THE RAILWAYS ACT
[NO. 4 OF 2002]

REGULATIONS
Made under section 28

THE RAILWAYS (LICENSING OF RAILWAY OPERATORS) REGULATIONS, 2006
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THE RAILWAYS (LICENSING OF RAILWAY OPERATORS)
REGULATIONS, 2006

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THE RAILWAYS ACT  
(No. 4 Of 2002)  
REGULATIONS  
Made under section 28  
THE RAILWAYS (LICENSING OF RAILWAY OPERATORS) REGULATIONS 2006  
PART I  
PRELIMINARY PROVISIONS  

Citation  
1. These Regulations may be cited as the Railways (Licensing of Railway Operators) Regulations, 2006.  

Commencement  
2. The regulations shall come into effect on the date of publication in the Gazette.  

Interpretation  
3. (1) In these Regulations, unless the context otherwise requires:  
“Act” means The Railways Act (2002);  
“Authority” means The Surface and Marine Transport Regulatory Authority, the body established under section 4 of the Surface and Marine Transport Regulatory Authority Act (No 9 of 2001);  
“Agreement”, in the context of the agreement between RAHCO and the Railway Operator, means a concession agreement, a joint venture agreement, a franchise agreement or any other agreement through which RAHCO delegates to a railway undertaking the power to develop, manage and maintain rolling stock and rail infrastructure assets and for the provision of rail transport services thereon;  
“Minister” means the Minister for the time being responsible for the Authority;  
“RAHCO” means Reli Assets Holding Company Limited, a company incorporated in the United Republic of Tanzania under the Companies Act as provided for under section 5 of the Railways Act (2002);  
“Railway Operator” means any person managing railway infrastructure or providing rail transport services;  
“Rail Transport Services” means a service for the transport of freight or passengers (or both) by rail;  
“SUMATRA” means The Surface and Marine Transport Regulatory Authority being the body established under section 4 of the Surface and Marine Transport Regulatory Authority Act (No 9 of 2001);
“SUMATRA Act” means the Surface and Marine Transport Regulatory Authority Act (No 9 of 2001).

(2) Except where the context otherwise requires, other expressions in these Regulations have the same meanings as in the Railways Act 2002.

4. (1) Subject to clause (2) these Regulations shall apply in relation to the licensing of railway operators in Mainland Tanzania.

(2) These Regulations shall not apply in relation to the Tanzania Zambia Railway Authority.

PART II
RAILWAY OPERATOR’S LICENSE

5. No person shall provide railway transport services unless he is authorized to do so by a valid Railway Operator’s Licence.

6. A railway operator’s licence may authorize the provision of railway transport services generally or be restricted to one or more of the following services:

(a) Passenger train service,
(b) Freight train service,
(c) Operation and maintenance of rail infrastructure,

and to operate a train for a purpose preparatory, or incidental to, or consequential on, the provision of the licensed service.

7. (1) Any person wishing to provide rail transport services shall submit an application to the Authority, in the form prescribed in First Schedule, together with the following documents:

(a) the applicant’s Memorandum and Articles of Association,
(b) a feasibility study report which shall also include a description of the scope of services sought to be rendered under the railway operator’s licence,
(c) a safety plan,
(d) an Environmental Impact Assessment Report, including, but not limited to, an elaboration of how the operator plans to prevent damage to the
environment caused by waste disposal, sanitary facilities, oil spills, noise and fumes from on-going operations,

(e) proposed tariff, and

(f) any other document that may support the applicant’s qualification for the licence.

(2) At any time after submitting the application the applicant shall submit such further information as the Authority may reasonably require in connection with the application.

8. (1) On receipt of an application for a railway operator’s licence the Authority shall make an initial examination of the application form and attachments and, if found appropriate, acknowledge receipt of the documents within five working days.

(2) If not found appropriate the documents shall be returned to the applicant with guidance.

(3) Immediately after acknowledging receipt of the application in accordance with clause (1), the Authority shall publish a notice stating:

(a) the name and address of the applicant,

(b) that the applicant has made an application for a railway operator’s licence,

(c) the type of services for which the licence is being requested, and

(d) that anybody who has reason why a licence should not be granted should make submissions to the Authority within twenty-one days of first publication of the notice.

(4) A notice under clause (3) shall be given through:

(a) publication in the Gazette,

(b) publication in at least three daily newspapers with wide circulation in Tanzania,

(c) sending a copy of the notice to the Minister,

(d) sending a copy of the notice to the Consumer Consultative Council, and

(e) publication of the notice in any other manner considered by the Authority as appropriate for bringing it to the attention of any persons likely to be affected by the granting of the licence or having interest in the matter.
(5) An application for a Railway Operator’s licence shall be determined by the Authority within 60 days of receipt of the application, provided that the period may be extended to the extent by which the process shall have been delayed by the need to clarify matters arising from submissions made under sub-clause (3) (d).

(6) The Minister shall be consulted before making a determination on an application for a railway operator’s licence.

(7) The Authority shall inform the applicant of its decision on the application and, in case of a refusal, the reasons for such refusal.

9. The Authority shall grant a railway operator’s licence if it is satisfied that the applicant will be able at any time to meet the following qualifications:

   (a) that he is incorporated or registered and established in Mainland Tanzania,

   (b) that he is of good repute,

   (c) that he maintains a solvency ratio of not less than the amount which the Minister shall by notice published in the Gazette prescribe,

   (d) that he possesses professional competence to operate the service for which he has applied for a licence,

   (e) that he has arrangements for insurance cover or self insurance against civil liabilities on terms approved by RAHCO, and

   (f) that he has an Agreement with RAHCO delegating to him the operation of rail infrastructure or the provision of rail transport services in accordance with section 12 of the Act.

10. The applicant shall pay the Licence Fees prescribed in the Fourth Schedule which may be revised from time to time by the Authority in accordance with section 41(5) of the SUMATRA Act.

11. (1) If upon determination by itself, or at the recommendation of RAHCO, or any other person, the Authority has serious doubts as to whether the railway operator continues to comply with any condition referred to in regulation 9, the Authority may take steps as are necessary, including issue of notice to show cause, to enable it to determine whether or not the operator does
so comply

(2) The railway operator shall submit the licence to the Authority for review whenever:

(a) he intends to significantly change his activities from those for which it was licensed or

(b) there is a change of control of the operator or

(c) there is a comprehensive review of the Agreement with RAHCO.

(3) The licencee shall maintain a proper Management Information System which shall be used to monitor the performance and development of the rail transportation industry.

(4) The licencee shall submit to the Authority on a monthly basis or at other intervals to be prescribed by the Authority records extracted from the Management Information System in accordance with the requirements to be specified by the Authority from time to time.

(5) The accounting component of the Management Information System shall be consistent with applicable laws and best practice in the United Republic of Tanzania.

(6) Notwithstanding the generality of sub-regulation (4), the licencee shall within six months of the end of each fiscal year of the licence, deliver to the Authority the balance sheet, statements of operations, equity, cash flow and report of an independent auditor explaining financial position of the licencee.

12. (1) Suspension or revocation of licence shall only be effected by the Authority after consultations with RAHCO and the Minister.

(2) In case of suspension or revocation of licence the Authority may grant a temporary licence in terms of regulation 14.

(3) Subject to sub-regulations (1) and (2), the Authority may suspend a railway operator’s licence for any reasonable period under any of the following conditions:

(a) If, having taken the steps referred to in sub-regulation 11(1), the Authority is satisfied that any condition is not complied with;

(b) if the licence holder ceases operating train services in accordance with his licence conditions for a continuous period of at least two weeks;

(c) If RAHCO assumes control of the Railway Operator in accordance with sections 11(3) and (4) of the Act;

(d) If RAHCO has issued a notice of default to the operator in terms of the Agreement by which operation of
infrastructure or provision of rail transport services was delegated to the operator.

(4) The Authority shall issue specific orders to the operator to rectify the deficiency, shortfall or the condition which led to the suspension.

(5) Subject to sub-regulation 12(1) and (2) the Authority may immediately revoke the licence under any of the following conditions.

(a) if at the end of the suspension period the deficiency, shortfall or condition which lead to the suspension have not been rectified.

(b) if at any time during the suspension in terms of regulation 12(3) there appears to be no reasonable prospect of rectifying the deficiency, shortfall or condition that lead to the suspension.

(c) if legal action has commenced for the winding up of the licencee.

(d) if the operator repeatedly disobeys a licence condition.

(e) if the operator fails to pay a fine imposed under any regulation made under the Act.

(6) Subject to sub-regulation 12(1) and (2) the Authority may revoke the licence after two month’s notice or any other reasonable period under any of the following circumstances:

(a) if the licence holder fails to commence the licensed activities for a period of three months from the date on which the licence becomes effective,

(b) if the licence holder is found to have given false information in his application for the licence,

(c) if the licence holder fails to comply with any final order requiring him to rectify a condition of his licence within three months from the date on which he is served with the notice,

(d) if another person takes control of the licence holder by changing the shareholding of the operating company, unless such control ceases before the expiration of the period of notice, and

(e) If he has been served with a notice of termination of the agreement of RAHCO’s delegation.

13. (1) A temporary licence may be issued:

(a) to a prospective railway operator who by way of a
legal Agreement has been delegated by RAHCO to operate infrastructure or to provide rail transport service and has submitted to the Authority the requisite licence application documents but has not yet fully complied with the Authority's requirements, provided there are reasonable prospects of so complying.

(b) to a railway operator under suspension of licence, to allow reorganisation of the operations

c) to RAHCO or a third party as a temporary arrangement following suspension or revocation of an operator’s licence.

(2) The validity of a temporary licence shall not exceed 12 months.

(3) A temporary licence shall not be granted where safety would be jeopardised.

Validity of licence

14. (1) A railway operating licence shall, unless previously revoked or surrendered in accordance with any provision in these Regulations, be valid for five years and/or for the duration of the Agreement with RAHCO provided that the operator continues:

- to satisfy the requirements referred to in regulation 9,
- to submit the licence for review or approval in accordance with sub-regulation 11(2).
- to submit the licence for review at the time of comprehensive review of the Agreement with RAHCO.

(2) The licencee shall immediately provide and/or give access to emergency services as may be directed by the Minister.

Transfer of licence

15. (1) A licencee who wants to transfer his licence shall make an application to the Authority attaching details of the person to whom the licence is proposed to be transferred.

(2) No licence shall be transferred to another person except with the prior consent of the Authority.

(3) Any application for transfer of licence shall be treated by the Authority in the same manner as an application for a new licence under these regulations.

Transfer of shares

16. The licencee shall not transfer, alienate, sub contract, dispose of or assign his share or any interest in his share or any business connected or related to the licence without prior notification to the Authority.
17. Subject to section 22 of the Act and any legally binding agreement between RAHCO and the licencee, the Authority may intervene and determine tariffs for train services.

18. The licencee shall take all reasonable steps to train Tanzania nationals to acquire skills at all levels in the licencee’s operations.

19. (1) The Applicant and/or licencee as the case may be, shall treat all the information obtained or received from the Authority or Government regarding licence, technical and business operations of rail transport as confidential, and shall not disclose such information without prior notice to the Authority.

(2) Sub-regulation 19(1) shall be valid for five years.

20. (1) Any licencee who contravenes any of the provisions of these Regulations commits an offence and shall be liable to a fine of not less than US$ twenty thousand or its equivalent in Tanzanian shillings and not exceeding US$ fifty thousand or its equivalent in Tanzanian shillings and/or revocation of licence.

(2) The Authority shall give the licencee thirty days written notice with reasons of the intended sanction during which the licencee shall have an opportunity to make representations.

(3) Where the Authority is satisfied that the licencee’s reasons are not acceptable it shall impose the fine or other sanction on the licencee.

21. Any person who is aggrieved by a decision of the Authority made under these regulations may seek review or appeal in accordance with part IV of the Surface and Marine Transport Regulatory Authority Act, 2001.
FIRST SCHEDULE

THE RAILWAYS (LICENSING OF OPERATORS) REGULATIONS

FORM OF APPLICATION FOR RAILWAY LICENCE
(Under sections 22 (2) (a) and 24 of the Railways Act, 2002)

1. Name of Applicant:

2. Certificate of Incorporation No: Date of Issue:

3. Registered Place of Business:
   Physical Address:
   Postal Address:
   Tel. No:
   Fax No:
   e-Mail Address:

4. Particulars of Shareholding:

<table>
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<tr>
<th>Name</th>
<th>Nationality</th>
<th>Address</th>
<th>Percentage</th>
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5. Scope of Licence applied for (Put a tick in the box if applying, a cross if not applying):

   Passenger Service
   Freight Service
   Operation & Maintenance of Infrastructure

6. Brief description of services to be carried out:

   ........................................................................................................
   ........................................................................................................
   ........................................................................................................
   ........................................................................................................
7. What business other than railway operation is carried on by the applicant?

8. Designated Principal Officers of the Operator (attach CV’s):

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Qualification</th>
<th>Experience</th>
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No. ................. Dated ............... 

10. General information, including reference on Applicant’s financial resources (attach additional pages if necessary).

11. Enclosed Documents (put tick inbox if attached, put cross if not attached):

   (i) Memorandum and Articles of Association
   (ii) Feasibility Study Report
   (iii) Safety Plan
   (iv) Environmental Impact Assessment Report
   (v) Most recent Audited Accounts
   (vi) Proposed Tariff
Others (state) (attach additional pages if necessary):

(vii) .................................................................................................
(viii) .................................................................................................
(ix) .................................................................................................
(x) .................................................................................................
(xi) .................................................................................................

12. We declare that to the best of our knowledge and belief all the statements contained in this application are true and correct. We undertake to notify SUMATRA any changes in the shareholding and the Board of Directors.

Name in Full:..............................................................
Signature:..............................................................
Qualification:..............................................................
Date:..............................................................

(Note: Please initial every page of the application).
SECOND SCHEDULE

RAILWAY OPERATOR’S LICENCE
Granted under sections 22 (2) (a) and 24 of the Railways Act, 2002

This Licence is granted to …………………………[Name]

Company Registration No………………………….[Number]

For the operation of the following services on the ……………………Network:

1. Passenger Services
2. Freight Services
3. Operation and Maintenance of railway Infrastructure
4. Operation of Trains preparatory to, incidental to, or consequential on, the above services.

[Delete what is not applicable]

This Licence is issued under sections 22 (2) (a) and 24 of the Railways Act (No.4, 2002) and the Railways (Licencing of Railway Operators) Regulations, 2006. The conditions of License are as in the Third Schedule of the Regulations the abstract of which is printed on the back side of this licence.

The Licence comes into effect on …..day of …………., 20...

Signature…………………… Date……………………

Director General [Seal]

For Conditions of Licence: see reverse side
### THIRD SCHEDULE

**CONDITIONS OF LICENCE**

(Made under sections 22 (2) (a) and 24 of the Railways Act, 2002)

<table>
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<tr>
<th>Category</th>
<th>Requirement</th>
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<tbody>
<tr>
<td><strong>Insurance against third party liabilities</strong></td>
<td>1. The licence holder shall, in respect of train services, maintain insurance, including self-insurance, against third party liabilities on terms approved by RAHCO.</td>
</tr>
<tr>
<td><strong>Services for disabled and disadvantaged people</strong></td>
<td>2. (1) The licence holder shall establish and comply with (a) a statement of policy; and (b) detailed arrangements, procedures, services and other benefits to be implemented or provided by the licence holder designed to protect the interests of people who are disabled and disadvantaged in their use of the railway operator’s trains. (2) The licence holder shall send a copy of the disabled and disadvantaged people’s protection policy and any alteration to it to SUMATRA for approval. (3) The licence holder shall give or send free of charge a copy of the current policy statement to any person who requests for it.</td>
</tr>
<tr>
<td><strong>Complaints handling procedure</strong></td>
<td>3. The licence holder shall comply with “Procedures for Complaints Handling” Rules (2006), published under section 38(1) (f) of the SUMATRA Act, relating to complaints by users and potential users of regulated services.</td>
</tr>
<tr>
<td><strong>Safety Plan</strong></td>
<td>4. The licence holder shall abide by the safety plan submitted to SUMATRA under Regulation 7 and as amended from time to time.</td>
</tr>
<tr>
<td><strong>Environmental arrangements</strong></td>
<td>5. The licence holder shall abide by the environmental arrangements contained in the Environmental Impact Assessment Report submitted to SUMATRA under Regulation 7 and as amended from time to time.</td>
</tr>
<tr>
<td><strong>Fees and Levies</strong></td>
<td>6. The licence holder shall make timely payment of fees and levies in the manner regulated under section 38 of the SUMATRA Act.</td>
</tr>
<tr>
<td><strong>Review of Licence</strong></td>
<td>7. The licence holder shall notify SUMATRA and submit the licence for review where: (1) he introduces significant changes in the scope and method of operation, or (2) there is a change in the controlling shareholding or (3) a comprehensive review of the Agreement with RAHCO is underway.</td>
</tr>
<tr>
<td><strong>Tariff change</strong></td>
<td>8. The licence holder shall notify SUMATRA whenever he changes the tariff.</td>
</tr>
<tr>
<td><strong>Emergency Services</strong></td>
<td>9. The licence holder shall immediately provide access to emergency services as directed by the Minister.</td>
</tr>
<tr>
<td><strong>General Conditions</strong></td>
<td>10. The licence holder shall at all times maintain good conduct, professional competence and financial fitness.</td>
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FOURTH SCHEDULE

LICENCE FEES (UNDER REGULATION 10)

<table>
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<tr>
<th>TYPE OF SERVICE</th>
<th>LICENCE FEES</th>
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<tbody>
<tr>
<td>PASSENGER SERVICE</td>
<td>US$ 2000</td>
</tr>
<tr>
<td>FREIGHT SERVICE</td>
<td>US$ 4000</td>
</tr>
<tr>
<td>OPERATION AND MAINTENANCE OF INFRASTRUCTURE</td>
<td>US$ 2000</td>
</tr>
<tr>
<td>COMBINATION OF ALL THREE</td>
<td>US$ 8000</td>
</tr>
</tbody>
</table>

The Authority may revise these fees any time in accordance with section 41(5) of the SUMATRA Act.