

**IMPLEMENTING ENTITY AGREEMENT**

**By and between**

**MILLENNIUM CHALLENGE ACCOUNT-TANZANIA**

**and**

**TANZANIA ELECTRIC SUPPLY COMPANY LIMITED**

**Dated this .....day of ....., 2008**

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## IMPLEMENTING ENTITY AGREEMENT

This **IMPLEMENTING ENTITY AGREEMENT** (“*Agreement*”) is made this .....day of of.....2008, by and between **Millennium Challenge Account-Tanzania**, an independent autonomous entity established under the laws of the United Republic of Tanzania through Government Notice No. 202 published in the official gazette on September 21, 2007 (“*MCA-Tanzania*”) on behalf of the Government of the United Republic of Tanzania (“*Government*”) and Tanzania Electric Supply Company Ltd (“*TANESCO*”), in its capacity as implementing entity and procurement agent (the “*Implementing Entity*”).

MCA-Tanzania and the Implementing Entity are referred to herein collectively as “*Parties*,” and each individually as a “*Party*.”

### RECITALS

**WHEREAS**, the United States of America, acting through the Millennium Challenge Corporation (“*MCC*”), and the Government, acting through the Ministry of Finance and Economic Affairs, executed that certain Millennium Challenge Compact on February 17, 2008 (“*Compact*”) that sets forth the general terms and conditions on which MCC will provide funding of up to US\$698,136,000 to the Government for a Millennium Challenge Account program to advance economic growth and reduce poverty in the United Republic of Tanzania (“*Program*”);

**WHEREAS**, the Government has establish MCA-Tanzania as a permitted designee authorized to act on behalf of the Government in order to manage and oversee the implementation of this Compact and the Program;

**WHEREAS**, the Compact provides that MCA-Tanzania may in turn use certain Government affiliates as implementing entities for the execution of specific components of the Program; and

**WHEREAS**, the Parties hereby wish to set forth their respective roles and responsibilities in connection with implementation of the Energy Project Activity (as defined below) (“*Project Activity*”).

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties , hereby agree as follows:

### ARTICLE 1

#### DEFINITIONS AND PRINCIPAL COMPACT DOCUMENTS

**Section 1.1** Capitalized terms used but not defined herein shall have the meanings set forth in the Compact.

**Section 1.2** The Parties shall carry out their responsibilities under this Agreement in accordance with the following documents, as amended from time to time (“*Principal Compact Documents*”): (a) the Compact; (b) any agreement

governing the use of Compact Implementation Funding; (c) the Program Implementation Agreement; (d) any other agreement duly entered into by MCA-Tanzania and relevant to the Project Activity; and (e) any implementation plan duly adopted by MCA-Tanzania and relevant to the Project Activity.

## **ARTICLE 2 AUTHORIZATION AND APPOINTMENT.**

- Section 2.1** MCA-Tanzania hereby authorizes and appoints the Implementing Entity to perform, in accordance with the terms and conditions of this Agreement, the obligations and responsibilities set forth in this Agreement, including in Annex I, Annex II and Annex IV hereto (such obligations and responsibilities, collectively, “*Responsibilities*”).
- Section 2.2** The Parties may amend in writing from time to time the Responsibilities in a manner consistent with the terms of the Principal Compact Documents, with the prior written approval of MCC for any material amendments.
- Section 2.3** The Implementing Entity shall report directly to the Director of Energy Projects of MCA-Tanzania.
- Section 2.4** In accordance with Section 3.2 of the Compact, nothing in this Agreement shall be construed as releasing or discharging the Government, acting through MCA-Tanzania, from its obligations under the Principal Compact Documents.

## **ARTICLE 3 MCA-TANZANIA RESPONSIBILITIES**

- Section 3.1** MCA-Tanzania shall coordinate with the Implementing Entity and the Fiscal Agent to ensure that all contractors implementing any component of the Project Activity under the Implementing Entity’s supervision will be paid properly and promptly, consistent with the procedures described in the fiscal accountability plan duly adopted by MCA-Tanzania (“*Fiscal Accountability Plan*”).
- Section 3.2** Except as otherwise agreed by the Parties in writing and approved by MCC, MCA-Tanzania shall procure through the services of the Procurement Agent and Services Consultant all goods, works and services needed to implement the Zanzibar Interconnector Activity and the Malagarasi Hydropower and Kigoma Distribution Activity. The Implementing Entity shall procure, in accordance with its responsibilities set forth in Annex II hereto, all goods, works and services needed to implement the Distribution Systems Rehabilitation and Extension Activity (“*T&D Activity*”). The Procurement Agent and Services Consultant shall be appointed by MCA-Tanzania.

MCA-Tanzania shall ensure that the Implementing Entity complies with the MCC Program Procurement Guidelines in such procurements for the T&D Activity by appointing a Procurement Oversight Advisor (“*POA*”) who shall be responsible for verifying all procurement activities undertaken by the Implementing Entity.

#### **ARTICLE 4 IMPLEMENTING ENTITY RESPONSIBILITIES**

- Section 4.1** The Implementing Entity shall exercise all skill, reasonable care, prudence and diligence in the discharge of its duties and obligations as would be expected from a skilled and experienced implementing entity, and shall carry out all Responsibilities in a timely and cost-effective manner and in conformity with professionally sound technical, financial and management practices requisite for successful carrying out of the Responsibilities, and in accordance with internationally accepted practices. The Implementing Entity shall use at least the same standard of due care in handling all funds (including MCC Funding) in its performance of this Agreement as it would use with the Government’s funds, and at least the reasonable prudent care of a bank fiduciary.
- Section 4.2** The Implementing Entity shall cooperate fully with all reasonable requests for information or action by MCA-Tanzania, including assisting MCA-Tanzania with the production of any periodic reports required under the Principal Compact Documents.
- Section 4.3** The Implementing Entity shall cooperate fully with the Fiscal Agent and shall ensure prompt processing of any invoices received in connection with any goods, services or works related to the Project Activity.
- Section 4.4** In connection with the performance of the services related to this Agreement, the Implementing Entity, its agents and its employees shall be exempt from Taxes to the extent set forth in Section 2.7 of the Compact. The Implementing Entity shall promptly submit all documentation to the applicable authority for the reimbursement of any Taxes paid, notify the Fiscal Agent and MCA-Tanzania of any Taxes paid, and cooperate fully with the Fiscal Agent and MCA-Tanzania in connection with any action to seek prompt and proper exemption or reimbursement of such Taxes paid consistent with the MCA-Tanzania Fiscal Accountability Plan.
- Section 4.5** The Implementing Entity shall obtain all immigration, business and other permits, licenses, consents and approvals (“*Licenses*”) necessary to enable it and its personnel to perform fully its Responsibilities; *provided*, that no Taxes shall be paid from MCC Funding for any such Licenses.
- Section 4.6** The Implementing Entity shall indemnify, defend and hold harmless each of MCA-Tanzania (including its directors, officers, employees, affiliates, agents, advisors and representatives) and MCC (including its directors, officers,

employees, affiliates, agents, advisors and representatives) (MCA-Tanzania, MCC and any such affiliate or person an “**MCC Indemnified Party**”) from and against any and all claims, losses, actions, liabilities, costs, damages or expenses, including reasonable attorneys’ fees and expenses (but excluding any lost profits or other special, incidental, indirect, punitive or consequential damages (except as set forth in Section 4.6(a)), regardless of the form of action and whether or not any such damages were foreseeable or contemplated (collectively, the “**MCA-Tanzania Losses**”) arising from or in connection with the negligence, bad faith, willful or intentional misconduct of the Implementing Entity, or a breach of this Agreement by the Implementing Entity, except if and to the extent that any such MCA-Tanzania Losses are attributable to the gross negligence or the willful misconduct of MCA-Tanzania.

- (a) In the event that any payment to any vendor or individual is delayed by more than thirty (30) days after the date of receipt of a valid and acceptable invoice by MCA-Tanzania due to the negligence or wilful misconduct of the Implementing Entity shall be liable for, and shall indemnify all MCC Indemnified Parties from and against, any claims (including claims for interest) from such vendors or individuals.
- (b) MCA-Tanzania shall indemnify, defend and hold harmless the Implementing Entity (including its directors, officers, employees, affiliates, agents, advisors and representatives) from and against any and all claims, losses, actions, liabilities, costs, damages or expenses, including reasonable attorneys’ fees and expenses (but excluding any lost profits or other special, incidental, indirect, punitive or consequential damages), regardless of the form of action and whether or not any such damages were foreseeable or contemplated (collectively, the “**Implementing Entity Losses**”) arising from or in connection with the negligence, bad faith, willful or intentional misconduct of MCA-Tanzania, or a breach of this Agreement by MCA-Tanzania, except if and to the extent that any such Implementing Entity Losses are attributable to the gross negligence or the willful misconduct of the Implementing Entity.
- (c) In the event that any amounts are owed by MCA-Tanzania to the Implementing Entity as the result of any delay or default of MCA-Tanzania, or as a result of Section 4.6(b), MCA-Tanzania shall be solely liable for the payment of such amounts (such payment to be made from national funds), and in no event shall such payments be authorized or made from any MCC Funding, nor shall Program assets be used to satisfy any such obligations.
- (d) Except as provided in Section 4.6(a), in no event shall either Party be liable to the other Party or any third party for consequential, special, incidental or punitive losses, damages or expenses (including, without limitation, lost profits) arising from or in connection with this Agreement, even if such Party has been advised of the possible existence thereof.

**ARTICLE 5**  
**REIMBURSEMENTS; NO FEES**

**Section 5.1** MCA-Tanzania shall reimburse the Implementing Entity for certain costs and expenses and other direct charges, and the Implementing Entity shall provide to MCA-Tanzania in-kind contributions in the form of staff time and other resources, as set forth in Annex III hereto and in accordance with the Principal Compact Documents, in connection with the Implementing Entity's performance of the Responsibilities. The Parties may amend Annex III provided such amendment is in writing, with the prior written approval of MCC for any material amendments.

**Section 5.2** The Implementing Entity shall not be entitled to, and shall not receive, any payment of fees for performance of the Responsibilities under this Agreement.

**ARTICLE 6**  
**IMPLEMENTING ENTITY COVENANTS AND REPRESENTATIONS**

**Section 6.1** The Implementing Entity shall use only qualified, experienced, and reliable staff for the performance of its Responsibilities. The Implementing Entity shall be responsible for and shall take all necessary action with respect to any misconduct or failure of any staff retained by the Implementing Entity. Further, upon the request of MCA-Tanzania, the Implementing Entity shall take all reasonable action requested by MCA-Tanzania to address any misconduct or failure of the Implementing Entity staff.

- (a) Any replacement, modification or addition to the Implementing Entity's staff performing the Responsibilities shall be subject to the prior written approval of MCA-Tanzania. Such approval shall not be unreasonably withheld. However, any potential interruption, delay or material alteration of the Implementing Entity Responsibilities shall be a sufficient reason for MCA-Tanzania to deny such approval.
- (b) The Implementing Entity shall not enter into any arrangement, agreement or subcontract or grant a sub award with any other person or entity, including a Government affiliate, involving MCC Funding without the prior written consent of MCA-Tanzania and MCC.

**Section 6.2** The Implementing Entity shall provide such certifications, approvals, information and documents or take such other actions (a) as necessary for any Disbursement, in accordance with applicable requirements contained in, or incorporated by, reference to the Principal Compact Documents, (b) as otherwise designated to the Implementing Entity in this Agreement (such approvals or certifications will be solely in the context and as appropriate in the course of performing the Responsibilities), or (c) as may reasonably be requested by MCA-Tanzania from time to time. Any such certifications or approvals may not be unreasonably withheld or delayed by the Implementing Entity.

**Section 6.3** The Implementing Entity shall undertake not to enter into any agreement in conflict with this Agreement or any other Principal Compact Documents.

**Section 6.4** The Implementing Entity hereby represents and warrants that, as of the effective date of this Agreement, neither the Implementing Entity nor any of its officers, directors, or employees involved in the provision of services contemplated by this Agreement has ever been convicted of any narcotics offenses and is not engaging or participating, has never engaged or participated, and will not engage or participate during the term of this Agreement, in drug trafficking, terrorism, sex trafficking, prostitution, fraud, felony, any misconduct injurious to MCC or MCA-Tanzania, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Principal Compact Documents or that materially adversely affects the Program assets or any Permitted Account.

## **ARTICLE 7 TERMINATION**

**Section 7.1** Subject to written approval of MCC, this Agreement shall terminate upon the first to occur of the following:

- (a) Either Party terminates this Agreement at any time upon not less than thirty (30) days' written notice to the other Party;
- (b) In the event of a material breach by the Implementing Entity of a representation, covenant, obligation or responsibility under this Agreement, MCA-Tanzania elects to terminate this Agreement by written notice; or
- (c) The Compact terminates or expires in accordance with its terms or otherwise; *provided*, the terms of this Agreement may be extended by notice from MCA-Tanzania in writing for a longer period following the termination or expiration of the Compact if MCC instructs MCA-Tanzania to so extend this Agreement, including if MCC determines that additional time is required to resolve any litigation, claims or audit findings or any statutory requirements.

**Section 7.2** Upon termination of this Agreement, the Implementing Entity shall ensure the orderly and timely transfer of all Program assets and all records, documents and information (including all documents containing or relating to confidential information), together with all electronic copies thereof, to MCA-Tanzania or such other agent or representative designated by MCA-Tanzania, and the Implementing Entity shall take, or cause to be taken, any other actions reasonably requested by MCA-Tanzania to ensure the proper transition of any services



provided by the Implementing Entity pursuant to this Agreement. Unless otherwise agreed by the Parties, no charges or expenses of any kind shall be charged from the effective date of any suspension or termination of this Agreement, and the Implementing Entity, any of its sub-contractors or Providers shall be entitled solely to payment or reimbursement for permitted and valid charges incurred prior to the effective date of such suspension or termination.

## **ARTICLE 8 GENERAL PROVISIONS**

**Section 8.1** Any document or other communication required, permitted, or submitted by a Party to another Party under this Agreement (or MCC as applicable) must be in writing, in English, and sent to a Party or Parties (or MCC as applicable) at the address indicated below, or at such other address as such Party (or MCC as applicable) may designate:

**To MCA-Tanzania:**

The Chief Executive Officer  
Millennium Challenge Account-Tanzania  
Attention: Director of Energy Projects  
Kivukoni Front/Ohio Street  
P.O. Box 8327  
Dar es Salaam, Tanzania  
Facsimile: 255 22 2124644  
Email: [ichanji@mcac.go.tz](mailto:ichanji@mcac.go.tz); or [isaac.chanji@yahoo.com](mailto:isaac.chanji@yahoo.com)

**To the Implementing Entity:**

The Managing Director,  
Attention: MCC Project Coordinator.  
Tanzania Electric Supply Company Ltd,  
P.O. Box 9024,  
Umeme Park,  
Morogoro Rd. Ubungo,  
Dar es Salaam, Tanzania  
Facsimile: +255 22 2452026  
Email: [William.magambo@tanESCO.co.tz](mailto:William.magambo@tanESCO.co.tz)

**To MCC:**

Millennium Challenge Corporation  
Attention: Vice President for Compact Implementation  
(with a copy to the Vice President and General Counsel)  
875 Fifteenth Street, N.W.  
Washington, D.C. 20005  
United States of America  
Facsimile: (202) 521-3700  
Email: [VPImplementation@mcc.gov](mailto:VPImplementation@mcc.gov) (for the Vice President for Compact Implementation)  
Email: [VPGeneralCounsel@mcc.gov](mailto:VPGeneralCounsel@mcc.gov) (for the Vice President and General Counsel)

- Section 8.2** For all purposes relevant to this Agreement, the Implementing Entity shall be represented by the individual holding the position of Managing Director (the “*Principal Representative*” of the Implementing Entity) and MCA-Tanzania shall be represented by the individual holding the position of, or acting as, Chief Executive Officer (the “*Principal Representative*” of MCA-Tanzania), each of whom, by written notice, may designate one or more additional representatives (each, an “*Additional Representative*”) for all purposes other than signing amendments to this Agreement. The names of each Party’s Principal Representative and any Additional Representatives shall be provided, with specimen signatures, to the other Party, and each Party may accept as duly authorized any instrument signed by such representatives relating to the implementation of this Agreement. A Party may replace its Principal Representative with an individual of equivalent or higher rank and seniority upon written notice to the other Party, which notice will include the specimen signature of such new Principal Representative.
- Section 8.3** The Implementing Entity shall not assign, delegate or otherwise transfer its rights or obligations under this Agreement without the prior written consent of MCA-Tanzania and MCC.
- Section 8.4** Except as otherwise provided herein, this Agreement may be amended or modified only by written agreement, signed by the Principal Representatives of MCA-Tanzania and the Implementing Entity, and with prior approval by MCC, notwithstanding any law, regulation, or decree that purports to amend or modify any term or condition thereof.
- Section 8.5** This Agreement shall become effective on the later of (a) the date on which the Principal Representatives of MCA-Tanzania and the Implementing Entity have signed this Agreement and (b) the date on which MCC provides written approval of this Agreement (the “*Effective Date*”).

**Section 8.6** The General Provisions Annex found on the MCC Website (the “*General Provisions Annex*”) is incorporated herein by reference. For purposes of this Agreement, references to the “Contract Party” in the General Provisions Annex shall be deemed to be references to the Implementing Entity and references therein to the MCA Entity shall be deemed to be references to MCA-Tanzania.

**Section 8.7** Each annex and schedule to this Agreement constitutes an integral part of this Agreement.

**[SIGNATURE PAGE FOLLOWS ON NEXT PAGE]**

**IN WITNESS WHEREOF**, MCA-Tanzania and the Implementing Entity, each acting through its duly authorized representative, have caused this Agreement to be executed in their names and delivered as of .....day of....., 2008.

**For and on behalf of Millennium Challenge Account Tanzania**

Name: .....

Title:.....

Signature:.....

**Witnessed by:**

Name:.....

Title:.....

Signature:.....

**For and on behalf of Tanzania Electric Supply Company Limited**

Name:.....

Title:.....

Signature:.....

**Witnessed by:**

Name:.....

Title:.....

Signature:.....

## ANNEX I

### IMPLEMENTING ENTITY RESPONSIBILITIES (ENERGY PROJECT ACTIVITY)

The Implementing Entity shall provide services to MCA-Tanzania, and undertake the obligations and responsibilities, as expressly provided in this Annex I in connection with the implementation of the Project Activity.

#### 1. General Provisions

- 1.1 According to the current Implementing Entity Agreement, MCA-Tanzania through TANESCO intends to implement the three energy project activities (hereinafter the "*Energy Project*").
- 1.2 The Energy Project will improve electricity service and coverage in Tanzania through the addition of new power generation, transmission and distribution capacity, as well as through much needed reinforcement of the existing network. The Project is expected to result in improved reliability and quality of electric power, and the extension of service to communities and businesses not currently served. The three Energy Project activities include: (a) Activity 1: Zanzibar Interconnector; (b) Activity 2: Malagarasi Hydropower and Kigoma Distribution; and (c) Activity 3: Distribution Systems Rehabilitation and Extension.
- 1.3 The Implementing Entity for the Energy Project is TANESCO. However, due to the cross-border nature of the Zanzibar Interconnector Activity, TANESCO project team shall include equal number of participants from Zanzibar Electricity Corporation ("*ZECO*"). The project team shall have not more than 3 technical participants each from TANESCO and ZECO.
- 1.4 The Energy Project will provide technical assistance in a variety of areas including but not limited to distribution planning, repair and maintenance, and loss reduction. The technical assistance is being provided to TANESCO and the ZECO through a capacity and institutional building budget of the Energy Project.

**2.0 "TANESCO Responsibilities"** shall comprise all of the following:

#### **2.1 Project Management Services**

TANESCO shall undertake the responsibilities necessary to ensure timely and successful implementation of the Energy Project and will advise the MCA-Tanzania Energy Project Director and Procurement Director (and the CEO and the Environment and Monitoring and Evaluation ("*M&E*") Directors, as relevant) in matters pertinent to the Energy Project.

##### **2.1.1 Procurement Management for Distribution Systems Rehabilitation and extension**

With the assistance of and in coordination with the Consulting Engineer/Construction Supervisor ("*CE*"), TANESCO shall prepare TORs, Requests for Expressions of Interest ("*REOIs*"), Requests for Proposal ("*RFPs*"), Specific Procurement Notices, Bidding Documents for

procurement of goods, consulting services, and civil works, and shall assist in evaluations and negotiations of Engineering, Procurement, Construction (“*EPC*”) contracts for the Energy Project. TANESCO shall act as Procurement Agent for the Distribution Systems Rehabilitation and Extension Project Activity as set forth in Annex II. The performance specifications, preliminary designs and drawings for bidding documents for the goods and civil works related to the Energy Project will be prepared by the CE who shall also be responsible for completing necessary surveys, studies, and analyses used in preparing the bidding documents. Studies and surveys include, but are not limited to Environmental and Social Impact Assessment(s), Environmental Management Plan(s), line routing survey, and Resettlement Action Plan. In addition to preparing draft bidding documents and RFPs, TANESCO shall undertake short-listing, evaluation of consultant proposals, evaluation of contractor and supplier bids, and contract award recommendations. TANESCO shall provide to the CE technical inputs for performance specifications necessary for preparation of the EPC bidding documents. Technical input from TANESCO to the CE for the Zanzibar Interconnector Activity shall include relevant input from ZECO.

### **2.1.2 Managing/Evaluating the Deliverables of the CE**

TANESCO shall supervise the work of the CE, including surveys, submittals of studies, designs, bid documents, progress and other reports. TANESCO shall provide MCA-Tanzania with regular reports on the status of the CE and will liaise with the consultant(s) to establish timetables for the procurement of civil works, goods and other services. In addition, after obtaining MCA-Tanzania’s consent, TANESCO shall issue approvals to CE documents (including proposed performance specifications, preliminary design and construction standards).

### **2.1.3 Project Scheduling and Reporting**

TANESCO shall prepare and manage the Project’s implementation schedule and shall monitor and report on the physical and financial progress of the works undertaken by all consultants and contractors on quality of goods, works, and services supplied. TANESCO shall recommend remedial actions to be taken in the case of implementation delays, cost overruns, and poor quality of the works, and will indicate if there are any unanticipated environmental or social impacts in consultation with MCA-Tanzania’s environmental and social assessment consultant; proposing mitigation measures as necessary and appropriate.

### **2.1.4 Application of Tax exemption and Permits Responsibilities**

TANESCO shall provide to MCA-T all necessary information to facilitate the application and obtaining tax exemption certificates for all project goods and services. Both TANESCO and MCA-T shall also assist the CE and EPC contractors in obtaining all necessary permits including environmental, construction and other project related permits and consents.

### **2.1.5 Additional Tasks**

TANESCO shall allow construction contractors access to appropriate sites. TANESCO shall monitor progress with conditions precedent to disbursement set forth in the Compact, this

Agreement, and the Work Plan as they relate to the Energy Project, and shall perform other related duties as agreed with MCA-Tanzania.

## **2.2 Construction Management Services**

TANESCO shall act as the Engineering representative for MCA-Tanzania during the implementation of the Energy Project. With the assistance of and in consultation and coordination with the CE for the Energy Project:

- 2.2.1. TANESCO shall review and comment on or recommend approval of the programs of work submitted by construction contractors and supervisors;
- 2.2.2 TANESCO shall review and approve, in consultation with the CE, construction plans and methods proposed by construction contractors;
- 2.2.3 TANESCO shall oversee and inspect the work of the construction contractors;
- 2.2.4 TANESCO shall ensure that the quality of the construction works meets the required standard and shall provide quality assurance on quality control tests performed by contractors.

## **2.3 Management of Contractors and Suppliers**

With the assistance of and in consultation and coordination with the CE:

- 2.3.1 TANESCO shall monitor and report on the physical and financial progress of the works undertaken by construction contractors and goods suppliers and shall recommend actions to be taken when progress is not in accordance with the agreed program;
- 2.3.2 TANESCO shall ensure that the monthly certificates for payment from construction contractors accurately reflect the cost of the works completed and that invoices for payment from goods suppliers accurately reflect the cost of the goods supplied;
- 2.3.3 TANESCO shall review and approve necessary design drawings required for Engineering Procurement and Construction;
- 2.3.4 TANESCO shall provide responses to all requests for information received from contractors during construction;
- 2.3.5 TANESCO shall review the status of all required construction and environmental permits, and including a periodic status update as a component of the reporting requirements;
- 2.3.6 TANESCO shall review and comment on or recommend approval of construction contractors' and/or goods suppliers' proposed change (variation) orders to MCA-Tanzania;
- 2.3.7 TANESCO shall propose change orders for the approval of MCA-Tanzania;
- 2.3.8 TANESCO shall review reports submitted by construction contractors and supervisors;

- 2.3.9 TANESCO shall review and verify the accuracy of the payment certificates of construction contractors and invoices of goods' suppliers;
- 2.3.10 TANESCO shall analyze and make recommendations regarding claims submitted by construction contractors and goods suppliers;
- 2.3.11 TANESCO shall, as a representative of MCA-Tanzania, attend claims meetings between MCA-Tanzania and construction contractors or goods suppliers;
- 2.3.12 TANESCO shall, in consultation with environmental consultant and MCA-Tanzania, liaise with businesses, civil society, and communities affected by any of the works undertaken under the Energy Project;
- 2.3.13 TANESCO shall review and verify accuracy of the as-built drawings prepared by construction contractors and certified by the CE for compiling complete sets of these drawings for MCA-Tanzania;
- 2.3.14 TANESCO shall perform pre-final and final inspections of project sites and goods supplied, as well as prepare, as and if applicable, detailed punch lists and verify that all punch list items are corrected prior to recommendation of MCA-Tanzania acceptance of work;
- 2.3.15 TANESCO shall maintain orderly working files, correspondence, minutes of meetings and conferences, permits, submittal data, submittal registers, inspection and monthly progress reports, contract construction compliance notices, punch lists and contract documents including amendments, notices to proceed, change orders and modifications, all in a system which is compatible with software used by MCA-Tanzania so that MCA-Tanzania and its outside technical auditor can monitor TANESCO's performance of the TANESCO Responsibilities;
- 2.3.16 TANESCO shall perform all other construction monitoring and supervision and contract administration tasks as specified in the contracts between MCA-Tanzania and construction contractors;
- 2.3.17 TANESCO shall perform other duties as agreed with the MCA-Tanzania through the Energy Project Director and Environment and Social Impact Assessment Director, as applicable;
- 2.3.18 TANESCO shall certify invoices for payments of consultancy services before submitting to MCA-Tanzania for approval consistent with the internal controls procedure for invoice processing included in the MCA-Tanzania Fiscal Accountability Plan.

#### **2.4 Environmental and Social Responsibilities**

The Energy Project activities include new transmission and distribution lines, new hydro power plant as well as rehabilitation of existing substations and lines. The CE, who will also act as the Environmental Consultant to TANESCO, will assist the MCA-T Environment and Social Impact Director and the Energy Project Director with any Environmental and Social Impact Assessment



(ESIA), Environmental and Social Management Plans (ESMP), or Resettlement Action Plan (RAP) during Project implementation. In this context, and recognizing that the CE will be under TANESCO's supervision and management, TANESCO shall undertake the following tasks:

#### **2.4.1 CE Management**

- 2.4.1.1 TANESCO shall coordinate with the CE to ensure that the CE's deliverables are consistent with applicable United Republic of Tanzania law, MCC Environmental Guidelines, World Bank Operational Policy (OP) 4.12 on Involuntary Resettlement, and the conditions precedent to disbursement associated with the environmental and social components of the Energy Project. The CE will be responsible for carrying out appropriate environmental assessments, including ESIA's, ESMP's, and RAP's, as needed, and collaborate with TANESCO in obtaining all necessary approvals and permits from the Ministry responsible for Lands.
- 2.4.1.2 TANESCO shall coordinate with the CE to establish procedures and monitoring systems for tracking compliance during construction with project-specific ESIA's, ESMP's, any RAP's, and the overall requirements stated in Section 7.2.
- 2.4.1.3 TANESCO shall supervise and monitor the implementation of the initial reconnaissance for collection of baseline data, to include the relevant environmental and social characteristics of the study areas according to the Energy and Environmental Checklist referred to in Section 2.1. This data will be used for future determination and assessment of impacts and serve as a baseline against which future changes caused by the Energy Project can be measured and monitored. As determined by the initial reconnaissance, the CE shall produce detailed ESIA's, ESMP's and RAP's (where relevant) for the applicable energy project activities based on subsequent negotiation with and concurrence of TANESCO and in consultation with the CE.
- 2.4.1.4 TANESCO shall ensure that the CE incorporates the results of the environment and social assessment of Energy Project activities and the resulting mitigation requirements into the final designs, specifications and bid documents for the construction contracts.
- 2.4.1.5 TANESCO shall ensure that for any land takings or realignment identified by the CE, the World Bank OP 4.12 on Involuntary Resettlement and the relevant applicable laws of the United Republic of Tanzania shall be applied. Also, TANESCO will ensure that the CE undertakes an assessment of (i) the interaction of the project work force with the local people and (ii) the health and safety issues associated with the kind of project.
- 2.4.1.6 TANESCO shall submit all required ESIA and ESMP reports to the National Environmental Management Council ("**NEMC**") (Mainland) and the Department of Environment ("**DoE**") (Zanzibar) for the review and the issuance of the appropriate certificates or approvals and shall oversee the completion of any identified gaps. TANESCO will ensure that all required permits are obtained from relevant agencies before the construction works are tendered out. TANESCO shall submit copies of the obtained certificates or approvals to MCA-Tanzania.

## **2.4.2 Construction Management**

With the assistance of and in consultation and coordination with the CE:

- 2.4.2.1 TANESCO shall ensure that the construction contractors understand the environmental and social mitigation requirements of the ESMPs and will facilitate communication between the CE and the construction contractors and supervisors.
- 2.4.2.2 TANESCO shall ensure that construction schedules reflect appropriate timelines to fulfill mitigation requirements.
- 2.4.2.3 TANESCO shall assist MCA-Tanzania in compiling and evaluating information for accident reports in a timely manner in accordance with requirement stated in section 2.4.2.4
- 2.4.2.4 TANESCO shall ensure that the construction contractors perform their work in accordance with the United Republic of Tanzania's Occupational Health and Safety Policy and any other H&S provisions given in the construction contract.

## **2.4.3 General Management**

- 2.4.3.1 TANESCO's Environmental Specialist, trained in environmental and social impact assessment and familiar with Tanzanian environmental legislation and regulations (the "*TANESCO Environmental Specialist*"), in consultation and coordination with CE shall manage the environmental and social aspects of the Energy Project. The responsibilities of the TANESCO Environmental Specialist will be to ensure that recommendations and technical input from MCA-Tanzania's Environment and Social Impact Director and the CE are incorporated into the consultants' work, to review environmental and social reports prepared by the consultants, to ensure that proposed mitigation measures are adequate, and to ensure that the all EMPs and RAPs developed for the activities are implemented during construction. It is expected that the TANESCO Environmental Specialist shall coordinate and work closely with MCA-Tanzania's Environment and Social Impact Director and the CE.
- 2.4.3.2 With assistance and in coordination with the CE, TANESCO shall ensure that environmental and social tasks, timelines, and updates are reflected in the annual work plan, in any required reports, and in the overall project planning process.
- 2.4.3.3 With assistance and in coordination with the CE, TANESCO shall review and provide recommendations to MCA-Tanzania with respect to MCA-Tanzania's no objection to the CE's quarterly Environmental and Social Progress (ESP) reports for the Energy Project that will be based on the compliance tracking system stated in Section 2.4.1.2.
- 2.4.3.4 TANESCO shall be responsible for addressing any concerns raised by MCA-Tanzania in its oversight capacity by supervising and requiring the CE and/or construction contractors to take timely and prudent corrective actions.

2.4.3.5 The TANESCO Environmental Specialist shall participate in periodic meetings with relevant agencies, civil society, and project-affected parties to provide implementation updates and to identify and address public concerns. The TANESCO Environmental Specialist will document all environmental and social issues raised at these meetings and organize questions, complaints or suggestions received into action items to be addressed by the CE and/or the construction contractors. As practicable, the TANESCO Environmental Specialist will report back to the parties raising concerns with information on resolution of their issues. This information will be made available to MCA-Tanzania.

## **2.5 Monitoring and Evaluation Responsibilities**

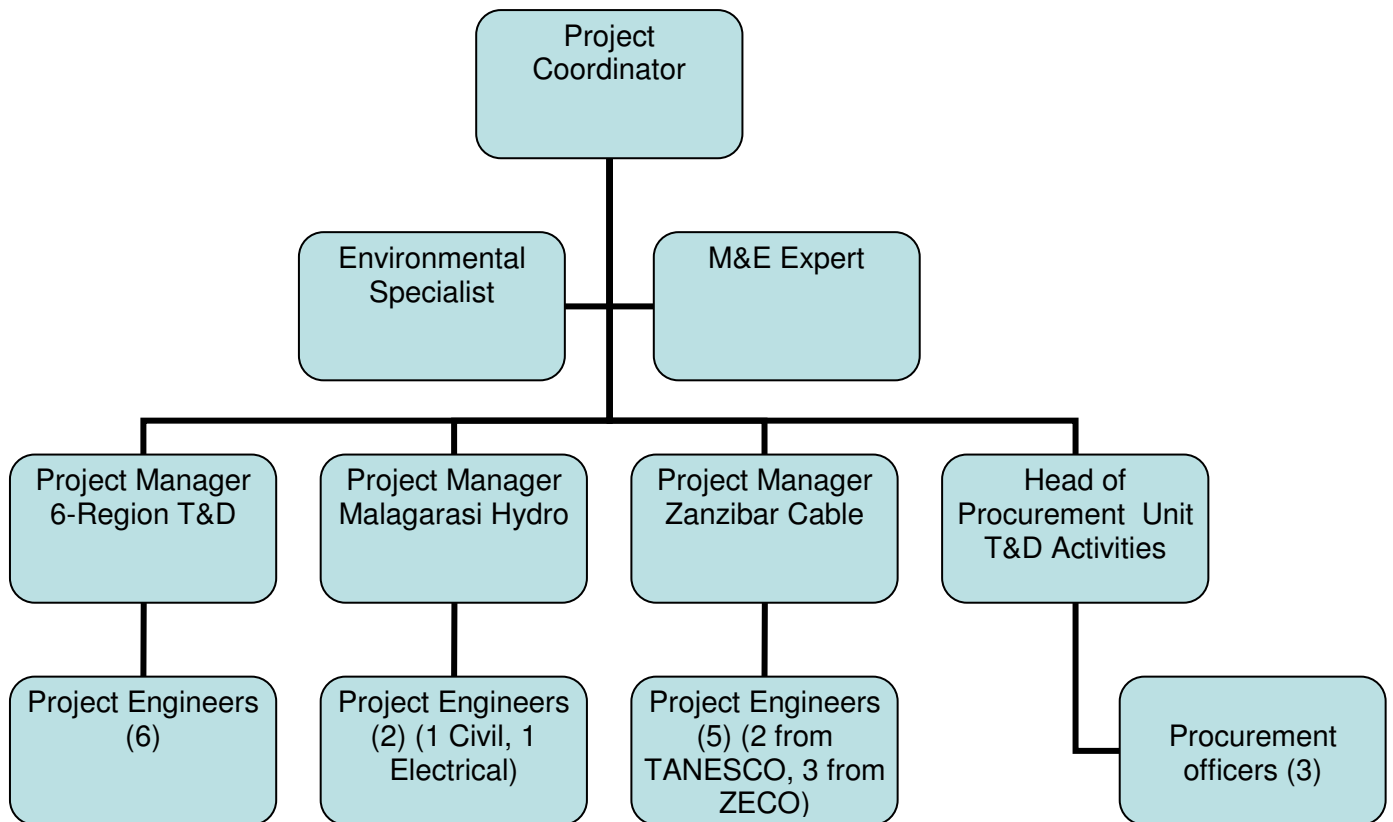
- 2.5.1 TANESCO shall conduct, as stipulated by the MCA-Tanzania M&E Plan, regular updating on indicators specified in Table 1 below.
- 2.5.2 TANESCO/ZECO may request revisions or propose modifications in Activity Indicators, before beginning implementation of the relevant activity as stipulated in the M&E Plan. The M&E Plan and the current Implementing Entity Agreement will be amended to reflect any changes made to those indicators, after they have been approved by MCC.
- 2.5.3 TANESCO/ZECO shall work with MCA-Tanzania Monitoring and Evaluation Director and Impact Evaluators hired by MCC in the development of the Impact Evaluation of the Energy Sector Project.

Prior to implementation of a specific activity, MCA-Tanzania in co-operation with TANESCO/ZECO and related agencies will specify (and/or revise) baseline data and targets as needed in compliance with procedures defined in the Compact and M&E Plan and Table 1 below.

**Table 1 – Energy Project Activity Indicators**

<b>Indicator</b>	<b>Frequency</b>	<b>Notes</b>
Electricity sold (kWh)	Monthly	Incremental amount of electricity sold, to be disaggregated by target region (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza-, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro) and customer types (Target customer types include T1, T2, T3, T4 and T5 (different tariff categories).
Number of new connections resulting from MCC investment	Monthly	Disaggregated by target region (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza-, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro) and customer types (Target customer types include T1, T2, T3, T4 and T5 - different tariff categories).
Frequency and magnitude of voltage fluctuations (% deviation from standard voltage level)	Monthly	Disaggregated by primary substations feeding target regions (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza-, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro)
Amount of energy (MWh) not served to target regions and customer types, as a result of T&D failure (for all target regions) and generation failure (for Kigoma region)	Monthly	Disaggregated by target region (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza -, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro)
Duration of power outages (hours/month)	Monthly	Disaggregated by target region (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza -, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro) and customer type types (Target customer types include T1, T2, T3, T4 and T5 - different tariff categories).
Energy Generated (MWh/day)	Monthly	Malagarasi Hydropower Plant and Zanzibar Interconnector Cable
Transmission capacity (mVA)	Monthly	Disaggregated by target region (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza-, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro)
Collection Efficiency (percent)	Monthly	Monthly cash collection / monthly sales. Disaggregated by target region (Unguja, Kigoma region - Kigoma, Kasulu and Uvinza-, Mwanza, Iringa, Mbeya, Dodoma, Tanga and Morogoro)
Technical and Non-technical Loses (percent)	Monthly	(kWh received by substation-kWh billed)/(kWh received by substation)

## 2.6 TANESCO Project Organization Structure



TANESCO project implementation team will be led by the following key staff:

1. Project Coordinator – William Magambo
2. Project Manager (Zanzibar Cable) – John Sakia
3. Project Manager (Malagarasi Hydro) – Joachim Joseph
4. Project Manager (6 Region T&D) – Patrick Songa
5. Head of Procurement Unit (T&D) – Wangwe M. Mwita

## ANNEX II

### IMPLEMENTING ENTITY RESPONSIBILITIES (PROCUREMENT)

#### 1. Procurement Plan.

- (a) Within fifteen (15) days after the Effective Date, the Implementing Entity shall furnish the MCA-Tanzania with a list of all procurement requirements for the initial six (6) month procurement period for the T&D Activity, along with all other relevant data, documentation and information, all applicable documents, and an estimated budget for each such procurement and the proposed method of procurement planned for each such procurement (“*Procurement Requirements*”) that are necessary for MCA-Tanzania’s preparation of the component of the initial Procurement Plan applicable to the T&D Activity.
- (b) Within sixty (60) days after receipt the Procurement Requirements from the Implementing Entity in accordance with 1(a) above, MCA-Tanzania shall prepare a draft procurement plan for adoption by MCA-Tanzania’s Governing Board in accordance with 1(d) below (“*Procurement Plan*”), such initial Procurement Plan to cover the initial six (6) months starting from the date of Entry into Force of the Compact.
- (c) The Procurement Plan shall be updated every six (6) months. MCA-Tanzania shall ensure that there is in effect a Procurement Plan at all times covering the relevant period. No later than sixty (60) days prior to the expiration of the period covered by the then current Procurement Plan, the Implementing Entity shall furnish MCA-Tanzania with the Procurement Requirements for the T&D Activity for the upcoming six (6) month period. MCA-Tanzania shall prepare, in close cooperation with the Implementing Entity, a draft update of the Procurement Plan for the upcoming six (6) month period, such updated Procurement Plan to be presented, adopted pursuant to 1(d) below no later than thirty (30) days prior to the expiration of the period covered by the then current Procurement Plan, unless such other period is agreed by the Parties, with MCC approval.
- (d) The final version of the Procurement Plan prepared pursuant to 1(b) above, and all updates to the Procurement Plan pursuant to 1(c) above, shall be subject to approval by MCC, and shall be adopted by MCA-Tanzania’s Governing Board. No Procurement Plan shall be deemed final, valid and in effect unless approved by MCC and duly adopted by MCA-Tanzania.
- (e) After the Procurement Plan has been approved by MCC and adopted by MCA-Tanzania’s Governing Board as set forth above, the Implementing Entity shall comply with such Procurement Plan (and any updates thereto) in performing the Procurement Services described in Schedule A attached hereto.
- (f) In addition, after the Procurement Plan has been approved by MCC and adopted by MCA-Tanzania's Governing Board as set forth above, the Implementing Entity shall prepare and submit a Procurement Implementation Plan in accordance with Section

(D) in the attached Schedule to this Annex. The Procurement Implementation Plan must be submitted to MCA-Tanzania within eight (8) days from the date of the aforementioned approval of the Procurement Plan.

## **2. Conflicts of Interest**

- (a) The Implementing Entity shall ensure that no employee, director, officer, subcontractor, agent or representative of the Implementing Entity shall participate in the selection, award, or administration of a contract, grant or other benefit or transaction financed in whole or in part (directly or indirectly) by MCC Funding in which (i) the entity, the person, members of the person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a financial interest, or (ii) the person is negotiating or has any arrangement concerning prospective employment, unless such person or entity has first disclosed in writing to MCA-Tanzania and MCC the conflict of interest and, following such disclosure, MCA-Tanzania and MCC have agreed in writing to proceed notwithstanding such conflict. The Implementing Entity's directors, officers, employees, contractors, subcontractors, affiliates, agents, advisors and representatives shall not, and the Implementing Entity shall ensure that no person or entity involved in the selection, award, administration or implementation of any contract, grant or other benefit or transaction financed in whole or in part (directly or indirectly) by MCC Funding shall, solicit or accept or offer a third-party or seek or be promised directly or indirectly for itself or for another person or entity any gift, gratuity, favor or benefit, other than items of de minimis value and otherwise consistent with such guidance as MCC may provide from time to time. None of the Implementing Entity's directors, officers, employees, contractors, subcontractors, affiliates, agents, advisors and representatives active in the T&D Activity shall engage in any activity which is, or gives the appearance of being, a conflict of interest. Without limiting the foregoing, the Implementing Entity shall comply, and ensure compliance, with the applicable conflicts of interest or ethics policy of MCA-Tanzania, as may be amended from time to time, as provided by MCA-Tanzania to the Implementing Entity.
- (b) The Implementing Entity shall not undertake to enter into any agreements in conflict with the Compact or any other Principal Compact Documents.

## **3. Restrictions on Use of MCC Funding.**

- (a) The Implementing Entity shall ensure that the use of MCC Funding complies, and the award of any MCC funded contract to any contractor or supplier is consistent, with (i) Section 2.6 of the Compact, (ii) any United States laws, regulations and executive orders regarding money laundering, terrorist financing, restrictive trade practices or boycotts, United States sanctions laws and regulations, and all other economic sanctions or other restrictions promulgated from time to time by means of any statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957,

18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598, (iii) the eligibility requirements set forth in the MCC Program Procurement Guidelines and (iv) any applicable Tanzanian laws or regulations regarding terrorist financing, money laundering, or similar activity.

- (b) The Implementing Entity shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, such verification may include verifying if such name appears on applicable watch lists such as the lists maintained on [www.epls.gov](http://www.epls.gov), [www.ofacompliance.com](http://www.ofacompliance.com), or on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council, and such other lists as MCA-Tanzania may reasonably require from time to time.
- (c) The Implementing Entity shall (i) conduct such verification in connection with each procurement action or at such time as MCC may from time to time reasonably request and (ii) on at least a quarterly basis or such other reasonable period as MCA-Tanzania may request from time to time, deliver a report of such monitoring and verification to MCA-Tanzania with a copy to MCC and the Fiscal Agent.
- (d) The Implementing Entity shall ensure and verify, or cause to be verified, that no payments have been or will be received by any official or employee of the Implementing Entity, MCA-Tanzania or any other Government official in connection with the provision of the Procurement Services or any procurement in connection with the T&D Activity and no payments have been made by the Implementing Entity, any of its directors, officers or employees, or any other party to any third-party, in connection with this Agreement, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a et seq.) (the “FCPA”) or that would be in violation of the FCPA if the Party making such payments was a United States person or entity, and no payments have been made by the Implementing Entity or any other party to any third party in connection with this Annex, in violation of any applicable Tanzanian laws or regulations regarding anti-bribery or corruption.

#### **4. Language.**

The Implementing Entity shall ensure that all reports, documents, and manuals required under the Principal Compact Documents and this Agreement are available (and delivered to MCC) in English, unless otherwise specified in the document requiring the report, document or manual.



## **SCHEDULE A TO ANNEX II**

### **Description of Procurement Services for the T&D Activity**

The Implementing Entity shall provide the following Procurement Services in respect of the Distribution Systems Rehabilitation and Extension Activity:

The Implementing Entity shall act on behalf of MCA-Tanzania to manage the acquisition of a broad range of goods, works and services that are requested by MCA-Tanzania to implement the T&D Activity. In this role, the Implementing Entity shall diligently oversee, discharge and perform all services necessary to achieve the optimum value for the monies expended by MCA-Tanzania, while ensuring that all procurement transactions in respect of the T&D Activity are conducted in compliance with the principles, rules and procedures set out the Principal Compact Documents and the MCC Program Procurement Guidelines.

#### **I. SCOPE OF SERVICES**

The following Procurement Services are required during the term of this Agreement:

- (A) Overall Responsibilities. The Implementing Entity shall:
- (i) Manage and administer effectively the purchase of a wide variety of goods, works and services as requested by MCA-Tanzania to implement the T&D Activity.
  - (ii) Analyze market conditions in order to optimize the success of the procurement activity.
  - (iii) Plan, schedule, and prioritize the procurement functions.
  - (iv) Execute the procurement functions necessary to acquire efficiently the goods, works and services requested.
  - (v) Ensure that the documents describing the objects of the procurements, including the scopes of work, statements of requirements, specifications, terms of reference, bills of quantities, engineering designs and drawings, are adequately prepared and finalized in a reasonable and balanced manner without being overly restrictive.
  - (vi) Conduct procurements in a manner to provide open competition to the maximum extent practical in order to assure advantageous prices for MCA-Tanzania and equal and fair access for eligible suppliers and contractors.
  - (vii) Follow up on orders placed to expedite performance of suppliers and contractors.
  - (viii) Take all appropriate actions to ensure successful performance and if necessary, take actions to re-procure the goods, services, or works.

- (ix) Arrange for proper inspection, testing or review to ensure suppliers and contractors act in conformity with the terms and conditions of contracts and orders, and that the deliverables conform to the specifications and descriptions of the goods, works and services before acceptance of the goods, works and services procured.
  - (x) Assure that all procurement activity is performed in a fully professional, transparent and ethical manner and that all suppliers and contractors are treated on a fair and equal basis.
  - (xi) Obtain all procurement-related approvals required under the Principal Compact Documents from MCA-Tanzania.
  - (xii) Ensure that all procurement-related approvals required under the Principal Compact Documents are obtained from MCC.
  - (xiii) Guard against conflicts of interest, real or in appearance, in the operation of the procurement activity.
  - (xiv) Maintain controls throughout the procurement activity to ensure good faith, fair dealing and appropriate confidentiality by representatives of the Implementing Entity and others who are officially involved in the procurement activity.
  - (xv) Protect the procurement activity from fraud, waste and abuse.
  - (xvi) Respond promptly and fairly to complaints about the procurement activity.
  - (xvii) Assume other operational and functional responsibilities as needed and agreed to both TANESCO and MCA-Tanzania.
- (B) Procurement Rules, Procedures, Requirements and Best Practices. The Implementing Entity shall:**
- (i) For procurements in respect of the T&D Activity comply with the procurement principles set forth in Section 3.6 of the Compact, this Agreement, and the MCC Program Procurement Guidelines.
  - (ii) For procurements in respect of the T&D Activity use the methods of procurement set out in the approved Procurement Plan unless exceptions have been granted, in writing, by MCC.
  - (iii) When a Fiscal Accountability Plan for MCA-Tanzania is in effect, including any interim Fiscal Accountability Plan, execute the duties and responsibilities of the Implementing Entity as set forth therein. Once a Fiscal Accountability Plan is in effect, the Implementing Entity, before commencing any procurement, shall ensure that it has received a procurement requisition according to the procedures defined in the Fiscal Accountability Plan. The Implementing Entity also shall ensure that the invoicing and payment provisions set out in procurement contracts

are consistent with the requirements and procedures set out in the Fiscal Accountability Plan.

- (iv) Ensure that the terms and conditions of contracts entered into as a result of the procurement process include all provisions required by the MCC Program Procurement Guidelines and any other Principal Compact Documents.
  - (v) For all cost reimbursement type contracts, comply with the MCC's Cost Principles for Government Affiliates Involved in MCC Compact Implementation, available on the MCC Website.
  - (vi) Ensure strict compliance with the procedures and rules set out in solicitation documents, especially the criteria and methodology for evaluation of bids and proposals.
  - (vii) In the performance of its duties, be mindful of "best practices" generally recognized by public procurement professionals.
- (C) Procurement Plan. The Implementing Entity shall:
- (i) Provide the Procurement Requirements to MCA-Tanzania pursuant to Sections 1(a) and (c) of Annex II to this Agreement.
  - (ii) Support MCA-Tanzania in the preparation and submission of the Procurement Plan and each updated Procurement Plan to MCC for review and approval.
  - (iii) Following MCC's approval and MCA-Tanzania's adoption of each Procurement Plan pursuant to Section 1 of Annex II to this Agreement, prepare a Procurement Implementation Plan for each procurement required in respect of the T&D Activity as set forth in such approved Procurement Plan, in accordance with the MCC Program Procurement Guidelines.
- (D) Procurement Implementation Plans.
- (i) For each procurement for the T&D Activity identified in the approved Procurement Plan, the Implementing Entity shall prepare a specific procurement plan and schedule detailing the procedures and timelines for conducting such procurement (the "***Procurement Implementation Plan***").
  - (ii) The Procurement Implementation Plan shall identify the steps of the procurement proceeding and provide timelines for key milestones in the process. As appropriate for the procurement, the Procurement Implementation Plan shall:
    - (a) Define: (1) the procurement procedures, (2) the strategy for advertising the procurement and preparing the bidding documents and proposal documents or other solicitation documents as appropriate for the procurement method (based on the standard form bidding documents and proposal documents provided to the Implementing Entity by MCA-

Tanzania) (“Bidding Documents” and “Proposal Documents”), (3) the plan for conducting pre-bid/proposal conferences and site visits, (4) the timelines for receipt of responses, (5) the plan for opening and evaluating bids, proposals, qualifications or quotes, and (6) the timelines for announcing the award, executing the contract, commencing performance and completing the contract; and

- (b) Identify where approvals are required from MCA-Tanzania and MCC based on the Compact and any other Principal Compact Documents, and take into account in the appropriate timelines the time period needed for these approval actions.

**(E) Procurement Procedures.**

The Implementing Entity shall implement the procurements for the T&D Activity identified in the approved and adopted Procurement Plan in accordance with Annex II hereto, the MCC Program Procurement Guidelines, and the Procurement Operations Manual, the Procurement Plan, the Procurement Implementation Plan, and other procurement procedures as agreed by MCA-Tanzania and the Implementing Entity (subject to MCC approval). Such implementation shall include, without limitation, the following services:

- (i) Prepare the documents describing the object of procurements, which may include preparing, or contracting for the preparation of, technical specifications, design drawings and/or terms of reference or other documents as may be required following receipt from MCA-Tanzania of the list of goods, technical specifications, and other pertinent information.
- (ii) Prepare or supervise the preparation of the required advertisements in the appropriate national and international newspapers and publications and web-sites in accordance with this Agreement and the MCC Program Procurement Guidelines, for the procurements in respect of the T&D Activity set out in approved and adopted Procurement Plans. The Implementing Entity shall take any other reasonable and appropriate actions to advertise procurements to encourage participation and competition.
- (iii) Prepare the required solicitation documents, including Bidding Documents or Proposal Documents, ensuring that the appropriate deadlines for the timely preparation of proposals, appropriate qualification requirements and effective evaluation criteria and methodology are specified in such solicitation documents.
- (iv) Verify that the technical specifications, design drawings and/or terms of reference and other documents describing the objects of procurements provided by the Implementing Entity to MCA-Tanzania accurately reflect the needs and wishes of Implementing Entity, and are impartial and transparent. If not, the Implementing Entity shall take necessary measures to revise them.
- (v) Verify that (a) the goods, works and services requested by the Implementing Entity are eligible permitted uses for MCC Funding under the Compact and

within the scope and context of the T&D Activity and consistent with the Procurement Plan and (b) the contractor or supplier of the goods, works or services is eligible to receive MCC Funding in accordance with the Compact and any relevant the Principal Compact Documents.

- (vi) Arrange any necessary site visits or bidders' conferences as appropriate for the relevant procurement.
- (vii) Answer promptly any written queries or requests for clarifications received from respondents during the bid and proposal preparation period. If the reply or clarification results in a substantial change to the solicitation documents, this change shall be formalized by creating an addendum to the solicitation documents, properly informing all potential respondents.
- (viii) Receive all bids and proposals in the place, day and time specified in the solicitation documents, in accordance with the standard practices detailed in the Procurement Operations Manual.
- (ix) In connection with the establishment of an evaluation panel, review and advise upon the proposed evaluation panel. The selection of the evaluation panel members shall be in accordance with the MCC Program Procurement Guidelines. Ensure that a qualified panel is appointed, instruct the panel in their duties and responsibilities, ensure that the evaluation process is conducted in accordance with the pre-announced criteria and evaluation methodology, take decisions in the acceptance or rejection of defective bids or proposals, and assist in the preparation of the evaluation report.
- (x) Upon receipt of the contract award recommendation from the evaluation panel, (a) ensure that the pre-announced award criteria have been applied, (b) confirm that the supplier or contractor recommended for award is qualified to perform the contract and is eligible to receive MCC Funding in accordance with the Compact and relevant Principal Compact Documents, (c) determine if MCC approval is required, and (d) determine if the contract award is in accordance with the MCC Program Procurement Guidelines, the Procurement Plan, and the applicable Procurement Implementation Plan. If the contract award requires MCC approval and otherwise satisfactorily met the other conditions, notify MCA-Tanzania, with a copy to MCC, to seek MCC approval. If no MCC approval is required and otherwise satisfactorily met the other conditions, notify MCA-Tanzania of the winning contractor or supplier.
- (xi) Prepare and assist MCA-Tanzania with the preparation and signing of the final contract with the winning supplier or contractor within the specified time frame and with the required securities or guarantees submitted by such supplier or contractor, as specified in the Bidding and Proposal Documents.
- (xii) Upon execution of the contract with the winning supplier or contractor, inform the other suppliers or contractors of the award decision, conduct debriefings as

requested and appropriate, and arrange for return or release of their respective securities or guarantees.

- (xiii) Post announcement of contract awards as required in the MCC Program Procurement Guidelines.

**(F) Reports.**

- (i) The Implementing Entity shall keep accurate and systematic books, records, documents and other evidence of the Implementing Entity's performance of the Procurement Services as required under the Principal Compact Documents in such form and detail as is acceptable to MCC.
- (ii) In addition to the reports and information specified in the Principal Compact Documents, the Implementing Entity shall submit to MCA-Tanzania:
  - (A)** Within fifteen (15) days after the end of each month, monthly reports on the Implementing Entity's performance of the Procurement Services;
  - (B)** Within twenty (20) days after the end of the each of the first three (3) quarters, quarterly reports on the Implementing Entity's performance of the Procurement Services;
  - (C)** Within twenty (20) days of the end of each year during the term of this Agreement, prepare a final report that includes all principal activities executed, completed and not completed by Implementing Entity during the year;
  - (D)** Within such period of time and in such manner specified in the request, other reports or documents related to the Procurement Services, certified by the Implementing Entity as true and correct, as may be reasonably requested from time to time by MCA-Tanzania or MCC; and
  - (E)** Within sixty (60) days after the expiration or termination of its contract for procurement agent services, a final report which report shall be in form and substance satisfactory to MCA-Tanzania and MCC.
- (iii) The content and layout of the monthly, quarterly and annual reports shall be agreed upon by MCA-Tanzania and the Implementing Entity within thirty (30) days after the Effective Date, and shall be subject to the approval of MCC.
- (iv) MCA-Tanzania and MCC shall have the right to use any information contained in any report or document delivered to or otherwise made available by the Implementing Entity to MCC or MCA-Tanzania.

## **II. ADDITIONAL REQUIREMENTS**

**(A) Approvals.** The Implementing Entity shall:

- (i) Ensure that all procurement-related approvals required under the Compact and any other Principal Compact Documents are obtained from the appropriate party including (a) all required approvals throughout the procurement activity, from MCA-Tanzania and from MCC, specified in the MCC Program Procurement Guidelines, and (b) if applicable, approval of the Bidding and Proposal Documents and the Procurement Operations Manual have been obtained from MCA-Tanzania and MCC.
- (ii) Obtain such other approvals of procurement documents and decisions from MCA-Tanzania and MCC as may be specifically required as a condition of approval of a Procurement Plan or other event from time to time.

**(B) Value for Money.** The Implementing Entity shall:

- (i) Pursue economies in the procurement process that may be obtained through aggressive marketing of the procurement opportunity, improved specifications, and other sound purchasing practices to achieve value for money.
- (ii) Ensure that no more than a commercially reasonable price shall be paid to procure the goods, works and services needed to implement the T&D Activity funded under the Compact.

**(C) Protests.** The Implementing Entity shall:

- (i) Manage and support resolution of protests of the procurement process in respect of the T&D Activity filed by potential suppliers and contractors. Notwithstanding the Implementing Entity's duties, MCA-Tanzania shall retain ultimate responsibility for bid protests and challenges and the Implementing Entity and MCA-Tanzania shall coordinate in resolution of protests.
- (ii) Provide any information and otherwise cooperate as requested by MCA-Tanzania in connection with any bid protest or challenge.

**(D) Contract Administration.** The Implementing Entity shall, in respect of the T&D Activity and in coordination with MCA-Tanzania:

- (i) Establish and maintain a contract administration system to ensure and keep track of supplier and contractor compliance with terms and conditions of contracts, addressing delays in delivery or performance, troubleshooting problems, and certifying performance of services, completion of works and delivery of goods.
- (ii) Ensure that there is a proper system in place for testing and inspection before acceptance of goods.

- (iii) Ensure that there is a proper system in place to address quality control, project management and supervision during the performance of works contracts.
- (iv) Ensure that there is a proper system for oversight and review to address the quality of the performance of services and acceptance of deliverables.
- (v) Execute the duties of the Implementing Entity as set out in the Fiscal Accountability Plan for processing requests to the Fiscal Agent for payment of funds due the suppliers and contractors pursuant to procurement contracts.
- (vi) Manage and administer the processes for rejection of goods, works or services, curing of defects, enforcing warranties and addressing delays in delivery and performance.
- (vii) Ensure the integrity of every step of the process, with properly filed back-up documentation to comply with the standard procurement procedures, and in compliance with procurement audit standards.
- (viii) Manage and administer any change orders that modify the original contract.
- (ix) Maintain close communication and coordination with MCA-Tanzania to ensure a timely and effective exchange of information, goods requirements and technical specifications, design drawings, terms of reference, prior no-objections, and supervision of contracts to assure efficient, transparent and timely procurement processes.
- (x) Manage and support resolution of contract disputes.
- (xi) Manage and administer termination of contracts.

### **III. EQUIPMENT, FACILITIES AND SUPPORT**

- (A) The Implementing Entity shall ensure that experts are adequately supported and equipped. All costs associated with the Procurement Services must be provided for within the annual budget negotiated by MCA-Tanzania and the Implementing Entity and approved by MCC. It is envisaged that the minimum provision would include: office space, networked PCs with appropriate software, printing facilities, a high volume photocopier machine with automatic paper sorter, complimentary office furniture and telecommunication equipment. The Implementing Entity shall ensure that there is sufficient office space, administrative and secretarial support and adequate provision for translation and interpreting services to enable experts to concentrate on their primary responsibilities.
- (B) The Implementing Entity shall allow for all costs associated with the following expenses:



- (i) Costs of consumables including telecommunication, stationery, printing, office equipment consumables.
- (ii) Local transport required for the experts to effectively carry out their duties.
- (iii) Reproduction of the Implementing Entity's reports and any special or ad hoc reports requested by MCA-Tanzania or MCC.
- (iv) Air fares, travel expenses and other costs relating to the travel of employees, their dependents or consultants engaged by the Implementing Entity shall be the responsibility of the Implementing Entity.
- (v) Any and all software licenses necessary for the Implementing Entity and MCA-Tanzania to carry out their duties.
- (vi) Maintenance and running costs of project vehicles provided by MCA-Tanzania to the Implementing Entity.
- (vii) Any other unspecified costs related to the project and approved by MCA-Tanzania.

#### **IV. PROCUREMENT OVERSIGHT ARRANGEMENTS**

- (A) The Implementing Entity will provide access to relevant staff, documents, emails and other communications and procurement records as may reasonably be requested by the Procurement Oversight Advisor ("**POA**") appointed by MCA-Tanzania in the performance of their duties as listed below. The POA will liaise with the Implementing Entity's designated Head of Procurement and procurement staff appointed to handle the MCC-Funded procurements being undertaken by the Implementing Entity.
- (B) The POA is tasked by MCA-Tanzania to undertake the following duties, amongst other duties:

The Procurement Advisor will monitor and oversee all aspects of the work conducted by the approved Procurement Agents on behalf of MCA-Tanzania. The purpose of the monitoring and oversight services is to ensure compliance and actively protect the integrity of the systems, procedures and overall procurement management process and ensure efficient and effective performance of the Procurement Agents. Specific duties and responsibilities include, but are not limited to, the following:

- (a) Advise the Procurement Agents and MCA-Tanzania on procedures related to requests for approvals from MCC at multiple points in the procurement process as required by the MCC Program Procurement Guidelines.
- (b) Monitor the implementation of procedures developed for the systems and provide guidance on improvements and corrective measures to be taken.

- (c) Monitor the preparation of procurement plan inputs and updates by the Procurement Agents, ensuring that all project procurement plans are of similar form and content thereby permitting MCA-Tanzania to maintain one global procurement plan for all projects and activities funded under the Compact.
- (d) Monitor the application by all Procurement Agents of procurement methods identified and approved by MCC in the procurement plan.
- (e) Monitor maintenance of the Procurement Performance Report.
- (f) Monitor compliance by all Procurement Agents with duties and responsibilities as provided for in the Procurement Agent Agreements.
- (g) Monitor compliance by all Procurement Agents with MCC Program Procurement Guidelines as provided for in the Procurement Agreement.
- (h) Evaluate the communications practices around the procurement actions executed by all Procurement Agents. This includes the designation and handling of confidential information, as well as the promptness and accuracy of responses to requests for information or protests.
- (i) Monitor the use by all Procurement Agents of standard Solicitation Documents in the acquisition of goods, works and services.
- (j) Monitor the pursuit of value for money by all Procurement Agents in the procurement process, including the documented efforts to obtain commercially reasonable pricing and economies through sound purchasing practices.
- (k) Report procurement irregularities and/or violations of the MCC Program Procurement Guidelines and the Procurement Agent Agreement to MCA-Tanzania.
- (l) Maintain accurate and complete records of all work done in support of the Procurement Agents and MCA-Tanzania in a safe environment that include evidence of compliance with all terms and conditions specified in the scope of work/Consultant requirements. This evidence shall be maintained by MCA-Tanzania during the term of the Compact and for a period of five (5) years after the expiration or termination of the Compact.

## ANNEX III

### BUDGET

1. **In-Kind Resources.** MCA-Tanzania will make available to the Implementing Entity the in-kind resources as set forth below, unless otherwise agreed by the Parties in writing with the prior written approval of MCC; provided, the cost and payment for such in-kind resources complies with the Detailed Financial Plan as coordinated with the Fiscal Agent.
  - (i) One (1) vehicle to Project Coordinator for supervision and control
  - (ii) Four (4) vehicles for the T&D Activity for Mwanza, Tanga, Morogoro and Iringa for supervision & control
  - (iii) Two (2) vehicles to the Malagarasi Hydropower and Kigoma Distribution Activity (one for hydro power construction activities & one for supervision of construction activities for Transmission/Distribution works for Kigoma/Kasulu/Uvinza)
  - (iv) One (1) vehicle to ZECO for supervision of supplemental studies and construction activities in the Zanzibar side
  - (v) Two (2) Multimedia projectors (One for TANESCO and other for ZECO)
  - (vi) Four (4) digital cameras for photo reports (for the three activities)
  - (vii) One (1) Binding Machine
2. **TANESCO Contribution.** TANESCO shall be responsible for operational expenses incurred by its Energy Project staff during the implementation of the Project. TANESCO operational expenses include but are not limited to:
  - i) Staff salaries, benefits, travel cost and per diem;
  - ii) Vehicle operating and maintenance cost; and
  - iii) Corporate and Project administrative and overhead expenses.

TANESCO shall contribute at least two four wheel drive vehicles for dedicated use of the T&D Activity. TANESCO shall provide additional resources as needed for the efficient implementation of the Energy Project.
3. **Budget.** A summary of the overall expenditures for this Agreement is set forth below (the “*Budget*”). MCA-Tanzania may reimburse the Implementing Entity for certain costs, expenses and other direct charges set forth in the Budget using either Compact funds and/or CIF funds; provided, that such costs, expenses and other direct charges comply with (a) the Detailed Financial Plan as coordinated with the Fiscal Agent and (b) the MCC Cost Principles for Government Affiliates Involved in MCC Compact Implementation (available on the MCC Website).

## BUDGET

S/N	DESCRIPTION	UNIT COST	TOTAL
1	One (1) vehicle to Project Coordinator for supervision and control	\$35,000	\$35,000
2	Four (4) vehicles for the T&D Activity for Mwanza, Tanga, Morogoro and Dodoma for supervision & Control	\$35,000	\$140,000
3	Two (2) vehicles to the Malagarasi Hydropower and Kigoma Distribution Activity	\$35,000	\$70,000
4	One (1) vehicle to ZECO for supervision of supplemental studies and construction activities in Zanzibar	\$35,000	\$35,000
5	Two (2) Multimedia projectors	\$2,000	\$4,000
6	Four (4) digital camera for photo reports	\$500	\$2,000
7	One (1) Binding Machine	\$600	\$600
	<b>TOTAL</b>		<b>\$286,600</b>

## ANNEX IV

### RECORDS AND REPORTING REQUIREMENTS

#### I. Reporting Requirements Specific to the Energy Project

##### 1. **Monitoring and Evaluation Reports**

TANESCO shall produce Progress Reports corresponding to guidelines to be provided by MCA-Tanzania.

##### 2. **Environmental and Social Progress Reports**

TANESCO Environmental Specialist will prepare progress reports to be presented to MCA-Tanzania's Environment and Social Assessment Director. The Report should provide information on current status of environmental and social activities, ongoing public consultation, minutes of meetings with stakeholders, action items to address concerns raised by affected parties, etc. In addition to the quarterly reports, the TANESCO Environmental Specialist will immediately report to MCA-Tanzania's Environment and Social Assessment Director any environmental and social events that may require emergency actions.

##### 3. **Procurement Progress Reports**

TANESCO will prepare progress reports to be presented to MCA-Tanzania. The report should provide information on current status of procurement activities for the T&D Activity.

##### 4. **Construction Progress Reports**

TANESCO will prepare progress reports to be presented to MCA-Tanzania. The report should provide information on current status of construction activities.

##### 5. **Format of the Reports**

All reports provided pursuant to this Annex IV shall be in a format satisfactory to MCA-Tanzania.

## II. Delivery Requirements

<b>Name of Report</b>	<b>Timing</b>	<b>Delivery Format</b>	<b>Deadline</b>
Monitoring and Evaluation Reports	Quarterly	Electronic and Printed	15th day after quarter end
Environmental and Social Progress Reports	Quarterly	Electronic and Printed	15th day after quarter end
Procurement Progress Reports	Monthly/Quarterly	Electronic and Printed	15th day after month/quarter end
Construction Progress Reports	Monthly	Electronic and Printed	15th day after month end
Project Implementation Progress Report	Monthly	Electronic and Printed	15 <sup>th</sup> day after month end