

**Amended and Restated Agreement
between
the Norwegian Ministry of Foreign Affairs
and
the Revolutionary Government of Zanzibar
regarding
Capacity Building on Maintenance
in Zanzibar Electricity Corporation**

WHEREAS the Government of the Kingdom of Norway (Norway) has supported the United Republic of Tanzania (Tanzania) in the implementation of Phase I-IV of an electricity transmission and distribution project at Zanzibar as well as the implementation phase of the Tanga-Pemba subsea cable project through agreements dated 14 May 1986; 24 June 1988; 31 July 1991; 10 April 1995; 5 November 2003 and 13 August 2008,

WHEREAS the Revolutionary Government of Zanzibar (Zanzibar) in letter dated December 2011 requested Norway for support to a capacity building project on maintenance in Zanzibar Electricity Corporation (ZECO),

WHEREAS the Norwegian Ministry of Foreign Affairs (MFA) decided to comply with the request,

WHEREAS MFA and Zanzibar (the Parties) 12 December 2012 entered into the Agreement on development cooperation concerning Capacity Building on Maintenance in Zanzibar Electricity Corporation,

WHEREAS the Parties have agreed to amend and restate the above mentioned original agreement in it's entirely, pursuant to this Amended and Restated Agreement (hereinafter the Agreement),

NOW THEREFORE MFA and Zanzibar have reached the following understanding which shall replace the agreement dated 12 December 2012:

Article I Scope and objectives

1. This Agreement sets forth the terms and procedures for MFA's support to capacity building on maintenance in Zanzibar Electricity Corporation (the Project) as outlined in the Agreed Project Summary in Annex I and further described in the Project Document "capacity building programme on maintenance in ZECO" dated December 2011. The first 6 months of the Project will be an Inception Phase. The final decision regarding electrification of Kisiwa Panza will be made based on a cost/benefit analysis of a more detailed proposal, without waiting for the finalization of the electrification master plan.
2. The intended impact of the Project is improved economic and social development in a sustainable way in Zanzibar, through increased access to affordable, reliable and sustainable electricity services.

The key Outcomes of the Project are:

- Improved access to reliable and affordable electricity supply

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- Improved quality of electricity supply
 - A competent maintenance unit performing preventive maintenance planning and work
3. The Parties may agree on extending existing or including new Project elements within the Project, as well as on re-allocating funds within the Project. Any such agreement shall be in writing, e.g. recorded in the Agreed Minutes from the consultations mentioned in Article VI.

Article II Cooperation – Representation

1. The Parties shall communicate and cooperate fully with the aim to ensure that the Goal and Purpose are successfully achieved. The Parties further agree to cooperate on preventing corruption within and through the Project, and undertake to take rapid legal action to stop, investigate and prosecute in accordance with applicable law any person suspected of misuse of resources or corruption. The Parties shall immediately inform each other of any indication of corruption or misuse of resources related to the Project.
2. In matters pertaining to the implementation of the Project the Norwegian Embassy in Dar es Salaam (the Embassy) and the Ministry of Finance (MOF) shall be competent to represent MFA and Zanzibar respectively. All communication to MFA regarding the Agreement shall be directed to the Embassy.
3. The Ministry of Land, Housing, Water and Energy (MoLHWE) is the responsible line ministry. ZECO shall act as the implementing agent for the Project and all communication to Zanzibar regarding the Agreement shall be directed to ZECO.

Article III Contribution and obligation of MFA

1. MFA shall, subject to Parliamentary appropriations, make available to Zanzibar a financial grant not exceeding NOK 82 000 000 (eighty two million Norwegian kroner only) (the Grant) to be used exclusively to finance the Project in the planned period 2012-2018.
2. Any accrued interests on the Grant may be used for the benefit of the Project if agreed on by the Parties in writing.
3. Any unspent disbursed funds and accrued interests shall be returned to MFA upon completion of the Project.
4. MFA shall assist Zanzibar in the procurement of a Maintenance Manager.

Article IV Contributions and obligations of Zanzibar

Zanzibar shall through ZECO as the implementing agent be responsible for implementing the Project, and shall hereunder:

1. Have the overall responsibility for the planning, implementation, reporting and monitoring of the Project,
2. provide the financial and other resources required in addition to the Grant,

3. ensure that the Grant is used according to approved work plans and budgets,
4. ensure that Project funds, which shall include any accrued interests, are properly accounted for, and that the Grant is reflected in the plans, budgets and accounting of Zanzibar,
5. promptly inform MFA of any circumstances that interfere or threaten to interfere with the successful implementation of the Project,
6. defray any customs duties, sales taxes and other taxes, fees and levies on all equipment, materials and supplies financed by the Grant and imported into Tanzania for the benefit of the Project,
7. ensure that all permits, import licenses and foreign exchange permissions that may be required are granted,
8. ensure that representatives of Norway are permitted to visit any part of Zanzibar for purposes related to the Agreement and examine any relevant records, goods and documents.

Article V Disbursements

1. The Grant will be disbursed upon semi-annual written requests from ZECO, approved by MoLHWE based on the financial needs of the Project and, except the first request, on approved work plans and budgets.
2. When determining the amount to request, ZECO shall take into account unspent disbursed amounts and income from all sources as well as any accrued interests which the Parties have agreed on using for the benefit of the Project according to Article III, Clause 2.

Along with the requests, except the first request, ZECO shall state the cash balance of the Project and submit a statement of bank balances for the Project from the bank.

3. Funds will be transferred upon MFA's approval of the requests to a separate bank account with ZECO and shall be made available to the Project immediately.
4. Zanzibar shall through ZECO immediately, in writing, acknowledge receipt of the funds. The date of receipt shall be stated as well as the exchange rate applied.
5. All disbursements to suppliers of goods or services shall be made by ZECO.
6. MFA may in exceptional cases and if considered necessary for the progress of the Project, upon request from ZECO, effect disbursements directly to suppliers for procurement costs incurred under contracts entered into by Zanzibar. Such disbursements will only be made against requests accompanied by:

- a copy of the contract (if applicable),
- original and specified invoice from the supplier (including enclosures to such invoice) and
- a written approval of the invoice by the ZECO General Manager.

MFA shall report payments made according to this clause to ZECO.

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Article VI Annual Meeting

1. Representatives of the Parties shall have the first Annual Meeting after the completion of the 6 month inception phase and thereafter within the first quarter of each calendar year in order to:
 - Discuss the progress of the Project, including results and fulfillment of agreed obligations,
 - discuss and, if feasible, approve annual work plans and budgets for the coming project year,
 - discuss issues of special concern for the implementation of the Project, such as the major risk factors set out in the Agreed Project Summary in Annex 1, and how to manage such risks/issues.

Each of the Parties may include others to participate as observers or as advisors to their delegations.

2. The documentation specified in Articles VII and IX shall form the basis for the consultations.
3. The Annual Meeting shall be called and chaired by the MoLHWE.
4. Main issues discussed and points of view expressed as well as any decisions shall be recorded in Agreed Minutes. The Agreed Minutes shall be drafted by ZECO and be submitted to MFA for comments no later than two weeks after the Annual Meeting.

Article VII Reports

1. Zanzibar through ZECO shall submit to MFA the reports and documentation specified below. MFA shall respond within 3 weeks upon reception of the reports and documentation.
2. Zanzibar through ZECO will present an inception report within 8 weeks of the inception meeting that includes the following:
 - A revised overall budget split up according to project years and with more detailed explanations of the different costs.
 - Updated result chains with indicators improved according to Norad's recommendations.
 - A plan for how to include women in when undertaking training and to improve the gender balance within the organization.
 - A procurement plan that outline routines, responsibilities and assess the possibility of entering frame agreements for the procurement of line materials and equipment.
 - ZECO's commitment to maintenance can be expressed by the share of the overall budget that is dedicated to this purpose. After the inception phase, ZECO will present an indicator with target levels the organization can be measured against.
 - An assessment of ZECO's financial situation
3. A progress report shall be submitted annually within 3 weeks before the Annual Meeting.

The progress reports shall be prepared in accordance with the format in Annex II to this Agreement, and shall include the following information:

- A description of actual outputs compared to planned outputs (as defined in the work plans),
- a brief summary of the use of funds compared to budget,
- an assessment of the efficiency of the Project (how efficiently resources/ inputs are converted into outputs),
- an explanation of major deviations from plans,

- **an assessment of problems and risks (internal or external to the Project) that may affect the success of the Project,**
 - **an assessment of the need for adjustments to activity plans and/or inputs and outputs, including actions for risk mitigation.**
4. A work plan shall be submitted annually within 3 weeks before the Annual Meeting. The work plan shall specify planned outputs and time schedules for the next Project year.
 5. The following semi-annual financial statements shall be submitted within 3 weeks before the Annual Meeting and within 6 months after the Annual Meeting each year, and the following annual budget shall be submitted within 3 weeks before the Annual Meeting each year:
 - a. Financial statements for the Project consisting of:
 - i) A statement showing cash receipts/income and expenditures for the previous period structured as and compared to approved budgets for such previous period as well as accumulated for the Agreement period. The statement shall capture all sources of funding, with sufficient segregation of data to permit identification of individual sources of funds and disbursements on major Project activities or types of expenditure,
 - ii) a statement of cash and bank balances,
 - iii) relevant notes to the above mentioned statements including a description of the accounting policies used and any other explanatory material necessary for transparent financial reporting of the Project .
 - b. Budget for the Project for the coming Project year showing estimated income from all sources and planned expenditures.

The financial statements and budget(s) shall give complete and detailed information on the financing of the Project .

6. A final report shall be submitted within 3 months after the completion of the Project. If the Project is not completed by the end of January 2019, a status report shall be submitted to MFA by the said date. The final report shall include:
 - **The topics listed in Clause 2 above for the whole Agreement period,**
 - **an assessment of the effectiveness of the Project , i.e. the extent to which the Purpose has been achieved,**
 - **an assessment of impact (if possible), i.e. the changes and effects positive or negative, planned and unforeseen of the Project seen in relation to target groups and others who are affected,**
 - **an assessment of sustainability of the Project , i.e. an assessment of the extent to which the positive effects of the Project will still continue after the external assistance has been concluded,**
 - **a summary of main “lessons learned”.**

Article VIII Procurement

1. ZECO undertakes to effect all procurements of goods and services necessary for the implementation of the Project.
2. The procurements shall be performed in accordance with generally accepted procurement principles, good procurement practices and the procurement regulations of Zanzibar. Norwegian suppliers shall be given the same opportunities as other suppliers to compete for deliveries.

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ZECO shall observe the highest ethical standards during the procurement and execution of contracts, and shall ensure in its national legislation adequate and effective means to punish and prevent illegal or corrupt practices.

No offer, gift, payment or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted. Invitations to make offers as well as the procurement contracts shall, respectively, include a clause stating that the offer will be rejected and/or the contract cancelled in case any illegal or corrupt practices have taken place in connection with the award or the execution of the contract.

3. For procurements above the equivalent of NOK 500 000, shortlist of suppliers, tender documents and tender evaluations shall be submitted to MFA for no-objection. Contracts larger than the equivalent of NOK 500 000 shall be submitted to MFA for no-objection before entering into force.

Along with the documentation mentioned above ZECO shall confirm in writing that the procurement regulations agreed on in Clause 2 above, have been adhered to.

4. Zanzibar through ZECO shall upon request furnish MFA with all relevant information on its procurement practices and actions taken, and provide access to all related records and documents. MFA may require access to information even during the stage in the procurement procedure when it is restricted to the officers performing the procurement. Restrictions on such information shall be respected until the information can be made public without any risk of detriment to the result of the procurement.

Article IX Audit

1. The audit shall be performed by an independent professional accountant/accountancy firm in public practice (external auditor/ audit firm) approved by The Zanzibar Controller & Auditor General and acceptable to MFA in accordance with principles for governmental sector auditing.

The cost of the audit shall be covered by the Grant.

2. The audit shall be carried out in accordance with international auditing standards. The auditor shall state in the report which auditing standards that have been applied.
3. The audit report shall state the auditor's opinion/findings as to:
 - **Whether the financial statements present fairly, in all material respects, the Project's cash receipts/income and expenditures as well as the cash/bank/financial position in accordance with an acceptable financial reporting framework,**
 - **whether the audit has uncovered any material weaknesses in relevant internal control(s),**
 - **whether the audit has uncovered any illegal or corrupt practices,**
 - **whether cash receipts/income and expenditures are properly accounted for.**
 - **whether the Grant is reflected in the budgets and accounting of Zanzibar .**
 - **whether appropriate internal controls to counteract illegal or corrupt practices have been established and are complied with.**
4. Zanzibar through ZECO shall submit to MFA the audit report and any other report from the auditor significant to the implementation of the Project within the first quarter each year. Zanzibar through ZECO shall comment upon the auditor's findings. MFA shall respond within 6 weeks upon reception of the report.

5. MFA may appoint an independent auditor to undertake audit if deemed necessary. Audits may also be carried out by the Norwegian Auditor General as and when deemed necessary. The cost of an independent audit by MFA shall be covered over and above the grant.

Article X Reviews – Evaluation

1. A mid-term and end review focusing on progress to date and the effectiveness of the Project, i.e. the extent to which the Purpose is being/has been achieved, shall be carried out. The mid-term review shall be carried out within September 2016 and the end review within 4 months after the completion of the Project. An assessment of the Project's impact may also be included in the reviews.
2. The cost of the reviews shall be covered by MFA over and above the Grant.
3. MFA reserves the right to carry out independent reviews or evaluations of the Project as and when MFA deems it necessary. The cost for such reviews will be covered by funds over and above the Grant.

Article XI Reservations

1. MFA reserves the right to withhold disbursements at any time in case e.g.:
 - **The Project develops unfavorably in relation to the Goal and Purpose,**
 - **substantial deviations from agreed plans or budgets occur,**
 - **resources to be allocated by Zanzibar are not provided as agreed,**
 - **the documentation specified in Articles VII and IX has not been submitted as agreed,**
 - **the financial management of the Project has not been satisfactory,**
 - **the contract referred to in Article IV, Clause 9 is breached or terminated before all obligations therein are fulfilled.**
2. MFA reserves the right to reclaim all or parts of the Grant and cancel the Agreement if Project funds are found not to have been used in accordance with the Agreement or are found not to be satisfactorily accounted for.
3. MFA has the right to cancel the Agreement or portion of the Agreement, and has the right to demand the cancellation of any contract financed under the Agreement, with immediate effect if it determines that corrupt or fraudulent practices were engaged in by representatives of Zanzibar or by a beneficiary of Project funds during procurement or execution of the contract without Zanzibar having taken timely and appropriate action satisfactory to MFA to remedy the situation.
4. Before MFA withholds disbursements, reclaims funds or cancels the Agreement, the Parties shall consult with a view to reaching a solution in the matter.

Annex XII Distribution of the Agreement

The Parties shall distribute copies of the Agreement to the respective ministries, authorities and other institutions involved in the Project or otherwise in need of information on its content.

Article XIII Entry into force – Termination – Disputes

1. The Agreement shall enter into force on the date of its signature, and shall remain in force until the Parties have fulfilled all obligations arising from it. Whether the obligations are fulfilled, shall be determined in consultations by the Parties.
2. Notwithstanding the previous clause each Party may terminate the Agreement upon three months written notice.
3. If any dispute arises relating to the implementation or interpretation of the Agreement, the Parties shall consult with a view to reaching a solution.

IN WITNESS WHEREOF the undersigned, acting on behalf of their respective Governments, have signed the Agreement in two originals in the English language.

For the Norwegian Ministry
of Foreign Affairs





Ambassador

Date: 17.03.2015

For the Revolutionary Government
of Zanzibar





Principle Secretary

Date: _____

Annexes:

- I. Agreed Project Summary
- II. Format for progress reports

Agreed Project Summary

Identification of the Project

Project Title/Name: Capacity building project on maintenance in Zanzibar Electricity Corporation (ZECO) 2012-2018

Implementing institution: Zanzibar Electricity Corporation (ZECO)

Intended impact and outcomes

The intended impact of the Project is improved economic and social development in a sustainable way in Zanzibar, through increased access to affordable, reliable and sustainable electricity services.

The following outcomes have been formulated:

- Improved access to reliable and affordable electricity supply
- Improved quality of electricity supply
- A competent maintenance unit performing preventive maintenance planning and work
- Further electrification on Zanzibar is performed according to prioritized plan
- Connection of customers are done in a feasible manner
- Foster economic development in intervention areas (job creation)
- Improve the delivery of public goods such as health, water and education in intervention areas
- Shift from high-cost and polluting energy forms (diesel, petrol, etc.) to cheaper and more environmentally friendly energy forms
- A successful project implementation

Activities, inputs and Project monitoring is detailed in the Project Document and will be further refined in the inception phase.

Funds

MFA shall allocate up to NOK 82,000,000 to the Project.

Technical assistance

MFA shall assist Zanzibar in the procurement of a Maintenance Advisor.

Major risk factors (internal and external)

- A poor financial situation in ZECO due to poor revenue collection
- Blackouts due to power crisis or breakdown or grid
- Lack of mandate, ownership, coordination or commitment within the organisation.
- Challenges of procurement, including corruption.
- Political risk
- Risk of theft and vandalism
- Risk of delays
- Risk of donors duplicating roles.
- Fiduciary risk

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Overall budget (In Norwegian Kroner)

The overall budget will be updated during the inception phase and approved in the first formal meeting.

Cost component	Maintenance	Electrification	Monitoring	Overall
Project management fees	3 300 000			3 300 000
Data collection /database equipment	100 000			100 000
Training courses at TANESCO	150 000			150 000
Tools, safety equipment	1 100 000			1 100 000
Line equipment	48 400 000	2 500 000		50 900 000
Transport and handling	1 800 000			1 800 000
Office and operational costs	4 500 000			4 500 000
Vehicles	2 000 000			2 000 000
Labour (hired)	7 200 000	30 000		7 230 000
Contingency (procurement)	4 840 000			4 840 000
Consultancy	1 350 000	1 500 000	1 250 000	4 100 000
Inception phase	1 980 000			1 980 000
Total (NOK)	76 720 000	4 030 000	1 250 000	82 000 000

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Format for Progress reports

1. Title

2. Introduction

Include a brief description of the goals, purpose, and the context of the work carried out through the annual work plan, especially in relation to Agreed programme of work

3. Results

Describe how the outputs from the annual work plan contributed to the goals of the Work Programme and to results and expected outcomes of ZECO's Programme of Work.

4. Outputs

List the expected outputs from the annual work plan and compare against actual results. Include performance indicators and quantitative measures where appropriate. Explain reasons for any variance from expected to actual outputs and describe any corrective actions to be taken.

5. Costs

Provide a brief summary of the use of funds compared to budget

6. Efficiency

Provide an assessment of the efficiency of the work carried out over the reporting period in relation to the Work Programme (a measure of how efficiently resources/inputs are converted into outputs)

7. Gender

Describe:

(a) Project's contribution to the advancement of women with regard to their participation in the project

(b) Gender sensitive activities carried out by the project, for example level of participation in decision-making process in the planning and development and implementation of the project and women's participation in capacity building and awareness activities.

8. Deviations from the annual work plan

Provide an explanation of major deviations from the plan.

9. Problems encountered

Report on any major programmatic, institutional or financial problems encountered during project implementation, including the causes and consequences of the problems.

10. Assessment of the year's activities, expenditures and outputs in relation to the Work Programme

Include:

(a) An assessment of problems and risks (internal or external to the Work Programme) that may affect the success of the Work Programme

(b) An assessment of the need for adjustments to activity plans and/or inputs and outputs, including actions for risk mitigation.

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