

Legal Notice No.....

**THE ENERGY ACT (No. 1 of 2019)**

**ENERGY (COAL & COAL BED METHANE GAS FOR ELECTRICITY AND  
ENERGY PRODUCTION AND COMMON USER FACILITIES) REGULATIONS,  
2021**

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## THE ENERGY ACT (No. 1 of 2019)

IN EXERCISE of the powers conferred by sections 116 and 208 of the Energy Act, 2019, the Cabinet Secretary for Energy makes the following Regulations

### ENERGY (COAL & COAL BED METHANE GAS FOR ELECTRICITY AND ENERGY PRODUCTION AND COMMON USER FACILITIES) REGULATIONS, 2021

#### PART I - PRELIMINARIES

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|---------------------------------------|----|--|
| <b>Citation and Commencement</b>      | 1. | (1) These Regulations may be cited as the Energy (Coal & Coal Bed Methane Gas for Electricity and Energy Production and Common User Facilities) Regulations, 2021.<br><br>(2) These Regulations shall come into force upon gazettelement by the Cabinet Secretary.   |
| <b>Application of the Regulations</b> | 2. | (1) These Regulations shall apply to the exploration, extraction, production, processing, transportation, storage, exportation, importation and bulk sale of coal and coal bed methane gas for electricity generation and energy production and on coal common user facilities.<br><br>(2) For avoidance of doubt, these regulations shall not apply to:<br>a) Mineral rights issued under the Mining Act, 2016 for coal interest outside the current ongoing projects as defined in the Fourth Schedule Part 5 of the Act.<br>b) Use of coal as an additive or ingredient to a process and domestic purposes. |
| <b>Interpretation</b>                 | 3. | In these Regulations, unless the context otherwise requires —<br><br>“ <i>Act</i> ” means the Energy Act, No. 1 of 2019;<br><br>“ <i>Accident</i> ” has the meaning as defined in the Energy (Incidents and Accidents Reporting) Regulations, 2021;<br><br>“ <i>Cabinet Secretary</i> ” has the meaning assigned to it under the Act;<br><br>“ <i>Coal</i> ” has the meaning as defined in the Act;<br><br>“ <i>Coal business</i> ” means the extraction, production, processing, import, export, storage, bulk sales, generation of electricity,  |

production of energy, common user facilities, transport of coal and coal bed methane and its derivatives;

**“Coal products”** means products and by-products obtained from use or industrial processing of coal including coke, coal tar, coal gases and ash;

**“Coal value addition”** means any process or activity that increases benefit of coal by improving its quality in energy and electricity production;

**“Coal concession”** means an area allocated by the government for extraction of coal, and coal bed methane and derivatives for generation of electricity;

**“Coal bed methane”** means a natural gas mainly composed of methane found in coal deposits or coal seams;

**“Common user facility”** means coal and coal bed methane storage or transport facilities for common use;

**“Concessionaire”** means the holder of a coal concession;

**“Day”** means a calendar day;

**“Energy producing facility”** means an equipment or facility that utilizes coal, coal bed methane or coal derivatives for the production heat energy for commercial purposes and for the purpose of these regulations excludes use of coal as an additive or ingredient to a process;

**“Environmental liability policy”** means a statement of commitment by a party to the laws, regulations and other policy mechanisms concerning environmental issues;

**“Exploration”** means activities and evaluations necessary to gather data aimed at confirming the existence and viability of coal deposits;

**“Extraction”** means the process of removing or mining the coal seams or beds from the ground either by surface or underground mining;

**“Feasibility study”** means a document containing the analysis and evaluation of the proposed project to determine that the

project meets technical requirements, can be completed within the estimated cost and time, and that it will be profitable;

"**Importer**" means a person Licensed to import bulk coal or coal bed methane under the Act;

"**Inter-Ministerial Committee**" means a technical committee consisting of officials drawn from different Ministries and Government Agencies

"**Incident**" has the meaning as defined in the Energy (Incidents and Accidents Reporting) Regulations, 2021;

"**Kenya Standard**" means the specification or code of practice provided under the Standards Act;

"**License**" has the meaning as defined in the Act;

"**Licensee**" means a person who is a holder of a License or permit issued under these Regulations;

"**Load port**" means the immediate previous country of origin where the coal or coal bed methane was loaded for transit to Kenya;

"**Local community**" has the meaning as defined in the Act;

"**Oversight Committee**" means the committee mandated to supervise or inspect coal business as established in regulation 7:

"**Person**" has the meaning as defined in the Act;

"**Permit**" has the meaning assigned to it under the Act;

"**Premises**" has the meaning assigned to it under the Act;

"**Professional engineer**" means a person registered to practice as an engineer by the Engineers Board of Kenya under the Engineers Act;

"**Pre-feasibility study**" means an early stage analysis of a potential mining project designed to give the basic information of the project;

"**Tribunal**" has the meaning as defined in the Act; and

“*Vehicle*” has the meaning assigned to it under the Traffic Act, Cap 403.

**PART II - EXPLORATION, EXTRACTION, PRODUCTION AND PROCESSING OF COAL AND COAL BED METHANE FOR ELECTRICITY GENERATION**

**Management of ongoing upstream coal projects**

4. (1) The Cabinet Secretary shall continue to manage ongoing upstream coal projects including exploration and extraction for **electricity generation**.
- (2) The Cabinet Secretary responsible for mining shall issue required permits and licenses for the activities under the relevant mining laws.
- (3) The activities referred to in sub-regulations (1) and (2) pertain to:
  - a. Mui Basin Coal Block "A" Concession;
  - b. Mui Basin Coal Block "B" Concession;
  - c. Mui Basin Coal Block "C" Concession;
  - d. Mui Basin Coal Block "D" Concession;
  - e. Mui Basin South Coal Block "19" Concession;
  - f. Mui Basin South Coal Block "20" Concession;
  - g. Exploratory Coal and Coal Bed Methane drilling services in Kitui, Kwale, Kilifi and Taita Taveta Counties.
- (4) The coordinates and sketch map of the coal exploration blocks are as spelt out in the **First Schedule** and the **Second Schedule**.
- (5) The areas defined by the coordinates shall be reserved in the Kenya Mining Cadaster.

**Pre-feasibility Studies**

5. For the ongoing upstream coal projects, the Cabinet Secretary shall:
  - i. Carry out pre-feasibility studies and maintain data on the coal blocks with a view to availing the same to developers of energy resources and infrastructure.
  - ii. Determine the presence of coal and generate data and information for the purpose of tendering/concession.
  - iii. Identify areas and status of importance for biodiversity, whether protected or not.
  - iv. Review the technical, economic, environmental and social merits of mining options e.g. underground versus

open pit, processing options and likely waste products, water demands, options for waste rock or tailings storage.

- v. Conduct a preliminary assessment of potential impacts and development timeframes.
- vi. Carry out the environmental and social impact assessment.
- vii. Carry out the resettlement action planning.
- viii. Facilitate developers as necessary

**Tendering for coal blocks**

6. The tendering process for concessions shall be in accordance with by the Public Procurement and Asset Disposal Act, 2015 and any other relevant laws.

**Inter-ministerial and oversight committees on coal and coal bed methane**

7. (1) The Cabinet Secretary shall constitute an Oversight Committee and an Inter-Ministerial Committee on Coal to guide and oversee the implementation of coal and coal bed methane for energy projects.

(2) The role of the oversight committee shall be to ensure that the broad vision of the utilization of coal and coal bed methane for electricity and energy production in the country is adhered to in the implementation of the programme.

(3) The Oversight Committee shall consist of:

(i) Principal Secretaries of:

- a) The National Treasury
- b) Ministry responsible for Mining
- c) Ministry responsible for Environment
- d) Ministry responsible for Devolution
- e) Ministry responsible for Lands
- f) Ministry responsible for Industrialization
- g) Ministry responsible for Energy

(ii) The office of the Attorney General (public participation guidelines)

(4) The role of the Inter-Ministerial Committee shall include and is not limited to providing strategic direction in the implementation of coal and coal bed methane projects for electricity and energy production.

(5) The Inter-Ministerial Committee may appoint an ad-hoc technical committee from the implementing agencies and key stakeholders to undertake specific tasks as need arises.

- (6) The Inter-Ministerial Committee shall consist of members drawn from;
- a) The Office of the Attorney General
  - b) The National Treasury
  - c) Ministry responsible for Mining
  - d) Ministry responsible for Environment
  - e) Ministry responsible for Devolution
  - f) Ministry responsible for Lands
  - g) Ministry responsible for Industrialization
  - h) Ministry responsible for Energy

**Local Community  
Liaison Committee**

8. (1) The Cabinet Secretary in collaboration with the relevant county government shall establish and support a Local Community Liaison Committee whose terms of reference shall be to:
- a) Undertake advocacy, education and analysis of matters pertaining to coal activities;
  - b) Engage with relevant government ministries/agencies and other stakeholders;
  - c) Identify and recommend to government preferred measures/ solutions;
  - d) Ensure close bond/ connection/ integration/ interrelationship with various stakeholders;
  - e) Mainstream coal project matters into community initiatives;
  - f) Make proposals on activities required to be funded as part of and oversee corporate social responsibility projects; and
  - g) Undertake any other coal related activity as may be directed by the Cabinet Secretary.
- (2) The membership of the committee shall be from the local community and shall be elected by the community.
- (3) The committee shall serve for a term of three years after which another election will be held.
- (4) The committee shall develop their rules of procedure and engagement.

**Disposal of coal  
under the ongoing  
projects**

9. (1) The Cabinet Secretary and the Cabinet Secretary responsible for Mining shall as the case may be, authorize the Licensee under the ongoing projects to:
- a.) Export any raw or value-added coal that is not suitable for the power plant by issuing the appropriate authorization;

- b.) Export any by-product under the relevant laws; and
- c.) Export any excess coal.

(2) Where it becomes necessary to dispose coal locally, the relevant National and County laws and regulations, shall apply. Provided that where the local disposal is from one Licensee to another, the same shall be coordinated and authorized by the Cabinet Secretary and the Cabinet Secretary responsible for Mining.

- |   |     |  |
|---|-----|--|
| <b>Management of waste and environmental protection</b> | 10. | The Licensee will manage waste and environment as per the requirements in the Environmental Impact Assessment, Environment Management Plan and other applicable laws on health, safety and environment.  |
| <b>Recovery of other economic minerals</b>              | 11. | <ul style="list-style-type: none"> <li>(1) Any other mineral of economic potential should be reported by the Licensee to the Cabinet Secretary responsible for Mining through the Cabinet Secretary.</li> <li>(2) The Licensee shall apply to Cabinet Secretary responsible for Mining for requisite authorization to dispose of the same as per the Mining Act and other relevant laws.</li> </ul>  |
| <b>Extraction and production standards</b>              | 12. | The Concessionaire shall abide by all applicable extraction and production standards in the mining license.  |
| <b>Coal concession</b>                                  | 13. | <ul style="list-style-type: none"> <li>(1) A coal concession shall be negotiated between the Concessionaire and the Government of Kenya. The negotiation shall cover the rights of the Concessionaire to exploit the resource.</li> <li>(2) The granting of coal concession shall be subjected to the provision of the Act and the following other laws: <ul style="list-style-type: none"> <li>a.) Mining Act</li> <li>b.) Natural Resources (Classes of Transaction Subject to Ratification by Parliament) Act 2016.</li> <li>c.) Public-Private Partnership Act, No. 15 of 2013.</li> <li>d.) Any other applicable laws or regulations</li> </ul> </li> </ul> |
| <b>Declaration of viable resource</b>                   | 14. | <ul style="list-style-type: none"> <li>(1) When an exploration phase leads to a discovery of viable resource, the Cabinet Secretary shall make the declaration through a gazette notice.</li> <li>(2) Where the resource is not sufficient for the minimum years required for an economic viable life of a power plant project,</li> </ul>   |

the Cabinet Secretary may authorize the Licensee to be issued with relevant import authorization of coal for the purpose of bridging the shortfall.

**Progressing to Power Plant**

15. (1) Upon declaration of a viable resource, the Concessionaire shall proceed with the process of extraction of the resource.
- (2) During resource extraction period, the Cabinet Secretary shall cause for a competitive bidding process for identification of a developer of a power plant.

**Compliance with relevant laws**

16. The Concessionaire and the Licensees shall at all times comply with relevant laws and guidelines

**Reporting and monitoring**

17. The Concessionaire and the Licensee shall adhere to the reporting requirements spelt out in the concession document and license.

**PART III - STORAGE, TRANSPORTATION, IMPORTATION AND BULK SALE OF COAL AND COAL BED METHANE**

**Licensing for coal business**

18. (1) No person shall engage in coal production, import, export, storage, bulk sales, electricity generation, production of energy, operation of common user facilities of coal and coal bed methane and its derivatives without a valid license issued by the Authority, Cabinet Secretary or other relevant authorities as the case may be.
- (2) A person who contravenes this regulation commits an offence and shall, where no fine or penalty thereof is expressly set out in the Act, be liable on conviction to the applicable fines set out in the **Third Schedule**.

**Application for a License or permit**

19. (1) A person who wishes to undertake coal import, export, storage, bulk sales, production of energy, operation of common user facilities of coal and coal bed methane and its derivatives shall make an application for a license to the Authority or its licensing agents in the prescribed manner.
- (2) A person who wishes to undertake transport and construction of storage and common user facilities of coal and coal bed methane and its derivatives shall make an application for a permit to the Authority or its agents in the prescribed manner.

- (3) The application in sub-regulation (1) and (2) shall be submitted in conformity with the requirements as spelled out in the **Fourth Schedule** and accompanied by the requisite fees as set out in the **Fifth Schedule**.
- (4) The Authority may request for additional information before making a determination for an application for a license or permit.
- Obligations and powers of the Authority** 20. (1) The Authority shall within thirty days make a decision and communicate to the applicant whether the application is successful or not.
- (2) In the case that it is not successful, the authority will provide the reason in the communication.
- Form and duration of a license and permit** 21. A license or permit issued under these regulations shall be in the form set out in the **Sixth Schedule** and shall be valid for:
- a.) In the case of license for operation of common user facilities for three years from the date of issue;
  - b.) In the case of license for coal and coal bed methane production for two years from the date of issue;
  - c.) In the case of license for coal import and export for two years from the date of issue;
  - d.) In the case of license for coal and coal bed methane storage for two years from the date of issue;
  - e.) In the case of license for production of energy from coal and coal bed methane for two years from the date of issue;
  - f.) In the case of license for bulk sales of coal and coal bed methane for two years from the date of issue
  - g.) In the case of permit for operation of transport of coal and coal bed methane for three years from the date of issue;
  - h.) In the case of permit for construction of a storage facility for coal and coal bed methane for the number years in the approved work plan and from the date of issue; and
  - i.) In the case of permit for construction of common user facilities for the number years in the approved work plan and from the date of issue
- Alteration, revision and modification of a License or permit** 22. The Authority shall not alter, revise or modify a license or permit without the consent of the Licensee.
- Obligations of license or permit holder** 23. (1) In undertaking coal business, the Licensee or permit holder shall:

- a) Display within the premises the license or permit or certified copies thereof,
- b) Comply with the terms and conditions of the license or permit as stipulated by the Authority;
- c) Engage only contractors who are licensed by the National Construction Authority for that class of work;
- d) Comply with the Environmental Impacts Mitigation Plan approved by National Environment Management Authority;
- e) Comply with any local content requirement in the Act and Regulations;
- f) Comply with the directions issued by the Authority from time to time; and
- g) Comply with the provisions of all other applicable laws.

(2) A Licensee or permit holder who contravenes sub-regulation (1) commits an offence and shall on conviction be liable to a fine set out in the **Third Schedule** of these regulations.

**Validity of permit for construction of a facility that produces energy**

24. A permit granted for construction of a facility that produces energy shall be rendered invalid and cease to have effect if, the execution of the works has not commenced at the expiry of twelve months from the date on which the permit was granted, or at the expiration of any extended period which the Authority may allow.

**Extension of duration of license or permit**

25. (1) An application for an extension of a license or permit shall be made to the Authority in conformity with the requirements as spelled out in the **Fourth Schedule**.

(2) Where the Authority refuses to extend a license or permit, the Authority shall give the applicant reasons for the refusal in writing.

**Renewal of Licenses or permits**

26. (1) An application for renewal of a license or permit shall be made at least thirty days before the expiry date of the current license or permit.

(2) The application in sub-regulation (1) shall be submitted in conformity with the requirements in the **Fourth Schedule**.

(3) Where an application for the renewal of a license or permit is made after the period specified in sub regulation (1), an additional fee equal to twenty percent of the license fee shall

be payable in addition to the fees specified in the **Fifth Schedule**.

- (4) Failure to renew a license or permit is an offence punishable by penalty set out in the **Third Schedule** of these regulations.

**Failure by Authority to renew beyond License or permit expiry date**

27. If an application for the renewal of a license or permit has been made in conformity with Regulation 26 but has not been processed by the Authority by the date of expiry of the license or permit, then the license or permit shall continue to be in force until the application for renewal is processed and any renewal in such a case shall be taken to have commenced from the day when the license or permit would have expired before the renewal.

**Amendment of licenses and permits milestones**

28. (1) An application for an amendment of a license or permit shall be made to the Authority in conformity with the requirements as spelled out in the **Fourth Schedule**.
- (2) Allowable amendments will be limited to the milestone as contained in the license or permit
- (3) The amendment of a license or permit shall retain the existing expiry date
- (4) Where the Authority refuses to amend a license or permit, the Authority shall give the applicant reasons for the refusal in writing.

**Suspension and revocation of a license or permit**

29. The Authority may suspend or revoke a license if:
- a.) The undertaking or the execution of the works related thereto has not commenced at the expiry of the period specified in the license or permit, or at the expiry of any extended period which the Authority may allow; or
  - b.) It is satisfied that the Licensee is not operating in accordance with the provisions of the Act; or
  - c.) It is satisfied that the Licensee is not operating in accordance with the terms and conditions of the license; or
  - d.) The Licensee is adjudged bankrupt.

**Notice of suspension or revocation of a license or permit**

30. (1) The Authority shall issue a fourteen days' notice to show cause why a license or permit should not be suspended or revoked

- (2) A notice under sub-regulation (1) shall specify:
  - a.) The relevant condition in the license or permit or a requirement of the Act to which the breach relates;
  - b.) The actions, omission or other facts which the Authority considers as constituting a contravention of the conditions of the license or permit or the requirements of the Act; and
  - c.) The reasons why the Authority is of the opinion that the circumstances mentioned under paragraph (a) have occurred or arisen.
- (3) The notice shall be served upon the Licensee at the principal office of the Licensee and shall take effect from the date of service.
- (4) The Authority shall determine the matter within thirty days from the expiry of the notice.
- (5) A suspension or revocation of a license or permit shall not indemnify the Licensee against any penalties or obligations for which such person may have become liable under the Act.

**Replacement of a license or permit**

31. (1) A Licensee may apply for a replacement of a license or permit in cases where the license or permit has been lost, destroyed or defaced.
- (2) Such an application shall be accompanied by proof of payment of the prescribed fee set out in the **Fifth Schedule**
- (3) Where it is shown to the satisfaction of the Authority that a license or permit has been lost, destroyed or defaced, the Authority shall issue a duplicate license or permit to the Licensee.

**Transfer of a License or permit**

32. (1) A Licensee shall not transfer or otherwise assign any rights, powers or obligations conferred or imposed upon the Licensee by the license or permit without the consent of the Authority.
- (2) The application of transfer shall be done to the Authority accompanied with the supporting documentation.
- (3) A license or permit may be transferred on the following grounds:
  - a.) In the case of a death of the Licensee, to the legal representative;

- b.) in the case of the bankruptcy of the Licensee or assignment for the benefit of the Licensee's creditors generally, to the lawfully appointed trustee or assignee;
- c.) In the case of a corporation in liquidation, to the lawfully appointed liquidator;
- d.) In any case where the Licensee becomes subject to a legal disability, to any person lawfully appointed to administer the Licensees' affairs;
- e.) In the case of voluntary transfer of the undertaking, to the new owner of the undertaking.

(4) The Authority shall satisfy itself that the transferee meets requisite legal, technical and financial competence to carry out the undertaking.

(5) The transferee shall undertake in writing to comply with the conditions of the license or permit

(6) The Authority shall not withhold any consent to any application to transfer unless it has reason to believe that public interest is likely to be prejudiced by the transfer.

**Register of Licenses and permits** 33.

The Authority shall keep a register and publish on its website, in such form as it may determine, of all licenses and permits granted and shall record therein, in respect of each license or permit—

- a.) The particulars required under section 100 of the Act;
- b.) Particulars of any duplicate issued or any amendment(s) of the license or permit.
- c.) Particulars of any suspension or revocation of the license or permit; and
- d.) Such other particulars as the Authority may prescribe.

**Inspection of Register** 34.

(1) Subject to sub-regulation (2) below, any person may apply to, during official working hours, and upon payment of the prescribed fee, inspect the physical register of licenses and permits.

(2) Notwithstanding the provisions of sub-regulation (1), the following persons are exempt from payment of the fee:

- a.) Member of the National Police Service or a public officer acting in the course of his duty; or
- b.) Employee of the Authority or person authorized in writing by the Authority, or

c.) Person having the express exemption granted by the Authority.

**License for extraction, production and processing of coal and coal bed methane**

35. A person who wishes to undertake extraction, production and processing of coal, coal bed methane and derivatives shall make an application for a license to the Cabinet Secretary responsible for mining under the Mining Act, 2016.

**License for generation of electricity from coal, coal bed methane and derivatives**

36. A person who wishes to undertake generation of electricity from coal, coal bed methane and derivatives shall make an application for a license to the Authority in conformance with the regulations on licensing.

**Permit for transportation of coal for domestic use**

37. Permits to transport coal for domestic use shall be issued by the relevant county government.

**Factors for the Authority to consider in an application**

38. The Authority shall, in granting or rejecting an application for a license or permit, shall take into consideration the factors outlined in Section 98 of the Act as well as any representation or objection made under Section 120 of the Act.

**Transportation of coal bed methane using pipelines**

39. (1) No person shall engage in transportation of coal bed methane using a pipeline without a valid permit issued by the Authority.

(2) The terms and conditions of the permit shall be as set out in the permit and shall be for a period of one calendar year.

(3) The terms and conditions of the permit shall indicate:

- a.) The duration of the permit;
- b.) The person authorized to execute the works;
- c.) The area in which the works shall be executed; and
- d.) The conditions to be satisfied before any works authorized by the permit are used, which may include a requirement for the execution of further works.

(4) No person shall, before the conditions are satisfied, use any works, the execution of which was authorized by the permit, except to the extent specified in a notice given by the

Authority to the Licensee specifying the extent to which the works may be used, notwithstanding that some of the conditions have not been satisfied and such permit may, at any time, be revoked by the Authority.

- (5) A notice given by the Authority under sub-regulation (4) shall be conclusive evidence for the purposes of this Act that those conditions have been satisfied.
- (6) Where a permit referred to in sub-regulation (4) is cancelled or otherwise ceases to be in force prior to the completion of the authorized works, the Licensee shall, to the extent of partially executed works, be deemed to have satisfied the prescribed conditions.

**Construction of coal and coal bed methane storage and transport facilities**

- 40. (1) No person shall commence the construction of coal and coal bed methane storage or transport facility without a valid construction permit with respect to the facility.
- (2) Where a coal and coal bed methane storage or transport facility is constructed without a permit, the Authority may give the owner or occupier of such a facility a written twenty-one days' notice to either obtain the requisite permits and if such permit is not obtained within the said period, stop the construction and immediately decommission the works in accordance with the regulations on abandonment and decommissioning.
- (3) If the owner or occupier of the facility in sub-regulation (2) fails to remove the works, the Authority shall decommission the works at the cost of that person.
- (4) Notwithstanding sub-regulation (2), any person who constructs a coal or coal bed methane storage or transport facility without a permit is liable on conviction to a fine specified in the **Third Schedule**.

**Access to common user facilities**

- 41. (1) A person licensed to operate a common user facility shall provide non-discriminatory open access to its facility for use by any Licensee or person on payment of fair and reasonable charges as shall be approved by the Authority from time to time.
- (2) Where any Licensee willfully delays to comply with the terms of the contract pursuant to sub-regulation (1), the Authority may compel the Licensee to evacuate the coal

products when appropriate and in the event of the Licensee failing to comply with such direction the Authority may order disposal of such products held by a common user logistic facility and impose such penalties and fines as set out in **Third Schedule**.

**Obligations of operators of common user facilities**

42. (1) The operator of a common user facility shall not:-
- a) Load or discharge coal or coal bed methane to or from an unlicensed coal or coal bed methane transport vehicle.
  - b) Allow a bulk coal or coal bed methane transport vehicle to be driven into his facility by an operator who is not in possession of a valid driver certificate issued by the Authority or its licensing agents.
- (2) A person who contravenes this regulation shall be liable to the fine set out in the **Third Schedule**.

**Form of contract for common user facilities, review and approval**

43. (1) Every person licensed to operate a common user facility shall submit a form of contract to be approved by the Authority.
- (2) The contract shall set out the rights and responsibilities of the Licensee and users of the facility, as the case may be.
- (3) In approving a form of contract under sub-regulation (1), the Authority shall satisfy itself that such form of contract has fair and reasonable provisions dealing with issues, including but not limited to—
- a.) limitation of liability of the Licensee;
  - b.) termination and suspension provisions; and
  - c.) complaint handling and dispute resolution mechanism.
- (4) If disputes are not resolved as provide in the contract, redress may be sought from the Authority and then the Tribunal.
- (5) The Authority shall review and approve the agreed contract before execution by the parties;
- (6) A copy of the executed contract shall be in custody of the Authority at all times.

**Security stocks of coal and coal bed methane for**

44. An electricity generation Licensee shall be required to maintain a security stock level equivalent to coal or coal bed methane

**electricity  
generation**

required to operate the power plant for a minimum of forty-five days at the full capacity of the plant.

**Strategic stocks of  
coal for electricity  
generation**

45. (1) The Cabinet Secretary shall undertake to ensure that strategic stocks of coal for electricity generation are maintained by the Licensee.
- (2) Notwithstanding the above, the Cabinet Secretary may undertake the provision of financing, procurement, storage, maintenance and management of national strategic stocks of coal and coal bed methane for electricity generation.
- (3) Cabinet Secretary will further develop operation procedures for the purpose of this clause as required.

**Energy production  
from coal, coal bed  
methane and  
derivatives for  
commercial heating  
application**

46. (1) A person licensed to produce energy using coal or coal bed methane shall not stock coal, coal bed methane or derivatives that do not conform to the quality standards set by the Authority.
- (2) A person licensed to produce energy using coal, coal bed methane or derivatives shall maintain records of quantities of coal, coal bed methane or derivatives that is purchased or used.
- (3) The records in sub-regulation (2) shall be maintained for at least seven calendar year and shall contain the following information in relation to each consignment coal, coal bed methane or derivatives:
- a.) Date of purchase
  - b.) Name of the business entity from which each consignment was purchased
  - c.) Net weight in kilograms purchased
  - d.) Net weight in kilograms of coal, coal bed methane or derivatives held at the Licensee's premises
  - e.) Net weight in kilograms of coal, coal bed methane or derivatives used during the reporting period
- (4) The Authority may require all Licensees in coal business to subscribe to a common information technology platform for the ease of tracking sale and use of coal or coal bed methane and submission of information required under this Regulation.

(5) A person who contravenes this regulation commits an offence and shall be liable to the fine set forth in the **Third Schedule**.

**Bulk sales of coal or coal bed methane**

47. (1) A person licensed to undertake bulk sale of coal or coal bed methane shall not stock coal or coal bed methane that do not conform to the quality standards set by the Authority.
- (2) A person licensed to undertake bulk sale of coal or coal bed methane shall maintain records of quantities of coal or coal bed methane that is purchased or sold.
- (3) The records in sub-regulation (2) shall be maintained for at least seven calendar year and shall contain the following information in relation to each consignment of coal or coal bed methane:
- a.) date of purchase;
  - b.) name of the business entity from which each consignment was purchased;
  - c.) date of resale;
  - d.) name of the business entity to which each consignment was sold; and
  - e.) net weight in kilograms sold.
- (4) The Authority may require all Licensees in coal business to subscribe to a common information technology platform for the ease of tracking sale of coal or coal bed methane and submission of information required under this Regulation.
- (5) A person who contravenes this regulation commits an offence and shall be liable to the fine set forth in the **Third Schedule**.

**Importation of bulk coal**

48. (1) The holder of a license to import coal shall import through the import routes prescribed by the East African Community Customs Management Act.
- (2) The importer provided under sub-regulation (1) shall within twenty-four (24) hours prior to the arrival of the bulk coal at a point of entry, declare to the Authority the —
- a) load port of the bulk coal;
  - b) total quantity of the bulk coal in kilograms; and
  - c) Final destination points of the bulk coal.
- (3) All imported bulk coal shall be tested at the prescribed load port and port of landing as specified by the Kenya Bureau of

Standards or any such body responsible for standards in Kenya;

- (4) Where the specifications of such bulk coal fail to meet the Kenya Standard, the importer shall return the bulk coal to the load port;
- (5) Where the importer fails to return the bulk coal specified in sub-regulation (4) to the load port, the Authority shall facilitate the destruction of the bulk coal at the cost of the importer;
- (6) An importer shall submit to the Authority the following information with respect to the preceding month, on or before the 10th day of each calendar month —
  - a.) total quantity in kilograms of bulk coal imported;
  - b.) the source of the imported coal;
  - c.) total bulk coal supply to coal consumers indicating the quantity in kilograms.
- (7) An importer shall not supply bulk coal to any person unless such a person is in possession of a valid coal license or permit issued under the Act.
- (8) The Authority may instruct an importer to terminate the supply of coal to a coal consumer where it is established that consumer is in violation of the license or permit conditions required under the Act.
- (9) A person who contravenes this regulation commits an offence and shall be liable on conviction to the fine set out in the **Third Schedule**.

**Coal business premises**

49. The Authority shall carry out periodic inspections of the coal business premises to ascertain conformity with license or permit conditions.

**PART IV – MISCELLANEOUS**

**Local content**

50. All licenses offered under these regulations shall comply with the local content requirements.

**Compliance with environmental, health and safety laws**

51. The licensee shall undertake to comply with the relevant laws on environment, health and safety as pertain to:
  - a.) Dealing with fire incidences in storage or transportation;
  - b.) Dealing with hazards in storage or transportation.

- c.) Dealing with explosions in storage or transportation.
- d.) Fatality in storage or transportation.
- e.) Injury in storage or transportation.
- f.) Reporting and monitoring in storage or transportation.
- g.) Liability in storage or transportation.
- h.) Safety for transporters.

**Reporting of accidents and incidents**

52. (1) All licensees under this regulation shall comply with the reporting procedures as set out in the regulations on incidents and accidents reporting.
- (2) A coal business Licensee who fails to comply with these Regulations commits an offence.

**Categories of reportable incidents/accidents**

53. Categories of reportable incidents/ accidents are as stipulated in the regulations on incidents and accidents reporting.

**Investigation of accidents and incidents**

54. (1) Investigation of accidents and incidents will be carried out as stipulated in the regulations on incidents and accidents reporting.

**Offences and attempted offence**

55. (1) The following shall constitute offences under the Act.
- a.) Being the owner or operator of a facility that produces energy using coal or being a transporter of coal for energy production, fails to institute appropriate environmental, health or safety control measures;
  - b.) Being the owner or operator of a facility that produces energy using coal or transporter of coal for energy production, contravenes the provisions of this act or any regulations made thereunder relating to the construction or operation of a facility that produces energy using coal,
  - c.) Maliciously misinforms the public leading to economic sabotage;
  - d.) Illegally acquires any interest in public land set aside for development of facilities intended to produce energy using coal,
  - e.) Being the owner of a facility that produces energy using coal, contravenes the provisions of this act relating to the construction such facility;
  - f.) Owns or operates an unlicensed facility that produces energy using coal, or
  - g.) Constructs any facility defined in section 107 without obtaining a construction permit;

(2) A person who commits or attempts to commit the offences in sub-regulation (1) shall on conviction, be liable to a fine as defined in the **Third Schedule**.

**Complaints and  
disputes resolutions  
and appeals to the  
Tribunal**

56. A person who is dissatisfied or aggrieved by a decision of the Authority may within thirty days of communication to him of the order or decision appeal to the Energy and Petroleum tribunal established under section 25 of the Act.

**FIRST SCHEDULE (r.4(4))**

**ONGOING PROJECTS AREA BOUNDING COORDINATES**

**D) MUI BASIN COAL BLOCK CONCESSIONS**

<b>UTM Zone 37S Arc 1960</b>		
	<b>Meters East</b>	<b>Meters North</b>
<b>COAL BLOCK "A" CONCESSION</b>		
1	416000	9857000
2	417000	9837000
3	411000	9837000
4	410000	9840000
5	411000	9844000
6	411000	9849000
7	409000	9857000
<b>COAL BLOCK "B" CONCESSION</b>		
1	413000	9870000
2	416000	9866000
3	418000	9864000
4	418000	9861000
5	416000	9857000
6	409000	9857000
7	406000	9870000
<b>COAL BLOCK "C" CONCESSION</b>		
1	416000	9887000
2	415000	9882000
3	415000	9874000
4	413000	9870000
5	406000	9870000
6	405000	9876000
7	407000	9882000
8	407000	9887000
<b>COAL BLOCK "D" CONCESSION</b>		
1	415000	9905000
2	417000	9897000

<b>UTM Zone 37S Arc 1960</b>		
	<b>Meters East</b>	<b>Meters North</b>
3	416000	9887000
4	407000	9887000
5	407000	9892000
6	410000	9892000
7	412000	9897000
8	407000	9902000

<b>Arc 1960 Decimal Degrees</b>		
	<b>Longitude</b>	<b>Latitude</b>
<b>SOUTH COAL BLOCK "19"</b>		
1	38.0	-1.5
2	38.25	-1.5
3	38.25	-2.0
4	38.0	-2.0
<b>SOUTH COAL BLOCK "20"</b>		
1	38.25	-1.50
2	38.30	-1.50
3	38.30	-1.75
4	38.25	-1.75

**II) EXPLORATORY COAL AND COAL BED METHANE DRILLING SERVICES IN KITUI, KWALE, KILIFI AND TAITA TAVETA COUNTIES**

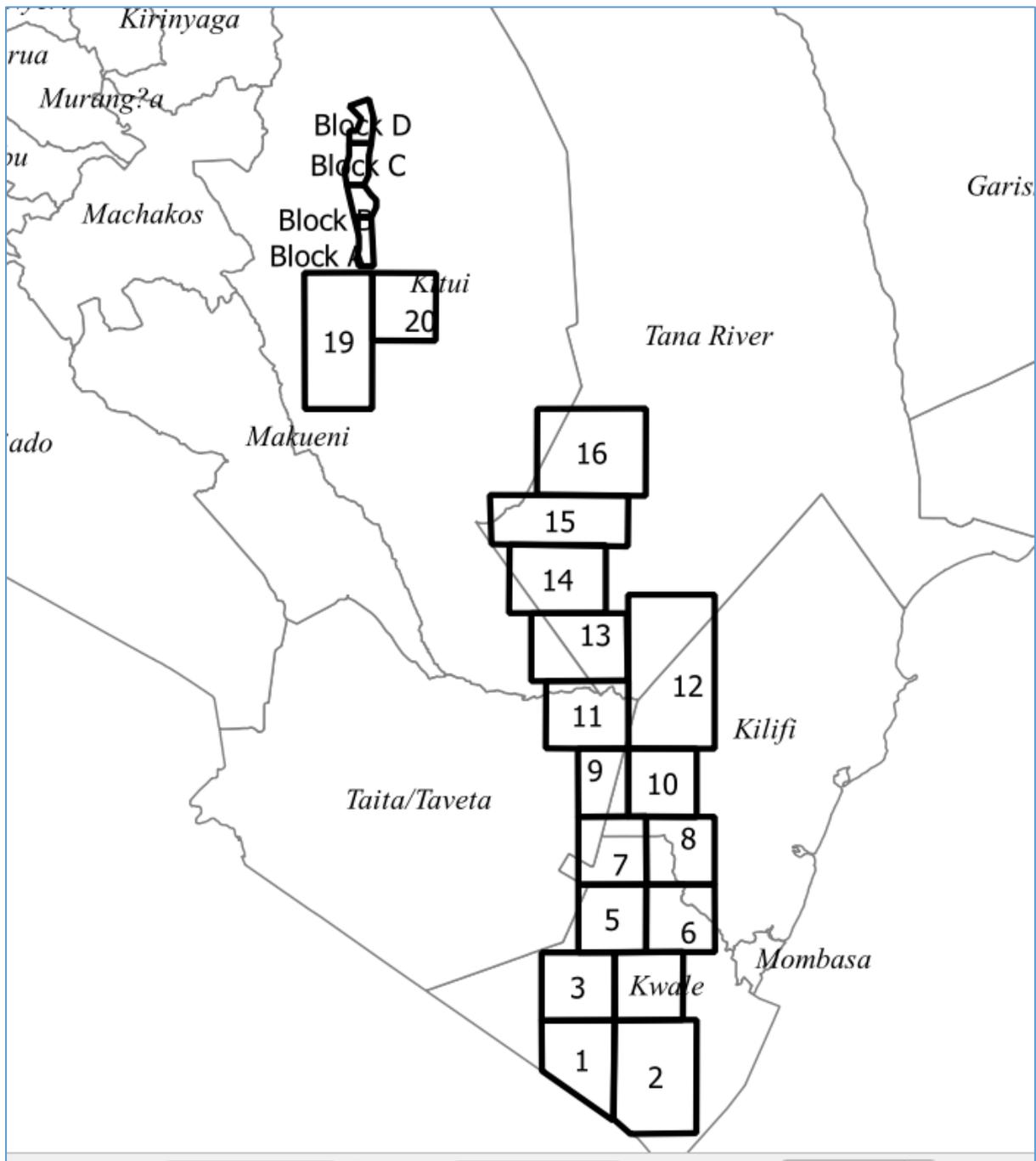
	Arc 1960 Degrees, Minutes		Arc 1960 Decimal Degrees	
	Longitude	latitude	Longitude	latitude
<b>BLOCK "1"</b>				
1	38 52 E	4 15S	38.87	-4.25
2	38 52 E	4 38S	38.87	-4.63
3	39 08 E	4 15S	39.13	-4.25
4	39 08 E	4 38	39.13	-4.63
<b>BLOCK "2"</b>				
1	39 09 E	4 15 S	39.15	-4.25
2	39 09 E	4 40 S	39.15	-4.67
3	39 26 E	4 15 S	39.43	-4.25
4	39 26 E	4 40 S	39.43	-4.67
<b>BLOCK "3"</b>				
1	38 52 E	4 00 S	38.87	-4
2	38 52 E	4 15 S	38.87	-4.25
3	39 08 E	4 00 S	39.13	-4
4	39 08 E	4 15 S	39.13	-4.25
<b>BLOCK "4"</b>				
1	39 08 E	4 00 S	39.13	-4
2	39 08 E	4 15 S	39.13	-4.25
3	39 23 E	4 00 S	39.38	-4
4	39 23 E	4 15 S	39.38	-4.25
<b>BLOCK "5"</b>				
1	39 00 E	3 45 S	39	-3.75
2	39 00 E	4 00 S	39	-4
3	39 14 E	3 45 S	39.25	-3.75
4	39 14 E	4 00 S	39.25	-4
<b>BLOCK "6"</b>				
1	39 14 E	3 45 S	39.25	-3.75
2	39 14 E	4 00 S	39.25	-4
3	39 30 E	3 45 S	39.5	-3.75
4	39 30 E	4 00 S	39.5	-4
<b>BLOCK "7"</b>				
1	39 00 E	3 30 S	39	-3.5
2	39 00 E	3 45 S	39	-3.75

	Arc 1960 Degrees, Minutes		Arc 1960 Decimal Degrees	
	Longitude	latitude	Longitude	latitude
3	39 14 E	3 30 S	39.25	-3.5
4	39 14 E	3 45 S	39.25	-3.75
<b>BLOCK "8"</b>				
1	39 14 E	3 30 S	39.25	-3.5
2	39 14 E	3 45 S	39.25	-3.75
3	39 30 E	3 30 S	39.5	-3.5
4	39 30 E	3 45 S	39.5	-3.75
<b>BLOCK "9"</b>				
1	38 56 E	3 15 S	39	-3.25
2	38 56 E	3 30 S	39	-3.5
3	39 11 E	3 15 S	39.18	-3.25
4	39 11 E	3 30 S	39.18	-3.5
<b>BLOCK "10"</b>				
1	39 11 E	3 15 S	39.18	-3.25
2	39 11 E	3 30 S	39.18	-3.5
3	39 26 E	3 15 S	39.43	-3.25
4	39 26 E	3 30 S	39.43	-3.5
<b>BLOCK "11"</b>				
1	38 53 E	3 00 S	38.88	-3
2	38 53 E	3 15 S	38.88	-3.25
3	39 11 E	3 00 S	39.18	-3
4	39 11 E	3 15 S	39.18	-3.25
<b>BLOCK "12"</b>				
1	39 11 E	2 41 S	39.18	-2.68
2	39 11 E	3 15 S	39.18	-3.25
3	39 30 E	2 41 S	39.5	-2.68
4	39 30 E	3 15 S	39.5	-3.25
<b>BLOCK "13"</b>				
1	38 50 E	2 45 S	38.83	-2.75
2	38 50 E	3 00 S	38.83	-3
3	39 11 E	2 45 S	39.18	-2.75
4	39 11 E	3 00 S	39.18	-3
<b>BLOCK "14"</b>				

	Arc 1960 Degrees, Minutes		Arc 1960 Decimal Degrees	
	Longitude	latitude	Longitude	latitude
1	38 45 E	2 30 S	38.75	-2.5
2	38 45 E	2 45 S	38.75	-2.75
3	39 06 E	2 30 S	39.1	-2.5
4	39 06 E	2 45 S	39.1	-2.75
<b>BLOCK "15"</b>				
1	38 41 E	2 19 S	38.68	-2.32
2	38 41 E	2 30 S	38.68	-2.5
3	39 11 E	2 19 S	39.18	-2.32
4	39 11 E	2 30 S	39.18	-2.5
<b>BLOCK "16"</b>				
1	38 51 E	2 00 S	38.85	-2
2	38 51 E	2 18 S	38.85	-2.3
3	39 15 E	2 00 S	39.25	-2
4	39 15 E	2 18 S	39.25	-2.3

SECOND SCHEDULE (r.4(4))

ONGOING PROJECTS AREAS MAP



### THIRD SCHEDULE

(r.18(2), 23(2), 26(4), 40(4), 41(2), 42(2), 46(5), 47(5), 48(9), 54(2))

#### OFFENCES AND FINES

	<b>Offence</b>	<b>Penalty or fine in Kshs/Jail Term on conviction</b>	<b>Penalty or fine in Kshs/Jail Term for attempted</b>
1	Generation of electricity from coal without a valid License contrary to Regulation 20	Fine of not less than five hundred thousand shillings, or to imprisonment for a term of not less than three months, or to both such fine and imprisonment	-
2	Transportation of coal without a valid permit contrary to Regulation 20	Fine of not less than fifty thousand shillings, or to imprisonment for a term of not less than three months, or to both such fine and imprisonment.	-
3	Failure to renew a License or permit, but continues to engage in coal business	A penalty equivalent to fifty per cent of the prescribed License or permit fee	-
4	Failure to display a License of permit or a certified copy within the premises of the License contrary to section 25 of these regulations	A fine of not exceeding one million shillings	-
5	Construction of a coal value addition facility and a bulk coal storage facility without a permit	A fine of not less than one million shillings	-
6	Failure to provide non-discriminatory open access to its facility for use by any Licensee or person on payment of fair and reasonable charges	A fine of not less than one million shillings	-
7	Load or discharge coal or coal bed methane to or from an unlicensed coal or coal bed methane transport vehicle or allowing a bulk coal or coal bed methane	A fine of not less than one million shillings	-

	<b>Offence</b>	<b>Penalty or fine in Kshs/Jail Term on conviction</b>	<b>Penalty or fine in Kshs/Jail Term for attempted</b>
	transport vehicle to be driven into his facility by an operator who is not in possession of a valid driver certificate issued by the authority or its licensing agents		
8	Failure to report of accidents or incidents as provided under the Energy (Incidents and Accidents Reporting) Regulations, 2021	A fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or both	-
9	Operating of a facility that produces energy using coal or being a transporter of coal for energy production, fails to institute appropriate environmental, health or safety control measures.	Two hundred thousand shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment	One hundred thousand shillings or a term of imprisonment of not less than six months or both such fine and imprisonment
10	Being the owner or operator of a facility that produces energy using coal or transporter of coal for energy production, contravenes the provisions of this Act or any regulations made thereunder relating to the construction or operation of a facility that produces energy using coal	Two hundred thousand shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment	One hundred thousand shillings or a term of imprisonment of not less than six months or to both such fine and imprisonment
11	Maliciously misinforms the public leading to economic sabotage	One million shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment, if the offence relates to paragraphs	One million shillings or a term of imprisonment of not less than three years or to both such fine and imprisonment
12	Illegally acquires any interest in public land set aside for development of facilities intended to	One million shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment,	One million shillings or a term of imprisonment of not less than three years

	<b>Offence</b>	<b>Penalty or fine in Kshs/Jail Term on conviction</b>	<b>Penalty or fine in Kshs/Jail Term for attempted</b>
	produce energy using coal	if the offence relates to paragraphs	or to both such fine and imprisonment
13	Being the owner of a facility that produces energy using coal, contravenes the provisions of this Act relating to the construction such facility	One million shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment, if the offence relates to paragraphs	One million shillings or a term of imprisonment of not less than three years or to both such fine and imprisonment
14	Owens or operates an unlicensed facility that produces energy using coal	One million shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment, if the offence relates to paragraphs	One million shillings or a term of imprisonment of not less than three years or to both such fine and imprisonment
15	Constructs any facility defined without obtaining a construction permit	One million shillings or a term of imprisonment of not less than one year or to both such fine and imprisonment, if the offence relates to paragraphs	One million shillings or a term of imprisonment of not less than three years or to both such fine and imprisonment

## **FOURTH SCHEDULE (r. 19(3), 25(1), 26(2))**

### **REQUIREMENTS FOR APPLICATIONS OF LICENSES AND PERMITS**

#### **(I) REQUIREMENTS FOR APPLICATION OF A LICENSE TO IMPORT COAL AND COAL BED METHANE**

- i. Written application;
- ii. Copy of original certificate of incorporation or business registration certificate;
- iii. Copy of original CR 12 from registrar of companies or CR 13 from the Business
- iv. Copy of original identification documents (National IDs or Passports) for all the company's directors or partners;
- v. Copy of original valid Single Business Permit from the County Government.
- vi. Copy of original KRA PIN Certificate.
- vii. Copy of original valid tax compliance certificate;
- viii. Copy of original valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable.
- ix. Proof of access to a licensed storage facility through submitting copy of ownership or storage contract of a coal storage facility or a long term lease (minimum 5 years)

#### **(II) REQUIREMENTS FOR APPLICATION OF A LICENSE TO EXPORT COAL AND COAL BED METHANE**

- i. Written application;
- ii. Copy of original certificate of incorporation or business registration certificate;
- iii. Copy of original CR 12 from registrar of companies or CR 13 from the Business
- iv. Copy of original identification documents (National IDs or Passports) for all the company's directors or partners;
- v. Copy of original valid Single Business Permit from the County Government.
- vi. Copy of original KRA PIN Certificate.
- vii. Copy of original valid tax compliance certificate;
- viii. Copy of original valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable.
- ix. Proof of access to a licensed storage facility through submitting copy of ownership or storage contract of a coal storage facility or a long term lease (minimum 5 years)
- x. Authorization to export form the Cabinet Secretary

**(III) REQUIREMENTS FOR APPLICATION OF A LICENSE TO OPERATE A COAL AND COAL BED METHANE STORAGE FACILITY**

- i. Written application;
- ii. Copy of original certificate of incorporation or business registration certificate;
- iii. Copy of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue.
- iv. Copy of original copies of identification documents (National IDs or Passports) for all the company's directors;
- v. Copy of original copy of Single Business Permit from the County Government;
- vi. Copy of original copy of KRA PIN Certificate;
- vii. Copy of original copy of a valid tax compliance certificate;
- viii. Copy of original copy of a valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable;
- ix. Copy of original copy of a valid Certificate of Registration of Work Place;
- x. Proof of safe premises
- xi. Copy of original of a valid Weighing Scale or Metering Equipment Calibration Certificate from the Department of Weights and Measures

**(IV) REQUIREMENTS FOR APPLICATION OF A LICENSE TO UNDERTAKE BULK SALES OF COAL AND COAL BED METHANE**

- i. Written application;
- ii. Copy of original copy of certificate of incorporation or business registration certificate;
- iii. Copy of original copy of CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
- iv. Copy of original copies of identification documents (National IDs or Passports) for all the company's directors;
- v. Copy of original copy of Single Business Permit from the County Government;
- vi. Copy of original copy of KRA PIN Certificate;
- vii. Copy of original copy of a valid tax compliance certificate;
- viii. Copy of original copy of a valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable;
- ix. Copy of original a valid Certificate of Registration of Work Place;
- x. Proof of ownership or lease of a license coal storage facility; and
- xi. Copy of the applicant's Customer Complaint Handling Procedures.

**(V) REQUIREMENTS FOR APPLICATION OF A LICENSE TO USE COAL AND COAL BED METHANE FOR ENERGY PRODUCTION FOR COMMERCIAL USE**

- i. Written application;
- ii. Copy of original certificate of incorporation or business registration certificate;
- iii. Copy of original CR 12 from registrar of companies or CR 13 from the Business
- iv. Copy of original identification documents (National IDs or Passports) for all the company's directors or partners;
- v. Copy of original valid Single Business Permit from the County Government.
- vi. Copy of original KRA PIN Certificate.
- vii. Copy of original valid tax compliance certificate;
- viii. Copy of original valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable.
- ix. Environmental liability policy as shall be prescribed by the Cabinet Secretary

**(VI) REQUIREMENTS FOR APPLICATION OF A LICENSE TO OPERATE A COMMON USER FACILITY FOR COAL AND COAL BED METHANE**

- i. Written application;
- ii. Copy of original certificate of incorporation or business registration certificate;
- iii. Copy of original CR 12 from registrar of companies or CR 13 from the Business
- iv. Copy of original identification documents (National IDs or Passports) for all the company's directors or partners;
- v. Copy of original valid Single Business Permit from the County Government.
- vi. Copy of original KRA PIN Certificate.
- vii. Copy of original valid tax compliance certificate;
- viii. Copy of original valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable.
- ix. Environmental liability policy as shall be prescribed by the Cabinet Secretary
- x. Proof of access to a licensed storage facility through submitting copy of ownership or storage contract of a coal storage facility or a long term lease (minimum 5 years)
- xi. Copy of original of a valid Weighing Scale or Metering Equipment Calibration Certificate from the Department of Weights and Measures

**(VII) REQUIREMENTS FOR APPLICATION OF A PERMIT TO TRANSPORT COAL AND COAL BED METHANE USING A ROAD OR RAIL**

- i. Written application;
- ii. Copy of original certificate of incorporation or business registration certificate;

- iii. Copy of original CR 12 from registrar of companies or CR 13 from the Business Registration Service that is not older than 12 calendar months from the date of issue;
- iv. Copy of original identification documents (National IDs or Passports) for all the company's directors or partners;
- v. Copy of original valid Single Business Permit.
- vi. Copy of original PIN Certificate;
- vii. Copy of original valid tax compliance certificate;
- viii. Copy of original valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya.
- ix. Proof of ownership or access to the vehicle(s) for which permit is being sought
- x. Proof of payment of applicable fee to the Authority
- xi. List of drivers to be engaged with valid license plus copy of driving license

**(VIII) REQUIREMENTS FOR APPLICATION OF A PERMIT FOR CONSTRUCTION OF COAL AND COAL BED METHANE STORAGE AND COMMON USER FACILITIES**

- i. Written application specifying;
  - a. the name and address of the proposed owner;
  - b. exact location of the facility site and easements for any pipelines and incidental infrastructure including land registration number;
  - c. be accompanied by a copy of detailed layout plans and specifications prepared by a professional engineer;
  - d. be accompanied by a Strategic Environment Assessment and Social Impact Assessment licenses; and contain such other details as may be necessary.
  - e. capacity of the facility;
  - f. scope of the project;
  - g. grade of product to be stored or transported;
  - h. feasibility study of the project which shall contain a financial model indicating the project financing costs, operations and maintenance costs and projected sales;
  - i. Project timelines/work plan
  - j. evidence of compliance with the Physical Planning Act;
- ii. Copy of original certificate of incorporation or business registration certificate;
- iii. Copy of original CR 12 from registrar of companies or CR 13 from the Business
- iv. Copy of original identification documents (National IDs or Passports) for all the company's directors or partners;
- v. Copy of original valid Single Business Permit from the County Government.
- vi. Copy of original KRA PIN Certificate.
- vii. Copy of original valid tax compliance certificate;

- viii. Copy of original valid Work Permit Class "G" for foreign directors working in Kenya or notarized declaration of non-residence for foreign directors not residing in Kenya if applicable.
- ix. Environmental liability policy as shall be prescribed by the Cabinet Secretary

#### **(IX) REQUIREMENTS FOR RENEWAL OF LICENSE OR PERMIT**

An application for the renewal of the validity period providing

- i. A justification
- ii. Such supporting documents as may be required by the Authority
- iii. Proof of payment to the Authority of Non-refundable application fee as set out in the Fifth Schedule (fees and charges)
- iv. Update of any changes in information that the Authority may not be aware of

#### **(X) REQUIREMENTS FOR AMENDMENTS OF LICENSE OR PERMIT**

The application must be accompanied by

- i. Proof of payment to the Authority of Non-refundable application fee as set out in the schedule [fees and charges]
- ii. Details of the amendments sought
- iii. List other requirements.
- iv. Proof of payment of applicable application fee

#### **REQUIREMENTS FOR EXTENSION OF LICENSE OR PERMIT**

An application for the extension of the validity period providing

- i. A justification
- ii. Such supporting documents as may be required by the Authority
- iii. Proof of payment to the Authority of Non-refundable application fee as set out in the Fifth Schedule (fees and charges)
- iv. Update of any changes in information that the Authority may not be aware of

**FIFTH SCHEDULE (r. 19(3), 26(3), 31(2))**

**FEES AND CHARGES**

<b>Description</b>	<b>New Application (KSh.)</b>	<b>Renewal Application (KSh.)</b>	<b>Amendment Application (KSh.)</b>	<b>Replacement (KSh.)</b>	<b>Standard Charge KSh.</b>
Permit for construction (storage and common user facilities)	5,000	2,000	1,000	3,000	N/A
Permit for transportation of coal	5,000	2,000	1,000	3,000	N/A
License for import, export and bulk sale of coal	10,000	5,000	1,000	3,000	N/A
License for production of energy	10,000	5,000	1,000	3,000	N/A
License to operate of common user facilities license	10,000	5,000	1,000	3,000	N/A
Inspection of licenses and permits register	N/A	N/A	N/A	N/A	1,000
Access to common user facility <i>Comments: Act requires regulations to define, however, this is a cost recovery that cannot be set now.</i>	Section 111(1)				

**SIX SCHEDULE (r.21)**

**FORM OF LICENSES**

**EPRA**

**LICENSE NO. ....**

**THE ENERGY ACT, 2019**

LICENSE TO [ ]

This License to [ ] is hereby granted to \_\_\_\_\_ of  
P.O. Box \_\_\_\_\_ operate the following facility subject to the conditions hereunder:

Descriptions: [ ]

On premises situated at: \_\_\_\_\_ (see attached Annex I [layout]).

Plot No.: \_\_\_\_\_

Street/Market: \_\_\_\_\_

Town/County: \_\_\_\_\_

This license is for a duration of [as per the Regulation years/months and may be renewed as per the Act and Regulations.

FEE: .....

Date: \_\_\_\_\_

Signature: \_\_\_\_\_.

(SEAL)  
Director General  
Energy & Petroleum Regulatory Authority

**CONDITIONS:**

**FORM OF PERMIT**

**EPRA**

**PERMIT NO. ....**

**THE ENERGY ACT, 2019**

**COAL STORAGE AND COMMON USER FACILITIES FACILITY CONSTRUCTION PERMIT**

This [Construction/Coal Transport] Permit is hereby granted to \_\_\_\_\_ of P.O. Box \_\_\_\_\_ construct the following facility subject to the conditions hereunder:

Descriptions: [Coal Storage/Coal common user facility/FIRM NAME]

On premises situated at: \_\_\_\_\_ (see attached Annex I [layout]).

Plot No.: \_\_\_\_\_

Street/Market: \_\_\_\_\_

Town/County: \_\_\_\_\_

This permit will be invalid if the works do not commence within twelve (12) months from the date of issue.

This permit is for a duration of \_\_\_\_\_ years/months and may be renewed as per the Act and Regulations.

FEE: .....

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

(SEAL)  
Director General  
Energy & Petroleum Regulatory Authority

**CONDITIONS:**