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| Template Term Sheets |
| Operating Services Agreement, Purchase and Sale Agreement - Asset Transfer, Purchase and Sale Agreement - Share Purchase |
| These term sheets are published as part of the Open Source project by CrossBoundary Access, funded by Shell Foundation. This is an initiative to share the project financing tools used to structure and finance over $80m of mini-grid projects in Africa.  Visit the [CrossBoundary Access Open Source page](https://crossboundary.com/access/open-source-tools-to-accelerate-universal-energy-access/) for more resources. |

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| January 2024 |

**TERM SHEET**

**for the**

**OPERATING SERVICES AGREEMENT**

**between**

**[INVESTOR] ASSETCO IN [COUNTRY] and [DEVELOPER]**

This Term Sheet sets out the key provisions and risk allocation in relation to the Operating Services Agreement(s) (the “**Agreement**” or “**OSA**”)to be entered into for theproposed project. They are not exhaustive.

The objective of the relationship is for [Developer] (“**OpCo**”) to provide operations, maintenance, and customer services to a portfolio of operational mini-grids (“**Sites**”) owned by [Investor] AssetCo in [Country](“**AssetCo**”) (the“**Project”**)*.* AssetCo and OpCo are each a “**Party**” and together the “**Parties**”. The structure of the Agreement assumes that the OpCo (or its Affiliate) has carried out the development and construction services under the PSA.

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| **Cl.** | **Heading** | **Description** |
|  | Services and Obligations | AssetCo engages OpCo to perform all services related to the continued operation of the Project (the “**Services**”) as detailed in Annexure A (the “**Scope of Services**”). |
|  | Term | The minimum Term of the Agreement shall be [•] years from the date of commissioning of the last batch of Sites in the Project. The Parties may agree to extend the Term. |
|  | Standards of Performance | 1. OpCo shall carry out the Services and its obligations under this Agreement in accordance with Good Industry Practice[[1]](#footnote-1), acting as an experienced and diligent operator, and to ensure that the Sites are fit for the purpose for which they are intended and can be operated as planned. 2. OpCo shall at all times act in compliance with the terms of any OEM warranty, AssetCo’s HSES requirements, IFC’s environmental and social performance standards, any permits, consents or permissions obtained for the Project, any concession agreement related to the Sites, any other technical standard related to Project-specific grant, subsidy, or other public funding, all applicable laws (including the building and construction laws of [Country]), the operations manual as agreed between the Parties (**Operations Manual**), and all other applicable standards including those specified by AssetCo in the Agreement. 3. To the extent OpCo subcontracts any of the Services (which may be subject to AssetCo’s consent), OpCo shall have sole and absolute liability for a subcontractor’s compliance with these standards. |
|  | Fees and payment | 1. Each quarter, AssetCo shall pay OpCo for the provision of the Services as follows:    1. a base fee of [•] per mini-grid site (“**Site**”); and    2. a variable fee of [•]% of revenue,   (such amounts being inclusive of all applicable taxes and together forming the “**Operating Fee**”).   1. The Operating Fee shall be paid quarterly in arrears and in the local currency of [Country]. 2. The Operating Fee may be adjusted annually using a mechanism to be determined by the Parties, taking into account local inflation and share of risk in the Project. |
|  | Diesel | 1. The Parties agree and understand that the Project is supported and funded on the understanding that diesel should only be used as necessary, and cannot be used to compensate for poor planning or maintenance. OpCo will use all reasonable endeavors to minimize diesel use. 2. OpCo shall size each Site based on a “**Diesel Generation Threshold**”, which is the [•]% diesel generation share upon which the grids have been sized. OpCo is responsible for complying with this threshold and penalties may apply if the OpCo exceeds this threshold (subject to reasonable relief where unforeseeable, no-fault events occurred). 3. If the Project is forecast to exceed the Diesel Generation Threshold at the end of the next calendar year due to consumption growth, OpCo shall propose an expansion plan and AssetCo shall consider and fund such expansion. 4. The Parties will forecast diesel use annually and AssetCo will reimburse OpCo for diesel use within the forecast on a quarterly basis. Diesel beyond the forecast can only be recovered if it can be linked to a corresponding increase in demand/consumption. |
|  | Revenue Collection | 1. OpCo shall operate the Project such that customers are unable to access electricity unless they have paid in advance for the electricity. 2. As part of the Scope of Services, OpCo shall manage revenue collection from the sale of electricity and customer connections via mobile money or other payment methods. The cost of this service is included in the Operating Fee. Any external banking or mobile money transfer fees will be paid by AssetCo. 3. AssetCo will directly receive such revenue (from the sale of electricity and customer connection fees) in its bank account, according to the terms and conditions of the mobile money agreements AssetCo will enter into with the relevant mobile money operator. |
|  | Connection Uptime & Metering | 1. For the duration of the Agreement, OpCo guarantees an average connection uptime across the Sites of [•]% at the meter level (“**Guaranteed Average Connection Uptime**”) per quarter on a portfolio basis. Uptime will be measured at the smart meter level. 2. If the Guaranteed Average Connection Uptime is not achieved, and the OpCo fails to remedy within an agreed cure period, OpCo shall forfeit part of the Operating Fee in the next quarter as follows:    1. [•]% of Operating Fee for every [•]% below the Guaranteed Average Connection Uptime until [•]% uptime (“**Minimum Guaranteed Average Connection Uptime**”); then    2. [•]% of Operating Fee for every additional [•]% below the Minimum Guaranteed Average Connection Uptime. 3. However, if the OpCo can demonstrate that the loss of uptime was caused by factors outside the OpCo's control and that such losses could not have been avoided by OpCo applying the required Standards of Performance, such period of any loss of uptime shall not be taken into account in calculation of the actual Guaranteed Average Connection Uptime. |
|  | Major Capex Replacements | 1. Major capital items, including batteries, inverters, charge controllers, solar panels, diesel generators and large diesel generator components, poles, distribution network cables, energy management system, battery management system, solar structures and any other capital items specified in the Agreement (“**Major Capital Items**”), will require replacement throughout the Term of the Agreement. 2. OpCo will perform all procurement and installation of Major Capital Items on behalf of AssetCo as part of the Scope of Services. AssetCo will reimburse OpCo for the actual cost of the Major Capital Items (including shipping and third-party logistics) |
|  | New Connections and Expansion of the Sites | 1. As part of the Scope of Services, OpCo will perform all procurement and installation of any equipment required for expansions (i.e., new connections) on behalf of AssetCo. 2. AssetCo shall reimburse OpCo for actual costs incurred in making new connections (i.e., cost of materials / equipment). |
|  | Demand Stimulation Activities | As part of the Scope of Services:   1. OpCo shall manage all productive loads distributed to the customers under the OSA, which shall include payment collection, customer service, (reverse) logistics, supplier communication and enacting warranties. 2. OpCo shall propose productive load and demand stimulation programs to be implemented with the AssetCo, targeting a number of Sites to implement electric-powered productive equipment to replace or reduce the use of diesel or fossil fuel-powered equipment and appliances. |
|  | Reporting and Audit | Market standard reporting and audit obligations will apply. Specific obligations may apply in relation to reporting HSES incidents. |
|  | Anti-Bribery and AML Provisions | AssetCo and its parent organisations comply with the highest standards with respect to Anti Bribery and Anti Money Laundering (AML) obligations and will expect OpCo to comply with such standards and any other similar standards imposed by lenders or funders of the Project. |
|  | Insurance, Liability and Exclusions | 1. Each Party shall have defined obligations with respect to insurance. 2. The liability of either Party under the OSA with respect to any liability related to the Services shall be limited to the liability cap (the “**Liability Cap**”). The Liability Cap for each year of the Agreement is an amount equal to the total Operating Fee earned by OpCo in the preceding 12 months plus any payments (e.g., for diesel, major capex replacements or otherwise) made by AssetCo to OpCo under this Agreement. 3. In respect of the Liability Cap, typical exclusions shall apply, including without limitation:    * Bribery, corruption, fraud, and any dealings with sanctioned persons or countries (the “**Prohibited Acts**”)    * Negligence    * Events for which the OpCo is insured 4. Neither Party shall be liable to the other Party for any economic, indirect or consequential loss. However, exceptions shall apply (including liquidated damages, indemnities, Prohibited Acts, etc). |
|  | Force Majeure and Termination | 1. Market standard provisions on events of force majeure and termination and the relevant consequences will apply. Termination for force majeure shall be subject to specific time periods and controls. 2. Such events may occur in relation to a Site, a batch of Sites, or the whole Project. |
|  | Indemnities | The Agreement will include customary indemnities including:   1. liabilities to third parties for death, personal injury and damage to property related to the Services; 2. breaches of any [Country] laws, Prohibited Acts, or other compliance requirements under the Agreement (by OpCo or its personnel, which include subcontractors); and 3. any direct losses to AssetCo as a result of not being able to recover under its insurance policies as a result of any fraud, Prohibited Acts, material misrepresentation, or non-disclosure by OpCo (or its personnel, which include subcontractors). |
|  | Governing Law and Dispute Resolution | 1. The Agreement will be governed by the laws of England and Wales. 2. Arbitration will be seated in London and administered by the London Court of International Arbitration. There shall be three arbitrators, unless otherwise agreed. Any hearing shall be conducted in London, England. |

ANNEXURE A: SCOPE OF SERVICES

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|  | **Service Area / Item Description** |
|  | **HSES** |
|  | * 1. Develop Site safety rules and ensure they are implemented at all Sites and training is provided to all employees.   2. Provide HSES training highlighting the dangers of electricity to all, particularly additional connections.   3. Apply a systematic approach to HSES management designed to ensure compliance with applicable law and to achieve continuous performance improvement.   4. Apply a commitment to conduct all operations in a safe and diligent manner, and a continuous objective to reduce HSES risks associated with the operations,   5. Arrange and maintain any necessary measures or plans to address emergency events.   6. Regular target setting for improvement and regular performance measurement, appraisal, and reporting (e.g., monthly, quarterly, etc.).   7. Require subcontractors to manage HSES risks in line with the HSES standards of AssetCo/OpCo.   8. Ensure that HSES is the responsibility of all managers, teams and individuals.   9. Conduct regular HSES audits of the operations.   10. Retain records of relevant HSES audits.   11. Ensure there is a system available and operational that enables HSES incident reporting within 24 hours (including any fatalities, serious illnesses, environmental impact or harm, damage to AssetCo assets over US$[•], detrimental impact to the neighbouring community, other significant HSES incidents).   12. Report data and statistics on greenhouse gas emissions from operations and total product, incidents, and other HSES statistics. |
|  | **General Site Cleanliness** |
|  | * 1. Check and ensure general Site cleanliness and take corrective action, as required.   2. Conduct visual inspection of the roadways, alley ways and facility access areas and take corrective action, as required. |
|  | **Structural Checks** |
|  | * 1. Visually inspect structure of PV frame and power system and take corrective action for, as a minimum, water ingress, scouring, insect & rodent infestation, rust/corrosion, exterior damage and structural integrity. |
|  | **Monitoring** |
|  | * 1. Perform the continuous monitoring of the Project using remote and local monitoring systems, including any asset monitoring platform where made available by AssetCo. The Project should be monitored in such a way that any failure or incidents that could reduce or interrupt operations are brought to the attention of OpCo without delay following such failures or incidents occurring.   Notify AssetCo of any material incidents or interruptions to the service within [•] calendar days of their occurrence.  Ensure that the monitoring and sensing components of each mini-grid are functioning properly and capable of transmitting necessary information to the asset monitoring platform. |
|  | **Preventative Maintenance – PV Inspections** |
|  | * 1. Visually inspect panels for dust and animal droppings and clean panels if necessary.   2. Visually inspect cabling and fastening of nuts and bolts of PV panels and ground connections. Fix any improper cabling and fasten loose nuts and bolts.   3. Maintain and provide access to AssetCo to an activity log for maintenance and a maintenance specification log recording all monitoring reports and a listing of all required maintenance, indication of the performance of the required maintenance, indication of the performance of other maintenance and a record of all repairs and replacements made to each mini-grid and its associated equipment.   4. Test the performance of the PV panels and power system against manufacturer’s specifications and to take corrective action if outside of the specifications. |
|  | **Preventative Maintenance – Low Voltage and PV Equipment** |
|  | * 1. Inspect cabling, fastening of nuts and bolts, and surface temperature of the charge controller and its breakers. Fix minor issues during inspection and raise a ticket for major issues.   2. Inspect cabling, fastening of nuts and bolts, and surface temperature of the inverter terminals and inverter breakers terminals. Fix minor issues during inspection and raise a ticket for major issues.   3. Measure VMP, VOC, and IMP string voltages and currents to identify faulty strings. In case of faulty strings, raise a ticket for and ensure replacement.   4. For sensors and meters, including pyranometers where applicable, and tilt sensors:      1. Record meter readings as available      2. Clean pyranometers      3. Turn off and on to ensure they are communicating      4. Calibrate units per manufacturer's instructions |
|  | **Battery Bank Check** |
|  | * 1. Measure battery bank voltages and temperatures. In case of abnormal reading, troubleshoot and if necessary, raise a ticket and ensure replacement of the faulty battery.   2. Measure cell voltages and temperatures. In case of abnormal reading, troubleshoot and if necessary, raise a ticket and ensure replacement of the faulty battery. |
|  | **Poles** |
|  | * 1. Inspect pole and pole number and confirm pole hardware is not damaged. In case of faulty pole or hardware, raise ticket for and ensure replacement of the faulty pole or hardware. Relabel pole if pole number is illegible or missing. |
|  | **Reticulation Cables** |
|  | * 1. Inspect reticulation cables and, if necessary, repair loose hanging cables or scathed insulation. |
|  | **Meters** |
|  | * 1. Apply a meter seal to any meters found missing a seal. Inspect, investigate and report any meters that are found to be missing a seal for evidence of tampering or other damage.   2. Repair or replace faulty meters. |
|  | **Generators on Site** |
|  | * 1. Visually inspect and, if necessary, repair fixing, belts, connections, fan, battery, and exhaust guard in accordance with the manufacturer’s recommendations as a minimum.   2. Inspect generator for cleanliness, dust level, and leakages and repair if needed.   3. Record generator engine temperature while in operation and take corrective action if readings are outside the manufacturer's recommended parameters.   4. Replace the coolant, oil, filter and fuel. |
|  | **Other items** |
|  | * 1. Inspect and, if necessary, fix cooling fans, floodlights and timer.   2. Inspect and, if necessary, repair or replace worn out cables, breakers, hanging cables.   3. Inspect pressure level of fire extinguisher and replace if needed.   4. Maintain the security of the Sites.   5. Secure the power system against damage from rodents and insects.   6. Vegetation control including mowing and trimming of trees and bushes that may impact the performance of the generation and distribution system.   7. Check structures of perimeter fences and gates. |
|  | **Diesel** |
|  | * 1. Handle procurement, transport and logistics of diesel to Sites. |
|  | **Standard checks** |
|  | * 1. Confirm that data from inverter and meters can be accessed through relevant portals. Raise a ticket and remedy if necessary.   2. Confirm that the power system controller can be accessed remotely. Raise a ticket and remedy if necessary.   3. Confirm that meters are syncing. Raise a ticket and remedy if necessary.   4. Confirm that the relevant power system breakers are on. Turn on relevant breakers if necessary.   5. Confirm generator is set to automatically turn on and off and if necessary, adjust the generator to its automatic setting for starting and stopping.   6. Confirm that various doors are locked, including the power system and the fence, when applicable. Lock the doors if necessary. |
|  | **Critical Spare Parts** |
|  | * 1. Maintain and manage an inventory and a store of critical spare parts on behalf of AssetCo. |
|  | **Major Maintenance** |
|  | * 1. Manage all OEM warranties on behalf of AssetCo and manage all claims against the warranties.   2. Provide a [•]-year major maintenance replacement schedule including detailed budget.   3. Manage major maintenance, equipment teardowns, equipment overhauls and capital improvements.   4. Manage procurement, logistics, or transport for any major capital item expenditure regardless of whether it falls within its warranty   5. Promptly notify AssetCo of any such teardowns and overhauls of major equipment or capital improvements that OpCo believes are necessary or advisable together with a proposed schedule for completing such repairs or improvements.   6. Provide installation services in relation to replacement of major capital expenditures. |
|  | **Expand Generation and Storage Capacity of Projects** |
|  | * 1. Identify and alert AssetCo of need for additional generation and storage capacity.   2. Present business case for expansion of generation and storage capacity to AssetCo.   3. Coordinate, execute, contract and oversee expansion of generation and storage capacity. |
|  | **Customer Service and Revenue Collection** |
|  | * 1. Engage with customers to inform them of the details of the electricity tariff and correct use of the equipment including the meter. This can be done through various channels, which may include: SMS, phone, USSD, mobile applications, local agent and physically in-person.   2. Operate a coordinated system of people, processes, and technologies to administer incoming support enquiries from customers.   3. Maintain a call center from Monday - Friday, excluding holidays, for the Sites. * Call center representatives will address customer enquiries, including but not limited to: payment issues, tariff questions, balance checks, power issues, appliance questions, account changes, and general information requests. * Call center representatives will make all reasonable efforts to address enquiries as quickly and effectively as possible.   1. Maintain an emergency out-of-hours telephone number that will be available from 7am-10pm initially (and work towards a 24-hour service once technically/commercially feasible), 365 days a year. All emergency calls shall be managed by OpCo.   2. Ensure that customer payments are collected on behalf of AssetCo and deposited into AssetCo’s collection account, and reconcile the funds collected via mobile money or other payment methods against the number of credits sold using data from OpCo’s database on a quarterly basis. |
|  | **Connecting New Customers** |
|  | * 1. Identify and plan connections for new customers.   2. Coordinate, execute, contract and oversee installation of additional connections and execution of customer agreements for customers that are expected to increase grid profitability. |
|  | **Maintaining Permits, Licenses and Concession Agreements** |
|  | * 1. Apply for and maintain all AssetCo approvals for the Project and duly obtain renewal of any AssetCo approvals required during the Term.   2. Apply and maintain all OpCo approvals for the Project and duly obtain renewal of any OpCo approvals required during the Term.   3. Manage contracting, updating and execution of customer agreements and any other Project-related agreements required with the community members. |
|  | **Demand stimulation** |
|  | * 1. Manage all productive loads distributed to the customers, which shall include payment collection, customer service, (reverse) logistics, supplier communication and enacting warranties.   2. Propose additional productive load and demand stimulation programs to be implemented.   3. Present plans for tariff discounts and promotions to AssetCo for approval.   4. Implement approved tariff discounts and promotions.   5. Run appliance financing programs. |

**DISCLAIMER**

The transaction contemplated by this Term Sheet is subject to due diligence by the Parties and agreement and execution of binding legal documentation satisfactorily reflecting the transaction. Accordingly, and except as specifically set out below, these Term Sheet are not intended to be legally binding, or to create legally binding obligations between the Parties.

This Term Sheet are confidential and remain the sole property of [Investor] notwithstanding disclosure or subsequent negotiation of terms between the Parties. The disclosure of this document is subject to the terms of the Non-Disclosure Agreement already in existence between the Parties.

**TERM SHEET**

**for the**

**PURCHASE AND SALE AGREEMENT**

**between**

**[INVESTOR] IN [COUNTRY] and [DEVELOPER]**

This Term Sheet sets out the key provisions and risk allocation in relation to the Purchase and Sale Agreement (the “**Agreement**”)to be entered into for theproposed Project (as defined below). They are not exhaustive.

The objective of the relationship is for [Developer] (“**OpCo**”) to develop and sell to [Investor] (“**Owner**”) in [Country]multiple operational mini-grids, each being a “**Mini-grid**”, a group of Mini-grids being a “**Batch**”, and the total Batches being the “**Project**”*.* Owner and OpCo are each a “**Party**” and together the “**Parties**”. The structure of the Agreement assumes that OpCo (or its Affiliate) will provide ongoing operational services under a separate Operating Services Agreement (the “**OSA**”).

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| **Topic** | **Description** |
| Owner’s Commitment | Owner shall commit to purchase Mini-grids in line with the criteria detailed in Annexure A (“**Qualifying Criteria**”) up to a total amount of $[•] (the “**Maximum Commitment Amount**”) for [•] years from the effective date of the Agreement (the “**Commitment Period**”); provided that Owner may increase the Maximum Commitment Amount to up to $[•] if a suitable subsidy program applicable to additional Mini-grids in OpCo’s pipeline is in place and reasonably available to OpCo or if OpCo otherwise consents in writing.  Each year the Parties will review in good faith the Commitment Period, the aggregate amount paid by Owner to OpCo for Mini-grids, and OpCo’s projections for the completion and transfer of additional Mini-grids during the remainder of the Commitment Period, and if Owner reasonably determines that OpCo is not expected to deliver to Owner a sufficient number of Mini-grids to fully utilise the remainder of the Maximum Commitment Amount within the Commitment Period, the Maximum Commitment Amount may be reduced by Owner accordingly. Owner’s obligation to acquire Mini-grids from OpCo shall terminate at the expiration of the Commitment Period or, if earlier, once the aggregate amount of the Purchase Price paid by Owner equals or exceeds the Maximum Commitment Amount. |
| Mini-grid Development and Quarterly Reports | OpCo will be wholly responsible for all activities and financing requirements for each Mini-grid up to the sale and transfer thereof to Owner, including, without limitation, Mini-grid development, design, engineering, procurement, construction, permitting, commissioning, provision of relevant documents (including a comprehensive O&M manual and O&M plan), customer acquisition, and all other activities necessary to deliver a Mini-grid to the standards stipulated in Owner’s technical standards book (the “**Technical Standards Book**”), the Qualifying Criteria and generally accepted industry standards.  Commissioning requires (A) testing that the installation: (i) is structurally and electrically safe, (ii) is reasonably expected to operate for the duration of the specified project lifetime, taking into account planned and unplanned maintenance on the system, (iii) operates and performs as specified in the Technical Standards Book, and iv) delivers power to customers; and (B) confirming that customers have the capacity to pay through mobile money platforms.  OpCo shall provide Owner a quarterly written update regarding Mini-grids it is developing, which shall include the expected size of each Mini-grid under development (measured by capacity and number of connections), the location of each such Mini-grid, the estimated timing for commissioning and transfer thereof, any material developments since the last such submission, and the number of direct jobs created during development, disaggregated by gender. |
| Batch Presentation and Review | OpCo will deliver a certificate (“**Batch Presentation Certificate**”) to Owner each quarter requesting Owner to acquire a Batch, subject to satisfaction by OpCo or waiver by Owner of the conditions precedent to such acquisition.  Owner shall have [•] days to review each Batch Presentation Certificate and shall either countersign the certificate or decline Mini-grids in the Batch with either: (A) an explanation of the denial; or (B) a request for resubmission, in compliance with the Qualifying Criteria, Technical Standards Book and applicable conditions precedent.  OpCo shall use commercially reasonable efforts to address the comments of Owner promptly and to resubmit the Batch Presentation Certificate. A Mini-grid shall become a “**Rejected Mini-grid**” if: (A) Owner declines to include the Mini-grid in a Batch; or (B) Owner requests a resubmission of a Mini-grid twice and OpCo and Owner do not agree to an additional cycle of review. |
| Conditions Precedent to Batch Transfer | Owner’s obligation to purchase each Mini-grid approved under a Batch Presentation Certificate shall be subject to OpCo’s satisfaction of standard conditions precedent, including, without limitation, the following:   1. the relevant Batch’s average revenue per user (“**ARPU**”) based on [•] months of consecutive mobile money data is not less than [•][[2]](#footnote-2) percent of the relevant ARPU forecast for such Batch over the corresponding [•]-month period; 2. delivery of satisfactory summary of how a comprehensive long-term operations, maintenance and management plan (including the operations manual, plans for hiring and retaining local staff for O&M and sale of prepaid electricity credits to customers, spare parts management, etc.) will be implemented for the relevant Mini-grid; 3. no event or circumstance shall have occurred that could reasonably be expected to have a material adverse effect on the development, long-term ownership or long-term operation of any Mini-grid; and 4. the OSA is in full force and effect or other arrangements satisfactory to Owner for the operations of the Mini-grid are in place. |
| Batch Transfer | Owner shall assume and acquire from OpCo, pursuant to an Assignment, Assumption and Transfer Agreement for each Batch, all of OpCo’s rights, title and interest in and to each accepted Mini-grid in such Batch, including but not limited to all related assets, equipment and workmanship warranties from subcontractors and suppliers, land leases, customer agreements, environmental licenses, access and usage rights to the operating platform, and distribution and generation licenses necessary for the ongoing sale and provision of power to the Mini-grid customers, in each case free and clear of any liens or encumbrances. |
| Purchase Price | The price (the “**Purchase Price**”) paid by Owner to OpCo for each accepted Mini-grid in a Batch will consist of a predetermined cash payment per connection of $[•], multiplied by the number of connections in the Mini-grid (“**Cash Purchase Price**”).  [The Purchase Price includes VAT, but other applicable sales taxes, property transfer taxes and any other transaction-based taxes or duties payable with respect to the purchase of a Mini-grid will be allocated between the Parties in such proportion as agreed from time to time by the Parties.] Owner shall pay OpCo the Purchase Price within [•] business days following execution by the Parties of the applicable Assignment, Assumption and Transfer Agreement. |
| Purchase Price Revisions | At the halfway point of the Commitment Period or at any other date both Parties agree, the Parties will review in good faith whether the Cash Purchase Price should be reduced, taking into account changes to market and cost conditions, actual performance of Mini-grids that have been transferred, and projected performance of Mini-grids to be transferred in the future. Such review shall be carried out with the intent of sizing the Cash Purchase Price to cover the cost of all physical capex (e.g. poles, panels, meters, batteries, wires, generators, etc.) as well as the related development costs (people/time, land, permits, licenses, etc.) and construction costs (people/time, logistics, transport, works, etc.) required to bring a Mini-grid to commissioning and operation, as set forth in the Technical Standards Book, net of any grants or subsidies received by OpCo.  The relevant financial model will be maintained by Owner but shared with OpCo. Should changes in market and cost conditions result in a material adverse change in Mini-grid economics for either Party based on that model, the Parties agree to negotiate in good faith a mutually agreeable adjustment to the commercial terms herein, [which may include termination of this Agreement by mutual consent of the Parties]. |
| [Developer Earnout] | [In addition to any payments made by Owner of the Purchase Price, and subject to satisfaction or waiver of the conditions to the making of a distribution under any applicable financing documents, Owner shall pay to OpCo an earnout payment (the “**Developer Earnout**”) of an amount to be agreed between the Parties and tied to the long-term performance of the Mini-grids.] |
| Mini-grid Warranties | OpCo will provide a workmanship guarantee for a period of [•] months commencing on the date of Mini-grid purchase. OpCo shall have no warranty obligation for warranty claims arising as a result of any force majeure event or in connection with any third-party activities outside OpCo’s control.  OpCo is responsible for full and unconditional transfer of all original equipment manufacturer warranties to Owner on or before a Mini-grid is acquired.  OpCo will warrant that each Mini-grid is built to the standards required by the Agreement, including the Qualifying Criteria, the Technical Standards Book and the commissioning requirements, and is fit for the purpose for which it is intended. |
| OpCo Representations and Warranties | Standard, including, without limitation, with respect to company organization, authority and qualification, necessary consents and approvals, no conflict, required permits, litigation, taxes, IP matters, compliance with law, title to Mini-grids, full and correct disclosure, environmental matters, and workmanship. |
| Owner Representations and Warranties | Standard, including, without limitation, with respect to company organization, authority and qualification, necessary consents and approvals, no conflict, litigation, taxes, and compliance with law. |
| Insurance, Liability and Exclusions | Each Party shall have defined obligations with respect to insurance.  Neither Party shall be liable to the other Party for any economic, indirect or consequential loss. However, exceptions shall apply (including liquidated damages, indemnities, fraud, etc.) |
| Anti-Bribery and AML Provisions | Owner and its parent organizations comply with the highest standards with respect to Anti Bribery and Anti Money Laundering obligations and will expect OpCo to comply with such standards and any other similar standards imposed by lenders or funders of Owner and the Mini-grids. |
| Force Majeure and Termination | Market standard provisions on events of force majeure and termination and the relevant consequences will apply. Termination for force majeure shall be subject to specific time periods and controls.  Such events may occur in relation to a Mini-grid, a Batch or the whole Agreement. |
| Indemnification | The Agreement will include customary indemnities including but not limited to:   1. liabilities to third parties for death, personal injury and damage to property related to Mini-grids; 2. IP infringement; 3. breaches of the Agreement; and 4. incidents of gross negligence, fraud or willful misconduct. |
| Governing Law and Dispute Resolution | The Agreement will be governed by the laws of England and Wales.  All disputes arising under the Agreement shall be resolved through binding arbitration seated in London and administered by the London Court of International Arbitration. There shall be one arbitrator unless otherwise agreed.  Any hearing, if required, shall be conducted in London, England. |

ANNEXURE A: QUALIFYING CRITERIA

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|  | Eligible locations: As agreed between the Parties |
|  | Partner criteria: OpCo passes KYC to the satisfaction of Owner |
|  | Policy & regulatory framework: Confirmation from Owner’s local legal counsel of no change to legislation permitting cost-reflective tariffs and grid integration and compensation |
|  | Tax and legal: Due diligence carried out prior on pre-agreed countries – confirmation from  Owner’s local tax advisor and legal advisor of no material changes at this stage from due diligence  report, and confirmation of no material changes in real world against due diligence report or other relevant  local law or tax legislation |
|  | Returns: A base case unlevered [•]-year Batch IRR denominated in USD of not less than [•]% based on the agreed financial model |
|  | Contracts: Signed OSA and PSA |
|  | Technical standards: Confirmation that the Batch meets the requirements of the Technical Standards Book and the other technical standards. |
|  | Permits: All required consents, agreements, permits, licenses and approvals required for the Project shall have been obtained. |
|  | ESMS: An IFC-compliant Environmental and Social Management System (ESMS) shall have been provided by the OpCo and adopted for the Project, which shall also comply with the health, safety, environmental and social requirements of the Owner. |
|  | Minimum investment size (excluding grants): The lesser of $[•]m or the remaining funding available. |
|  | Customer type: At least [•]% of customers (by number of connections) are residential or business customers not currently receiving tier 4 power (for the avoidance of doubt this excludes diesel gensets, SHSs, and failing/defunct main grid connections, e.g. availability level below tier 4 main grid connections). |

**DISCLAIMER**

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**TERM SHEET**

**for the**

**PURCHASE AND SALE AGREEMENT**

**between**

**[INVESTOR] IN [COUNTRY] and [DEVELOPER]**

This Term Sheet sets out the key provisions and risk allocation in relation to the Purchase and Sale Agreement (the “**Agreement**”)to be entered into for theproposed Project (as defined below). They are not exhaustive.

The objective of the relationship is for [Developer] (“**OpCo**”) to develop into a special purpose vehicle (the “**AssetCo**”) a portfolio of operational mini-grids (“**Mini-grids**”) in [Country] and for [Investor] (“**Owner**”) to purchase one hundred percent (100%) of the equity of the AssetCo from OpCo (such development of Mini-grids and sale of the AssetCo, the “**Project**”). Owner and OpCo are each a “**Party**” and together the “**Parties**”. The structure of the Agreement assumes that OpCo (or its Affiliate) will provide ongoing operational services under a separate Operating Services Agreement (the “**OSA**”).

|  |  |
| --- | --- |
| **Topic** | **Description** |
| Owner’s Commitment | Owner shall commit to purchase the AssetCo following the completion of an agreed number of Mini-grids in the AssetCo in line with the criteria detailed in Annexure A (“**Qualifying Criteria**”), for up to a total amount of $[•] (the “**Maximum Commitment Amount**”) for [•] years from the effective date of the Agreement (the “**Commitment Period**”); provided that Owner may increase the Maximum Commitment Amount to up to $[•] if a suitable subsidy program applicable to additional Mini-grids in OpCo’s pipeline is in place and reasonably available to OpCo or if OpCo otherwise consents in writing.  Each year the Parties will review in good faith the Commitment Period and OpCo’s projections for the completion of Mini-grids in the AssetCo during the remainder of the Commitment Period, and if Owner reasonably determines that OpCo is not expected to deliver to Owner an AssetCo containing a sufficient number of Mini-grids to fully utilise the remainder of the Maximum Commitment Amount within the Commitment Period, the Maximum Commitment Amount may be reduced by Owner accordingly. Owner’s obligation to acquire the AssetCo from OpCo shall terminate at the expiration of the Commitment Period. |
| Mini-grid Development and Quarterly Reports | OpCo will be wholly responsible for all activities and financing requirements for each Mini-grid up to the sale and transfer of the AssetCo to Owner, including, without limitation, Mini-grid development, design, engineering, procurement, construction, permitting, commissioning, provision of relevant documents (including comprehensive O&M Manual and O&M Plan), customer acquisition, and all other activities necessary to deliver a Mini-grid to the standards stipulated in Owner’s technical standards book (the “**Technical Standards Book**”), the Qualifying Criteria and generally accepted industry standards.  Commissioning requires (A) testing that the installation: (i) is structurally and electrically safe, (ii) is reasonably expected to operate for the duration of the specified project lifetime, taking into account planned and unplanned maintenance on the system, (iii) operates and performs as specified in the Technical Standards Book, and iv) delivers power to customers; and (B) confirming that customers have the capacity to pay through mobile money platforms.  OpCo shall provide Owner a quarterly written update regarding Mini-grids it is developing, which shall include the expected size of each Mini-grid under development (measured by capacity and number of connections), the location of each such Mini-grid, the estimated timing for commissioning, any material developments since the last such submission, and the number of direct jobs created during development, disaggregated by gender. |
| Project Presentation and Review | Upon completion of all Mini-grids contemplated for the Project, all such Mini-grids satisfying the criteria in the Technical Standards Book, OpCo will deliver a certificate (“**Project Presentation Certificate**”) to Owner requesting Owner to acquire all of the shares in the AssetCo subject to satisfaction or waiver by the Owner of the conditions precedent to such acquisition (“**Conditions Precedent to Transfer**”).  OpCo shall then give Owner [•] days to review the Project Presentation Certificate, and before the expiration of such time, Owner shall either countersign the Project Presentation Certificate and commit to purchasing the AssetCo, or decline to make the acquisition with either (A) an explanation of the denial or (B) a request for resubmission, in compliance with the Technical Standards Book and Conditions Precedent to Transfer.  OpCo shall use commercially reasonable efforts to address the comments of the Owner quickly and resubmit the Project Presentation Certificate, which the Owner may accept by executing. During the review process of the Project Presentation Certificate, OpCo will refrain from soliciting or entertaining any third party’s solicitation to acquire the AssetCo or any Mini-grid within until (i) Owner has elected not to purchase the AssetCo due to non-compliance with the Technical Standards Book or the Conditions Precedent to Transfer, (ii) [•] days have elapsed since the resubmission of a revised Project Presentation Certificate, or (iii) the expiration of the Commitment Period.  If Owner countersigns the Project Presentation Certificate, OpCo shall present a notice (“**Transfer Notice and Certificate**”) to Owner following requesting Owner to purchase the AssetCo for the Purchase Price. The Transfer Notice and Certificate shall:   1. Specify a date upon which the transfer of shares will occur (“**Share Transfer Date**”), which shall be a business day that is between [•] and [•] days after the date of the Transfer Notice and Certificate; 2. Specify the Purchase Price, which shall be calculated in accordance with the agreed methodology; 3. Confirm that each of the Conditions Precedent to Transfer (other than those conditions that, by their nature, can only be satisfied on the Closing Date) has been satisfied or waived by each relevant Party in writing. |
| Conditions Precedent to AssetCo Transfer | Owner’s obligation to purchase the AssetCo shall be subject to the satisfaction of standard conditions precedent, including, without limitation, the following:   1. The AssetCo’s average revenue per user (“**ARPU**”) based on [•] months of consecutive mobile money data is not less than [•][[3]](#footnote-3) percent of the relevant ARPU forecast for the AssetCo over the corresponding [•]-month period; 2. Delivery by OpCo of a satisfactory summary of how a comprehensive long-term operations, maintenance and management plan (including the operations manual, plans for hiring and retaining local staff for O&M and sale of prepaid electricity credits to customers, spare parts management, etc.) will be implemented for the AssetCo; 3. No event or circumstance shall have occurred that could reasonably be expected to have a material adverse effect on the Project; and 4. The OSA is in full force and effect or other arrangements satisfactory to Owner for the operation of the Project are in place. 5. All government requirements, including approvals or other documents required to be filed, registered or recorded prior to AssetCo transfer, have been met |
| AssetCo Transfer | Following the execution by the Parties of the Transfer Notice and Certificate, Owner shall assume and acquire from OpCo, pursuant to a share purchase agreement, all of OpCo’s rights, title and interest in and to all shares of the AssetCo, which in turn shall own all assets of each Mini-grid in the Project, including but not limited to all related assets, equipment and workmanship warranties from subcontractors and suppliers, land leases, customer agreements, environmental licenses, access and usage rights to the operating platform, and distribution and generation licenses necessary for the ongoing sale and provision of power to the Mini-grid customers, in each case free and clear of any liens or encumbrances. Title shall transfer from OpCo to Owner upon payment of the Purchase Price on the Share Transfer Date. |
| Purchase Price | The price (the “**Purchase Price**”) paid by Owner to OpCo for the AssetCo will consist of a predetermined cash payment per connection of $[•], multiplied by the total number of connections in the Mini-grids in the AssetCo.  [The Purchase Price includes VAT, but other applicable sales taxes, property transfer taxes, any other transaction-based taxes or duties, and costs of obtaining the necessary government approvals required for the purchase of the AssetCo will be allocated between the Parties in such proportion as agreed from time to time by the Parties.] |
| Purchase Price Revisions | The relevant financial model will be maintained by Owner but shared with OpCo. Should changes in market and cost conditions result in a material adverse change in Mini-grid economics for either Party based on that model, the Parties agree to negotiate in good faith a mutually agreeable adjustment to the commercial terms herein, [which may include termination of this Agreement by mutual consent of the Parties]. |
| [Developer Earnout] | [In addition to any payments made by Owner of the Purchase Price, and subject to satisfaction or waiver of the conditions to the making of a distribution under any applicable financing documents, Owner shall pay to OpCo a quarterly earnout payment (the “**Developer Earnout**”) of an amount to be agreed between the Parties and tied to the long-term performance of the Mini-grids.] |
| Mini-grid Warranties | OpCo will provide a workmanship guarantee for a period of [•] months commencing on the date of the AssetCo purchase. OpCo shall have no warranty obligation for warranty claims arising as a result of any force majeure event or in connection with any third-party activities outside OpCo’s control.  OpCo is responsible for ensuring that all original equipment manufacturer warranties are obtained in AssetCo’s name.  OpCo will warrant that each Mini-grid is built to the standards required by the Agreement, including the Qualifying Criteria, the Technical Standards Book and the commissioning requirements, and is fit for the purpose for which it is intended. |
| OpCo Representations and Warranties | Standard, including, without limitation, with respect to company organization, authority and qualification, necessary consents and approvals, no conflict, required permits, litigation, taxes, IP matters, compliance with law, title to AssetCo, full and correct disclosure, environmental matters, and workmanship. |
| AssetCo Representations and Warranties | Standard, including, without limitation, with respect to company organization, authority and qualification, necessary consents and approvals, no conflict, required permits, litigation, taxes, IP matters, compliance with law, title to Mini-grids, full and correct disclosure, environmental matters, and workmanship. |
| Owner Representations and Warranties | Standard, including, without limitation, with respect to company organization, authority and qualification, necessary consents and approvals, no conflict, litigation, taxes, and compliance with law. |
| Insurance, Liability and Exclusions | Each Party shall have defined obligations with respect to insurance.  Neither Party shall be liable to the other Party for any economic, indirect or consequential loss. However, exceptions shall apply (including liquidated damages, indemnities, fraud, etc.). |
| Anti-Bribery and AML Provisions | Owner and its parent organizations comply with the highest standards with respect to Anti Bribery and Anti Money Laundering obligations and will expect OpCo to comply with such standards and any other similar standards imposed by lenders or funders of Owner, the AssetCo and/or the Mini-grids. |
| Force Majeure and Termination | Market standard provisions on events of force majeure and termination and the relevant consequences will apply. Termination for force majeure shall be subject to specific time periods and controls. |
| Indemnification | The Agreement will include customary indemnities including but not limited to:   1. liabilities to third parties for death, personal injury and damage to property related to Mini-grids and/or the AssetCo; 2. IP infringement; 3. breaches of the Agreement; and 4. incidents of gross negligence, fraud or willful misconduct. |
| Governing Law and Dispute Resolution | The Agreement will be governed by the laws of England and Wales.  All disputes arising under the Agreement shall be resolved through binding arbitration seated in London and administered by the London Court of International Arbitration. There shall be one arbitrator unless otherwise agreed.  Any hearing, if required, shall be conducted in London, England. |

ANNEXURE A: QUALIFYING CRITERIA

|  |  |
| --- | --- |
|  | Eligible locations: As agreed between the Parties |
|  | Partner criteria: Passes KYC to the satisfaction of Owner |
|  | Policy & regulatory framework: Confirmation from Owner’s local legal counsel of no change to legislation permitting cost-reflective tariffs and grid integration and compensation |
|  | Tax and legal: Due diligence carried out prior on pre-agreed countries – confirmation from  Owner’s local tax advisor and legal advisor of no material changes at this stage from due diligence  report, and confirmation of no material changes in real world against due diligence report or other relevant  local law or tax legislation |
|  | Returns: A base case unlevered [•]-year IRR denominated in USD of not less than [•]% based on the agreed financial model |
|  | Contracts: Signed OSA and PSA |
|  | Technical standards: Confirmation that the Mini-grids meets the requirements of the Technical Standards Book and the other technical standards. |
|  | Permits: All required consents, agreements, permits, licenses and approvals shall have been obtained (the Parties may update these requirements from time to time if the regulatory requirements change). |
|  | HSES: The development of the Project shall have been done in compliance with the health, safety, environmental and social (HSES) requirements of the Owner. |
|  | Minimum investment size: $[•]m |
|  | Customer type: At least [•]% of customers (by number of connections) being served by the Mini-grids are residential or business customers not currently receiving tier 4 power (for the avoidance of doubt, this excludes diesel gensets, SHSs, and failing/defunct main grid connections, e.g. availability level below tier 4 main grid connections). |

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1. “**Good Industry Practice**” means, without limiting or prejudicing any higher standards or higher requirements under the Agreement, compliance with local country grid codes as applicable (to be defined in final OSA Agreement), and generally accepted regional standards of skill, care and diligence, and the exercise of that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected to be observed by a skilled, experienced and highly qualified private developer engaged in carrying out activities the same as or similar to the Services under the same or similar circumstances. [↑](#footnote-ref-1)
2. ARPU may be lower than the ARPU forecast (which is based on annual assumptions on consumption and tariffs) in some months due to seasonality and other factors that vary by month. The Parties can therefore agree on a threshold that makes sense depending on the specifics of the Project, and is typically set low (e.g., 25%). [↑](#footnote-ref-2)
3. ARPU may be lower than the ARPU forecast (which is based on annual assumptions on consumption and tariffs) in some months due to seasonality and other factors that vary by month. The Parties can therefore agree on a threshold that makes sense depending on the specifics of the Project, and is typically set low (e.g., 25%). [↑](#footnote-ref-3)