

**MINISTRY OF  
INDUSTRY AND  
TRADE**

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**SOCIALIST REPUBLIC OF VIETNAM**  
**Independence – Freedom – Happiness**

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**Ref: /2020/TT-BCT**

*Ha Noi, dd/mm/2020*

## **CIRCULAR**

**On amending and supplementing of a number of articles under Circular No. 44/2015/TT-BCT dated December 9, 2015 of Minister of Industry and Trade on Project development, Avoided Cost Tariff and Standardized Power Purchase Agreement for biomass power projects**

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*Pursuant to the Electricity Law No. 28/2004/QH11 dated December 03, 2004; Law on amending and supplementing a number of articles of the Electricity Law dated November 20, 2012;*

*Pursuant to the Government Decree No. 137/2013/ND-CP dated October 21, 2013 on detailing the execution of a number of articles under the Electricity Law and the Law on amending and supplementing a number of articles of the Electricity Law;*

*Pursuant to the Government's Decree No. 98/2017/ND-CP dated August 18, 2017 on prescribing functions, tasks, powers and organizational structures of the Ministry of Industry and Trade;*

*Pursuant to the Decision No. 08/2020/QD-TTg dated March 5, 2020 of the Prime Minister on the amending, supplementing of a number of articles under Decision No. 24/2014/QD-TTg dated March 24, 2014 of the Prime Minister on supporting mechanisms for development of biomass power projects in Vietnam;*

*In response the request of the General Director of the Electricity and Renewable Energy Authority,*

*Minister of Industry and Trade hereby promulgates the Circular on biomass power project development and standardized power purchase agreement for biomass power projects.*

## **Chapter I** **GENERAL PROVISIONS**

**Article 1. To amend and supplement of a number of articles under Circular No. 44/2015/TT-BCT dated December 9, 2015 of Minister of Industry and Trade on Project development, Avoided Cost Tariff and Standardized Power Purchase Agreement for biomass power projects**

**1. Article 1 shall be amended as follows:**

**“Article 1. Adjustment scope**

This Circular stipulates the development of biomass power projects and Standardized power purchase agreement for biomass power projects in Vietnam (hereinafter referred to as *Standardized Power Purchase Agreement or SPPA*).”

**2. Article 4 shall be amended as follows:**

**“Article 4. The dossier requesting for biomass power project incorporation into power development plan**

The dossier requesting for biomass power project incorporation into the power development plan shall consist of:

1. Planning scheme, including the following main contents:

- The necessity of project investment and conditions for making the construction investment.

- Intended objectives, scale, locations (including both the location and the angular coordinate) and project implementation forms.

- Demands for using the land and natural resources: specify the surveyed area, temporarily used area, area of limited use; List the types of land, analyze the efficient use of land and natural resources; evaluate the compatibility with the land use planning and the overlap with other plans.

- Report on the biomass potential within the project’s area.

- Preliminary remarks about the technological solutions, including analysis and selection of technologies based on the characteristics of input materials.

- Preliminary design plan which specifies the location of construction site; type and level of the main work; preliminary drawing of the project’s general layout; drawing and preliminary interpretation of the foundation solution selected for the main work.

- Report on the selection of the plan on connecting biomass power plant to the power system. In the report, clearly specify information about the current state of power source and grid, power source and grid development plan, comparison and selection of connection plans, calculation of the impacts on the source and grid thereof during the execution of the project and evaluation of the absorbance

potential of the power grid when the project is brought into operation.

- Estimate report on the total investment.
- Preliminary evaluation of financial and economic efficiency, social-economic efficiency and impacts of the project.

2. A document of the provincial People's Committee specifying the planning location and the land use area which are conformable with the land use planning and land use plan and specifying how they overlap with other plans.

3. Opinions of the regional power corporation (if connected to the power distribution system) or the power transmission corporation (if connected to the power transmission system), and opinions of Electricity of Vietnam on the absorption potential of the regional power grid within the area and the dossier for supplementing additional information to the planning scheme.”

**3. Article 9 shall be amended as follows:**

**“Article 9. Application of the biomass power price to the biomass power projects**

The biomass power price shall be applicable for the grid-connected biomass power projects in accordance with Decision 08/2020/QD-TTg dated March 5, 2020 of the Prime Minister on the amending, supplementing of a number of articles under Decision No. 24/2014/QD-TTg dated March 24, 2014 of the Prime Minister on the supporting mechanisms for development of biomass power projects in Vietnam.”

**4. Article 10 shall be amended as follows:**

**“Article 10. Application of Standardized Power Purchase Agreement for the grid-connected biomass power projects**

1. The use of SPPA for biomass power projects shall be mandatory for selling and buying power between a Power Seller and a Power Buyer.

2. The SPPA is only applicable for the electrical energy produced from the biomass energy source.

3. The contents of the SPPA for biomass power projects are specified in Appendix III attached to this Circular.

4. The Power Seller and Power Buyer may only supplement additional contents to the SPPA to clearly state the responsibilities and powers of the parties but shall not amend the basic contents of such Agreement.”

**5. Article 11 shall be amended as follows:**

**“Article 11. Implementation**

1. The Electricity and Renewable Energy Authority (EREA) shall be responsible for:

Disseminating this Circular, provide guidance for implementing it and inspect such implementation. If any problem arises during the implementation, Electricity and Renewable Energy Authority shall cooperate with related units and localities in suggesting the Minister of Industry and Trade to amend, supplement this Circular.

2. Provincial People’s Committee shall be responsible for:

a) Monitoring, supervising, inspecting and reporting on the development activities of the biomass power projects in the province based on the approved power development plan which is conformable with the regulations hereof.

b) Cooperating with the Ministry of Industry and Trade to locate biomass power development area in the province and make sure such area is conformable with the land use planning.”

**6. Amending and supplementing point a, point d under clause 2, Article 12 as follows:**

**“Article 12. Responsibilities of related organizations/individuals**

2. The Power Seller shall be responsible for:

a) Negotiating and signing PPA with the Power Purchaser in accordance with the regulated SPPA and the power selling price as specified by Decision 08/2020/QD-TTg dated March 5, 2020 of the Prime Minister on the amending, supplementing of a number of articles under Decision No. 24/2014/QD-TTg dated March 24, 2014 of the Prime Minister on supporting mechanisms for development of biomass power projects in Vietnam;

d Sending 01 (one) copy of the signed PPA to Electricity and Renewable Energy Authority (EREA) no later than 30 days from the signature date;

3. The Power Purchaser shall be responsible for:

a) Negotiating and signing PPA with the Seller in accordance with the regulated SPPA and the power selling price as specified by Decision 08/2020/QD-TTg dated March 5, 2020 of the Prime Minister on the amending, supplementing of a number of articles under Decision No. 24/2014/QD-TTg dated March 24, 2014 of the Prime Minister on supporting mechanism for development of biomass power projects in Vietnam, if the Seller fulfills all conditions as prescribed in clause 4, Article 1 of the Decision 08/2020/QD-TTg and other relevant legal provisions;

b) Complying with MoIT-promulgated regulations on power system operation, power transmission and power distribution.”

**7. Article 13 shall be amended as follows:**

**“Article 13. Transitional provisions**

The biomass power projects which have been brought into operation before April 25, 2020 may re-sign the Power Purchase Agreement with the Power Purchaser, in order for them to apply the power price specified in clause 9. Article 1 of the Decision 08/2020/QD-TTg from March 5, 2020 to the expiry date specified in the signed Power Purchase Agreement.”

**8. Amending and supplementing Appendix III.**

9. Circular No. 29/2015/TT-BCT dated August 31, 2015 of the Ministry of Industry and Trade, stipulating the content and procedures for developing and approving the master plans for development and use of biomass energy shall expire once this Circular comes into force.

**Article 2. Abolition**

Abolishing clause 4 under Article 2, Article 3, Article 5, Article 7, Article 8, Appendix I, Appendix II.

**Article 3. Implementation effectiveness**

This Circular comes into force from .../.../2020.

***Recipients:***

- Prime Minister, Deputy Prime Minister;
- Office of Party’s General Secretary;
- Ministries, Ministerial-level agencies;

**MINISTER**

- People's Committees of provinces and centrally- run cities;
- Official Gazette;
- Government's website;
- MoIT's website; EREA's website;
- Ministry of Justice (Department for Checking Legal Normative Document);
- DoITs of provinces and centrally- run cities;
- EVN;
- Power Corporations;
- For filing: Clerical section, EREA, Legal section.

**Tran Tuan Anh**

GIZ Unofficial Translation - For Reference Only

**APPENDIX III**

**STANDARDIZED POWER PURCHASE AGREEMENT FOR GRID-  
CONNECTED BIOMASS POWER PROJECTS**

*(Enclosed with the to Circular No. /2020/TT-BCT dated ...2020 of the Minister  
of Industry and Trade)*

**STANDARDIZED POWER PURCHASE AGREEMENT  
FOR BIOMASS POWER PROJECTS**

**FOR**

**BIOMASS POWER PROJECT (Insert project title)**

**BETWEEN**

**[NAME OF THE POWER SELLER]**

**As the “Power Seller”**

**and**

**[NAME OF THE POWER PURCHASER]**

**As the “Power Purchaser”**

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**SOCIALIST REPUBLIC OF VIETNAM**  
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**POWER PURCHASE AGREEMENT**

Pursuant to the Electricity Law dated December 3, 2004 and the Law on amendment of and supplement to some articles of Electricity Law dated November 20, 2012;

Pursuant to Commerce Law dated June 14, 2005;

Pursuant to the Prime Minister's Decision 24/2014/QD-TTg dated March 24, 2014 on the support mechanism for development of biomass power projects in Vietnam; and the Prime Minister's Decision 08/2020/QD-TTg dated March 5, 2020 on amendment of and supplement to some articles of Decision 24/2014/QD-TTg;

Pursuant to Circular /2020/TT-BCT dated ... 2020 the Minister of Industry and Trade on biomass project development and standardized power purchase agreement for the projects thereof;

Based on the demand for power purchase/sale of the two parties,

Today, DD.....MM.....YY, at .....

**We are:**

**Seller:** \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Tax Code: \_\_\_\_\_

Account No.: \_\_\_\_\_ at Bank \_\_\_\_\_

Represented by: \_\_\_\_\_

Title: \_\_\_\_\_

(Authorized by \_\_\_\_ in accordance with Authorization Document No. \_\_\_\_\_, DD \_\_\_\_ MM \_\_\_\_ YY \_\_\_\_)

(hereafter referred to as "**Seller**"); and

**Purchaser:** \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Tax Code: \_\_\_\_\_

Account No.: \_\_\_\_\_ at Bank \_\_\_\_\_

Represented by: \_\_\_\_\_

Title: \_\_\_\_\_

(Authorized by \_\_\_\_ in accordance with Authorization Document No. \_\_\_\_\_, DD \_\_\_\_ MM \_\_\_\_ YY \_\_\_\_)

(hereafter referred to as “**Purchaser**”).

The parties hereto agree to sign the Power Purchase Agreement for purchasing and selling power generated by Biomass Power Plant [Name of the project], with the total installation capacity of [Capacity of the project] and is invested in construction by the Seller at [Location of the project] in accordance with the following conditions and terms:

### **Article 1. Interpretation of terms**

In this Agreement, the following terms shall be construed as follows:

**1. Party or parties** means the Seller, Purchaser or both or entities(s) that shall take on rights and obligations of a party or the parties of this Agreement.

**2. Connection point** is where the electric line of the Seller is connected to the electric system of the Purchaser as agreed in **Appendix B** of this Agreement.

**3. Power delivery point** is where the metering equipment is installed in order to determine the Seller’s power output sold.

**4. Electric power purchased/sold** is the amount of electric power generated by the power plant at its highest capacity, subtracted by the electric power self-consumed and lost by the power plant at the electricity delivery point, calculated in kWh and accepted to be sold and delivered to the Purchaser by the Seller as prescribed in **Appendix A** of this Agreement.

**5. Agreement** includes this text and Appendices herewith.

**6. Inter-bank average interest rate** is the inter-bank average interest rate applicable to 01 (one)-month term as announced by the State Bank of Vietnam at the time of payment.

**7. Agreement year** is a calendar year of 12 (twelve) months counting from the first day of January to the last day of December of that year. The first agreement year which shall start on the date of commercial operation and end on the last day of December of that first agreement year. The last agreement year shall start from the first day of January and end on the last day of the agreement duration.

**8. Due date** is of the last day to make the payment from the date on which the Purchaser receives the valid and accurate electricity payment bill issued by the Seller in accordance with point d, clause 2, Article 5 of this Agreement.

**9. *Date of commercial operation*** is the date on which a partial of or whole grid-connected biomass power plant is ready to sell electricity to the Purchaser and satisfies the following conditions: (i) has completed the initial tests runs for a partial or whole biomass power plant and connection equipment; (ii) the grid-connected biomass power plant has been licensed for electricity activities in the field of power generation and (iii) the two parties have completed meter readings for payment purposes. Initial tests runs include: (i) Testing the generation and receipt of reactive power; (ii) AGC connection test; (iii) Reliability test.

**10. *A power plant*** consists of the Seller's power generation equipment, protective equipment, connection equipment and related auxiliary equipment; and land used for power and auxiliary facilities for the purpose of power production under this Agreement.

**11. *Business days*** are the days except Saturdays, Sundays and holidays as prescribed in the existing regulations.

**12. *Standards and technical regulations of the power industry*** are regulations, standards and practices applied in the electricity industry and issued by competent organizations of Vietnam, or regulations/standards of international organizations or of nations in the regions in accordance with legal stipulations and recommendations of equipment manufacturers, taking into account resources, materials, fuel and technical conditions acceptable to the Vietnamese electricity industry at a given point of time.

**13. *Regulations on the operation of national power system*** mean Circulars/Processes prescribing the standards for operation of the electricity system, conditions and procedures for grid connection, load dispatch of the electricity system, and metering in the electricity transmission and distribution system.

**14. *Emergency situations*** are situations that may disrupt electric power supply services to the Buyer's customers, including cases that may cause substantial damages to the national power system, threatening the human lives and properties or affecting the technical capacity of the power plant.

## **Article 2. Delivery, power purchase/sale**

### **1. *Power delivery***

From the date of commercial operation, the Seller agrees to deliver and sell electric power to the Purchaser and the Purchaser accepts to buy electric power from the Seller in compliance with the provisions of this Agreement.

### **2. *Power purchase/selling price:***

2.1 For projects of which the commercially operation date is from March 5, 2020 until the date of receiving relevant guideline on electricity pricing

mechanism from a competent state agency

a) The Purchaser shall buy the whole power output from the grid-connected biomass power project at price given at the electricity delivery point as stipulated in clause 9, Article 1 of the Decision 08/2020/QD-TTg dated March 5, 2020 of the Prime Minister on the amending, supplementing of a number of articles under Decision No. 24/2014/QD-TTg.

b) The electricity purchase price as specified by Point a) shall be applied in 20 years from the commercially operation day of a partial or whole power plant (which depends on the date of commercially operation day thereof which is determined in the Decision 08/2020/QD-TTg; and clause 9, Article 1 and Article 4 of this Agreement).

2.2 The project of which the date of commercially operation date before March 5, 2020 may re-sign the PPA with the Purchaser to be able to apply the power purchase price at the electricity delivery point as stipulated in clause 9, Article 1 of the Decision 08/2020/QD-TTg dated March 5, 2020 until the end of the residual duration of the signed PPA.

2.3 Electricity payment: The method for determining the monthly electricity payment of the Power Plant is prescribed in Appendix D of this Agreement.

### ***3. Power purchase and sale***

The Seller shall agree to operate the power plant within the available capacity of equipment and in accordance with standards and technical regulations of the electricity industry. The Seller shall not be liable for direct damages to the Purchaser as caused by Seller's provision of insufficient electric power, which is not the Seller's fault. If no Purchaser's written consent is reached when the Seller reduces the electric power sold for the purpose of power sale to the third parti(es) or shall not use electricity for other purposes rather than producing power for sale to the Buyer

#### **Article 3. Connection, metering**

##### ***1. Responsibilities at electricity delivery point***

The Seller shall be responsible for the investment in/installation of equipment for the electricity transmission and delivery to the Purchaser at the electricity delivery point. The Purchaser shall be responsible for cooperation with the Seller in performing this installation.

##### ***2. Connection***

a) The Seller shall be responsible for the investment, construction, operation and maintenance of connection equipment, which is for connecting the power plant to the electricity transmission/distribution grid in accordance with Regulations on transmission/distribution grid and other related regulations. The Seller shall bear the costs for installing the metering system at the electricity

substation in accordance with the provisions as stipulated in **Appendix B** of this Agreement.

b) The Purchaser shall reserve the right to review the technical design and adequacy of protective devices. The Purchaser must provide the Seller, within 30 (thirty) days from the receipt of a complete set of design-related technical documentation, with the written notification on appraisal results. The Purchaser must notify in writing all design errors that are detected. The Seller must perform additional modifications as recommended by the Purchaser in accordance with legal regulations on national electricity system operation and technical standards/regulations of electric power industry.

### ***3. Connection standards***

The Seller's and Purchaser's equipment must be installed, operated and connected in compliance with legal regulations on national electricity system operation and standards and technical regulations of electric power industry.

### ***4. Inspecting the implementation of connection standards***

Upon the receipt of in-advance notification as regulated, one party shall reserve the right to inspect the other party's connection equipment to ensure the compliance with legal regulations on the operation of the national electricity system. The inspection should not affect the operation of the inspected party. If the inspected party's equipment fails to meet the conditions for operation and maintenance, the inspecting party must notify the inspected party all required calibrations. The inspected party shall be responsible for applying necessary remedies upon the receipt of justified request for calibrations from the inspecting party.

### ***5. Metering***

a) Metering locations and technical requirements for metering systems are stipulated in **Appendix C**.

b) The Seller shall be responsible for investing, installing, inspecting, managing, operating, maintaining, and conducting initial and annual appraisal the equipment of the main and backup metering system in accordance with the provisions under Circular 42/2015/TT-BCT dated December 1, 2015 and valid regulations on amending and supplementing of this Circular. The metering system shall ensure its legality in accordance with the Law on Measurement No. 04/2011/QH13 dated November 11, 2011 and relevant regulations on guidance, amending and supplementing of this Law.

c) Periodical accreditation of the metering equipment is carried out on a periodical basis: 01 (one) time in 01 (a) year for electrical meters; once in every 05 (five) years for current transformers and measuring transformers. The inspection and appraisal of metering equipment or the confirmation of their accuracy of the equipment thereof shall be carried out by an organization which ability for appraising such equipment is recognized and shall be agreed by both

parties; shall comply with the state-regulated procedures for accreditation of metering equipment. All metering equipment must be sealed and leadsealed-off after being appraised. The cost of accreditation shall be covered by the Seller.

d) In necessary cases, one party has the right to request the inspection and supplementation of the metering equipment or unscheduled accreditation of equipment and system thereof. If the request is made by the Seller, it must be sent at least 7 (seven) days in advance or at least 14 (fourteen) days in advance before the request date. The Seller shall organize the inspection and/or accreditation after receiving the request from the Buyer. If the errors numbers of the inspected and/or accredited equipment are greater than the permitted level, the Seller shall pay the costs for such inspection and/or accreditation; if the errors of the above-mentioned equipment are within the permitted level, the requesting party shall pay the accreditation costs.

e) The Seller shall be liable to notify the buyer of the results of the accreditation. The Seller shall notify the Buyer in advance of the inspection and/or accreditation of the metering system. The Buyer shall appoint persons to participate in witnessing the inspection, accreditation, seal removal, sealing and security lead sealing processes done on the power meters.

If the metering equipment has errors which are greater than the permitted level, the Seller shall adjust or replace such equipment. If one party is certain that the above-mentioned equipment is damaged or cannot operate, this party shall timely notify the other party, and the Seller shall check, repair and replace such equipment. The checking, repair and replacement shall be carried out in the shortest time possible.

f) Power output sold and purchased between the Buyer and the Seller shall be determined by using the electric power deliver and receipt method and the metering system specified in **Appendix C** hereof.

g) If the main metering system is affected or the accreditation results show that such system has the errors greater than the permitted level prescribed in the regulations, the power output sold and purchased between both parties during the break down of the system or when the errors occur shall be determined as follows:

(i) Use the measured and counted results of the backup metering system to determine the power output for making payment.

(ii) If the backup system also breaks down or the accreditation results show that such system has the errors which exceed the permitted level, the power output used for making payment shall be determined as follows:

- If the main metering system can operate but the errors are greater than the permitted level prescribed in the regulations, the power output sold and purchased between both parties shall be determined by using the results of the main metering system which are converted to the electric power value equivalent to the error of 0%.

- If the main metering system breaks down or cannot operate, the backup system can operate but have errors greater than the permitted level prescribed in the regulations, the power output sold and purchased between both parties shall be determined by using the results of the backup system which are converted to the electric power value equivalent to the error of 0%

- If both the main and backup systems break down or cannot operate, both parties shall estimate the delivered and received power output based on the monthly average data (if any) of the power plant in the same payment period of the preceding year of the agreement year and shall be reasonably adjusted for the specific billing period based on the corresponding data that affect the power generation of the Power Plant, such as power factors, efficiency coefficient, operation hours and time of the power plant and the self-consumed electricity (hereinafter referred to as "operation parameters") in the time the metering equipment is broken, unless both parties have another written agreement.

In the absence of reliable data, estimation of power output delivered based on the monthly average power output of the power plant of six (06) payment periods shall be made right before the point the above-mentioned equipment is broken (or less than that if the power plant has not been operated for 06 months) and shall be adjusted according to cessation or to operation parameters, unless both parties have another written agreement.

(iii) Based on the measured, calculated and adjusted results which have been agreed by both parties, the Seller shall calculate and determine the amount of money which one party must pay to the other party for the period over which the metering system was inaccurate. Such amount includes the overpaid or underpaid amount and interest thereon according to the average inter-bank interest rate plus (+) inspection cost prescribed in point c and point d, Clause 5 of this Article.

(iv) If the metering equipment is burnt or damaged, the Seller shall replace or repair it in the shortest time possible in order to make such equipment satisfy the technical requirements and re-operate normally. The repaired or replaced equipment shall ensure legality and satisfy the technical requirements before being brought into use.

### ***6. Meter readings***

Every month (or otherwise agreed by the two parties), the Purchaser and the Seller shall together perform the meter readings.

After giving notification as prescribed, the Purchaser shall be allowed to enter the power plant or metering equipment place for meter readings and other activities related to the performance of this Agreement. The Purchaser's activities at the power plant must not affect the Seller's normal operations. The Purchaser-appointed employees or inspectors must obey safety regulations and the power plant's rules.

### ***7. Inspection of metering equipment***

a) The inspection, accreditation of metering equipment or the confirmation of the metering equipment accuracy must comply with power-metering regulations and be performed by competent or authorized organization(s). Accreditation(s) should be done before the first-time operation of metering equipment. All metering equipment must be sealed, leaded and locked after being accredited, and the Purchaser shall reserve the right to witness this process.

b) All the power plant's metering equipment must be accredited on a periodical basis agreed by both parties and in accordance with the existing regulations on accreditation of power metering equipment issued by competent authorities, and the accreditation cost shall be paid by the Seller. If required, a party may propose to accredit the accuracy of any metering equipment, and the accreditation cost shall be borne by the proposing party. The accreditation results must be notified to the other party upon request. If the metering equipment shows errors, which are greater than the acceptable level as prescribed in metering regulations, the Seller shall be responsible for calibrating or replacing the metering equipment. If the Purchaser fails to make full payment due to the errors on the metering equipment, the Purchaser shall be responsible for making additional payment (based on the prescribed inter-bank average interest rate) to the Seller. If the Purchaser overpays the Seller due to the errors on the metering equipment, the Seller shall be responsible for returning the Purchaser the relevant paid amount plus the interest rate of relevant paid amount (based on the prescribed inter-bank average interest rate) and accreditation expense(s). Each party shall be notified in advance and reserve the right to appoint person(s) to participate in sealing-off, checking, accrediting and 9 leading/sealing the power meter. If one party finds that the power meter is broken or not working, such party must promptly notify the other party for subsequent checks and repairs by the one who owns the equipment.

### ***8. Transfer of electric power ownership***

At the power delivery point, the power ownership shall be transferred from the Seller to the Purchaser. At this point, the Purchaser shall have the right for ownership/control and take responsibility for the electric power received.

## **Article 4. Operation of the power plant**

The Seller shall operate the power plant in accordance with Regulations on the operation of the national power system, technical standards and regulations of the electricity industry and other relevant legal provisions.

### ***1. Operation plan***

a) Prior to the effective date of this Agreement, the Seller shall provide the Buyer with charts on capability for annual average electric power generation of the power plant on a monthly basis and in compliance with the basic design of such power plant;

b) Before November 30 every year. The Seller shall provide the Buyer the electricity production plan for the next year, including:

- Monthly operation plans of the year (electricity output and available capacity);

- Maintenance and repairing plans for groups of machines in months of the year (if any).

c) The Seller shall provide the information about the maintenance and repairing plans and plans for mobilizing groups of electric power generating machines for power system regulation unit (according to regulation control level) in compliance with the regulation on the operation of national electricity system.

### ***2. Stopping machines from working***

The Seller shall inform the Buyer of the tentative schedule and timeframe for stopping the machines from working to repair as planned and unscheduled in consistent with the regulations on the operation of national electricity system.

### ***3. Operation of power grids***

a) The Seller shall be responsible for the management, operation and maintenance of the electrical equipment and power grids under the management scope for properties prescribed in the Agreement on connection with power grid maintenance units, ensuring the compliance with the Regulation on the operation of national power system; standards, technical regulations of the power industry; and the electricity selling and buying under the Power Purchase Agreement.

b) The Seller shall be liable for discussions and consensus with units managing the operation of the national power system (according to regulation control level) on plans for electric power mobilization and solutions to reduce impacts on the transmission of power grids of different areas due to constraints related to loads and power grids of such areas.

### ***4. Interruption in receiving and buying electric power***

The Buyer shall not be liable for the obligations of buying or receiving electricity in the following cases:

a) The power plant of the Seller provides its operation and maintenance not in compliance with the Regulation on the operation of national electricity system and standards and technical regulations of the electricity industry;

b) During the time the Buyer installs electrical equipment, repairs, replaces, accredits or inspects the power grids and all of those activities are directly related to the connection of power plant of the Seller and comply with the Regulation on the operation of national electricity system and standards and technical regulations of the electricity industry;

c) There are problems with the regional electricity transmission and distribution grids or the equipment directly connected to the regional electricity

transmission and distribution grids thereof, or their operation mechanism violates the Regulation on the operation of national electricity system and standards and technical regulations of the electricity industry;

d) Power grids of the Buyer need recovery solutions after incidents and comply with the Regulation on the operation of national electricity system and standards and technical regulations of the electricity industry.

#### ***5. Interruption in distributing and selling electric power***

The Seller may cease or reduce the amount of electricity sold and delivered to the Buyer in the event of equipment installation, repairs, replacement, inspection, testing or repairing the power plant that directly affects the distribution of electric power to the Buyer.

Before ceasing or reducing the amount of electricity distributed to the Buyer, the Seller must notify the Buyer in advance for at least 10 days and clearly state the reasons, expected starting time and interruptions of electricity distribution.

#### ***6. Coordination***

The Buyer shall be responsible for reducing the reduction time or ceasing the receipt of electricity in the cases specified in clause 5 of this Article and complies with the Regulation on the operation of national electricity system, troubleshooting process of the system thereof and the standards and technical regulations of the electricity industry. Except for emergency cases, if the Buyer temporarily reduces or ceases the receipt of electricity, the Buyer shall notify the Seller in advance at least 10 days and clearly specify the reasons, expected starting time and interrupted time. In necessary cases, the Buyer shall convey electricity regulation commands on operation from Electricity system regulation unit related to the operation of the power plant and conformable with the Regulation on the operation of national power system and the standards and technical regulations of the electricity industry, and the Seller shall be liable to comply with those commands, except for cases that those commands would change the plant's characteristics that need mobilization.

#### ***7. Power factor***

The Seller agrees to operate the power plant synchronized with power grids of the Buyer with the power factor determined in accordance with the current regulations on the electricity distribution and transmission systems.

#### ***8. Synchronized operation***

The Seller shall be liable to inform the Buyer in writing at least 30 days before the first-time synchronization between the electricity machine group of the Seller with the power grids of the Buyer. The Seller shall coordinate with the Buyer in operation during the first-time and subsequent synchronizations.

#### ***9. Standards***

The Seller and the Buyer must comply with the regulations related to the delivery and receipt of electric power according to the regulations on distribution power grids, regulation on electricity metering and legislative documents related to the electricity industry.

#### ***10. Confirmation for the date of commercial operation of the power plant***

90 days prior to the expected commercially operation day specified in this Agreement, the Seller shall send the draft of the test run process of the power plant which is conformable with the current regulations and technical and technological standards of such plant, in order for both parties to agree on the date of commercial operation and the calculated power output of the test run of the power plant.

#### ***11. Changes in the date of commercial operation***

Within a six (06) to twelve (12) month period prior to the commercially operation day specified in **Appendix E**, the Seller must officially confirm the change of the date of commercial operation. The parties shall be liable for cooperation in changing such day and the Buyer shall not decline this request without justified reasons.

### **Article 5. Billing and payment**

#### ***1. Billing***

Every month (or otherwise a meter reading schedule agreed by the two parties), the Purchaser and the Seller shall together perform the meter readings on the agreed date to determine the amount of electricity delivered in the given month. The Seller shall record, using the template format, the meter readings that shall be confirmed the Purchaser representative(s), and send meter-reading results together with printed invoice (or by fax with an official letter later or by mail) to the Purchaser no later than 10 (ten) working days from the completion of meter readings.

#### ***2. Payment***

a) Payment dossier: Before the 5<sup>th</sup> (fifth) of each month, the Seller shall send the Purchaser a notice of electricity payment attached with the payment dossier of the preceding month.

b) Within five (5) working days from the date of receipt of the Seller's payment dossier, the Purchaser shall check the Payment dossier and send the Seller a written notice about any errors on the payment files which have been detected. After this due date, the Payment dossier shall be accepted if the Purchaser has no comment on the files.

c) Within three (3) working days from the date of acceptance of the Payment dossier, the Seller shall issue and send an Electricity bill to the Purchaser. The Electricity bill is formed in accordance with the provisions issued by the Ministry of Finance.

d) Within twenty five (25) working days from the date of receipt the valid and accurate electricity bill from the Seller, the Purchaser shall pay the Seller for the entire amount of money specified in the Electricity bill via bank transfer.

e) If the Purchaser fails to pay within the period as specified above, the Purchaser shall be liable to pay the interest for the late payment. The late payment interest shall be calculated by multiplying the total of late payment by the inter-bank average interest rate, divided by 365 days \* number of late payment days.

g) If the Purchaser does not participate in the meter readings as prescribed in Clause 1 of this Article, the Purchaser shall be required to pay the Seller the amount of electric power delivered in accordance with regulations.

### ***3. Estimation of electric power sold***

If there is insufficient data necessary to determine the amount of electricity or payment that the Purchaser owes the Seller (except for cases as specified in Clause 5 of this Article), the Seller shall be required to estimate 10 those figures and make adjustment to the payment amount to reflect the actual situation for the purpose of subsequent payments.

### ***4. Sequence of applying and replacing meter figures***

In order to determine the electricity amount received and accepted by the Purchaser within a given payment period, the meter readings, billing and payment must be based on data estimates of the following sequence:

a) Power plant's main meter figures for the given payment period, which show a degree of accuracy in accordance with the provisions of clause 5, Article 3 of this Agreement;

b) Power plant's backup meter figures (if the backup meter is used to meter the electricity delivered), which show a degree of accuracy in accordance with the provisions of clause 8, Article 3 of this Agreement;

c) When all meters fail to accurately record the electricity amount delivered, the estimation of electricity delivered must be done on the basis of the power plant's monthly average data (if any) for the same payment period of the preceding year of the agreement year, and must be reasonably adjusted for the given billing period based on the corresponding available data that affect the power plant's electricity generation, e.g. generator efficiency, number of operating hours, operation duration of generator(s) and self-consumed electricity (generally referred to as "operation parameters") while the meters are not working.

In the absence of reliable data, the estimation of electricity delivered must be done on the basis of the power plant's monthly average electricity data collected for 06 (six) payment periods (or less if the power plant has been operating for less than 06 (six) months) just preceding the date when meters stop

working and must be adjusted according to the outage duration or operation parameters.

### **5. Bill disputes**

a) If one party does not agree with all or part(s) of the bill in terms of electricity output delivered or payment amount, such party shall reserve the right, prior to the due date of payment, to send a written notification to the other party. If the parties fail to reach agreement, the duration for dispute settlement for one party or all parties shall be 01 (one) year from the date when the Purchaser receives the valid invoice.

b) If the Seller wins in dispute settlement as stipulated in Clauses 1 and 2, Article 8 of this Agreement, the Purchaser must pay the Seller all the disputed amount plus the interest calculated on the basis of inter-bank average interest rate and the monthly interest to be covered from the due date to the payment date of disputed amount. If the Purchaser wins, the Seller shall be required to refund the disputed amount that the Seller already received, plus the interest calculated on the basis of inter-bank average interest rate and the monthly interest to be covered from the date of payment receipt to the payment date of disputed amount. All payments referred herein must be done within 15 (fifteen) days from the issuance date of final decision on dispute settlement in accordance with Article 8 of this Agreement.

## **Article 6. Force majeure**

### **1. Force majeure**

Force majeure means events that occur beyond the control and cannot be resolved though all necessary measures have been applied within capacity, including but not limited to:

a) Natural disasters, fires, explosions, floods, tsunamis, epidemics or earthquakes;

b) Violence, riots, war, resistance, sabotage, embargo, besiegement, blockade, or any act of war or hostilities against the community whether the war is declared or not.

### **2. Settlement of a force majeure event**

In case of force majeure, the party citing for force majeure event(s) shall:

a) Promptly send a written notice on force majeure event(s) to the other party, clearly stating reasons, sufficient supporting evidence for such force majeure event, anticipated time/duration and possible impacts on its fulfillment of obligations;

b) Make all efforts within its capacity to perform its obligations as stipulated in the Agreement;

c) Promptly take necessary remedies and provide evidence for its reasonable efforts to address such force majeure event;

d) Take necessary measures to mitigate damages to the parties of the Agreement;

đ) Promptly inform the parties of the termination of such force majeure event.

### ***3. Consequences of a force majeure event***

If all remedies/actions as prescribed in Clause 2 of this Article are taken, the violating party shall be exempt from liabilities related to the failure to perform obligations under the Agreement as caused by such force majeure event, except for the liabilities associated with the payment for due amounts under this Agreement prior to the occurrence of the force majeure event.

### ***4. Duration of a force majeure event***

If a force majeure event prevents a party from fulfilling this Agreement's obligations for a period of 01 (one) year, the other party shall reserve the rights to unilaterally terminate the Agreement after 60 (sixty) days from the date of written notification unless such obligations are to be performed within 60 (sixty) days. All parties will meet and make reasonable efforts to work out and reach agreement on appropriate solutions to the force majeure event, which is based on negotiations and a spirit of goodwill.

## **Article 7. Duration of Agreement**

Unless the Agreement is extended or terminated under its terms, it shall come into effect after being officially signed by authorized representatives of all parties and shall terminate after 20 (twenty) years since commercially operation day. Upon the termination of the Agreement, the contents of this Agreement shall continue to take effect for a certain period of time necessary for the concerned parties to prepare the final invoice(s), adjust invoice(s), make payments and complete all rights/obligations in this Agreement.

The extension of the Agreement or signing of a new Agreement shall be carried out in accordance with the existing legal regulations.

## **Article 8. Breaches, damage compensations and suspension of Agreement performance**

### ***1. The Seller's breaches***

a) The Seller fails, within 03 (three) months, to meet the commercial operation date as prescribed in **Appendix E**, except for force majeure event(s), the change in the date of commercial operation as specified in clause 11, Article 4 of this Agreement or a permission to extend the investment process given by a competent authority in accordance with the existing legal regulations;

b) The Seller fails, within 60 (sixty) days from the receipt of the Purchaser's written notice, to perform or comply with the contents of the Agreement;

If the Seller has tried to address the breaches within the said 60 (sixty) days but its remedial actions could not be completed within such period, the Seller shall

be allowed to continue its remedial actions for a maximum of 01 (one) year from the receipt date of written notice on the Seller's breaches, except for a permission to extend the investment process given by a competent authority in accordance with the existing legal regulations. The Seller shall be responsible for completing its remedial actions within the shortest duration of time, except for the cases specified in Article 6 of this Agreement;

- c) The Seller denies the validity of a part or the whole of this Agreement;
- d) It violates the Seller's commitments as stipulated in Article 12 of this Agreement.

## ***2. The Purchaser's breaches***

a) The Purchaser fails, within 60 (sixty) days from the receipt of the Seller's written notice, to perform or comply with the contents of the Agreement;

If the Purchaser has tried to address the breaches within the said 60 (sixty) days but its remedial actions could not be completed within such period, the Purchaser shall be allowed to continue its remedial actions for a maximum of 01 (one) year from the receipt date of written notice on the Purchaser's breaches. The Purchaser shall be required to continue its remedial actions in a shortest duration of time, except for cases as prescribed in Article 6 of this Agreement;

b) The Purchaser fails to pay the non-dispute amount on the due date under this Agreement, this failure continues for more than 90 (ninety) days without valid justifications;

c) The Purchaser denies the validity of a part or the whole of this Agreement;

d) It severely violates the Purchaser's commitments as stipulated in Article 12 of this Agreement.

## ***3. Remedial procedures and settlement of agreement breaches***

If a breach of the Agreement is found, the affected party must send written notice to the violating party. The violating party must be cooperative to address such breach;

## ***4. Compensation for damages***

a) The violating party shall be obliged to pay compensation for damages caused by its breaches to the affected party. The compensation shall cover the values of actual/direct damages to the affected party as caused by the violating party as well as potential direct benefits for the affected party in case of no breaches;

b) The affected party must provide proven evidence on damages/level of damages caused by such breaches and potential direct benefits for the affected party in case of no breaches.

## ***5. Suspension of Agreement performance***

If the breaches of the Agreement are not settled in accordance with clause 3 of this Article, the affected party may continue to ask the violating party to take remedial actions or to suspend the Agreement performance by providing written notice to the violating party. If the affected party chooses to suspend the Agreement performance under the provisions of this Agreement, the Agreement parties shall not be required to perform contractual obligations, except for cases as prescribed in Article 7, and the affected party shall reserve the right to request for damage compensation from the violating party. The value of compensation is determined in accordance with clause 4 of Article 8.

## **Article 9. Settlement of disputes**

### ***1. Settlement of disputes via negotiations***

In case of disputes between parties of this Agreement, the requesting party must provide the other party with a written notice on the disputes and subsequent requirements within a certain valid period. The parties shall negotiate the possible settlement of disputes within 60 (sixty) days from the receipt date of written notice from the requesting party. The settlement of disputes, which are related to electricity payment, shall be done within 15 (fifteen) days from the receipt date of written notice from the requesting party.

If the consensus cannot be reached as prescribed above, the parties may submit a written request to the Electricity and Renewable Energy Authority for assistance.

This mechanism for dispute settlement shall not apply to disputes, which are not directly arisen from this Agreement between one party of the Agreement and the third party.

### ***2. Settlement of disputes in compliance with legal regulations***

If the settlement of disputes via negotiations as described in Clause 1 of this Article is not possible or one of the parties does not comply with the negotiation results, a party or parties may request for dispute settlement in accordance with the provisions of the MoIT's Circular No.40/2010/TT-BCT dated December 13, 2010 prescribing the sequence and procedures for settling disputes on the power markets in accordance with the provisions of relevant laws.

## **Article 10. Entrustment, transfer and restructuring**

### ***1. Entrustment and transfer***

If one party entrusts or transfers its rights and obligations as prescribed in this Agreement or its properties used for fulfill its rights and obligations are blocked, the execution of the provisions on rights and obligations as prescribed in the Agreement shall continue to take effect to the parties' legal/authorized representatives.

If the Seller entrusts or transfers the performance of this Agreement, the Purchaser's written consensus shall be required. If the Seller's entrusted amount

is close to the value of good-performing equipment, it is regarded as a valid entrustment under this Agreement.

The party that entrusts or transfers shall be required to send a written notice on entrustment or transfer to the other party.

## ***2. Restructuring***

If the restructuring of the power industry affects the Seller's or Purchaser's rights or obligations under this Agreement, the performance of the Agreement shall be transferred to take-over unit(s). The Purchaser must be responsible for written confirmation and guarantee that take-over units shall fulfill their obligations to purchase or distribute electricity and other rights/obligations under this Agreement.

## ***3. Choosing to participate in the power market***

The Seller may choose to participate in power market in accordance with the regulations on competitive electricity market. In this case, the Seller must send the Purchaser and ERAV a written notification for 120 (one hundred and twenty) days in advance and shall reserve the right to unilaterally terminate this Agreement upon fulfillment of notified obligations in accordance with legal regulations.

## **Article 11. Other agreements**

### ***1. Amendment of the Agreement***

All parties are not allowed to amend, supplement this Agreement unless a written agreement is made available. The amendment of and supplement to this Agreement shall be done in accordance with stipulations of **Circular No. .../2020/TT-BCT dated ... 2020 of the Ministry of Industry and Trade** on project development and standardized power purchase agreement for biomass power projects.

### ***2. Obligations for cooperation***

The Seller shall be obliged to perform legal procedures related to the power plant. The Purchaser shall be responsible for cooperating with the Seller to obtain its license and necessary approval/permission from competent State agencies related to the plant location, investment, transmission and sale of electric power, ownership and operation of the power plant, and the implementation of other necessary and reasonable activities for the purpose of the agreement performance by all parties.

### ***3. Applicable law***

The interpretation and performance of this Agreement shall be done in consistent with provisions of Vietnamese laws.

### ***4. Non-fulfillment of rights***

The non-fulfillment of rights at any time under this Agreement shall not affect the enforcement of rights under the subsequent Agreements. The parties agree that a party's statement on non-fulfillment of rights to any commitments or conditions under the Agreement, or any breaches of the Agreement shall not be considered as an abandonment of such party's similar rights in the future.

### ***5. Independence of Agreement contents***

In case any part of this Agreement is considered as inconsistent with the legal regulations or invalid under the court's ruling, other parts of the Agreement shall still take effect if these parts can be comprehensively interpreted without necessary reference to the invalid text.

### ***6. Notification***

Any notifications, invoices or other necessary communications during the performance of this Agreement must clearly state the date and reference to the Agreement. Notifications, invoices or communications must be made in writing and delivered by mail or fax. If being sent by fax, the original must be sent later by mail with prepaid postage. Notifications, invoices or communications must be sent to the following addresses:

a) The Seller:

Director General, \_\_\_\_\_, \_\_\_\_\_, Vietnam

b) The Purchaser: \_\_\_\_\_, \_\_\_\_\_, Vietnam

c) The parties should specify, in their notifications, another sender's or recipient's address in a format as prescribed in this Clause.

d) For the said methods of delivery, each notification, invoice or communication sent by mail shall be considered as being delivered and received by the time it reaches the recipient's address or by the time it is refused by the recipient at such address.

### ***7. Confidentiality***

The Purchaser agrees to keep confidential the power plant's information as stipulated in the Agreement's Appendices, except for the information previously announced by the Seller or competent state agencies.

### ***8. A finalized agreement***

This Agreement is a finalized agreement between all parties and replaces all discussions, information and correspondence exchanged between all parties before the signing of this Agreement.

### **Article 12. Implementation commitment**

The two parties shall be committed to perform this Agreement as follows:

1. Each party is legally established to engage in business operations in Vietnam.

2. Each party's signature and performance of this Agreement is in accordance with the conditions and contents of the Power Operations License as issued by the competent authority and relevant legal provisions.

3. A party shall have no legal or administrative acts preventing or affecting the other party from performing this Agreement.

4. A party's signature and performance of this Agreement shall not violate any provisions of other Agreements or not be part of another Agreement in which such party is a beneficiary.

The Agreement is made in 12 (twelve) copies of equal validity with 4 Appendices, which are integral to this Agreement. Each party keeps 05 (five) copies, and the Seller shall be deemed to send 01 (one) copy of PPA to the Electricity and Renewable Energy Authority and 01 (one) copy of PPA to the Electricity Regulatory Authority of Vietnam.

SELLER'S REPRESENTATIVE

PURCHASER'S REPRESENTATIVE

*(Title)*

*(Title)*

*(Sealed and Signed)*

*(Sealed and Signed)*

*(Full Name)*

*(Full Name)*

GIZ Unofficial Translation - For Reference Only

## APPENDIX A

### TECHNICAL SPECIFICATIONS OF THE POWER PLANT

#### Part A. General specifications

1. Name of the power plant: .....
2. Location of the power plant: .....
3. Rated power: .....kW
4. Power sold to the Purchaser: minimum .....kW; maximum .....kW
5. The power plant's self-consumption: minimum; kW; maximum...kW
6. Expected annual electric output:.....kWh
7. Completion date of plant construction: .....
8. Expected date of the plant's commercial operation: .....
9. Voltage generated to distribution grid: .....V
10. Connection point to distribution grid: .....
11. Location of metering equipment: .....

#### Part B. Operational parameters of specific technology

1. Generation technology: .....
2. Characteristics of designed operation: .....

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**APPENDIX B**  
**SYSTEM CONNECTION AGREEMENT**

(To be separately applied to individual projects according to technical specifications of the projects, including one-line diagram of connection devices, list of metering system characteristics/voltage, connection requirements)

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**APPENDIX C**  
**METERING AND DATA COLLECTION SYSTEM**

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**APPENDIX D**  
**PAYMENT FOR POWER SERVICE**

On monthly basis, the Purchaser shall make payment to the Seller for the entire power purchased at the price as stipulated in clause 2, Article 2 of the Power Purchase Agreement according to the following formula:

$$Q = k * F * A_g * (1+t)$$

Where:

- Q means the total electricity payment made by the Purchaser to the Seller (dong);

- F means the VND/USD exchange rate (selling rate) as announced by the Bank for Foreign Trade of Vietnam on the preceding date of the Seller's bill issue date (VND/USD);

-  $A_g$  means the amount of power purchased/sold every month;

- t means the value-added tax rate (%);

-  $k = 0.0703$  (for combined heat and power (CHP) projects) or  $0.0847$  (for biomass projects which are not CHP) is the power price adjustment coefficient that is based on the fluctuation of the VND/USD exchange rate (equivalent to 7.03 UScents/kWh or 8.47 UScents/kWh), which is prescribed in the Decision No. 08/2020/QD-TTg dated March 5, 2020 of the Prime Minister on the amending, supplementing of a number of articles under Decision No. 24/2014/QD-TTg dated March 24, 2014 of the Prime Minister on supporting mechanism for the development of biomass power projects in Vietnam.

**APPENDIX E**  
**REQUIREMENTS BEFORE THE DATE OF COMMERCIAL**  
**OPERATION**

(Commitment on commercially operation day, agreement on the procedures for carrying initial testing run and bringing the power plant into commercial operation, etc.)

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**APPENDIX F**  
**OTHER AGREEMENTS**

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