Project Agreement

(Regional Rusumo Falls Hydroelectric Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

RUSUMO POWER COMPANY LIMITED

Dated October 11, 2013
PROJECT AGREEMENT

AGREEMENT dated October 11, 2013, entered into between INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") and RUSUMO POWER COMPANY LIMITED ("Project Implementing Entity") ("Project Agreement") in connection with the Financing Agreement ("Financing Agreement") of same date between the REPUBLIC OF BURUNDI ("Recipient") and the Association. The Association and the Project Implementing Entity hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the Financing Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the Financing Agreement or the General Conditions.

ARTICLE II — PROJECT

2.01. The Project Implementing Entity declares its commitment to the objectives of the Project. To this end, the Project Implementing Entity shall carry out Part A of the Project in accordance with the provisions of Article IV of the General Conditions, and shall provide promptly as needed, the funds, facilities, services and other resources required for Part A of the Project.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Association and the Project Implementing Entity shall otherwise agree, the Project Implementing Entity shall carry out Part A of the Project in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III — TERMINATION

3.01. For purposes of Section 8.05 (c) of the General Conditions, the date on which the provisions of this Agreement shall terminate is twenty years (20) after the date of this Agreement.
ARTICLE IV — REPRESENTATIVE; ADDRESSES

4.01. The Project Implementing Entity’s Representative is the Chairman of its Board of Directors.

4.02. The Association’s Address is:

International Development Association
1818 H Street, NW
Washington, DC 20433
United States of America

Cable: INDEVAS
Telex: 248423(MCI)
Facsimile: 1-202-477-6391
Washington, D.C.

4.03. The Project Implementing Entity’s Address is:

Rusumo Power Company Limited
Nyarugenge
PO Box 6759
Kigali
Rwanda
AGREED at Washington D.C., United States of America, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

[Signature]

Authorized Representative

Name: [Signature]

Title: [Signature]

RUSUMO POWER COMPANY LIMITED

By

[Signature]

Authorized Representative

Name: [Signature]

Title: [Signature]
SCHEDULE 1

Execution of the Project

Section I. Implementation Arrangements

A. Institutional Arrangements

1. Project Implementing Entity, NELSAP-CU and Owner’s Engineer

(a) The Project Implementing Entity shall carry out the Project, through NELSAP-CU in accordance with the provisions of the Financing Agreement, this Agreement, the Key Agreements, the Subsidiary Agreement, the Project Management Support or Implementation Support Agreement, and in accordance with the guidelines, procedures, recommendations, and other specifications set forth in the Project Implementation Manual, the Anticorruption Guidelines, the Procurement Plan, the ESMP, the ESIA, the RAP and the LADP. The Project Implementing Entity shall not assign, amend, abrogate or waive the Key Agreements or any of their respective provisions.

(b) Without limitation to the provisions of Section I A.1(a) immediately above, NELSAP-CU shall be responsible for day-to-day administration of the overall planning and coordination of the Project Implementation, and for the technical, fiduciary (procurement and financial management), environmental and social safeguards compliance, coordination, monitoring, evaluation, reporting and communication of the activities under the Project, all in accordance with the provisions of this Agreement and the Project Implementation Manual.

(c) Without limitation to the provisions of Section I A.1(a) above, the Project Implementation Entity shall recruit and maintain at all times during the implementation of the Project, the specialized services of the Owner’s Engineer to ensure effective support to NELSAP-CU for: (i) overall Project management and supervision of the procurement, design, construction and preparation of operation and maintenance plan of the Power Plant Complex and dam safety plans; and (ii) coordination of implementation of the ESMP, the ESIA, the RAP and the LADP.

2. Joint Project Steering Committee

(a) Without limitation upon the provisions of Section I.A.1 of this Schedule, the Project Implementing Entity shall at all times during the implementation of Part A of the Project, maintain the Joint Project
Steering Committee and, shall appoint to the Joint Project Steering Committee and maintain high level representation.

(b) Without limitation upon the provisions of Section I.A.2 (a) immediately above, the Project Implementing Entity, through NELSAP-CU, shall act as the designated secretariat of the Joint Project Steering Committee. The Joint Project Steering Committee shall be responsible for, inter alia: (i) reviewing progress made towards achieving the Project’s objectives; (ii) facilitating governmental and inter-governmental actions that may be required under the Project; and (iii) providing general oversight and policy guidance in the implementation of the Project.

3. **Water Resources Technical Sub-committee**

(a) To ensure coordinated management of water use during the post-construction and operation of the Power Plan Complex, the Project Implementing Entity shall coordinate with the Water Resources Technical Sub-committee and thereafter, maintain a high level official to monitor the implementation of the recommendations of the Water Resources Technical Sub-committee, including: (i) monitoring compliance with the water use rights and related aspects, (ii) monitoring the water levels to ensure that the natural life, water quality and quantity and the Kagera River Basin-wide surroundings are not adversely affected by the Project; and (iii) monitoring the periodic reports to the Kagera River Basin Management Program of the water use, including the water quality and quantity.

4. **Operations and Maintenance of the Power Plant Complex**

(a) The Project Implementing Entity shall, not later than six (6) months prior to the Closing Date or six (6) months prior to the commissioning of the Power Plant Complex (whichever shall be the later date), procure the services of an operations and maintenance contractor, in accordance with the provisions of Section I of Schedule 2 to this Agreement, pursuant to an agreement for operation and maintenance of the Power Plant Complex ("Operations and Maintenance Agreement").

(b) The Project Implementing Entity shall carry out the operations of the Project in accordance with the Operations and Maintenance Agreements and the Key Agreements, and shall not amend, abrogate, waive or fail to enforce any provision of the Operations and Maintenance Agreement, or any Key Agreement except with the prior consent of the Recipient and the Association.
B. Project Implementation Manual

1. The Project Implementing Entity shall, through NRLSAP-CU, carry out Part A of the Project, in accordance with the provisions of a manual satisfactory to the Association (the Project Implementation Manual), which shall provide, inter alia, for the following: (a) capacity building activities for sustained achievement of the Project’s objectives; (b) disbursement, financial management and procurement procedures; (c) institutional administration, coordination and day-to-day execution of activities of the Project; (d) monitoring, evaluation, reporting, information, education and communication; (e) Project impact and implementation indicators, including the procedures for monitoring and evaluation of the Project activities; (f) the pertinent environmental and social safeguard documents; (g) the format of: (I) the interim unaudited interim financial reports referred to in Section II.B.2 of this Schedule; and (II) the Financial Statements; and (h) such other administrative, financial, technical and organizational arrangements and procedures as shall be required for the Project.

2. The Recipient shall not amend, abrogate, waive or fail to enforce any provision of the Project Implementation Manual without the prior written consent of the Association; provided, however, that in case of any conflict between the arrangements and procedures set out in the Project Implementation Manual and the provisions of this Agreement, the provisions of this Agreement shall prevail.

C. Anti-Corruption

The Project Implementing Entity shall carry out Part A of the Project in accordance with the provisions of the Anti-Corruption Guidelines.

D. Environmental and Social Safeguards

1. Implementation of the ESMP, the ESIA, the RAP and the LADP

   (a) The Project Implementing Entity shall, through NELSAP-CU, implement the Project in accordance with the Environmental and Social Management Plan (ESMP), the Environmental and Social Impact Assessment (ESIA), the Resettlement Action Plan (RAP) and the Local Area Development Plan (LADP).

   (b) Without limitation to paragraph D.1(a) immediately above, the Project Implementing Entity shall, through NELSAP-CU, establish and maintain, throughout the implementation of the Project, the Environmental and Social Management Unit to work with the Owner’s Engineer to ensure effective and adequate supervision and implementation of the ESMP, the ESIA, the RAP and the LADP.
(c) The Project Implementing Entity shall cause the Operation and Management Contractor to operate the Power Plant Complex in accordance with the Operation and Management Agreement, and the provisions of the ESMP and the ESIA.

2. Specific Covenants for Implementation of the RAP under Part A.3 (b) of the Project

Without limitation to the provisions of Section I.D.1 immediately above, the Project Implementing Entity shall, through NELSAP-CU, implement the RAP, in accordance with the terms of said RAP and in a manner acceptable to the Association, and the provisions of this Agreement. Specifically, the Project Implementing Entity, through NELSAP-CU, shall coordinate with the Republic of Rwanda and the United Republic Tanzania in the implementation of the RAP for involuntary resettlement of Affected Persons.

3. The Project Implementing Entity shall, through NELSAP-CU, include in the Project Reports referred to in Section II.A of this Schedule, adequate information on the implementation of the RAP, giving details of:

(a) measures taken in furtherance of the RAP;

(b) conditions, if any, which interfere or threaten to interfere with the smooth implementation of the RAP; and

(c) remedial measures taken or required to be taken to address such conditions and to ensure the continued efficient and effective implementation of the RAP.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. The Project Implementing Entity shall, through NELSAP-CU, monitor and evaluate the progress of its Respective Parts of the Project and prepare Project Reports for its Respective Parts of the Project in accordance with the provisions of Section 4.06 of the General Conditions and on the basis of the indicators acceptable to the Association. Each such Project Report shall cover the period of six (6) calendar months, and shall be furnished to the Recipient not later than forty-five (45) days after the end of the period covered by such report for incorporation and forwarding by the Recipient to the Association of the overall Project Report.
B. **Financial Management, Financial Reports and Audits**

1. The Project Implementing Entity, through NELSAP-CU, shall maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, both in a manner adequate to reflect the operations and financial condition of the Project Implementing Entity, including the operations, resources and expenditures related to the Project.

2. The Project Implementing Entity shall, through NELSAP-CU, prepare and furnish to the Recipient and the Association not later than forty five (45) days after the end of each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Project Implementing Entity shall have its financial statements referred to above audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association. Each audit of these financial statements shall cover the period of one fiscal year of the Project Implementing Entity. The Project Implementing Entity shall ensure that the audited financial statements for each period shall be:
   (a) furnished to the Recipient and the Association not later than six (6) months after the end of the period; and
   (b) made publicly available in a timely fashion and in a manner acceptable to the Association.

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Section III. **Specific Implementation Covenant**

A. **Power Purchase Escrow Account**

1. The Project Implementing Entity shall ensure that, except as the Association shall otherwise agree, the Power Purchase Agreement will provide that: (a) REGIDESO shall deposit and maintain an amount equal to six (6) months’ capacity charges pursuant to the Power Purchase Agreement in an escrow account with a depository satisfactory to the Project Implementing Entity, and REGIDESO shall replenish the escrow account as needed during the term of the Power Purchase Agreement; and (b) if REGIDESO fails to make required payments, then delivery of energy to REGIDESO may be suspended, and such energy can instead be delivered to one of the other Utility Companies.
SCHEDULE 2

Procurement

Section I. Procurement Arrangements

A. General

1. Goods, Works and Non-consulting Services. All goods, works and non-consulting services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. Consultants’ Services. All consultants’ services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. Definitions. The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in Sections II and III of the Procurement Guidelines, or Sections II, III, IV and V of the Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods, Works and Non-consulting Services

1. International Competitive Bidding. Except as otherwise provided in paragraph 2 below, goods, works and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. Other Methods of Procurement of Goods, Works and Non-consulting Services. The following methods, other than International Competitive Bidding, may be used for procurement of goods, works and non-consulting services for those contracts specified in the Procurement Plan: (a) Limited International Bidding; (b) competitive bidding procedures used by NELSAP-CU at the regional level for public procurement, acceptable to the Association; (c) Shopping; (d) Direct Contracting; and (e) Framework Agreement procedures set forth in paragraph 3.6 of the Procurement Guidelines.
C. Particular Methods of Procurement of Consultants' Services

1. Quality- and Cost-based Selection. Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. Other Methods of Procurement of Consultants' Services. The following methods, other than Quality and Cost-based Selection, may be used for procurement of consultants' services for those contracts which are specified in the Procurement Plan: (a) Quality-based Selection; (b) Selection under a Fixed Budget; (c) Least Cost Selection; (d) Selection based on Consultants' Qualifications; (e) Single-source Selection of consulting firms; (f) Procedures set forth in paragraphs 5.1 through 5.3 of the Consultant Guidelines for the Selection of Individual Consultants; (g) Procurement Agents and Construction Management procedures set forth in paragraph 3.17 of the Consultant Guidelines; and (h) Single-source procedures for the Selection of Individual Consultants.

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association’s Prior Review.

All other contracts shall be subject to Post Review by the Association.