

**RENEWABLE ENERGY PAYMENT AGREEMENT
(PRO-FORMA)**

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

[●FIT-ALLOWANCE ADMINISTRATOR], with its principal office at [●], and represented herein by its duly authorized [●Position], [●Name of Representative] ("ADMINISTRATOR");

- 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 duly authorized [●Position], [●Name of Representative] ("RE DEVELOPER");

(Each of the Administrator 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 Act", 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") and Guidelines for the Collection of the Feed-in Tariff Allowance and Disbursement of the FIT-All Fund ("FIT-All Guidelines") adopted and promulgated by the Energy Regulatory Commission ("ERC") through ERC Resolution No. 16, Series of 2010 and ERC Resolution No. 24, Series of 2013, respectively;

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

WHEREAS, the RE Developer is authorized to proceed to the development stage of its RESC and intends to participate in the FIT System through its Eligible RE Plant, which is scheduled to commence commercial operations on [●];

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;

WHEREAS, pursuant to the FIT Rules and the FIT-All Guidelines, the National Transmission Corporation (Transco) as 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 based on its Actual RE Generation;

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

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

Section 1.o. Definitions and Interpretation

- 1.1. **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.
- 1.2. **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 Governmental 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.
- 1.3. **Supplemental Interpretation.** The FIT-All Guidelines shall form an integral part of this Agreement. The FIT Rules shall be applied in a supplementary manner to interpret the provisions of this Agreement. In case of any conflict between this Agreement and the FIT Rules and/ or the FIT-All Guidelines, the FIT Rules and the FIT-All Guidelines shall prevail.

Section 2.o. Scope

Subject to and in accordance with the FIT Rules and the FIT-All Guidelines, this Agreement shall govern the rights and obligations of the Parties in respect of the full payment of all Actual RE Generation of the Eligible RE Plant for each Billing Period, at a price equivalent to the applicable FIT Rate, for the entire Term of this Agreement.

Section 3.o. Effectivity/ Term of Agreement

- 3.1. This Agreement 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 Administrator (the "Effective Date"), as follows:

- a. Copies of the latest Amended Articles of Incorporation and By-laws of the RE Developer, together with the SEC Certificate of Filing of the same, duly certified by the RE Developer's corporate secretary;
- b. Certified true copy of the Certificate of Registration and RE Service Contract or the RE 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;
- c. 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;
- d. Metering Services Agreement executed between the Eligible RE Plant and the Metering Services Provider (MSP);
- e. Connection Agreement between the [NGCP/ host DU] and the Eligible RE Plant;
- f. Transmission Service Agreement between NGCP and the Eligible RE Plant;
- g. Market Participation Agreement between the Philippine Electricity Market Corporation (PEMC) and the RE Developer for the latter's Eligible RE Plant / Renewable Energy Supply Agreement between the Host DU and the RE Developer; and

Nomination of the Trustee Bank as the receiving bank of the Eligible RE Plant for the FIT Revenue from the Administrator and ACRR proceeds from PEMC.

- h. 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. In the event that there are any updates, amendments, extensions or revisions of the foregoing documents, the RE Developer shall submit to the Administrator, on the Billing Period immediately following receipt of such documents, true copies of such documents duly certified by the authorized representative of the RE Developer together with the FIT Statement of Account, to the Administrator.

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 or until the period specified in Section 1.4 of the FIT Rules. For avoidance of doubt, while the Effective Date may occur at a later date than the Commercial Operations Date, the Term of the Agreement shall in all cases be reckoned from the Commercial Operations Date.

Section 4.0. FIT Payable to RE Developer

- 4.1. The amount payable by the Administrator to the RE Developer for **each** Billing Period shall be the Actual FIT Revenue, for **all** Billing Periods occurring within the Term.
- 4.2. The FIT Rate, as may be adjusted by the ERC in accordance with Section 2.10 of the FIT Rules, shall be applied to, and multiplied by, the Actual RE Generation of the Eligible RE Plant to determine the Actual FIT Revenue to be paid for each Billing Period during the entire Term of this Agreement.
- 4.3. The Record of Meter Reading shall indicate the amount of Actual RE Generation as measured at the Metering Point for each Billing Period, and shall be attached to the FIT Statement of Account.

- 4.4. The Actual FIT Revenue shall be payable by the Administrator to the RE Developer on every Payment Date, out of the FIT-All Fund, in immediately available and cleared funds in Philippine currency.

Section 5.o. Metering and Measurement of Actual RE Generation

Metering and measurement of the Eligible RE Plant's Actual RE Generation shall be in accordance with Section 3.4 of the FIT-All Guidelines and the Metering Services Agreement. The Metering Services Provider and the RE Developer shall utilize the Record of Meter Reading, which shall set out the Actual RE Generation for each Billing Period.

Section 6.o. Requirements for Payment

- 6.1. Commencing on Commercial Operations Date and for the entire Term of this Agreement the Administrator shall pay the Actual FIT Revenue for all Actual RE Generation of the Eligible RE Plant for all Billing Periods within the Term. In order to collect all such payments of the Actual FIT Revenue, the RE Developer shall, in accordance with Section 3.3.2 of the FIT-All Guidelines, submit the following to the Administrator each Billing Period:
- a. FIT Statement of Account, stating the Actual FIT Revenue due to the Eligible RE Plant for the relevant Billing Period;
 - b. Actual FIT Differential Invoice, stating the amount of the Actual FIT Differential due to the Eligible RE Plant from the Administrator for the relevant Billing Period, as an attachment to the FIT Statement of Account;
 - c. Actual Cost Recovery Revenue (ACRR) Invoice, in the form of the [Summary of PEMC Proceeds stating the amount of ACRR due from the PEMC to the Eligible RE Plant for the relevant Billing Period, as an attachment to the FIT Statement of Account; and
 - d. Record of Meter Reading, reflecting the Actual RE Generation for the relevant Billing Period, as an attachment to the FIT Statement of Account.
- 6.2. To assist the Administrator in verifying the Actual FIT Revenue due and to expedite the payment application process, the Eligible RE Plant shall submit the FIT Statement of Account and all documents stated in the preceding Section 6.1 to the Administrator, either by personal delivery of the original or by electronic copy/facsimile/electronic mail, not later than the fifteenth (15th) calendar day of the month following the close of the Billing Period. The original of the FIT Statement of Account and supporting documents shall be delivered by the RE Developer to the Administrator no later than three (3) days before the Payment Date, otherwise release of payment may be delayed.

6.1.

All Actual RE Generation from the Commercial Operations Date until the Effective Date shall be metered by the Parties and billed to the Administrator only after the occurrence of the Effective Date.

Section 7.o Payment by the Administrator

- 7.1. The FIT Statement of Account in the amount of the Actual FIT Revenue shall be due and payable from the FIT-All Fund to the Eligible RE Plant on the fifth (5th) calendar day of the second (2nd) month following the close of the Billing Period for which the FIT Statement of Account is being submitted (the "Payment Date"), provided that the FIT Statement of Account has been received by the Administrator not later than the fifteenth (15th) calendar day of the month following the close of the Billing Period.
- 7.2. Notwithstanding that the Eligible RE Plant submits the FIT Statement of Account earlier, the Payment Date shall remain the same.
- 7.3. The Trustee shall execute payment to the Eligible RE Plant via any method utilized by the Philippine banking system in immediately available and cleared funds no later than 11:00 a.m., on Payment Date, from the FIT-All Fund to such account or accounts specified by the Eligible RE Plant in the FIT Statement of Account.
- 7.4. Before the close of the Business Day when the payment was made, the Eligible RE Plant shall issue a receipt to (i) the Administrator acknowledging receipt of actual payment of the Actual FIT Differential and to (ii) the PEMC / Host DU acknowledging actual receipt of the Actual Cost Recovery Revenue.
- 7.5. In the event that the Administrator fails to pay any amount stated in the FIT Statement of Account by the relevant Payment Date as provided under Section 2.2.2 of the FIT-All Guidelines, the Administrator shall pay to the RE Developer such unpaid amount plus interest thereon, calculated from the Payment Date to the day such amount is actually paid. The Administrator shall, no later than the relevant Payment Date for the Actual FIT Revenue Invoice, notify the RE Developer in writing of the reasons for any insufficient payments thereon.
- 7.6. The Administrator shall pay the Actual FIT Revenue to the Eligible RE Plant from the FIT-All Fund, but shall at no time be liable to pay any amounts due under this Agreement from its own funds or any other funds provided to it, other than in accordance with the FIT-All Guidelines, for purposes of making payment to RE Developers. Subject to Section 7.5 above, the Administrator shall only be required to pay the Actual FIT Revenue and any interest thereon at such time as such amounts are made available to it from the FIT-All Fund by the Trustee in accordance with the trust agreement.

Section 8.o. Obligations of the RE Developer. For the entire term of this Agreement, the RE Developer shall:

- 8.1. Generate all Actual RE Generation, to be measured at the Metering Point, 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; *provided* that, nothing in this Agreement shall be construed as the RE Developer guaranteeing to fulfil any nominated capacity or provide any generation quantity to the PEMC / 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 its forecasted Annual RE Generation (showing monthly levels) for the succeeding year, in accordance with Section 1.4.4.1 of the FIT-All Guidelines, and 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, supported by the documents enumerated in Section 6.1 of this Agreement, in accordance with Section 3.3.2 of the FIT-All Guidelines.
- 8.4. Comply with the terms and conditions of the 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 official receipts corresponding to the payment of (i) the Actual FIT Differential by the Administrator; and (ii) the ACRR by the PEMC/ 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 to the Fund, continue pursuing payment of the same by the PEMC/ Host DU] notwithstanding payment in full by the Administrator 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 instruct the PEMC/ Host DU] to remit any and all recoveries of any delayed payments of ACRR which have already been covered by payments of the Actual FIT Revenue, directly to the Administrator.
- 8.7. In the event that the RE Developer opts to nominate another bank as the receiving bank for the Actual FIT Revenue paid by the Administrator, any and all additional fees incurred by the Administrator for the remittance of the same to the RE Developer shall be for the account of the RE Developer.
- 8.8. Pay penalty interest, if any are due, under Section 11.2 (ii) and (iii) of this Agreement.

Section 9.0 Obligations of the Administrator. For the entire term of this Agreement, the Administrator shall:

- 9.1. Validate for completeness the Eligible RE Plant's FIT Statement of Account, and cause the full and timely settlement and discharge of the Actual FIT Revenue due to the Eligible RE Plant from the FIT-All Fund on each Payment Date, in accordance with the FIT-All Guidelines. Such settlement and discharge of the Actual FIT Revenue shall be without set-off or deduction, except as provided in Section 8.7 of this Agreement.
- 9.2. Comply with its obligations under the trust agreement and under the FIT-All Guidelines, including but not limited to, causing the Trustee to make full and timely payment and settlement of the Actual FIT Revenue due to the RE Developer from the FIT-All Fund on each Payment Date.
- 9.3. Cause the timely and full collection of the FIT-All and Actual Cost Recovery Revenue from the relevant Collection Agents to the extent authorized by the FIT-All Guidelines.
- 9.4. Allow the inspection of books of account and related transactions pertaining to the FIT-All Fund, by the ERC, PEMC/ Host DU], and the RE Developer, during business hours on Business Days.

- 9.5. Monitor compliance by the Collection Agents of the billing, collection and remittance of the FIT-All and Actual Cost Recovery Revenue, as may be applicable to the FIT-All Fund. The Administrator shall report any partial, delayed or non-collection or remittance of the Actual Cost Recovery Revenue, or the FIT-All, or both, to the ERC and recommend and enforce sanctions therefor as may be authorized by the FIT-All Guidelines.

Section 10.0. Representations and Warranties.

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 that:

- (a) It is an entity duly organized and existing under 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 its 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 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 Governmental 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.
- (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. **Administrator Default.** The failure of the Administrator to comply with any of its payment obligations which are due under this Agreement, and the same is not remedied within thirty (30) days from receipt of notice of default, shall constitute an event of default by the Administrator under this Agreement (each an "Administrator Default"). The payment in full of all outstanding amounts due together with the applicable late payment interest under Section 2.2.8 of the FIT-All Guidelines for any delay in payment of the Actual FIT Revenue shall cure any Administrator Default.
- 11.2. **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 Certificate of Compliance 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 Eligible RE Plant claims payment of Actual FIT 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; and
 - (iii) The Eligible RE Plant receives the delayed payments of ACRR from the PEMC, and fails to direct the PEMC to remit such delayed payments directly to the Administrator as required under Section 8.6, and such ACRR payments have not thereafter been remitted within thirty (30) days from receipt of notice 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) suspend or pre-terminate this Agreement upon thirty (30) days prior written notice to the Defaulting Party and its host DU, if applicable, (ii) apply for redress with the ERC for collection of any unpaid amounts; and (iii) pursue any other remedy provided under this Agreement, or now or hereafter existing at law or under the FIT Rules and the FIT-All Guidelines.
- 11.4. If the Defaulting Party is the RE Developer, the Administrator shall, with prior written notice to the RE Developer and its host DU, if applicable, have the right to suspend any payments 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 11.2 (ii) or (iii), the same may be cured by the payment of the amounts due, with interest at the Late Payment Interest Rate from the date when such amounts were due until actual payment date; provided, however, that if the RE Developer Defaults under Section 11.2 (ii) or (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 Administrator shall be authorized to pre-terminate 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 Administrator's obligations shall thereupon cease, and the Administrator shall pay on the date of termination all unpaid and outstanding FIT Statements of Account 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. In the event of pre-termination of this Agreement due to an Administrator Default, the RE Developer shall have the right to contract with other parties, including the DU, to sell the Actual RE generation of the Eligible RE Plant. Notwithstanding such pre-termination, the Eligible RE Plant and PEMC shall continue to sell and purchase, respectively, the Actual RE Generation at the applicable cost recovery rate as provided in Section 2.2 of the FIT-All Guidelines, until such time that the RE Developer shall be able to contract for the RE Generation of the Plant.
- 11.7. 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, the FIT Rules, and the FIT-All Guidelines.

Section 12.o. 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 the Rules of Practice and Procedure. The arbitral decision shall be final and binding on the Parties and shall be the exclusive remedy among the Parties regarding the Dispute, and shall 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 to the Administrator, 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 Payment Date to the day such amount is actually paid.
- 12.5. In the event the judgment involves the return or payment of a sum of money, the Party liable shall, in addition to the return/payment of such amount, be charged interest at the Late Payment Interest Rate, calculated from the time such amount became due to the day such amount is actually paid.
- 12.6. 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.

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, 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, with prior written notice to, and without need of consent from, the Administrator. The RE Developer shall provide the Administrator with a certified true copy of the instrument evidencing such assignment, for the guidance of 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.

14.0 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.
- 14.2. *No Waiver.* Except for Section 6.3, 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.
- 14.3. *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.
- 14.4. *Notices.* All communications and notices provided for hereunder shall be in writing and shall be delivered addressed as follows:

To the Administrator: THE NATIONAL TRANSMISSION CORPORATION
[●]

Attention: (Name)
(Position)

To the RE Developer: COMPANY NAME
(Address)

Attention: (Name)
(Position)

Any Party may change its address for purposes hereof by serving written notice to the other Parties.

- 14.5. *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.

- 14.6. *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. In case of any amendment, modification or change in such Law, the Parties shall 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 the other may reasonably require to consummate, evidence or confirm the agreements contained herein in the manner contemplated by this Agreement.
- 14.9. *Governing Law.* This Agreement shall be governed by and construed in accordance with the Laws of the Republic of the Philippines.

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

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

II. TERMS DEFINED UNDER THIS AGREEMENT

“Administrator Default” has the meaning ascribed thereto in Section 11.1 of this Agreement.

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

“Annual RE Generation” has the meaning ascribed thereto in Section 8.2 of this Agreement.

“Certificate of Registration” means the Certificate issued by the DOE pursuant to Section 26 of the RE Law and its Implementing Rules and Regulations, evidencing registration as an RE Developer under the RE Law.

“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.

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

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

“Effective Date” has the meaning ascribed thereto 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, located in _____ which utilizes [●] energy, and with an installed capacity of [●] MW, and as defined in the Guidelines.

“FIT Rate” means the prevailing feed-in tariff of [●Rate in Words (P●)] Php / kWh approved by the ERC for [●] renewable energy used by the Eligible RE Plant, as the same may be adjusted by the ERC from time to time for inflation and foreign exchange, applicable to and payable to the Eligible RE Plant for every kilowatt-hour of Actual RE Generation delivered by the Eligible RE Plant and measured at the Metering Point.

“host DU” as used in this Agreement, means the Distribution Utility to which the Eligible RE Plant is physically connected for its deliveries of Actual RE Generation, and shall not refer to the Host DU as defined in the FIT-All Guidelines.

“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.

“Law” means all applicable laws, statutes, rules, codes, ordinances, regulations, resolutions, orders, decrees, licenses, permits, approvals, agreements of any Governmental Instrumentality, including, interpretations of any of the foregoing by a Government Instrumentality, and the judgments, decrees, injunctions, writs, orders or similar action of any court, arbitrator, or other judicial or quasi-judicial tribunal or agency.

“Market Participation Agreement” means the agreement between the PEMC and the Eligible RE Plant governing the participation of the latter in the WESM.

“Metering Services Agreement” means the agreement dated [●] between the NGCP and the Eligible RE Plant, which governs the use of a WESM-ready revenue meter and compliant with the WESM Rules and other applicable Laws, installed at the Plant to measure and record the electricity generated by the Plant at the Metering Point.

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

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

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

“Payment Date” shall have the meaning ascribed thereto in Section 7.1 of this Agreement, in accordance with the Guidelines.

“RE Developer” means (Name of Developer) which is the developer of the Eligible RE Plant.

“RE Developer Default” has the meaning ascribed thereto in Section 11.2 of this Agreement.

“RE Service Contract” or “RESC” refers to the Renewable Energy Service Contract No. _____, dated _____, issued by the DOE to the RE Developer for the Eligible RE Plant.

“Transmission Service Agreement” means the agreement between NGCP and the Eligible RE Plant for the provision of Transmission Services.

[NOTARIAL PAGE FOLLOWS]