

**RENEWABLE ENERGY SUPPLY AGREEMENT
(PRO-FORMA)
(FOR FIT ELIGIBLE RE PLANTS- Non-WESM)**

This FIT RENEWABLE ENERGY SUPPLY AGREEMENT ("Agreement") is executed this _____ day of _____ 20__ at _____, by and between:

The [●Name of distribution utility/ electric cooperative] an electric distribution utility / cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, and [with a franchise to operate a distribution utility] by virtue of [●], with principal office address at [●], represented herein by its [●Position], [●Name of Representative] ("Host DU");

- and -

[●NAME OF RE DEVELOPER], a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at [●], and represented herein by its [●Position], [●Name of Representative] ("RE DEVELOPER");

(Each of the Host DU and the RE Developer may be referred to individually as a "Party", and collectively as the "Parties").

WITNESSETH: That -

WHEREAS, in order to accelerate the development of emerging renewable energy resources, Republic Act No. 9513, otherwise known as the "RE Law," mandates the establishment of the Feed-In Tariff System whereby the electricity produced from wind, solar, ocean, run-of-river hydropower and biomass are to be paid a fixed tariff, in accordance with, among others, the Feed-in Tariff Rules ("FIT Rules") promulgated by the Energy Regulatory Commission (ERC) through ERC Resolution No. 16, series of 2010 and further amended through ERC Resolution No. 15, series of 2012, and the Guidelines for the Collection of the Feed-in Tariff Allowance and Disbursement of the FIT-All Fund (FIT-All Guidelines) promulgated by the ERC through ERC Resolution No. 24, series of 2013;

WHEREAS, the RE Developer is engaged in the exploration, development and utilization of [●] energy through its [●name of project], pursuant to Renewable Energy Service/ Operating Contract No. [●] dated [●] for the development of a ___MW power generating plant using [technology] resources (the "Eligible RE Plant"), located in [●];

WHEREAS, the RE Developer is authorized to proceed to the development stage of its Renewable Energy Service Contract (RESC) and intends to participate in the FIT System with its Eligible RE Plant, which is scheduled to commence commercial operations on [●] as a generating facility connected to the Host DU, to serve the electricity requirements of the latter's franchise area;

WHEREAS, under the FIT Rules and ERC Resolution No. 10, Series of 2012, dated July 27, 2012, in relation to ERC Case No. 2011-006 RM, the Eligible RE Plant is entitled to a FIT Rate of [●Rate in Words (P●)] as the same may be adjusted from time to time for inflation and foreign exchange by the ERC as provided under Section 2.10 of the FIT Rules;

WHEREAS, pursuant to the FIT Rules and the FIT-All Guidelines, the Administrator shall, among others, administer the implementation of the FIT System, manage the FIT-All Fund from which the RE Developer shall be paid, and perform the function of settlement agent for the payment of the Actual FIT Revenue to the Eligible RE Plant for its Actual RE Generation;

WHEREAS, under the FIT-All Guidelines, the Eligible RE Plant being located in Mindanao is required to enter into this Agreement with a Host DU, which shall accept and pay for the Actual RE Generation of the Plant, and remit payment for the same to the Administrator;

WHEREAS, the Parties hereby enter into this Agreement to set out their respective responsibilities relating to the priority dispatch of, and payment of the Actual Cost Recovery Revenue for, the electricity generated by the Eligible RE Plant to the RE Developer.

NOW, THEREFORE, in view of the foregoing premises, the Parties hereby agree as follows:

Section 1.0. Definitions and Interpretation

- (a) **Definitions.** The definitions of terms used in this Agreement are set out in Schedule A of this Agreement. Capitalized terms used but not otherwise defined herein shall have the same meaning ascribed thereto in the FIT-All Guidelines and the FIT Rules.

- (b) **Interpretation.** In this Agreement, except where the context requires otherwise:
 - i. words indicating one gender include all genders;
 - ii. words indicating the singular also include the plural and words indicating the plural also include the singular;
 - iii. provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing;
 - iv. "written" or "in writing" means hand-written, type-written or printed and resulting in a permanent record;
 - v. "include" shall mean include, but not limited to;
 - vi. marginal words and other headings shall not be taken into consideration in the interpretation of this Agreement;
 - vii. references to Sections and clauses are to Sections and clauses in this Agreement;
 - viii. references to "day" "month" or "year" shall mean calendar day, calendar month or calendar year, respectively;
 - ix. a reference to any legislation includes all delegated legislation made pursuant to, and amendments, consolidations, replacements or re-enactments of such legislation;
 - x. a reference to a Government Instrumentality, other than a party to this Agreement (including an institute, association or authority) whether statutory or not, (a) which ceases to exist; or (b) whose powers or functions are transferred to another body, is a reference to the body which replaces it or substantially succeeds to its powers or functions; and
 - xi. where the day on or by which any activity or thing is to be done pursuant to the Agreement is not a Business Day, that activity or thing must be done on or by the next succeeding Business Day.

- (c) **Supplemental Interpretation.** The FIT-All Guidelines shall form an integral part of this Agreement. The RE Law and the FIT Rules shall be applied in a suppletory manner to interpret the provisions of this Agreement. In case of conflict between this Agreement and the FIT Rules and/or the FIT-All Guidelines, the FIT Rules and FIT-All Guidelines shall prevail.

Section 2.o. Scope

This Agreement shall govern the rights and obligations of the RE Developer and the Host DU in respect of supply by the RE Developer of Actual RE Generation from the Eligible RE Plant to the Host DU, and the priority dispatch, purchase of, and full payment by the Host DU for such Actual RE Generation, at a price equivalent to the Cost Recovery Rate, as such terms are defined below; as well as the remittance by the Host DU of the Actual Cost Recovery Revenue to the Administrator.

Section 3.o. Effectivity/ Term of Agreement

3.1. This Agreement shall take effect on shall become effective on the date the documents enumerated in this Section 3.1 are submitted by the RE Developer to, and certified complete by, the Host DU (the "Effective Date"), as follows:

- (a) Certified true copy of the Certificate of Registration and RE Service/Operating Contract of the RE Developer under RA No. 9513 for the Eligible RE Plant, certified by a duly authorized officer of the RE Developer;
- (b) Certified true copy of FIT Certificate of Compliance issued by the ERC for the Eligible RE Plant, certified by a duly authorized officer of the RE Developer;
- (c) Metering Services Agreement executed between the Eligible RE Plant and the applicable Metering Services Provider (MSP);
- (d) Connection Agreement between the Host DU and the Eligible RE Plant;
- (e) Transmission Service Agreement between NGCP and the Eligible RE Plant, if required for the Actual RE Generation to be delivered to the Host DU;
- (f) Nomination of the Trustee Bank of the Administrator as the receiving bank of the Eligible RE Plant for the ACRR proceeds from the Host DU.
- (g) Copies of all corporate approvals authorizing the RE Developer to execute, deliver and perform its obligations hereunder, and authorizing its signatories hereto to execute and deliver this Agreement and all other documents incidental hereto, duly certified by the RE Developer's corporate secretary.

3.2. The Term of this Agreement shall be from the Commercial Operations Date of the Eligible RE Plant as stated in the FIT Certificate of Compliance until the date that is twenty (20) years later from such Commercial Operations Date. For avoidance of doubt, while the Effective Date may occur at a later date than the Commercial Operations Date, the Term of the Agreement and the obligations of the Parties shall in all cases be reckoned from the Commercial Operations Date.

Section 4.o. Supply and Purchase/ Price

- 4.1. Commencing on the FIT entitlement date under the COC and for the entire Term of this Agreement, the RE Developer shall generate electricity from the Eligible RE Plant in accordance with the type of renewable energy resource stated in its FIT Certificate of Compliance and deliver such Actual RE Generation to the Host DU, at the Metering Point.
- 4.2. Commencing on Commercial Operations Date and for the entire Term of this Agreement the Host DU shall take, accept, purchase and pay for, all such Actual RE Generation at the Cost Recovery Rate, dispatch the same on a First Priority Dispatch basis, and remit payment of the Actual Cost Recovery Revenue for such Actual RE Generation to the Administrator on or before the relevant ACRR Due Date.
- 4.3. The Actual Cost Recovery Revenue shall be equivalent to (A) Actual RE Generation for the Billing Period multiplied by (B) the Cost Recovery Rate, which shall be the weighted average generation cost of the Host DU from all its generation sources for the relevant Billing Period, excluding generation from any other Eligible RE Plant-Non-WESM which has entered into a Renewable Energy Supply Agreement with the Host DU, if any.
- 4.4. The Cost Recovery Rate used by the Host DU in each Billing Period shall be certified and submitted by the Host DU to the ERC within five (5) days from the close of every Billing Period.
- 4.5. All Actual RE Generation from the Commercial Operations Date until the Effective Date shall be metered by the Parties and billed to the Host DU only after the occurrence of the Effective Date.

Section 5.o. Supply of Actual RE Generation

- 5.1. Supply of Actual RE Generation to the Host DU shall at all times be on a “non-firm”, “as-available” and “variable” basis, based on the intermittency of the resource. For the avoidance of doubt, nothing in this Agreement shall be construed as the RE Developer guaranteeing to fulfill any fixed or nominated capacity or provide any generation quantity to the Host DU for any hourly interval, or any other period.
- 5.2. The Actual RE Generation shall be delivered to the Host DU at the Metering Point; thereafter, the title to and risk of loss of electric energy shall pass from the RE Developer to the Host DU.
- 5.3. The Eligible RE Plant shall be responsible for arranging with the National Grid Corporation of the Philippines, or its successor concessionaire, for the wheeling of the Actual RE Generation of the Eligible RE Plant to the Metering Point, if necessary.

Section 6.o. Billing and Payment

- 6.1. Within five (5) days from the close of every Billing Period, the RE Developer shall render the ACRR Invoice to the Host DU based on its Actual RE Generation for such Billing Period, measured by the Revenue Meter and reflected in the Record of Meter Reading.

- 6.2. The Record of Meter Reading shall be used by the Parties in computing the Actual Cost Recovery Revenue due to the RE Developer to be remitted to the FIT-All Fund.
- 6.3. The payment of the Actual Cost Recovery Revenue, as stated in the ACRR Invoice, shall be due on the twenty-eight (28th) day of the month following the close of the Billing Period for which the ACRR Invoice is being rendered by the RE Developer (the "ACRR Due Date").
- 6.4. The Host DU shall timely remit the full amount of the Actual Cost Recovery Revenue for the relevant Billing Period directly to the FIT-All Fund, through the Administrator, no later than 11:00 a.m., on or before the relevant ACRR Due Date via any method utilized by the Philippine Banking System, in immediately available and cleared funds, and without deduction or set-off. The Actual Cost Recovery Revenue shall form part of the FIT-All Fund. The Host DU shall furnish the RE Developer a copy of the bank deposit slip evidencing such payment.
- 6.5. Upon receipt by the RE Developer of payment of the Actual FIT Revenue from the Administrator under the REPA, the RE Developer shall issue a receipt directly to the Host DU for the amount of ACRR actually remitted by the Host DU to the Administrator.
- 6.6. In the event that the Host DU fails to remit the Actual Cost Recovery Revenue collection in full to the Administrator on the relevant ACRR Due Date, the Host DU shall be liable for the applicable penalties that the Administrator may impose under Section 2.2.7.1 of the FIT-All Guidelines.

Section 7.o. Metering and Measurement of Plant Generation

The terms and conditions for the metering of the Eligible Plant's Actual RE Generation shall be further governed by a Metering Services Agreement.

Section 8.o. Obligations of the RE Developer. The RE Developer shall, among other obligations provided under this Agreement:

- 8.1. Generate all Actual RE Generation exclusively from the Eligible RE Plant, as and when available, in accordance with the type of RE resource for which the RE Developer has been issued its RE [Service/ Operating] Contract and FIT COC, and deliver the same to the Metering Point, where such Actual RE Generation shall be measured; *provided* that, nothing in this Agreement shall be construed as the RE Developer guaranteeing to fulfill any nominated capacity or provide any generation quantity to the Host DU for any hourly interval or any other period.
- 8.2. Not later than thirty (30) days from execution of this Agreement, and thereafter, not later than the 30th day of May of each year, submit to the Administrator and the Host DU its forecasted Annual RE Generation (showing monthly levels) for the succeeding year, in accordance with Section 1. 5.1 of the FIT-All Guidelines, with information on any events that it foresees could affect the forecast, *provided* that, nothing in this Agreement shall be construed as the RE Developer guaranteeing to deliver the forecasted Annual RE Generation or any portion thereof.
- 8.3. Render a FIT Statement of Account to the Administrator for the payment of the Actual FIT Revenue in accordance with Section 3.3.2 (a) of the FIT-All Guidelines.
- 8.4. Maintain the validity of its FIT Certificate of Compliance and perform all acts necessary to ensure that the same is not terminated, revoked or shall not expire at any time during and throughout the Term of this Agreement.

- 8.5. Upon receipt of the Actual FIT Revenue, issue an official receipt corresponding to the payment of the ACRR by the Host DU to the extent of the actual remittance of the ACRR to the FIT-All Fund.
- 8.6. In case of partial remittance of ACRR by the Host DU to the Fund, continue pursuing payment of the same by the Host DU notwithstanding payment in full by the FIT-All Fund of the Actual FIT Revenue to the Eligible RE Plant, and provide the Administrator with regular updates on the status of the same. The RE Developer shall direct the Host DU to remit any and all recoveries of any delayed payments of ACRR to the Administrator within three (3) Business Days of receipt thereof, together with interest at the Late Payment Interest Rate from the relevant ACRR Due Date until date of actual payment.
- 8.7. Pay penalty interest, if any are due, under Section 11.2 (ii) and (iii) of this Agreement.

Section 9.o. Obligations of the Host DU. The Host DU shall, among other obligations provided in this Agreement:

- 9.1. Ensure and help maintain the Eligible RE Plant's connection to the Host DU's distribution system on a priority basis; and
- 9.2. Bill and enforce the collection in full, on a timely basis, of the ACRR for the Actual RE Generation and the FIT-All from its consumers, and remit the entire amount of the ACRR and the FIT-All collections to the FIT-All Fund in accordance with the FIT-All Guidelines. In no case shall the ACRR be paid by the Host DU to the RE Developer.
- 9.3. Agree with the RE Developer on, and thereafter implement a dispatch protocol for the Actual RE Generation of the Eligible RE Plant, on a Priority Dispatch basis.
- 9.4. In the event that the Host DU has updated its collections of delayed or deficient payments of ACRR, the Host DU shall remit such delayed payments to the Administrator as soon as possible, together with interest at the applicable Late Payment Interest Rate from the relevant ACRR Due Date until date of actual payment.

Section 10.o. Representations and Warranties

- 10.1. Each Party hereby represents and warrants (solely for itself and not on behalf of the other party) to the other Parties, as of the date of this Agreement (which representations and warranties shall be deemed repeated throughout the term of this Agreement) that:
 - (a) It is an entity duly organized and existing under the Philippine law, with all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
 - (b) This Agreement has been duly executed and delivered by the individual(s) signing on each Party's behalf, and such individual has been duly authorized to sign, execute and deliver the same.
 - (c) Its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part, or it has obtained all material and necessary governmental consents, licenses, approvals and authorizations, and do not, and will not: (i) violate any law, rule, judgment, order or regulation of any office, agency or instrumentality thereof applicable to it, (ii) violate its organizational documents, or (iii) constitute a breach of any agreement to which it is a party or bound (or by which its property is bound);
 - (d) This Agreement is a legal and binding obligation enforceable against it in accordance with its terms, except to the extent enforceability is modified by bankruptcy,

reorganization and other similar laws affecting the rights of creditors generally and by general principles of equity.

- (e) On the part of the RE Developer alone, its FIT Certificate of Compliance is valid and subsisting and has not been revoked.
- (f) In procuring and maintaining this Agreement and performing its rights and obligations hereunder, neither it nor its employees, agents and representatives have violated Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, in any material respect.
- (g) It undertakes to comply in all material respects with all applicable Laws, decrees, orders, rules, regulations, and resolutions promulgated by relevant and applicable Governmental Instrumentalities and which are necessary to perform its obligations under this Agreement.

Section 11.0. Events of Default/ Pre-Termination

11.1. **RE Developer Default.** Each of the following events shall constitute an event of default by the RE Developer under this Agreement (each, an "RE Developer Default"):

- (i) The FIT COC of the Eligible RE Plant shall have been revoked or terminated by the ERC, and such revocation or termination has been confirmed by final and non-appealable judgment of a court of competent jurisdiction. There is no cure period for this RE Developer Default;
- (ii) The REPA of the RE Developer is terminated due an RE Developer Default under the REPA, and such revocation or termination has been confirmed by final and non-appealable judgment of a court of competent jurisdiction. There is likewise no cure period for this RE Developer Default; and
- (iii) The Eligible RE Plant claims payment of Actual Cost Recovery Revenue for electricity other than Actual RE Generation, i.e., electricity generated from a source other than the RE resource for which it has been issued a FIT COC, and such payment has not been refunded to the Administrator within thirty (30) days from receipt by the RE Developer of notice of default.

11.2. **Host DU Default.** The continuing failure of the Host DU for more than two (2) Billing Periods to collect and remit the ACRR in full on the relevant ACRR Due Date shall constitute an event of default of the Host DU under this Agreement ("Host DU Event of Default").

11.3. **Remedies.** Upon the occurrence of any of the events that shall constitute an Event of Default, the Party affected by the breach (the "Non-Defaulting Party") shall send the Party causing the breach (the "Defaulting Party") a notice of default ("Notice of Default"), and upon the lapse of the period to cure the event of default, the Non-Defaulting Party shall have the right to:

- (i) in the case of an RE Developer Default, suspend or terminate this Agreement upon thirty (30) days prior written notice;
- (ii) in the case of a Host DU Default, request the Administrator for the disconnection of the Host DU under Section 2.2.7.1 of the FIT-All Guidelines;
- (iii) apply for redress with the ERC for collection of any unpaid amounts; and
- (iv) pursue any other remedy provided under this Agreement, or now or hereafter existing at law or under the FIT-All Guidelines.

- 11.4. If the Defaulting Party is the RE Developer, the Host DU shall, with prior written notice to the Administrator, have the right to suspend any payments of ACRR to the RE Developer from the date of receipt by the RE Developer of the Notice of Default. If the RE Developer Default consists of an event of default under Section 11.1 (iii), the same may be cured by the payment of the amounts due, with interest at the Late Payment Interest Rate from the relevant ACRR Due Date until date of actual payment; *provided*, however, that if the RE Developer Defaults under Section 11.1 (iii) have occurred at least three (3) separate times; or the principal aggregate amount payable thereunder exceeds Ten Million Pesos (PhP10,000,000.00), then the Host DU shall, with prior written notice to the Administrator, be authorized to pre-terminate of this Agreement, notwithstanding that such prior RE Developer Defaults have been cured.
- 11.5. Upon pre-termination of the Agreement due to an Event of Default, the Host DU's obligations shall thereupon cease, and the Host DU shall pay on the date of termination all unpaid and outstanding ACRR Invoices payable up to and including the date of termination, subject to the payment by the RE Developer of any amounts which may be due to the FIT-All Fund.
- 11.6. The pre-termination of this Agreement shall be without prejudice to the imposition of other penalties on the Defaulting Party as may be provided for by Law and the FIT-All Guidelines.
- 11.7. This Agreement shall be further subject to the REPA, and shall be co-terminous therewith. In the event that the REPA is pre-terminated in accordance with its terms, this Agreement shall likewise be pre-terminated.
- 11.8. In the event of pre-termination of this Agreement together with the REPA due to an Administrator Default under the REPA, the RE Developer shall have the right to contract with other parties, including the Host DU, to sell the Actual RE Generation of the Eligible RE Plant. Notwithstanding such termination, the Eligible RE Plant and Host DU shall continue to sell and purchase, respectively, the Actual RE Generation at the Cost Recovery Rate, until such time that the RE Developer shall be able to contract for the generation of the Plant, and the Actual Cost Recovery Revenue during such period shall be remitted by the Host DU directly to the RE Developer.
- 11.9. Upon the full implementation of the WESM in Mindanao, as confirmed by the ERC, and the registration of an Eligible RE Plant-Non-WESM as a direct participant therewith, this Agreement shall be automatically terminated and substituted by the Market Participation Agreement of such Eligible RE Plant under the WESM in Mindanao. The obligations of the Parties under this Agreement shall cease upon the effectivity of such market participation agreement, subject to the payment of all sums of money due under this Agreement.

Section 12.0. Dispute Resolution

- 12.1. The Parties shall, in the first instance, attempt in good faith to mutually discuss any issue or concern arising out of or in connection with this Agreement. Any such issue or concern not resolved by such discussion between the Parties (a "Dispute") shall be sought to be resolved by amicable settlement between their authorized representatives for a period of thirty (30) calendar days from receipt by a party of a written notice from the other party of a Dispute ("Notice of Dispute"). The Notice shall also designate the authorized representative of the party. The period of settlement of a particular dispute may be extended upon the written agreement of the parties, such total period for amicable settlement not to exceed ninety (90) days, inclusive of the initial thirty (30) day period.
- 12.2. If after such period of amicable settlement, the Dispute remains unsettled, then any Party may submit the Dispute exclusively to arbitration before the ERC in accordance with

Section 5 of the FIT-All Guidelines. The arbitral decision shall be final and binding on the Parties and shall be the exclusive remedy among the Parties regarding the Dispute, and may be enforced by judgment of a court having competent jurisdiction over the same.

- 12.3. During the pendency of any Dispute or proceeding in arbitration, the Parties shall continue to perform their respective obligations hereunder.
- 12.4. In the event the arbitral decision involves the return or payment of a sum of money, the Party found liable shall, in addition to the return/payment of such amount, be charged interest at the Late Payment Interest Rate, calculated from the relevant ACRR Due Date until date of actual payment.
- 12.5. Neither Party shall take any dispute or claim subject to arbitration hereunder to any court except to enforce a final arbitration decision which the losing party refuses to comply with; *provided*, however, that either Party may take any legal action for provisional relief to protect its rights and obligations.

Section 13.o. Validity, Binding Effect and Assignability

- 13.1. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; *provided*, however, that neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by any of the Parties hereto without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed;
- 13.2. Notwithstanding the preceding section, that the RE Developer shall be authorized to assign this Agreement or any part thereof for the purpose of financing or re-financing the construction, implementation or operation of the Plant, without need of consent from the Host DU. The RE Developer shall provide the Host DU and the Administrator with certified true copy of the instrument evidencing such assignment, for the guidance of the Host DU and the Administrator.
- 13.3. The rights and obligations of the Parties shall be governed by its terms and conditions, the relevant provisions of the FIT Rules and FIT-All Guidelines, and other related issuances, orders, rules and regulations as promulgated by the relevant Governmental Instrumentality, as well as all amendments and revisions thereof, as if originally written herein; *provided*, however, that such amendments and revisions shall not impair any rights which have vested under this Agreement prior to such amendments and revisions.

Section 14.o. General Provisions

- 14.1. *Entire Agreement.* Save to the extent of the application of the FIT Rules, the FIT-All Guidelines, other applicable Laws (including any decision of the ERC), this Agreement supersedes all previous agreements, understanding, practices and negotiations of the Parties and embodies the entire understanding among the Parties in respect of its subject matter.
- 14.1. *No Waiver.* Except for Section 6.7, none of the provisions of the Agreement shall be considered waived by either Party except when such waiver is given in writing and signed by its duly authorized representative. The failure of either Party to insist, in any one or more instances, upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

- 14.2. *Amendment.* No amendment of this Agreement shall be binding upon the Parties unless executed in writing, in a document expressly providing for the effectivity of such amendment, and duly signed by the authorized representatives of the Parties.
- 14.3. *Severability.* In case one or more of the provisions contained in this Agreement shall be declared invalid, illegal or unenforceable in any respect by competent authority, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Furthermore, upon the request of any Party, the Parties shall add, in lieu of such invalid, illegal or unenforceable provision(s), such provision(s) as similar in terms as may be possible and valid, legal and enforceable, to achieve as close a possible what the Parties intended.
- 14.4. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the Republic of the Philippines.
- 14.5. *Costs.* Each of the Parties shall bear its own legal and professional fees, bank charges, other costs, fees and expenses corresponding to their respective obligations hereunder, including necessary and incidental expenses for the negotiation, preparation and implementation of this Agreement.
- 14.6. *No Partnership or Joint Venture.* Nothing in this Agreement shall be construed to create an association, trust, partnership, joint venture, agency, or impose a trust or partnership duty, obligation, or liability on or with regard to either Party, or to create any duty, standard of care, or liability to any person or entity not a Party hereto.
- 14.7. *Change in Law.* The Parties shall perform their obligations under this Agreement in accordance with all applicable laws, decrees, orders, rules, regulations, and resolutions promulgated by relevant authorities. In case of any amendment, modification or change in such law, decree, order, rule, regulation or resolution, the Parties continue to perform their respective obligations under this Agreement unless made expressly unlawful or impossible by such amendment, modification or change.
- 14.8. *Further Acts and Assurances.* Each Party agrees, in good faith, to execute and deliver all such instruments and documents, and to do and perform all such acts and things, as shall be necessary or convenient to carry out the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused their respective authorized representatives to execute this Agreement on the date and place first above written.

NAME OF HOST DU
By:

NAME OF RE DEVELOPER
By:

(NAME)
(Position)

(NAME)
(Position)

Witnessed by:

(NAME)
(Position)

(NAME)
(Position)

**Definition of Terms
Schedule A**

I. TERMS DEFINED UNDER THE FIT-ALL GUIDELINES

Actual RE Generation	FIT-All Guidelines
Actual Cost Recovery Revenue (ACRR)	FIT Certificate of Compliance (FIT COC)
Actual Cost Recovery Revenue Invoice (ACRR Invoice)	FIT Rules
Actual FIT Differential Invoice	FIT Statement of Account
Actual FIT Revenue	FIT System
Administrator (TransCo)	Grid
Billing Period	Late Payment Interest Rate
Business Day	Metering Point
Commercial Operations Date (COD)	Metering Services Provider
Collection Agents	NGCP
Distribution Utility (DU)	PEMC
Eligible RE Plant-Non-WESM	RE Law
Energy Regulatory Commission (ERC)	Record of Meter Reading
FIT-All	Revenue Meter
FIT-All Fund	Trustee
	WESM

II. TERMS DEFINED UNDER THIS AGREEMENT

“ACRR Due Date” has the meaning ascribed in Section 6.3 of this Agreement.

“Agreement” means this Renewable Energy Supply Agreement, including all annexes, supplements, amendments, and schedules hereto.

“Connection Agreement” means the agreement dated between the [NGCP/ Host DU] and the Eligible RE Plant for the connection of the latter to the [Grid/ Distribution System] of the Host DU.

“Cost Recovery Rate” shall have the meaning ascribed in Section 4.3 of this Agreement.

“Defaulting Party” shall have the meaning ascribed in Section 11.3 of this Agreement.

“Dispute” shall have the meaning ascribed in Section 12.1 of this Agreement.

“Effective Date” has the meaning ascribed in Section 3.1 of this Agreement.

“Eligible RE Plant” as used in this Agreement, means the [●name of project] power plant of the RE Developer which utilizes [●] energy, and with an installed capacity of [●] MW and estimated annual generation of [●] GWH, and which has been rendered eligible to participate in the FIT System.

“First Priority Dispatch” means that the Host DU shall dispatch the RE Developer’s Actual RE Generation first before all of its other suppliers or other sources of electricity, pursuant to priority dispatch for emerging RE technologies under Section 7 of the RE Law;

“Governmental Instrumentality” means the government of the Philippines and any department, political subdivision, agency, instrumentality, regulatory authority, corporation or commission, legislative, judicial or administrative body, whether national, provincial, or local, having jurisdiction over the matter(s) in question.

“Host DU” means the distribution utility or electric cooperative which has entered into this Agreement with the RE Developer for the purchase of the Actual RE Generation of the Eligible RE Plant and the payment of the relevant Actual Cost Recovery Revenue;

“Host DU Event of Default” has the meaning ascribed in Section 11.2 of this Agreement.

“Non-Defaulting Party” shall have the meaning ascribed in Section 11.3 of this Agreement.

“Notice of Default” shall have the meaning ascribed in Section 11.3 of this Agreement.

“Notice of Dispute” shall have the meaning ascribed in Section 12.1 of this Agreement.

“Parties” means the the Host DU, the RE Developer and the Administrator, collectively; and “Party” means either or each of them, as the context requires.

“RE Developer Default” has the meaning ascribed to it in Section 11.1 of this Agreement.

“REPA” means the Renewable Energy Payment Agreement between the RE Developer and the Administrator dated _____.

[NOTARIAL PAGE FOLLOWS]



ENERGY REGULATORY COMMISSION
WEBPOSTING FORM

Requesting Service/Unit/Office/Others (SUOO) Copy

I. PARTICULARS

Table with columns: Title of Document, Hard Copy, Soft Copy Format (DOC, XLS, PDF). Row 1: Notice of Public Consultation on the Renewable Energy Payment Agreement (REPA) and Renewable Energy Supply Agreement (RESA) Templates. Hard Copy: X.

II. TYPE OF DOCUMENT

- RESOLUTION, DECISION, NEWS/NOTICE, RULES/REGULATION, ORDER, OTHERS

III. SPECIAL INSTRUCTIONS

Submitted by: SHARON O. MONTAÑER (Signature) Date: JULY 14, 2014
Printed Name & Signature Time:

Received by: JS (Signature) 7/14/14 11:20 AM



ENERGY REGULATORY COMMISSION
WEBPOSTING FORM

MISD Copy

I. PARTICULARS

Table with columns: Title of Document, Hard Copy, Soft Copy Format (DOC, XLS, PDF). Row 1: Notice of Public Consultation on the Renewable Energy Payment Agreement (REPA) and Renewable Energy Supply Agreement (RESA) Templates. Hard Copy: X.

II. TYPE OF DOCUMENT

- RESOLUTION, DECISION, NEWS/NOTICE, RULES/REGULATION, ORDER, OTHERS

III. SPECIAL INSTRUCTIONS

Submitted by: SHARON O. MONTAÑER (Signature) Date: JULY 14, 2014
Printed Name & Signature Time:

Received by: JS (Signature) 7/14/14 11:20 AM

PID Use Only

POST TO COMPENDIUM? (Please check appropriate box/es.) YES NO

Table with columns: GENERATION, TRANSMISSION, DISTRIBUTION, SUPPLY, CONSUMER, GEN. APPLICATION, RESOLUTION, RULES/REGULATION, DECISION, ORDER.

Recommended by: Chief - Public Information Division Date & Time:

Approved by: JS (Signature) Date & Time: 7/14/14

Director - Planning & Information Service

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