

CONCESSION CONTRACT

BETWEEN

THE MALIAN AGENCY FOR THE DEVELOPMENT OF HOUSEHOLD ENERGY AND
RURAL ELECTRIFICATION
(AMADER)

AND

“YEELLEN KURA,” A DECENTRALIZED SERVICE COMPANY OF ELECTRICITE DE
FRANCE (EDF) AND NUON, S.A.

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This Contract is concluded between the Malian Agency for the Development of Household Energy and Rural Electrification, represented by Amadou Tandia, President and Director General, on the one hand, and the Yeelen Kura Company, represented by Mr. Diallo, on the other hand.

IT IS HEREBY AGREED AS FOLLOWS:

DEFINITIONS

Article 1 Definitions

“**AMADER**” means the Malian Agency for the Development of Household Energy and Rural Electrification.

“**Specifications**” means an annex to the Concession Order containing the obligations and technical specifications for the supply of electricity by the concession holder.

“**Parties**” means AMADER and the concession holder.

“**Concession holder**” means, unless otherwise indicated, the Yeelen Kura Company, party and signatory to this Contract.

“**Interior installations**” means installations to be used to meet the needs of individuals in the concession area or other collectively occupied premises.

“**Declarant**” means any operator whose installed power capacity is less than or equal to 50kW.

“**Permit Holder**” means any concession holder whose installed power capacity is more than 50kW and less than or equal to 250kW.

OBJECT OF THE CONTRACT

Article 2 Object of the Contract

The object of this Contract relates to the realization, by the concession holder, of the installations and equipment necessary to supply electricity to the localities specified in the annex to the Specifications, the connection of interior electrical installations and/or consumer equipment for customers, and the supply of electricity to these customers.

The supply may be delivered through:

1. The means of production set up by the concession holder and serving a grid belonging to it, and the sale of any surplus to a third party;
2. Individual systems, based on solar or any other renewable source of energy, which are installed by the concession holder;

GENERAL CONDITIONS FOR THE OPERATION OF THE SERVICE BY THE CONCESSION HOLDER

Article 3 General operating conditions

This Contract is concluded in relation to the commitment signed by the concession holder to provide, manage, and maintain electrical installations and sell services according to the conditions set out in the Concession Order and its annexes (this Contract and Specifications).

SPECIFIC OBLIGATIONS OF THE CONCESSION HOLDER

Article 4 Service obligations

The concession holder agrees to supply electric power every day for at least seven (7) hours to each owner, tenant, or occupant of premises situated within the authorized perimeter of the locality on the electric power grid who so requests, provided that such service does not jeopardize the financial situation of the concession holder. The supply time of seven (7) hours a day shall change over time depending on the number of customers and the increase in the operator's profits.

Article 5 Obligation concerning interior installations

a) Solar

The concession holder must provide interior installations for customers, including at least two lamps which meet the prevailing AMADER standards and are in accordance with the levels of service set forth in the Specifications.

b) Grid

The interior installations shall be paid for by the customer. In all cases, the operator shall verify the conformity of the interior installations before connecting them to the grid.

Article 6 Obligation concerning maintenance and replacement

Installations for production and distribution

Installations and equipment for production and distribution as part of the concession must be maintained in good condition by the concession holder, who shall ensure their maintenance and replacement in accordance with good practice.

Individual installations based on solar power or any other renewable energy source

The concession holder shall maintain the individual systems that it has installed and shall replace them at the end of their normal lifespan (see Specifications). It shall also replace them if they are damaged as a result of an event which is not attributable to normal conditions of use or to an action by the customer.

Interior installations

The concession holder shall include the completion of the interior installations for its solar customers in respect of the work for which it is deemed to be the certified installer. As long as the customer remains a customer of the concession holder, only the latter may maintain or modify these installations.

The customers shall become owners of the interior solar installations within a time period to be determined by the concession holder. The cost of these installations shall be included in the monthly cost of the service.

The concession holder shall also replace the interior installations if they are damaged as a result of an event which is not attributable to normal conditions of use or to an action by the customer.

In case of an accident, the customer must report it, with a written acknowledgement of receipt, within 48 hours, and an expert investigation shall ensue in order to determine liability.

Article 7 Replacement in case of theft or deterioration attributable to the customer

The concession holder may not be held responsible for thefts and deterioration affecting individual installations falling within the concession.

In cases of theft or deterioration of such equipment attributable to the customer, the concession holder shall not be responsible for replacing them unless the customer pays an amount corresponding to the price of the equipment to be replaced as listed in the price schedule attached to the updated financial offer.

The concession holder shall charge the customer a monthly amount for the replacement costs of such equipment spread out over at least one year.

Article 8 Record-keeping obligations

The concession holder shall keep records on the customers, production, purchase, and sales of electricity, the purchase of fuel, and any other element referred to in the Specifications.

The concession holder shall also keep a record of incidents under the conditions set forth in the Specifications.

The concession holder shall keep general accounts and shall establish for each fiscal year a balance sheet and an income statement for its activities in the electricity sector. It shall also set up cost accounting in order to facilitate inspections by AMADER or third parties representing it.

The concession holder shall make available to its customers a record of complaints, which may be consulted at any time by third parties who so request.

Article 9 Agreement to negotiations for a potential transfer of concession

The concession holder may, if need be, negotiate the transfer of its concession to the concession holder of the Priority Rural Electrification Project (PREP), which might subsequently cover its territory at the latter's request.

The transfer may not be completed unless just compensation has been paid to the

concession holder.

Article 10 Acceptance of the work

The date of provisional acceptance of the work shall be notified at least five (5) working days after the request is submitted by the concession holder. The date of acceptance may not exceed 15 working days after notification to the concession holder.

A statement of provisional acceptance of the work shall be signed by the authorized representative of AMADER and by the concession holder or its duly authorized representative.

AMADER shall announce the final acceptance of the work at the end of one year after the provisional acceptance for the electric grids and three (3) months for the individual systems.

Article 11 Inspection and control of the operation

AMADER shall have a general power of control over the performance of the Contract in accordance with article 5 of Act No. N°03 -006 creating AMADER.

To that end, AMADER shall receive from the concession holder all financial, accounting, technical, or legal documents pertaining to the operation.

AMADER shall have access, by simple request, to all premises, installations, or sites of the concession holder or its corporate agent within 24 hours, barring unforeseen circumstances.

Without prejudice to the implementation of the relevant provisions in force, any opposition by the concession holder or by its agents or executives to the powers of inspection and control of AMADER shall constitute a grave breach of the contractual obligations of the concession holder under the terms of this Contract.

Technical audits shall be conducted at the end of each six-month period as from the provisional acceptance of the work.

Unless otherwise stipulated in the Subsidy Agreement, accounting audits shall take place every year as from the start of the operation.

AMADER shall bear the costs of inspection, control, monitoring, and auditing.

Article 12 Obligations of AMADER

AMADER agrees to make every effort to help obtain the administrative documents necessary for the execution of this Contract by the concession holder or its subcontractors, including the benefits set out in Decree No. 04 /1360/MEF-SG of July 12, 2004, establishing the tax and customs regime applicable to agreements and contracts executed under the responsibility of AMADER.

FEES, CHARGES, AND RATE CONDITIONS AND THE RURAL ELECTRIFICATION FUND

Article 13 Fees and charges

Any applicant for a preliminary permit or operating license shall pay a deposit, half of which may be reimbursed if a concession application file is submitted following the period of validity. This deposit shall be lost if the permit holder does not submit the concession application file. The deposit shall amount to CFAF 100,000.

A handling fee of CFAF 20,000 per 5 kW unit shall be charged for all concession application files. If the concession and the financing are not granted, these filing fees shall definitively revert to the Rural Electrification Fund (REF).

Article 14 Regulation fee

All operators shall pay a yearly regulation fee of 2 percent of the turnover of the operating and electrification activities governed by AMADER

Article 15 Termination of the concession and change of operator

Upon the expiry of the concession, the concession area shall be open to competition, and the former operator may itself compete to become its own successor.

AMADER shall organize a pre-selection of applicants for the takeover of the concession and the repurchase of equipment on the basis of competence criteria. In a second phase, the successful applicants in the pre-selection phase shall be invited to bid for the repurchase of equipment. The applicant whose bid is the highest, at equal rates, shall be selected. The price received by the outgoing operator shall be reduced by the amount necessary for the possible rehabilitation of the equipment directly used for production and distribution under the control of AMADER.

If the outgoing operator has received subsidies from REF to finance its activities, AMADER shall receive 25 percent of the gross bid price, which shall be deposited with REF.

Article 16 Prices, rates

The concession holder shall charge customers served by an electric grid or equipped with individual installations a rate that is in accordance with the provisions of the Specifications annexed to the Concession Order.

The concession holder may disconnect the supply of electricity to users, including collective services, in cases of non-payment in accordance with the conditions set forth in the Specifications.

Article 17 Rural Electrification Fund (REF)

A Subsidy Agreement defining the amount and means of payment of the equipment subsidy shall be concluded between the concession holder and AMADER.

The purpose of this subsidy is to contribute to the financing, through the concession holder, of the infrastructure investments necessary for the provision of electricity to the localities which the latter has agreed to serve within the period fixed by the Subsidy Agreement, [including] where appropriate, consumer equipment for users.

Article 18 Means of payment of the subsidy

The equipment subsidy shall be paid by AMADER to the concession holder in accordance with the provisions of the Subsidy Agreement

Article 19 Guarantee deposit

Before the entry into force of the Contract, the concession holder shall pay a guarantee deposit established by a local bank in an amount equivalent to two million CFA francs (CFAF 2 million).

The amount of penalties and sums due to AMADER by the concession holder in accordance with the Specifications shall be deducted from the deposit. Amounts paid out for measures taken, at the concession holder's expense, to provide the public service or the resumption of the operation if the work is temporarily carried out by a third party shall also be deducted from the deposit.

The concession holder shall also make available enough spare parts in the locality served in order to ensure the continuity of service.

Whenever any amount is deducted from the deposit, the concession holder shall replenish it within fifteen days.

Article 20 Insurance

Coverage of risks to persons and property and the loss of income owing to an insurable risk shall be mutualized among the operators coming within the purview of AMADER.

The aim is to prevent an insurable risk from jeopardizing the financial sustainability of the enterprise, since operators abandoning the enterprise do not have the means to replace equipment or compensate individuals or corporate entities for harm suffered.

MODIFICATIONS AND TERMINATION OF THE CONTRACT

Article 21 Modification of the Contract by agreement between the Parties

AMADER and the concession holder may at any time modify, by agreement, the terms of this Contract.

Article 22 Force majeure

Definition of force majeure

Force majeure means any unpredictable, unavoidable event beyond the control of the parties, making it impossible to execute this Contract in whole or in part.

Either Party's inability to fulfill any of the obligations set out in this Contract shall not be deemed a contractual breach if such inability is a direct consequence of a force majeure event within the meaning of this Contract.

Effects of force majeure

The Party affected by a force majeure event shall take every step to resume, as soon as possible, the complete fulfillment of its contractual obligations and limit the consequences thereof.

The Party affected by a force majeure event shall immediately notify the other Party, within a period not to exceed fifteen (15) days, of the occurrence or cessation of such event.

As from the date on which the Party concerned is notified of the occurrence of a force majeure event, the Parties shall together make good faith efforts to put an end to the situation created by the force majeure event and to limit and repair the consequences thereof. If the force majeure event persists, and in the absence of an agreement between the Parties, the Contract shall terminate thirty (30) days after the Party requesting the termination of the Contract notifies the other Party of this intention, provided, however, that the force majeure event or its consequences persist.

Article 23 Entry into force and termination of the Contract

This Contract shall enter into force on the date of its signature by the two Parties. It shall terminate fifteen (15) years from its date of entry into force.

This Contract shall also terminate ahead of time if:

- ③ A decision is made to abrogate the Concession Order;
- ③ A mutual agreement is reached between AMADER and the concession holder;
- ③ Either Party fails to remedy a serious breach of its obligations within forty-five (45) days from the receipt of the notice of injunction to remedy it.

Article 24 Conditions having suspensive effect on the entry into force of the Contract

This Contract may not enter into force unless the following conditions are met:

- (1) The constitution of the concession holder as a company under Malian corporation law;
- (2) Communication to AMADER of the certificates of insurance required by the regulations in force;
- (3) Proof of payment of the guarantee deposit stipulated in this Contract;
- (4) Signature of the Concession Order by the Minister of Energy;
- (5) Signature of the financing agreement between the operator and AMADER.

Article 25 Costs

Each Party shall be responsible for any costs it may incur for the negotiation and signing of this Contract.

Article 26 Notices

All notices and communications must be in writing and delivered in person with acknowledgment of receipt or sent by facsimile or express mail to the following addresses:

“YEELLEN KURA,” DECENTRALIZED SERVICE COMPANY OF ELECTRICITE
DE FRANCE (EDF) AND NUON, S.A.

Yeelen Kura
BP 180 Koutiala, Mali
Tel. 223 2640 585/888
E-mail: ssd@afribone.net.ml

AMADER:

AMADER
Colline de Badalabougou
BP: E715
Bamako
Republic of Mali
Attention: President and Director General

Telephone : (223) 223 85 67
Fax : (223) 223 82 39
E-mail : amader@amadermali.net

Or any other address indicated by addressees on the form provided for in this article.

Article 27 Applicable law

This Contract shall be executed in accordance with the laws and regulations in force in Mali.

Article 28 Arbitration and dispute settlement

Amicable procedure

The Parties shall make every effort first to settle by amicable agreement any disputes arising out of the execution of this Contract or the interpretation thereof.

Arbitration

Any dispute between the Parties concerning the application or interpretation of the Contract which has not been settled by amicable agreement within thirty (30) days after the receipt by either Party of the request for amicable settlement may be referred, by either Party, to an arbitration procedure.

These disputes arising out of the Contract shall be decided by the competent courts on the matter in the Republic of Mali.

Article 29 Independence of contractual clauses

If a clause in this Contract should be found null and void in whole or in part, and to the extent that the applicable law permits, such nullity shall not affect the validity of the rest of this Contract.

Article 30 Contractual documents

The contractual relations of the Parties shall be governed by this Contract.
This Contract shall reflect all agreements between the Parties relating to its object.

Article 31 Final provision

This Contract cancels and replaces all previous provisions signed between the Parties.

IN WITNESS WHEREOF, this Contract has been signed in three originals.

**MALIAN AGENCY FOR THE
DEVELOPMENT OF HOUSEHOLD
ENERGY AND RURAL
ELECTRIFICATION**

Yeelen Kura Company

**Amadou Tandia
President and Director General**

**Amadou Diallo
Director General**