in relation to the termination of contracts and subcontracts entered into in relation to the Project (including the Project Agreements);
5. employee severance costs and demobilisation costs paid or payable by the Concessionaire; and
6. any Generation Site reinstatement costs.

“**Development Termination Costs Reimbursement Amount**” means documented Development Termination Costs.

“**Direct Agreement**” means an agreement to be entered into between the Concessionaire, the Grantor and the Lenders (or their agent) under which the Grantor shall, inter alia, consent to the granting of certain security interests in the Concession Agreement to such Lenders and agree customary step-in and other rights for the benefit of such Lenders, in the form set out in the Concession Agreement, with such amendments as the Parties deem necessary.

“**Dispute**” means dispute, controversy or claim arising from or relating to the Concession Agreement or its subject matter, existence, negotiation, interpretation, validity, termination or enforceability (including any non-contractual dispute or claim in relation to the Concession).

“**Distribution Assets**” means the Distribution Network and associated infrastructure assets.

“**Distribution Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Distribution Network**” refers to the overhead lines, underground cables and electrical apparatus/equipment used to transport electric energy from the Mini-Grid Delivery Point to (and including) the metering installations installed at the Customer Connection Points.

“**Distribution Partial Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

[*“****Dollars****” or “****US$****” means the lawful currency of the United States of America*.]

“**EE Account**” has the meaning given to that term in Clause 5 (*Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Electronic Operating Platform**” means [*the SMG Odyssey Platform [to be defined if used here, or insert alternative software platform, if used]*].

“**Environmental and Social Impact Assessment**” or “**ESIA***”* means the environmental and social impact assessment, which shall be developed and implemented by the Concessionaire based on the recommendations set forth in the Environmental and Social Scoping Study and in accordance with the Environmental and Social Requirements.

“**Environmental and Social Management Framework**” or “**ESMF**” means the framework developed by the Grantor setting out the principles, rules, guidelines and procedures for screening, assessing and managing potential social and environmental impacts related to the construction and operation of the Mini-Grids included in the Concession Area, and the provision of Additional Services. It shall include environmental and social risk assessments in the form of the development of an ESIA and/or an ESMP and/or other management plans, if required for any Mini-Grid Lot to meet the Environmental and Social Requirements, including Land Use and Livelihood Restoration Plans, among other things.

“**Environmental and Social Management Plan**” or “**ESMP**” means the plan or plans to be developed by the Concessionaire on or prior to the Concession Effective Date based on the ESMF and setting out specific social, health and safety, and environmental measures to be undertaken by the Concessionaire to enable the Mini-Grids to be constructed, equipped and operated, and the Additional Services to be provided, in compliance with the Environmental and SocialRequirements. The ESMP may be amended or supplemented from time to time.

“**Environmental and Social Requirements**” means:

1. the IFC Performance Standards;
2. the World Bank Group (WBG) Environmental, Health, and Safety Guidelines applicable to the construction and operation of the Mini-Grids included in the Concession Area; and
3. any Applicable Law in respect of health, safety and the environment.
4. “**Environmental and Social Scoping Study**” means the preliminary environmental and social impact assessment, dated …………, prepared by the Grantor prior to the Signing Date. It reflects preliminary environmental and social technical screening and scoping assessments of the Mini-Grid [*Sites/Lots*] and the proposed terms of reference for the final ESIA and Stakeholder Engagement Plan.
5. “**Environmental Liabilities**” means all liabilities, Losses, damages and expenses (including the reasonable costs of investigation, testing, containment, removal, clean-up, abatement or remediation and lawyers’ fees and costs) relating to the presence of hazardous materials in the environment incurred as a result of complying with mandatory provisions of any Applicable Law or other legally enforceable obligations that are necessary to enable the Concessionaire to perform its obligations under and in connection with the Concession Agreement and the Project (whether or not quantified in amount).

“**EPC Contract(s)**” means the agreement(s) to be entered into between the Concessionaire and one or more EPC Contractor(s) relating to the design, engineering, procurement, manufacture, construction and Commissioning of the Mini-Grids or any part thereof, as amended from time to time.

“**EPC Contractor(s)**” means the Person(s) or group of Persons contracted by the Concessionaire to perform the EPC Contract(s).

“**Equipment Standards**” means the specifications to be set out in annex 1 (*Equipment Standard*s) of schedule 4 (*Technical Standards*) of the Concession Agreement.

“**Equity**” means, at any time, the aggregate of:

* 1. the amount subscribed for and paid in as Share Capital by the Shareholders and not repaid or otherwise reimbursed to the Shareholders on or before that time;
  2. the outstanding amount of any Shareholder Loan;
  3. any credit balance on the accumulated profit and loss account; and
  4. the amount standing to the credit of the reserves of the Concessionaire (excluding asset revaluation reserves and including, without limitation, any share premium account and capital redemption reserve funds);

after deducting from the amounts in (a), (b), (c) and (d):

* + 1. any debit balance on the profit and loss account or impairment of the issued Share Capital (except to the extent that the deduction of that debit balance or impairment has already been made);
    2. amounts set aside for dividends to the extent not already deducted from Equity;
    3. amounts of deferred tax assets; and
    4. amounts attributable to capitalised items such as goodwill, trademarks, deferred charges, licences, patents and other intangible assets.

“**Event of Default**” means each of a Grantor Event of Default and a Concessionaire Event of Default.

“**Exchange Rate**” means the average buy rate for the purchase of Foreign Currency with Local Currency, published by the Reference Banks each Day.

“**Excusing Event**” means

1. a Grantor Event of Default;
2. any other breach by the Grantor of the Concession Agreement;
3. any Change in Law; or
4. a Force Majeure Event.

“**Existing Assets**” means those Mini-Grid assets installed within the Concession Area prior to the Signing Date and that are required by the Concessionaire for the performance of the Concession.

“**Expansion**” means a modification of the Design and expansion of the Mini-Grids within the Concession Area to meet any Demand Increase.

“**Expansion Debt**” means any Debt pursuant to an Expansion Financing.

“**Expansion Financing**” has the meaning given to such term in Section 45 (*Financing*) of this Term Sheet.

“**Expert**” means an expert to be appointed by agreement between the Parties within [*twenty (20)*] Days of a notice of referral to expert resolution or, failing such agreement, by the Centre in accordance with the provisions for appointment of experts under the Rules for Expertise of the International Chamber of Commerce.

“**Expropriation**” means:

1. Asset Expropriation; and/or
2. Share Expropriation.

“**Expropriation Agreement**” means an agreement to be entered into by the Grantor and the Shareholders regarding the payment of the Grantor Buy-Out Amount to the Shareholders by the Grantor on a Share Expropriation.

“**Extraordinary Tariff Event**” means:

1. a Change in Law;
2. a Political Force Majeure Event (other than a Change in Law); or
3. any Grantor Event of Default.

“**E&S Monitoring Report**” means an environmental and social monitoring report setting out specific social, environmental, social management and developmental impact information, including information on labour and working conditions and health and safety. The Concessionaire to provide such report for each Mini-Grid[*Site/Lot*]*.*

“**Feasibility Studies**” means [*add general description*], including any initial studies provided by the Grantor to the Concessionaire and any further studies carried out by the Concessionaire relating to the technical, economic, legal, environmental and social aspects of the Mini-Grids included in the Concession Area, as well as related scheduling considerations for the implementation of a Mini-Grid [*Site/Lot*] [*, which shall include the modelling of the electric load profile of the targeted population and an assessment of the Customer Categories and the willingness to pay and ability to pay of potential customers within the Concession Area*].

“**Final Acceptance Certificate**” means the certificate to be issued for each Mini-Grid [*Site/Lot*] on such Mini-Grid [*Site/Lot*] reaching Mini-Grid [*Site/Lot*] Technical Commissioning.

“**Financial Close**” means the execution and delivery of the Financing Agreements and the satisfaction or waiver of the conditions precedent for the initial availability of funds under those Financing Agreements.

“**Financial Model**” means the Initial Financial Model, which may be updated from time to time in accordance with the Concession Agreement.

“**Financing Agreements**” means all loan agreements, notes, indentures, security agreements, guarantees, hedging agreements and other agreements, documents and instruments entered into by Lenders relating to the debt financing of the development, design, procurement, construction, Commissioning, operation and maintenance of the Mini-Grids included in the Concession Area, or any part thereof, or relating to any financing that includes but is not limited to the funding for the aforementioned activities. These Financing Agreements may be amended from time to time and shall include any such agreements entered into for an Expansion Financing or Additional Funding.

“**Force Majeure Event**” has the meaning given to such term in Section 46 (*Force Majeure Event*) of this Term Sheet.

“**Foreign Currency**” means ………… [*Dollars*].

“**Foreign Lenders**” means the Lenders that are not incorporated under Applicable Law and that may provide Foreign Currency loans to the Concessionaire under the Financing Agreements.

“**Foreign Sponsors**” means Sponsors who are not incorporated under Applicable Law.

1. “**Fraudulent Practices**” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial or other benefit or to avoid an obligation.

“**Fuel Price**” has the meaning given to such term in Clause 3.2 (*Indexation of Tariff Cap*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Generation and Storage Assets**” means the energy generation and battery storage assets of each Mini-Grid.

“**Generation and Storage Buy-Out Amount**”has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Generation and Storage Partial Buy-Out Amount**”has the meaning given to such term at Schedule 2 (*Termination*) of this Term Sheet.

“**Generation Site**” means each area of land on which the Generation and Storage Assets and the Mini-Grid Delivery Point are located, together with any lay-down or working areas required during construction and operations of a related Mini-Grid by the Concessionaire, the EPC Contractor(s), the OSA Contractor and/or any subcontractors for the purposes of the Project.

“**Good Industry Practice**” means those standard practices, methods and procedures conforming to environmental, social, labour, safety and legal requirements that are attained by exercising that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected from a skilled and experienced operator of a renewable energy source or hybrid renewable energy source and diesel mini-grid facility engaged in the same type of undertaking under the same or similar circumstances to those subsisting in the Host Country.

[*“****Government Guarantee****”[[31]](#footnote-32) means the guarantee to be given by [insert relevant ministry] to the Concessionaire for the payment obligations of the Grantor under the Concession Agreement*.]

“**Governmental Authority**” means:

1. the government of the Host Country or any other national, regional, local or municipal, administrative, executive, legislative, judicial, quasi-judicial, regulatory, agency, department or political subdivision thereof, authority or instrumentality (which shall include but not be limited to the Regulator);
2. any other relevant entity from which a Consent is to be obtained from time to time; and
3. any ministry, department, municipality, other governmental entity, instrumentality, agency, committee or commission under the direct or indirect control of the government of the Host Country, or any ministry, department or political subdivision thereof, or any independent regulatory authority, body or other Person within the Host Country having jurisdiction under the laws of the Host Country, or purporting to have jurisdiction, with respect to the Concessionaire, its Contractors and the Project or any part of it.

“**Grant**” means any Viability Gap Funding to be made available to the Concessionaire pursuant to a Grant Agreement.

“**Grant Agreement**” means the Grant Agreement to be entered into between the ……… [*insert relevant entity*] and the Concessionaire pursuant to which the ………… [*insert relevant entity*] shall agree to disburse the Viability Gap Funding to the Concessionaire on the terms and conditions set out therein.

“**Grantor Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Grantor Delay Event**” has the meaning given to such term in Section 8 (*Failure to achieve Concession Effective Date due to Grantor delay*) of this Term Sheet.

“**Grantor Development Bond**” has the meaning given to such term in Section 11 (*Development Securities*) of this Term Sheet.

“**Grantor Event of Default**” has the meaning given to such term in Section 51 (*Events of Default*) of this Term Sheet.

“**Grantor Partial Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Grid**” means the national electricity transmission and distribution network in the Host Country and/or an electricity transmission and distribution network that covers one or more provinces or regions in the Host Country, operated by a Grid Operator.

“**Grid Expansion**” means any expansion of the Grid into the Concession Area by a Governmental Authority or any Person authorised by a Governmental Authority, or any private Person.

“**Grid Expansion Notice**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Grid Expansion Notice Period**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Grid Expansion Removal Date**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Grid Expansion Termination Date**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Grid Operator**” means a national or regional utility or any other public or private entity that operates the Grid or part of the Grid and/or supplies electricity within the Host Country.[[32]](#footnote-33)

“**Host Country**” means …………………… [*insert Host Country*].

“**ICC**” means the International Chamber of Commerce.

“**ICC Rules**” means the Rules of Arbitration of the International Chamber of Commerce.

“**ICSID”** means the International Centre for the Settlement of Disputes, an international organisation established by treaty among its member countries, including the Host Country.

**“IFC”** means the International Finance Corporation, an international organisation established by Articles of Agreement among its member countries, including the Host Country.

“**IFC Performance Standards**” means the IFC Performance Standards on Environmental and Social Sustainability dated 1 January 2012.[[33]](#footnote-34)

“**Impact End Date**” means, with respect to an Extraordinary Tariff Event, the end of the Cost/Revenue Impact attributable to that Extraordinary Tariff Event.

“**Independent Engineer**” means the engineer to be appointed by the Parties as set out in Section 23 (*Independent Engineer*) of this Term Sheet.

“**Independent Engineer List**” has the meaning given to such term in Section 23 (*Independent Engineer*) of this Term Sheet.

“**Initial Concession Period**” has the meaning given to such term in Section 2 of this Term Sheet.

“**Initial Consent**” has the meaning given to such term in Section 32 (*Consents*) of this Term Sheet.

“**Insurance Policy**” or “**Insurance Policies**” means the terms and conditions of the Insurances.

“**Insurance Proceeds**” means any amount received by the Concessionaire in respect of Insurance Policies taken out by it in connection with the Mini-Grids included in the Concession Area and the provision of the Concession Works and the Concession Services.

“**Insurances**” means those insurances required to be placed by the Concessionaire and which will be set out in schedule 10 of the Concession Agreement.

“**Interconnected Mini-Grid**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Interconnection Standards**” means the specifications for interconnection of the Mini-Grids to the Grid, to be set out in annex 4 (*Interconnection Standards*) of schedule 4 (*Technical Standard*s) of the Concession Agreement.

“**Internal Wiring**” has the meaning given to such term in Section 24 (*Customer Connection Points and Internal Wiring*) of this Term Sheet.

“**Internal Wiring Standards**” means the specifications for the Internal Wiring of Customers, to be set out in schedule 4 (*Technical Standard*s) of the Concession Agreement.

“**kW**” means a kilowatt.

“**kWh**” means a kilowatt-hour.

“**Land Use and Livelihood Restoration Plans**” means the plans to be prepared by the Concessionaire in respect of Persons and land impacted by the Project in accordance with the Environmental and Social Requirements.

“**Lapse of Consent**” means:

1. the revocation of any Consent by a Governmental Authority;
2. subject to paragraphs (e) and (f) below, the failure to issue, renew or reissue a Consent within thirty (30) BusinessDays of application by the Concessionaire for that Consent to be issued, renewed or reissued, as the case may be, and as a result the Concessionaire’s ability to perform its obligations under the Transaction Documents, EPC Contract or Operating Services Agreement is materially and adversely affected;
3. any Consent being made subject, subsequent to its granting, on renewal or otherwise, to any terms or conditions that materially and adversely affect the economic return of the Project and/or the Concessionaire’s ability to enjoy its rights and/or perform its obligations under the Transaction Documents, EPC Contract or Operating Services Agreement;
4. the change or modification of a Consent by a Governmental Authority (other than in respect of a change or modification of a Consent requested by the Concessionaire);
5. in the case of a customs clearance or other import-related approval, the non-issuance of any Consent required solely to import any item required for the design, construction, installation, operation or maintenance of the Mini-Grids within [*twenty (20)*] Business Days of application by the Concessionaire or a Contractor(s);
6. in the case of any Consent required by a Contractor (other than any Consent contemplated by paragraph (b) above), the failure to issue, renew or reissue such Consent within [*twenty (20)*] Business Days of the application by either the Contractor(s) or the Concessionaire for that Consent to be issued, renewed or reissued, as the case may be, and as a result the (relevant) Contractor’s ability to perform its obligations under the EPC Contract(s) or Operating Services Agreement is materially and adversely affected; or
7. [*in relation to the* ………… *[Mini-Grid Licence/Generation or Distribution Licence] and/or* ………… *[insert any other key operational licence], a failure by the Governmental Authority to issue the* ………… *[insert relevant Mini-Grid Licence/Generation or Distribution Licence*],

in each instance despite the Concessionaire’s compliance with the applicable procedural and substantive requirements of Applicable Laws in respect of the relevant Consent.

“**Large Customer**” means any Customer whose peak demand is expected to exceed [250] kW.

“**Lenders**” means any lenders, export credit agencies, multilateral institutions, bondholders or other lending agencies whose ordinary course of business is the lending of money, or any trustee, security agent or agent acting on behalf of any of the foregoing, any account bank, credit, guarantee or hedging provider, in each case, providing financing, refinancing or hedging to the Concessionaire pursuant to a Financing Agreement, including any agent or trustee. .“**Lenders**” shall exclude:

1. any Sponsor or Shareholder in its capacity as the provider of a Shareholder Loan; and
2. the Grantor, any Governmental Authority or any Affiliate of, or Person owned by, the Grantor or any Governmental Authority.

“**Lien**” means any claim, option, charge (fixed or floating), mortgage, lien, pledge, equity, encumbrance, right to acquire, right of pre-emption, right of first refusal, title retention or any other third-party right, or other security interest or any agreement or arrangement having a similar effect or any agreement to create any of the foregoing.

“**Local Currency**” means ……… [*insert local currency*].

“**Longstop Concession Completion Date**” means the date falling ………… Months from the Target Concession Completion Date.

“**Loss**” or “**Losses**” means any loss, damage, liability, claims, payment or obligation and all costs and expenses (including reasonable legal fees) relating thereto.

“**Loss Amount**” means the amount calculated in accordance with the formula set forth in Clause 6 (*Grantor Compensation Formula*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**MIGA**” means the Multilateral Investment Guarantee Agency established by the MIGA Convention among its member countries, including the Host Country.

“**Milestone Schedule**” means the construction and Connection milestone schedule to be set forth in schedule 11 (*Milestone Schedule*) of the Concession Agreement.

“**Mini-Grid**” means a [*small-scale*] distribution network (low or medium voltage), together with one or more power generation plants, designed to be capable of operating as an isolated system with clearly defined physical and electrical boundaries, [*but with the technical capability to be interconnected to other electricity grids*][[34]](#footnote-35), *including* ………… [*insert relevant host country grid(s)*]. It comprises the following:

1. Generation and Storage Assets;
2. the Distribution Network;
3. the Mini-Grid Delivery Point and the Customer Connection Points; and
4. the Concessionaire Solar Home Systems.

“**Mini-Grid** **Commercial Operations**” means, with respect to each Mini-Grid, that the Mini-Grid generates and distributes electricity to Customers at the Customer Connection Points.

“**Mini-Grid Delivery Point**” means the location where the protection and metering devices are installed at the point of Connection of the relevant Generation and Storage Assets to the related Distribution Network.

“**Mini-Grid Lot**” means each group of Mini-Grids located in its respective Mini-Grid Lot Area.

“**Mini-Grid Lot Area**” means the area of land within which a number of Mini-Grid Sites are located and grouped.

“**Mini-Grid Site**” means, with respect to each Mini-Grid, the Generation Site, the area covered by the Distribution Network and the area around that Site within which Customers are capable of being connected to the relevant Mini-Grid.

“**Mini-Grid [*Site/Lot*] Technical Commissioning**” means, with respect to a [*Mini-Grid Site, the completion of the technical commissioning tests and issue by the Concessionaire of a Final Acceptance Certificate for that Mini-Grid Site, which is countersigned by the Independent Engineer or deemed accepted (as applicable) so as to put [the Mini-Grid into Mini-Grid Commercial Operations*]/[*each of the Mini-Grid Sites within the Mini-Grid Lot into Mini-Grid Commercial Operations*].

“**Mini-Grid [*Site/Lot*] Technical Commissioning Date**” means in respect of each Mini-Grid [*Site/Lot*] the date of Mini-Grid [*Site/Lot*] Technical Commissioning as set forth in the Final Acceptance Certificate for that Mini-Grid [*Lot*].

“**Month**” means a calendar month according to the Gregorian calendar beginning at 12:00 midnight on the last Day of the preceding month and ending at 12:00 midnight on the last Day of that month. “**Monthly”** shall be construed accordingly.

“**Natural Force Majeure Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Natural Force Majeure Event**” has the meaning given to such term in Section 49 (*Natural Force Majeure Event*) of this Term Sheet.

“**Natural Force Majeure Event Partial Buy-Out Amount**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Non-Temporary Extraordinary Tariff Event**” means an Extraordinary Tariff Event where the Cost/Revenue Impact attributable to that Extraordinary Tariff Event is expected to apply for the Concession Period.

1. “**Obstructive Practices**” means any of the following: (a) deliberately destroying, falsifying, altering or concealing evidence material to any investigation, or making false statements to investigators, in order to materially impede any investigation into allegations of any Coercive Practice, Collusive Practice, Corrupt Practice or Fraudulent Practice; (b) threatening, harassing or intimidating any person to prevent them from disclosing their knowledge of matters relevant to any such investigation or from pursuing any such investigation; or (c) acts intended to materially impede the exercise of any person’s access to contractually required information in connection with an investigation into allegations of any Coercive Practice, Collusive Practice, Corrupt Practice or Fraudulent Practice.

“**Off-Grid Customer**” means any Person within the Concession Area who the Concessionaire (acting reasonably) considers it would not be economically feasible to connect to a Distribution Network but who may be supplied with a Concessionaire Solar Home System.

“**Operating Services Agreement**” means all contracts relating to the operation and maintenance of the Mini-Grids included in the Concession Area and entered into between the Concessionaire and one or more OSA Contractors.

“**OSA Contractor**” means any Person(s) or group of Persons contracted by the Concessionaire to perform the Concession Services pursuant to an Operating Services Agreement.

“**Outstanding Works**” has the meaning given to such term in Section 19 (*Mini-Grid Site/Mini-Grid Lot Technical Commissioning*) of this Term Sheet.

1. “**Ownership Interest**” means with respect to any corporation, limited liability company, partnership or other business organisation, shares, equity or ownership interests, or other similar interests in such business organisation, with voting or other rights of management and control and securities of such business organisation that are convertible into same at the option of the holder, whether such shares, ownership interests or other similar interests are held directly or indirectly through one or more intermediate entities or Affiliates.

“**Partial Buy-Out Amount**” means each of the Concessionaire Partial Buy-Out Amount, the Grantor Partial Buy-Out Amount, the Natural Force Majeure Event Partial Buy-Out Amount, the Distribution Partial Buy-Out Amount and the Generation and Storage Partial Buy-Out Amount.

“**Parties**” or, individually, “**Party**” means the Concessionaire and the Grantor.

“**Permitted Generation**” means any:

* 1. Self-Production; and
  2. Solar Home Systems.

“**Persistent Service Standard Failure”** means a material Service Standard failure that affects [*insert percentage*][[35]](#footnote-36) or more Connections across the Concession Area for a continuous period of at least [*six (6)*] Months.

“**Person**” means an individual, corporation, partnership, joint venture, trust, unincorporated organisation or any other legal entity.

“**Political Force Majeure Event**” has the meaning given to such term in Section 47 (*Political Force Majeure Event*) of this Term Sheet.

“**Preliminary Compliance Certificate**” has the meaning given to such term in Section 24 (*Customer Connection Points and Internal Wiring*) of this Term Sheet.

“**Private Landowner**” means any Person who is the legal and beneficial owner of any land identified for a Generation Site who is not the Grantor or another Governmental Authority.

“**Prohibited Person**” means a Person who, or who is owned or Controlled by, or is under the management, in any capacity of, any Person who:

* 1. has been named on a list of sanctioned Persons promulgated by the United Nations Security Council or its committees pursuant to resolutions under Chapter VII of the Charter of the United Nations; or
  2. has been named on the World Bank’s list of ineligible firms (see www.worldbank.org/debarr).

“**Project**” means the design, financing, construction, installation, Commissioning, operation and maintenance of the Mini-Grids, and the provision of Additional Services, by the Concessionaire and its Contractors within the Concession Area pursuant to the Concession, on the terms and conditions set forth in the Concession Agreement.

“**Project Agreements**” means:

* 1. the Concession Agreement;
  2. the Grant Agreement;
  3. each Land Lease Agreement;
  4. [*the Government Guarantee*;]/[*and*
  5. *each Local Community Agreement*[[36]](#footnote-37)],

in each case, as may be amended from time to time.

“**Prolonged Force Majeure Event**” means a Force Majeure Event that continues for a period exceeding one hundred and eighty (180) consecutive Days, or a series of Force Majeure Events that continue for a period in aggregate that exceeds one hundred and eighty (180) consecutive Days.

“**Provisional Acceptance Certificate**” means the certificate to be issued for a Mini-Grid [*Site/Lot*] that requires the completion of Outstanding Works prior to Mini-Grid *[Site/Lot]* Technical Commissioning.

**“Quarter**” has the meaning given to such term in Clause 1 (*Limit on Tariffs*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Reduction Event**” has the meaning given to such term in Section 43 (*Compensation in lieu of a Tariff Cap Adjustment or the charging of a Supplemental Tariff*) of this Term Sheet.

“**Reference Banks**” means ………………………… [*to be determined on a jurisdiction-by-jurisdiction basis*].

“**Regulator**” means ………………………… [*to be inserted*].

“**Relevant Concession Assets**” has the meaning given to such term in Schedule 2 (*Termination*) of this Term Sheet.

“**Remedy Notice**” means the notice to be served on the relevant Party by the other Party on the occurrence of a Concessionaire Event of Default or Grantor Event of Default that provides for a remedy period.

“**Remote Monitoring Standards**” means those Reporting Requirements that are capable of being monitored through the Electronic Operating Platform.

“**Removal**” means the removal of any non-performing or affected Mini-Grid Site [*and/or Mini-Grid Lot*] from the Concession as a result of a Grantor Event of Default, Concessionaire Event of Default, Prolonged Force Majeure Event or Grid Expansion, which in each case is not Concession Wide. To “**Remove**” an affected Mini-Grid Site [*and/or Mini-Grid Lot*] shall be construed accordingly.

“**Removal Date**” means the date of a Removal, as set forth in a Removal Notice.

“**Removal Notice**” means a notice in writing given by a Party pursuant to which that Party exercises its Removal option and states the date, which shall be no later than ninety (90) Days following the date of the notice, on which the Removal shall take effect.

“**Reporting Requirements**” means the reporting on technical and commercial performance indicators for the Mini-Grids and the Concessionaire’s compliance with the Service Standards to be set forth in schedule 7 (*Reporting Requirements*) of the Concession Agreement.

“**Self-Production**” means the generation of electricity by a Person within the Concession Area for its own consumption. It will not be sold or distributed by such Person to any other Person.

“**Service Standards**” means those service standards that shall apply to each Mini-Grid from its Mini-Grid *[Site/Lot]* Technical Commissioning Date, to be set forth in schedule 5 (*Service Standards*) of the Concession Agreement.

“**Share Capital**” means shares, preference shares, warrants, rights to invest, equity or other forms of ownership interests or rights (of each class) in the share capital of the Concessionaire, with voting rights, economic rights or rights of management and control and securities that are convertible into such instruments at the option of the holder.

“**Share Expropriation**” means the expropriation, compulsory acquisition, requisition, confiscation or nationalisation (including by way of any series of events or measures that (directly or indirectly) collectively have the effect of expropriation, compulsory acquisition, requisition, confiscation or nationalisation) by any Governmental Authority of any Ownership Interest or any rights in respect of the Ownership Interest of the Concessionaire.

“**Shareholder**” means any Person that holds any Share Capital.

“**Shareholder Loan**” means any loan made available to the Concessionaire by or on behalf of a Shareholder or a Sponsor (in its capacity as a Shareholder or Sponsor).

“**SHS Customers**” means residential Customers with Concessionaire Solar Home Systems.

“**Signing Date**” means the date of the Concession Agreement.

“**Small Power Distributor**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Small Power Producer**” has the meaning given to such term in Section 31 (*Grid Expansion*) of this Term Sheet.

“**Solar Home Systems**” meanssolar home systems with or without energy storage supply systems, whether or not supplied by the Concessionaire or a third party or connected to the Distribution Network.

“**Special Customers**” has the meaning given to such term in clause 11.4 (*Bilateral Contracts and Special Customers*) of the Concession Agreement.

“**Sponsor Affiliate**” has the meaning given to such term in Section 30 (*Change of Ownership Interests*) of this Term Sheet.

“**Sponsors**” means ………………………… [*to be inserted on a Concession-by-Concession basis*].

“**Stakeholder Engagement Plan**” means the plan to be developed by the Concessionaire for stakeholder engagement as required pursuant to the ESMF.

“**Starting Tariff Cap**” has the meaning given to such term in Clause 3.1 (*Starting Tariff Cap*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Street Lighting**” means a public lighting network.

“**Supplemental Tariff**” means each of:

* 1. in the event of a Temporary Extraordinary Tariff Event, the TEE Adder added to the Tariff Cap, as calculated and applied in accordance with Clause 5.1 (*Compensation for Temporary Extraordinary Tariff Event*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet; and
  2. in the event of a Non-Temporary Extraordinary Tariff Event, the EE Adder added to the Tariff Cap, as calculated and applied in accordance with Clause 5.2 (*Compensation for Non-Temporary Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Target Commissioning Connections**” means ………… [*to be agreed for each Concession*] Connections.

“**Target Commissioning Date**” means ……………… [*to be agreed for each Concession*].

“**Target Completion Connections**” means ……….. [*to be agreed for each Concession*] Connections.

“**Target Concession Completion Date**” means …………… [*to be agreed for each Concession*].

“**Target Concession Effective Date**” means …………… [*to be agreed for each Concession*].

“**Tariff Cap**” means the Starting Tariff Cap, as set and reset from time to time in accordance with the Concession Agreement, and the provisions set out in Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Tariff Period**” means those periods described in Clause 2 (*Tariff Periods*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Tariff Review Date**” means the date falling [•] Days prior to the end of each Tariff Period.[[37]](#footnote-38)

“**Tariff Schedule**” means the schedule of charges the Concessionaire shall apply to its Customers (other than Special Customers) for the sale and distribution of electricity and the provision of Additional Services, set in accordance with Schedule 1 (*Tariff Regulation*) of this Term Sheet, and as may be amended from time to time in accordance with Schedule 1 (*Tariff Regulation*) of this Term Sheet and the relevant tariff provisions of the Concession Agreement (as set out in Section 39 of this Term Sheet).

“**Tax**” or “**Taxes**” means any charge, fee, levy or other assessment imposed by any Governmental Authority (whether federal, state, local or otherwise), including all income, withholding, gross receipts, business, environmental, value added, capital gain, duties, capital stock, registration, excise, ad valorem, real property, personal property, land, local development, licence, sales, production, occupation, use, service, transfer, payroll, employment, social security, travel, franchise, severance, bonus or other tax of any kind, as well as any charges and assessments (including any interest, penalties or additions to tax attributable to or imposed on or with respect to any such assessment, whether disputed or not, and all stamp or documentary taxes and fees).

“**Technical Dispute**” means a Dispute that relates to a purely technical or engineering matter related to the Concession Agreement that is susceptible to resolution by an Expert in the relevant field.

“**Technical Standards**” means those standards that shall apply during the construction and installation and Commissioning of the Mini-Grids, to be set out in schedule 4 (*Technical Standards)* of the Concession Agreement.

“**TEE Account**” has the meaning given to that term in Clause 5 (*Extraordinary Tariff Events*) of Schedule 1 (*Tariff Regulation*) of this Term Sheet.

“**Temporary Extraordinary Tariff Event**” means an Extraordinary Tariff Event where the Cost/Revenue Impact attributable to that Extraordinary Tariff Event is expected to cease prior to the end of the Concession Period.

“**Termination**” means the expiry of the Concession Agreement at the end of the Concession Period or an early termination of the Concession Agreement.

“**Termination Costs**” means the following, calculated as at the Transfer Date:

* 1. if payment is made to the Concessionaire, the sum of all income, receipts, sales, value added, transfer, property or other Taxes or any other costs imposed on the Company by any Governmental Authority in connection with the transfer of all of the Concessionaire’s rights, title and interests in the Project, the transfer and/or Removal of the Relevant Concession Assets and the payment of the Buy-Out Amount;
  2. if payment is made to the Shareholders pursuant to the Expropriation Agreement, the sum of all income, receipts, sales, value added, transfer, property or other Taxes or any other costs imposed on the Shareholders by any Governmental Authority in connection with the transfer of the Share Capital and the payment of the Buy-Out Amount;
  3. all costs associated with the demobilisation of the construction of the Mini-Grids, including:
     + - 1. the cost of work completed but not yet paid for by the Concessionaire; and

(ii) costs associated with removing construction material and equipment and personnel;

* 1. termination payments under the Project Agreements and other contracts with consultants and Contractors that relate to the construction, operation and maintenance of the Mini-Grids and the provision of Additional Services; and
  2. any prepayment charges, wind-up costs, hedge break costs, accrued interest charges or similar charges payable to the Lenders in accordance with the Financing Agreements and outstanding as at the Transfer Date.

“**Termination Date**” means the date of a Termination, as set forth in a Termination Notice.

“**Termination Notice**” means a notice in writing given by a Party pursuant to which that Party exercises its option to terminate the Concession Agreement and states the date, which shall be no earlier than thirty (30) Business Days and no later than sixty (60) Days, following the date of the notice, on which the termination shall take effect.

“**Total Extraordinary Tariff Event Balance**” on any date means the sum of the balances of all EE Accounts and all TEE Accounts on that date.

“**Transaction Documents**” means the Financing Agreements and the Project Agreements.

“**Transfer Date**” means the Removal Date or the Termination Date (as applicable).

“**Transfer Notice**” means a Termination Notice, a Grid Expansion Notice or a Removal Notice.

“**Transfer Percentage**” means the percentage of the Concessionaire Financed Assets represented by the Transferred Assets.

“**Transferred Assets**” means:

* 1. in respect of a Removal, the Concessionaire Financed Assets in each affected Mini-Grid [*Site/Lot*];
  2. in respect of a Grid Expansion where the Concessionaire elects to become a Small Power Producer, the Distribution Assets (or where that Grid Expansion is not Concession Wide, the Distribution Assets in the affected Mini-Grid [*Site/Lot*]); and
  3. in respect of a Grid Expansion where the Concessionaire elects to become a Small Power Distributor, the Generation and Storage Assets (or where that Grid Expansion is not Concession Wide, the Generation and Storage Assets in the affected Mini-Grid [*Site/Lot*]).

“**Viability Gap Funding**” means the Grant to be made available to the Concessionaire under the Grant Agreement upon achieving certain Connection milestones set forth therein.

“**WBG Environmental, Health and Safety Guidelines**” means the World Bank Group Environmental, Health and Safety Guidelines.[[38]](#footnote-39)

“**World Bank Group**” means the World Bank Group (WBG), composed of the International Development Association, the International Bank for Reconstruction and Development, ICSID, IFC and MIGA.

1. Schedule 1: Tariff Regulation

**Drafting Note**:

For jurisdictions that regulate tariff setting, indexation and periodic tariff reviews in a manner that differs from this Schedule 1, and do not permit any deviation from such regulation for the Mini-Grids included in a particular Concession, this Schedule 1 will need to be amended to reflect such jurisdiction’s tariff setting, indexation and review mechanisms.

Clause 11 (*Tariffs*) of the Concession Agreement equally may require amendments to reflect a particular jurisdiction’s tariff setting, indexation and periodic review mechanisms.

In the event that this Schedule 1 is required to be adjusted to a particular jurisdiction’s tariff regime, such jurisdiction’s tariff setting, indexation and periodic review mechanism as applicable at the date of the signing of this Concession should be reflected in this Schedule 1.

Note that the adjustment of the tariff for indexation has been drafted as a quarterly adjustment, but it is proposed that the frequency of such adjustment be increased to monthly where the local country regulations permit more regular indexation.

1. Where a particular jurisdiction’s tariff setting, indexation and periodic review mechanism does not allow for a contractual tariff setting, indexation and periodic review mechanism such as the one set forth in this Schedule 1, the applicable tariff setting, indexation and periodic review mechanism does not fit the particular circumstances and requirements of the Mini-Grids included in the Concession Area, or does not result in a viable and affordable end-user tariff (after taking into account the available Viability Gap Funding), the following steps should be taken:

Work with the government and regulator of such jurisdiction to develop a suitable tariff regulatory regime for the Mini-Grids to be included in the Concession Area, taking the concepts and formulas of this Schedule 1 into account.

Amend the regulation of such jurisdiction accordingly and/or provide in the regulation that the tariff setting, indexation and periodic review mechanism for such Mini-Grids can be set by the Grantor in the respective Concession.

Include the tariff setting, indexation and periodic review mechanism so promulgated under that jurisdiction’s law in this Schedule 1.

Refer to section 12 of the Concession Agreement User Guide for a review of the tariff setting and adjustment principles.

# LIMIT ON TARIFFS

The Concessionaire shall ensure that its Average Tariff for a Quarter does not exceed the Tariff Cap.

Where:

“**Average Tariff for a Quarter**” = Total amount billed to all Customers (excluding Special Customers) in the Quarter (LCU) / Total kWh of electricity sold to all Customers (excluding Special Customers) in the Quarter (kWh). Any Supplemental Tariff shall be excluded from the calculation of the Average Tariff for a Quarter.

“**Quarter**” means:

* 1. with respect to the first Quarter, the period from the first Mini-Grid [*Site/Lot*] Technical Commissioning Date up to, and including, the last day of the third Month falling after the Mini-Grid [*Site/Lot*] Technical Commissioning Date; and
  2. in respect of each subsequent Quarter, the period between the last day of the previous Quarter (not including such date) and the date falling three (3) Months after such date, except for the last Quarter, which shall end on the earlier to occur of:
     1. the date falling three (3) Months after the last day of the previous Quarter (not including such date); and
     2. the date of expiry or Termination (as applicable) of the Concession Agreement.

# TARIFF PERIODS

## **Tariff Periods**

There will be several Tariff Periods during the Concession Period.

The first Tariff Period will start on the first Mini-Grid [*Site/Lot*] Technical Commissioning Date and shall end on the date falling [*five (5)*] Years thereafter or, where that date is not an Automatic Tariff Cap Adjustment Date, on the next Automatic Tariff Cap Adjustment Date falling after that date.

Each subsequent Tariff Period will start on the last day of the previous Tariff Period (not including such date) and shall end on the date falling [*five (5)*] Years thereafter, except for the last Tariff Period, which shall end on the earlier to occur of:

* the date falling [*five (5)*] Years after the last day of the previous Tariff Period (not including such date); and
* the date of expiry or Termination (as applicable) of the Concession Agreement.

The Tariff Cap at the start of the first Tariff Period will be the Starting Tariff Cap, as adjusted pursuant to clause 11.2 (*Tariff Cap Adjustments and Supplemental Tariff*) of the Concession Agreement and Clause 3.1 (*Starting Tariff Cap*) of this Schedule 1.

On each Tariff Review Date, the Tariff Cap will be reset in accordance with Clause 4 (*Periodic reset of Tariff Cap*) of this Schedule 1 (*Tariff Regulation*).

[**2.2 Tariff Review Procedure[[39]](#footnote-40)**]

# TARIFF CAP AND INDEXATION

## **Starting** **Tariff Cap**

The Starting Tariff Cap is [*price cap defined in the RFP in LCU*] increased using the indexation formula set forth in Clause 3.2 of this Schedule 1, where indexation is calculated based on the change in each variable between the [*Signature Date/Concession Effective Date*] and the date prior to the first Mini-Grid [*Site/Lot*] Technical Commissioning Date.

## **Indexation of Tariff Cap**

On the date prior to the first Mini-Grid [*Site/Lot*] Technical Commissioning Date and on each Automatic Tariff Cap Adjustment Date, the Tariff Cap for the next Quarter will be set using the following formula:

|  |  |
| --- | --- |
| ***TN*** | Means the Tariff Cap that applies to the Quarter that is starting, set in LCU/kWh |
| ***TN-1*** | Means the Tariff Cap that applied to the Quarter that is ending, set in LCU/kWh |
| **N** | Is the Exchange Rate on the Automatic Tariff Cap Adjustment Date immediately preceding the first day of the Quarter that is starting |
| **N-1** | Is the Exchange Rate on the Automatic Tariff Cap Adjustment Date that immediately preceded the first day of the Quarter that is ending |
| **N** | Is the Consumer Price Index in the [*Host Country*] on the Automatic Tariff Cap Adjustment Date immediately preceding the first day of the Quarter that is starting |
| **N-1** | Is the Consumer Price Index in the [*Host Country*] on the Automatic Tariff Cap Adjustment Date that immediately preceded the first day of the Quarter that is ending |
| ***FC*N** | Is the Fuel Price in the [*Host Country*] in LCU/L on the Automatic Tariff Cap Adjustment Date immediately preceding the first day of the Quarter that is starting |
| ***FC*N-1** | Is the Fuel Price in the [*Host Country*] in LCU/L on the Automatic Tariff Cap Adjustment Date that immediately preceded the first day of the Quarter that is ending |
|  | A coefficient set as specified in Clause 3.3(a) |
|  | A coefficient set as specified in Clause 3.3(a) |
|  | A coefficient set as specified in Clause 3.3(a) |

On each Tariff Review Date, the Tariff Cap will be set as specified in Clause 4 of this Schedule 1.

The meanings of the terms in the indexation formula are as follows:

* “**Exchange Rate**” is the average buy rate for the purchase of Foreign Currency with Local Currency, published by the Reference Banks each Day.
* “**CPI**” is the national Consumer Price Index defined by the [*National Statistics Institute of the Host Country*].
* “**Fuel Price**” is the price in LCU/unit of the fuel used by the Concessionaire to generate electricity defined by [*indicate an objective source for fuel price*].[[40]](#footnote-41)

## **Weights in the Indexation Formula**

* + - 1. **First Tariff Period**[[41]](#footnote-42)

For the calculation of the Starting Tariff Cap and the First Tariff Period, the values of the weights are as follows:

a1 = [*insert weight – this should be set in the same way as described in Clause 3.3(b) of this Schedule 1 for the reset. For the first Tariff Period these coefficients will be set prior to the tender*]

a2 = [*insert weight – this should be set in the same way as described in Clause 3.3(b) of this Schedule 1 for the reset. For the first Tariff Period these coefficients will be set prior to the tender*]

a3 = [*insert weight – this should be set in the same way as described in Clause 3.3(b) of this Schedule 1 for the reset. For the first Tariff Period these coefficients will be set prior to the tender*]

* + - 1. **Subsequent Tariff Periods**

On each Tariff Review Date prior to the next succeeding Tariff Period, the weights applicable in the indexation formula in Clause 3.2 of this Schedule 1 for the next Tariff Period will be adjusted in accordance with the following formula:

a1

***Where:***

* “**ROA**” is the Return on Assets for each Year of the upcoming Tariff Period, as defined in Clause 4.3 of this Schedule 1.
* “**RevReq**” is the revenue requirement in [LCU] for each Year of the coming Tariff Period, as defined in Clause 4.1 of this Schedule 1.
* “**PV**” is the present value to be calculated by discounting using the Rate of Return (ROR) defined in Clause 4.4 of this Schedule 1, and calculated as follows:

PV (ROA) =

***Where:***

* **i** refers to each Year.
* Year 1 means the period of 12 consecutive months starting on, and including, the first day of the new Tariff Period.
* Year n means the period of 12 consecutive months starting on, and including, the first day of the last Year of the new Tariff Period.

a2

***Where:***

* “**PV**” is defined as for coefficient a1.
* “**Non-Fuel O&M Expenses**” is the non-fuel operating and maintenance expenses in [LCU] for each Year of the coming Tariff Period, as defined in Clause 4.1 of this Schedule 1.
* “**Depreciation**” is the depreciation in [LCU] for each Year of the coming Tariff Period, as defined in Clause 4.2 of this Schedule 1.
* “**RevReq**” is as defined above.

a3 =

***Where:***

* “**PV**” is defined as for coefficient a1.
* “**Fuel Costs**” are fuel costs in [LCU] for each Year of the coming Tariff Period, as defined in Clause 4.1 of this Schedule 1.
* “**RevReq**” is as defined above.

|  |
| --- |
|  |
| Box 1: Option: Indexation with Quality Factor[[42]](#footnote-43)  Where the government wishes to incentivise service quality by allowing higher tariffs for better service, the indexation formula used may be as follows:    where Q factor is the allowed tariff adjustment to reflect the difference between quality of service provided in the previous period compared to the target.   * If, on average, Service Standards are met or exceeded: Q = 0 * If, on average, the Service Standards are below target: Q is negative.   The formula for setting Q factor should be determined using a basket of Service Standards indicators. For example, using a basket of indicators with SAIFI and SAIDI only, the following could be designed:   * Above average performance for either SAIFI or SAIDI (e.g. greater than 10% below target) would be worth 0 Quality Points on either SAIDI or SAIFI. * Dead Band performance (+ or – 10% of target) for either SAIFI or SAIDI would be worth 0 Quality Points on either SAIFI or SAIDI. * Below average performance (e.g. more than 10% above target) for either SAIFI or SAIDI would be worth -3 Quality Points on either SAIFI or SAIDI.   The Q factor could be calculated as follows:   * Sum of quality points = 0: then Q = 0% * Sum of quality points = -3: then Q = -0.30% * Sum of quality points = -6: then Q= -0.50%   The level of the Q factor should be defined on a country-by-country basis, based on the frequency of tariff adjustment and the level of incentive and penalty targeted, and the Service Standards indicators selected. |

# PERIODIC RESET OF TARIFF CAP

On each Tariff Review Date, the Tariff Cap shall be reset to a new Tariff Cap that will apply from the start of the immediately succeeding Tariff Period onward, using the following formula:

***Where:***

* “**PV**” is calculated as set forth in Clause 3.3 of this Schedule 1.
* “**RevReq**” is the revenue requirement in [LCU] forecast for each year of the coming Tariff Period, calculated as set out in Clause 4.1 of this Schedule 1.
* “**Sales**” are theforecast of sales in kWh for electricity services for each year of the coming Tariff Period.
* “**ROR**” is the allowed rate of return as defined in Clause 4.4 of this Schedule 1.

## **Calculation of Revenue Requirement (RevReq) for a Year**

The Revenue Requirement for a Tariff Period shall be calculated using the following formula:

**RevReq for any year = Fuel Costs + Non-Fuel O&M Expenses + Depreciation + ROA**

***Where:***

* **“Fuel Costs”** means the expected reasonable cost of fuel used to generate electricity in the relevant Year.
* **“Non-Fuel O&M Expenses**” means the operating and maintenance expenses (excluding Fuel Costs but including and not limited to staff costs, general repair and maintenance costs, fees paid (if applicable) by the Concessionaire under any revenue guarantee instrument(s) pertaining to the Project, administration costs, all other utility costs, costs of maintaining Insurances, all costs under the Operating Services Agreement and provision for unpaid debts) the Concessionaire is reasonably expected to incur in providing the Concession Services (excluding any Additional Services) to Customers (other than the Special Customers) in the relevant Year.
* **“Depreciation**” is defined in Clause 4.2 of this Schedule 1**.**
* **“ROA”** is the return on assets as defined in Clause 4.3 of this Schedule 1.

## **Depreciation**

Depreciation (in any Year) = Depreciation of the Upfront Investment + Depreciation of Other Capital Investment

***Where:***

* Depreciation of the Upfront Investment =

Where i represents each asset class and Annual Depreciation Rate is the corresponding rate for each asset class, as defined in the table below.

* Depreciation of Other Capital Investment =

***Where:***

* **i** represents each asset class and Annual Depreciation Rate is the corresponding rate for each asset class, as defined in the table below.
* **Upfront Investment** is defined in Clause 4.5 of this Schedule 1.
* **Other Capital Investment** is defined in Clause 4.5 of this Schedule 1.
* **“P”** is defined in Clause 4.5 of this Schedule 1.

Assets older than their asset life will be removed from the calculation.

Asset classes and their annual depreciation rates and asset lives are as defined below:

| **Asset class** | **Asset life** | **Annual Depreciation Rate**[[43]](#footnote-44) |
| --- | --- | --- |
| Solar PV | 25 | [4]% |
| Solar charge controller | 12 | [8.3]% |
| Storage | 10 | [10]% |
| Battery inverter | 12 | [8.3]% |
| Solar PV inverter | 12 | [8.3]% |
| Fuel generator (genset) | 20 | [5]% |
| Powerhouse | 20 | [5]% |
| Remote monitoring system | 20 | [5]% |
| Balance of systems | 20 | [5]% |
| Low voltage distribution lines | 20 | [5]% |
| Medium voltage distribution lines | 20 | [5]% |
| Transformers and accessories | 20 | [5]% |
| Connections | 20 | [5]% |
| Solar Home Systems | 5 | [20]% |

## **Return on Assets**

### Return on Assets (ROA) for any year = ROR x RAB in that Year

## **Rate of Return (ROR)**

**ROR** shall be calculated on the Tariff Review Date[[44]](#footnote-45) according to the following formula:

***Where:***

β is the levered β for the Concessionaire, calculated by adjusting the unlevered β as follows:

and the variables in the formula have the definitions in the table below and shall be assigned values from the sources in the table.

| **Abbreviation** | **Variable** | **Value or Source** |
| --- | --- | --- |
| D | Concessionaire Debt | Total Debt of the Concessionaire according to the most recent audited financial statements |
| E | Equity | Book value of concessionaire’s Equity according to the most recent audited financial statements |
| Rg[[45]](#footnote-47) | [*Host Country*] Government cost of borrowing in USD | [Yield to maturity on recently issued ten-year [*Host Country*] bond in USD, or the best available estimate of what the cost to the government of [*Host Country*] of borrowing in USD on commercial terms would be] |
| RP | Concessionaire risk premium | [*3%*] [country-by-country basis analysis of risk premium from the Concessionaire borrowing compared to the Government borrowing] |
|  | Unlevered beta estimated for electricity distribution businesses (the beta is unlevered to remove the effect of each company’s debt to equity ratio) | [Calculated by Dr. Aswath Damodaran (Professor of Finance at NYU Stern School of Business) for Global Utilities as at [Insert Date], <http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/Betas.html>][[46]](#footnote-48) |
|  | Market Risk Premium | Amount by which stock market returns are expected to exceed the risk-free rate of return in the long run, calculated as historical annual return on stock market [from S&P 500 index] minus the risk-free rate [yield to maturity of ten-year US government bond in USD] |
| T | Corporate income tax rate applicable to the Concessionaire | Tax code |

## **Regulatory Asset Base (RAB)**

RAB in any year = Concessionaire Financed Assets + Working Capital + Other assets

***Where:***

* **Concessionaire Financed Assets** for any year **=**Depreciated Value of Upfront Investment x (1–P)  
  + Depreciated Value of Other Capital Investments
* **Upfront Investment** means the total investment in non-current assets needed to achieve the Target Completion Connections.[[47]](#footnote-49)
* **Depreciated Value of Upfront Investment** will be determined using historic cost accounting conventions, straight-line depreciation, and the asset lives in Clause 4.2 of this Schedule 1.
* **P** = Capital Grants / Upfront Investment
* **Capital Grants** = sum of all grants that the Concessionaire is entitled to in the period up until Concession Completion
* **Other Capital Investment** = any investment in non-current assets, other than the Upfront Investment, made to provide services to all Customers (other than Special Customers) in accordance with the Concession Agreement[[48]](#footnote-50)
* **Working Capital** = Current assets – Current liabilities
* **Other assets** means the funds deposited in any debt service reserve account or any other reserve accounts held by the Concessionaire in accordance with the Concession Agreement or the Financing Agreements, such as a maintenance reserve account or capital expenditure replacement reserve account.
* **Current assets** is defined in accordance with the International Financial Reporting Standards promulgated by the International Accounting Standards Board, applied on a consistent basis.
* **Current Liabilities** is defined in accordance with the International Financial Reporting Standards promulgated by the International Accounting Standards Board, applied on a consistent basis.

Assets are valued using the historic cost accounting conventions. Physical assets are depreciated over their useful lives using straight-line depreciation.

# EXTRAORDINARY TARIFF EVENTS

On the occurrence of an Extraordinary Tariff Event that has a Cost/Revenue Impact, clause 17.11 (*Extraordinary Tariff Events*) of the Concession Agreement entitles the Concessionaire to charge a Supplemental Tariff, to be calculated and applied in accordance with this Clause 5.[[49]](#footnote-51)

## **Compensation for Temporary Extraordinary Tariff Event**

The Cost/Revenue Impact of any Temporary Extraordinary Tariff Event will be tracked in a TEE Account (the “**TEE Account**”) as follows.

### **TEE Account in first Quarter**

TEE Accounton the first Automatic Tariff Cap Adjustment Date after the first occurrence of the TEE =

Increase in Operating Expenses (including Fuel)

+ Decrease in Revenue

+ Additional Depreciation

+ Additional ROA

### **TEE Account at the end of each subsequent Quarter**

On each subsequent Automatic Tariff Cap Adjustment Date, the TEE Account will be calculated as follows:

TEE Accountat end of each subsequent Quarter =

TEE Accountat start of each subsequent Quarter

+ Increase in Operating Expenses (including Fuel)

+ Decrease in Revenue

+ Additional Depreciation

+ Additional ROA

+ TEE Account balance at the start of the Quarter x

***Where:***

* **Increase in Operating Expenses** (including Fuel) means the net increase in all operating and maintenance expenses including Fuel caused by the Temporary Extraordinary Tariff Event. If Operating and Maintenance Expenses (including Fuel) decrease as a result of the Temporary Extraordinary Tariff Event, that decrease shall be recorded as a negative increase.
* **Decrease in Revenue** means the net decrease in revenue caused by the Temporary Extraordinary Tariff Event. If revenue increases as a result of the Temporary Extraordinary Tariff Event, that increase shall be recorded as a negative decrease.
* **Additional Depreciation** means the depreciation on any physical non-current assets that were invested in by the Concessionaire because of the Temporary Extraordinary Tariff Event, consistent with prudent utility management practices. Such depreciation is to be calculated in accordance with historic cost accounting conventions, on a straight-line basis, using the asset lives in Clause 4.2 of this Schedule 1. If depreciation reduces as a result of the Temporary Extraordinary Tariff Event, this will be recorded as a negative increase.
* **Additional ROA** is to be calculated as the ROR, divided by four, times the depreciated historic cost value of physical non-current assets that were invested in by the Concessionaire because of the Temporary Extraordinary Tariff Event, consistent with prudent utility management practices.

### **Disposition of the TEE Account when the Temporary Extraordinary Tariff Event has ceased**

The TEE Account will continue to be calculated as set out above until the Impact End Date. When that occurs, the following shall occur:

* A TEE Adder shall be added to the Tariff Cap for each of the next [N] Quarters
* The TEE Adder for each Quarter will be calculated as follows:

TEE Adder in the Quarter =

* The TEE Recovery Charge will be the value returned by the following annuity formula:

TEE Recovery Charge (LCU) =

Where:

N = [20]

R =

* The balance of the TEE Account will be reduced by the TEE Recovery Charge at the end of each Quarter in which the TEE Adder was applied.

## **Compensation for Non-Temporary Extraordinary Tariff Events**

The Cost/Revenue Impact of any Non-Temporary Extraordinary Tariff Event will be tracked in an Extraordinary Tariff Events Account (“**EE Account**”) as follows.

### **EE Account in first Quarter**

EE Accounton the first Automatic Tariff Cap Adjustment Date after the first occurrence of the EE =

Increase in Operating Expenses (including Fuel)

+ Decrease in Revenue

+ Additional Depreciation

+ Additional ROA

### **EE Account subsequent Quarters**

On each subsequent Automatic Tariff Cap Adjustment Date, the EE Account will be calculated as follows:

EE Accounton each subsequent Automatic Tariff Cap Adjustment Date =

EE Accountat start of each subsequent Quarter

+ Increase in Operating Expenses (including Fuel)

+ Decrease in Revenue

+ Additional Depreciation

+ Additional ROA

+ EE Account balance at the start of the Quarter x

Where the terms in the formula have the meanings given in Clause 5.1 of this Schedule 1.

### **Disposition of the EE Account in the next Tariff Period**[[50]](#footnote-52)

The EE Account will continue to be calculated as set out above until the start of the next Tariff Period. At the start of the next Tariff Period, the following shall occur:

* An EE Adder shall be added to the Tariff Cap for each Quarter of the Tariff Period
* The EE Adder for each Quarter will be calculated as follows:

EE Adderin the Quarter =

* The EE Recovery Charge will be the value returned by the following annuity formula:

EE Recovery Charge (LCU) =

Where:

N is the number of Quarters in the Tariff Period

R =

* The balance of the EE Account will be reduced by the EE Recovery Charge at the end of each Quarter in which the EE Adder was applied.

Where the terms in the formula have the meanings given in Clause 5.1 of this Schedule 1.

## **Separate accounts to be kept for each Extraordinary Tariff Event unless otherwise agreed**

A separate EE Account or TEE Account (as the case may be) will be kept for each Extraordinary Tariff Event.

However, if the Concessionaire [, *the Regulator*] and the Grantor all agree, a combined EE Account may be kept for two or more Extraordinary Tariff Events. However, accounts for Temporary Extraordinary Tariff Events shall not be combined with accounts for Extraordinary Tariff Events that are Non-Temporary Extraordinary Tariff Events.

“**Total Extraordinary Tariff Event Balance**” on any date means the sum of the balances of all EE Accounts and all TEE Accounts on that date.

# GRANTOR COMPENSATION FORMULA

The Loss Amount shall be calculated in accordance with the following formula:

Formula for compensating the Concessionaire:

Quarterly compensation =

−

***Where:***

* **i** corresponds to each Customer Category as defined in the Tariff Schedule.
* **Actual consumption** during Quartermeans the billing determinants calculated for the preceding Quarter.[[51]](#footnote-53)
* **Contracted Tariff** means the tariff and Supplemental Tariff that the Concessionaire would have been entitled to charge in accordance with the formulas and methodology for tariff setting and adjustment defined in this Schedule 1.
* **Allowed Tariff** means the tariff and Supplemental Tariff charged by the Concessionaire.

1. Schedule 2: Termination

ANNEX 1

TERMINATION BUY-OUT AMOUNTS

All Buy-Out Amounts must be paid to the Concessionaire (or, where appropriate pursuant to the Expropriation Agreement, the Shareholders) in Dollars.

* 1. The Buy-Out Amount
     + 1. The **Concessionaire Buy-Out Amount** shall be an amount equal to the sum of:
          1. the Concessionaire Financed Assets as at the date of the Concessionaire Event of Default x 0.[*•*][[52]](#footnote-54) or, if a higher amount, the Debt Outstanding;
          2. the Additional Concessionaire Amounts on the Termination Date;
          3. the Total Extraordinary Tariff Event Balance on the Termination Date; and
          4. the Termination Costs accrued up to the Termination Date (without double counting any amounts included in the Total Extraordinary Tariff Event Balance).
       2. The **Grantor Buy-Out Amount** shall be an amount equal to the sum of:
          1. the Concessionaire Financed Assets x [•][[53]](#footnote-55) or, if a higher amount, the Debt Outstanding,

where the Concessionaire Financed Assets are calculated:

##### in respect of a Grantor Event of Default, as at the date of the Grantor Event of Default;

##### in respect of a Political Force Majeure Event, as at the date immediately prior to the start of the Political Force Majeure Event;

##### in respect of a Grid Expansion, as at the Grid Expansion Termination Date set out in the Grid Expansion Notice; and

##### in respect of an Expropriation, as at the date of the Expropriation;

* + - * 1. the Additional Concessionaire Amount on the Termination Date;
        2. the Total Extraordinary Tariff Event Balance on the Termination Date; and
        3. the Termination Costs accrued up to the Termination Date (without double counting any amounts included in the Total Extraordinary Tariff Event Balance).
      1. The Natural Force Majeure Buy-Out Amount shall be calculated as an amount equal to the sum of:
         1. the Concessionaire Financed Assets, calculated as at the date immediately prior to the Natural Force Majeure Event or, if a higher amount, the Debt Outstanding;
         2. the Additional Concessionaire Amounts on the Termination Date;
         3. the Total Extraordinary Tariff Event Balance on the Termination Date; and
         4. the Termination Costs accrued up to the Termination Date (without double counting any amounts included in the Total Extraordinary Tariff Event Balance).
      2. The **Concessionaire Partial Buy-Out Amount** shall be an amount equal to the sum of:
         1. the Concessionaire Financed Assets x 0.[*•*][[54]](#footnote-56), where the Concessionaire Financed Assets are calculated only in respect of the affected Mini-Grid [*Site/Lot*] as at the date of the Concessionaire Event of Default;
         2. an amount equal to the Transfer Percentage of the Additional Concessionaire Amount on the Removal Date; and
         3. the Termination Costs accrued up to the Removal Date attributable to the Concessionaire Event of Default.
      3. The **Grantor Partial Buy-Out Amount** shall be an amount equal to the sum of:
         1. the Concessionaire Financed Assets x [*•*][[55]](#footnote-57), where the Concessionaire Financed Assets are calculated only in respect of the affected Mini-Grid [*Site/Lot*] and:

##### in respect of a Grantor Event of Default, as at the date of the Grantor Event of Default;

##### in respect of a Political Force Majeure Event, as at the date immediately prior to the start of the Political Force Majeure Event;

##### in respect of a Grid Expansion, as at the Grid Expansion Termination Date set out in the Grid Expansion Notice; and

##### in respect of an Expropriation, as at the date of the Expropriation;

* + - * 1. an amount equal to the Transfer Percentage of the Additional Concessionaire Amounts on the Removal Date; and
        2. the Termination Costs accrued up to the Removal Date attributable to the Grantor Event of Default.
      1. The Natural Force Majeure Event Partial Buy-Out **Amount** shall be calculated as an amount equal to the sum of:
         1. the Concessionaire Financed Assets, where the Concessionaire Financed Assets are calculated only in respect of the affected Mini-Grid [*Site/Lot*] as at the date immediately prior to the Natural Force Majeure Event;
         2. an amount equal to the Transfer Percentage of the Additional Concessionaire Amounts on the Removal Date; and
         3. the Termination Costs accrued up to the Removal Date attributable to the Concessionaire Event of Default.

**ANNEX 2**

**COMPENSATION AND TRANSFER ON GRID EXPANSION**

**Section I – Termination**

Where the Concessionaire elects to terminate the Concession Agreement upon a Grid Expansion, it shall transfer the Relevant Concession Assets to the Grantor, for an amount equal to the Grantor Buy-Out Amount.

Section II – Small Power Producer

* 1. Where the Concessionaire elects to become a Small Power Producer upon a Grid Expansion that is Concession Wide, it shall:
     1. transfer the Distribution Assets to the Grantor or its designee for an amount equal to the sum of:

##### the Concessionaire Financed Assets calculated in respect of the Distribution Assets only as at the Grid Expansion Termination Date;

##### an amount equal to the Transfer Percentage of the Additional Concessionaire Amounts as at the Grid Expansion Termination Date; and

##### the Termination Costs accrued up to the Grid Expansion Termination Date attributable to the Grid Expansion Event,

##### (the “**Distribution Buy-Out Amount**”); and

* + 1. it shall continue to operate the Generation and Storage Assets.
  1. Where the Concessionaire elects to become a Small Power Producer upon a Grid Expansion that is not Concession Wide, it shall:
     1. transfer the Distribution Assets to the Grantor or its designee for an amount equal to the sum of:

##### the Concessionaire Financed Assets calculated in respect of the Distribution Assets in the affected Mini-Grid [*Site/Lot*] as at the Grid Expansion Removal Date;

##### an amount equal to the Transfer Percentage of the Additional Concessionaire Amounts as at the Grid Expansion Removal Date; and

##### the Termination Costs accrued up to the Grid Expansion Removal Date attributable to the Grid Expansion Event,

##### (the “**Distribution Partial Buy-Out Amount**”); and

* + 1. it shall continue to operate the Generation and Storage Assets of the affected Mini-Grid [*Site/Lot*].

Section III – Small Power Distributor

* 1. Where the Concessionaire elects to become a Small Power Distributor on a Grid Expansion, it shall:
     1. transfer Generation and Storage Assets to the Grantor or its designee for an amount equal to the sum of:

##### the Concessionaire Financed Assets calculated in respect of the Generation and Storage Assets as at the Grid Expansion Termination Date;

##### an amount equal to the Transfer Percentage of the Additional Concessionaire Amounts as at the Grid Expansion Termination Date; and

##### the Termination Costs accrued up to the Grid Expansion Termination Date attributable to the Grid Expansion Event,

##### (the “**Generation and Storage Buy-Out Amount**”); and

* + 1. continue to operate the Distribution Assets of the Mini-Grids.
  1. Where the Concessionaire elects to become a Small Power Distributor upon a Grid Expansion that is not Concession Wide, it shall:
     1. transfer the Generation and Storage Assets in that Mini-Grid [*Site/Lot*] to the Grantor for an amount equal to the sum of:

##### the Concessionaire Financed Assets calculated in respect of the Generation and Storage Assets in that Mini-Grid [*Site/Lot*] as at the Grid Expansion Removal Date;

##### an amount equal to the Transfer Percentage of the Additional Concessionaire Amounts as at the Grid Expansion Removal Date; and

##### the Termination Costs accrued up to the Grid Expansion Removal Date attributable to the Grid Expansion Event,

(the “**Generation and Storage Partial Buy-Out Amount**”); and

* + 1. continue to operate the Distribution Assets in that Mini-Grid [*Site/Lot*].

1. **Section IV – Interconnected Mini-Grid**
   1. Where the Concessionaire elects to become an Interconnected Mini-Grid upon a Grid Expansion:
      1. the Grantor shall pay to the Concessionaire an amount equal to the sum of:
         1. the Total Extraordinary Tariff Event Balance on the Grid Expansion Termination Date; and
         2. the Termination Costs accrued up to the Grid Expansion Termination Date attributable to the Grid Expansion Event (without double counting any amounts included in the Total Extraordinary Tariff Event Balance); and
      2. the Concession Agreement shall terminate on the Grid Expansion Termination Date.
   2. Where the Concessionaire elects to become an Interconnected Mini-Grid upon a Grid Expansion that is not Concession Wide:
      1. the Grantor shall pay to the Concessionaire an amount equal to the Termination Costs accrued up to the Grid Expansion Removal Date attributable to the Grid Expansion Event; and
      2. the Concessionaire shall remove the affected Mini-Grid [*Site/Lot*] at the Grid Expansion Removal Date.
2. Where:
3. “**Relevant Concession Assets**”means:
   1. with respect to a termination of the Concession Agreement, resulting from a Concessionaire Event of Default, a Grantor Event of Default, a Prolonged Force Majeure Event or pursuant to Section I above, all Concession Assets; and
   2. with respect to a Removal resulting from a Concessionaire Event of Default, a Grantor Event of Default, a Prolonged Force Majeure Event or pursuant to Section I above, only the Concession Assets of each affected Mini-Grid [*Site/Lot*];
   3. with respect to a termination of the Concession Agreement as a result of a Share Expropriation, the Ownership Interest in the Concessionaire;
   4. with respect to a Grid Expansion pursuant to Section III(a) above, the Generation and Storage Assets of each of the Mini-Grids in the Concession;
   5. with respect to a Removal pursuant to Section III(b) above, only the Generation and Storage Assets of each affected Mini-Grid [*Site/Lot*];
   6. with respect to a Grid Expansion pursuant to Section II(a) above, the Distribution Assets of each of the Mini-Grids in the Concession; and
   7. with respect to a Removal pursuant to Section II(b) above, only the Distribution Assets of each affected Mini-Grid [*Site/Lot*].

1. Please see section 4 of the Concession Agreement User Guide. [↑](#footnote-ref-2)
2. Please see section 4 of the Concession Agreement User Guide. [↑](#footnote-ref-3)
3. Drafting Note: It may not be the case that all Mini-Grids will be Grid ready, so this may be removed where it is agreed that they do not need to be Grid ready. [↑](#footnote-ref-4)
4. Please see Section 29 for an explanation of the use of Solar Home Systems to connect Off-Grid Customers. [↑](#footnote-ref-5)
5. As noted in the relevant provisions of the Concession Agreement relating to the procurement of Generation Sites, any land lease agreement or land purchase agreement must include provision that any Generation Site being provided/transferred to the Concessionaire is free of any Environmental Liabilities. It is expected that any such liabilities would be identified during the Feasibility Studies. [↑](#footnote-ref-6)
6. For larger sites this will simply refer to the Mini-Grid Site and for smaller sites this will be the bundled up Mini-Grid Lots. [↑](#footnote-ref-7)
7. This threshold will need to be determined on a case-by-case basis. It is meant to be set at a level below which a concession can no longer be considered viable. It is used throughout the Concession to indicate that a termination of the Concession is the more appropriate remedy vs a removal of mini-grids/lots affected by certain circumstances from the Concession. [↑](#footnote-ref-8)
8. To be used where there may not be prepaid meters – although the default requirement for the SMG Program is that all meters must be prepaid. [↑](#footnote-ref-9)
9. This threshold will need to be determined on a case-by-case basis. The general guidance is that this portion shall be relatively small in the ranges of 20-30%. [↑](#footnote-ref-10)
10. Change of Control means the Sponsor(s) ceasing to Control the Concessionaire, where “**Control**” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Concessionaire, whether through the ownership of a majority or other controlling interest in the voting securities, equity or other Ownership Interest in the Concessionaire, or by agreement between Persons conferring such power or voting rights. “**Controlled**” has a corresponding meaning. [↑](#footnote-ref-11)
11. The requirement prohibiting a change of control over the life of the concession is more stringent compared to other typical infrastructure projects and the possibility for shorter lock-up periods could be discussed on a case-by-case basis. [↑](#footnote-ref-12)
12. To be added based on requirements of the Host Country. [↑](#footnote-ref-13)
13. Drafting Note: The tariff setting and adjustment formulas and methodology set out in Schedule 1 of this Term Sheet, as summarised here, may need to be adjusted to reflect the local regulatory regime. Where this is the case, schedule 8 (*Tariff Regulation*) of the Concession Agreement will need to be modified to reflect this. [↑](#footnote-ref-14)
14. Drafting Note: It is likely that the local regulatory regime will prescribe the form of the Tariff Schedule. [↑](#footnote-ref-15)
15. Drafting Note: The timing and method of publication of the Tariff Schedule will be subject to the local regulatory regime. [↑](#footnote-ref-16)
16. Drafting Note: Monthly indexation may be considered depending on the regulations in the country where the Scaling Mini-Grid Program is implemented. The trade-offs between immediacy of variable cost pass-through, increased complexity for regulatory oversight and administration as well as impact of frequent end-user tariff changes on customers should be considered. [↑](#footnote-ref-17)
17. Drafting Note: This will be determined as part of the Tariff review procedure noted in Schedule 1. [↑](#footnote-ref-18)
18. In the event that the Concessionaire benefits from a minimum revenue guarantee, we would expect amounts to be paid to the Concessionaire under that guarantee to also be free from taxes, and reference to that guarantee should be included in this provision. [↑](#footnote-ref-19)
19. Please refer to section 14.1(b) of the Concession Agreement User Guide. [↑](#footnote-ref-20)
20. Please refer to section 14.2 of the Concession Agreement User Guide. [↑](#footnote-ref-21)
21. Please refer to section 11 of the Concession Agreement User Guide for a discussion of the Concessionaire’s obligations to comply with Service Standards. [↑](#footnote-ref-22)
22. Please refer to section 14 of the Concession Agreement User Guide. [↑](#footnote-ref-23)
23. This threshold will need to be determined on a case-by-case basis. It is meant to be set at a level below which a concession can no longer be considered viable. It is used throughout the Concession to indicate that a termination of the Concession is the more appropriate remedy vs a removal of mini-grids/lots affected by certain circumstances from the Concession. [↑](#footnote-ref-24)
24. See prior footnote. [↑](#footnote-ref-25)
25. Threshold to be determined based on the value of each Project. [↑](#footnote-ref-26)
26. The applicable options for this definition will depend on whether there is phased construction or simultaneous construction of Mini-Grid Sites. [↑](#footnote-ref-27)
27. This threshold shall be assessedwill need to be determined on a case-by-case basis. It is meant to be set at a level below which a concession can no longer be considered viable. It is used throughout the Concession to indicate that a termination of the Concession is the more appropriate remedy vs a removal of mini-grids/lots affected by certain circumstances from the Concession. [↑](#footnote-ref-28)
28. See prior footnote. [↑](#footnote-ref-29)
29. Drafting Note: This can be tailored to relate generally to pandemics rather than specifically to COVID-19, particularly if you consider other pandemics could be relevant to the countries participating in the SMG Program. [↑](#footnote-ref-30)
30. Drafting Note: Additional Customer Categories to be created and these definitions to be amended accordingly as the circumstances require. Please see section 11.4 of the Concession Agreement User Guide. [↑](#footnote-ref-31)
31. Drafting Note: Where the Grantor’s creditworthiness is not satisfactory, the government of the Host Country will be required to backstop the payment obligations of the Grantor hereunder – being primarily the Buy-Out Amounts and any Tariff Cap Loss Amounts. [↑](#footnote-ref-32)
32. Drafting Note: We would expect that the Concession Agreement may be drafted to name the Grid Operators where there may not be more than one or two relevant providers. [↑](#footnote-ref-33)
33. A copy of IFC’s Performance Standards can be found at: [http://www.ifc.org/wps/wcm/connect/topics\_ext\_content/ifc\_external\_corporate\_site/ifc+sustainability/our+approach/risk+management/performance+standards/environmental+and+s”Initial Expiorocial+performance+standards+and+guidance+notes](http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/performance+standards/environmental+and+s) [↑](#footnote-ref-34)
34. Drafting Note: It may not be the case that all Mini-Grids will be Grid ready. [↑](#footnote-ref-35)
35. Since the consequence of a Persistent Service Standard Failure could be a termination of the Concession by the Grantor, tThis threshold shall be assessed on a case-by-case basis.should be set at an appropriately high level commensurate to the consequence. [↑](#footnote-ref-36)
36. Please see section 4.2 of the Concession Agreement User Guide. [↑](#footnote-ref-37)
37. Drafting Note: Will be determined as part of the Tariff review procedure noted in Schedule 1. [↑](#footnote-ref-38)
38. A copy of the WBG Environmental, Health and Safety Guidelines can be found at: [Environmental, Health, and Safety Guidelines (ifc.org)](https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/ehs-guidelines). [↑](#footnote-ref-39)
39. Drafting Note: The procedure for carrying out the Tariff Review at the end of each Tariff Period may need to be adapted and developed depending on the procedure for periodic tariff adjustment in each jurisdiction and reflected in this Schedule 1. [↑](#footnote-ref-40)
40. Drafting Note: An open book approach may be considered on a case-by-case basis during country implementation if fuel price indices are not a good proxy. [↑](#footnote-ref-41)
41. Please refer to section 12 of the Concession Agreement User Guide. [↑](#footnote-ref-42)
42. Drafting Note: Where the Concession Agreement provides for a tariff adjustment for Persistent Service Standard Failures occurring on any Automatic Tariff Cap Adjustment Date, this formula which includes a “Q” Quality factor must be applied in place of the formulas currently proposed in Clause 3.2 of this Schedule 1, adapted as appropriate for the Project. Please see section 12.2 of the Concession Agreement User Guide. [↑](#footnote-ref-43)
43. Drafting Note: Values to be confirmed for each Concession as part of the country implementation of the Scaling Mini-Grid Program. [↑](#footnote-ref-44)
44. Drafting Note: Three options are possible:

    Option 1: All variables comprising the ROR are reset at the start of each Tariff Period – this is as drafted now and is the most common regulatory practice.

    Option 2: All variables comprising the ROR are set or reset at the start of each Tariff Period, except for the unlevered beta and Market Risk Premium.

    Option 3: Only Rg is set or reset at the start of each Tariff Period. [↑](#footnote-ref-45)
45. This metric encompasses risk-free rate, country risk premium and local currency inflation. [↑](#footnote-ref-47)
46. Drafting Note: Estimates of beta are available from various sources. Prof. Damodaran is referenced as the source in the template Concession Agreement as it is based on international data. If data from Prof. Damodaran is not available, other sources for beta could be used. [↑](#footnote-ref-48)
47. This may include investments made by the Concessionaire in assets owned by the Grantor or any other Government entity that are used for delivering the service under the Concession. [↑](#footnote-ref-49)
48. This may include investments made by the Concessionaire in assets owned by the Grantor or any other Government entity that are used for delivering the service under the Concession. [↑](#footnote-ref-50)
49. Please see section 12.4 of the Concession Agreement User Guide. [↑](#footnote-ref-51)
50. Drafting Note: Any expected continuing financial impact of the Non-Temporary Extraordinary Tariff Event will be reflected in the projected costs and sales, as provided for in Clause 4. As a result, the Tariff Cap for the next Tariff Period will allow the Concessionaire an expected return equal to ROR, despite the continuing impact of the Non-Temporary Extraordinary Tariff Event. [↑](#footnote-ref-52)
51. Drafting Note: Billing determinants must follow the structure of the Tariff Schedule. Billing determinants may be, for example, energy consumption in kWh for the energy consumption charge and peak demand in kW for the capacity charge. [↑](#footnote-ref-53)
52. Drafting Note: The coefficient should be set during country implementation. The coefficient for the Concessionaire Buy-Out Amount, which is payable in the event of an early termination of the Concession due to a Concessionaire Event of Default, should be set below 1 to incentivise the equity provider not to cause an early termination of the Concession by not letting it recover the full value of the assets in such cases. The coefficient should also take into consideration the financing structure and be set at a value sufficient to cover the debt outstanding at the time of termination. [↑](#footnote-ref-54)
53. Drafting Note: The coefficient should be set during country implementation. The coefficient for the Grantor Buy-Out Amount, which is payable in the event of an early termination of the Concession due to a Grantor Event of Default, should be above 1 to incentivise the Grantor not to cause an early termination of the Concession by not allowing it to buy the assets at their value at the time of termination. The value for the premium should be high enough to align incentives and provide reasonable lost profit cover for the equity investor and in all cases cover the debt outstanding at the time of termination. However, it should not be set to compensate the Concessionaire for all foregone profit (as that would be too onerous for many Grantors, and the equity provider is expected to reinvest amounts recovered to generate expected returns in another project). [↑](#footnote-ref-55)
54. Drafting Note: See paragraph 1(a)(i) above. [↑](#footnote-ref-56)
55. Drafting Note: See paragraph 1(b)(i) above. [↑](#footnote-ref-57)