



**POWER PURCHASE AGREEMENT**

**FROM**

**PLTM PELANGAI HULU**

**2 x 4.9 MW**

**BETWEEN**

**PT PLN (PERSERO) OF WEST SUMATERA**

**AND**

**PT. DEMPO SUMBER ENERGI**

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**POWER PURCHASE AGREEMENT**  
**BETWEEN**  
**PT PLN (PERSERO) WEST SUMATERA REGION**  
**AND**  
**PT. DEMPO SUMBER ENERGI**  
**FOR**  
**PLTM PELANGAI HULU**  
**2 x 4.9 MW**

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BUYER Number : .....  
SELLER Number : .....

The Power Purchase Agreement (hereinafter referred to as "**AGREEMENT**") is signed on ..... date ..... month ..... Year Two Thousand ..... (.....-.....-.....), between :

**I. PT PLN (PERSERO) OF WEST SUMATERA REGION**

A limited liability company established and existing under Indonesian laws, in this matter represented by SUPRIYADI, acting as the General Manager of PT PLN (Persero) Region/Distribution West Sumatera, based on Decision Letter No.....date .....and acting for and on behalf of PT PLN (Persero) based on General Power of Attorney No. .... date ....., residing in Jl. DR. Wahidin No. 8 Padang, hereinafter referred as the **BUYER**.

**II. PT DEMPO SUMBER ENERGI**

A limited liability company incorporated based on the Notarial Deed by Muhammad Ishaq, SH, Number 03 dated 04 December 2013 and the Deed of Statement of Shareholders Resolution In Lieu of the Extraordinary General Meeting of Shareholders of PT Dempo Sumber Energi Number 3753 dated 18 August 2015, drawn up before Notary Hesti Sulistiati Bimasto, SH, in this regard is represented by Muhammad Yamin Kahar, acting as President Director, residing in Jl. Tim-Tim Blok Y No. 2 RT 003 RW 005 Ulak Karang Utara Village, North Padang District, Padang, acting for and on behalf of PT Dempo Sumber Energi, hereinafter referred as the **SELLER**.

Henceforth in this AGREEMENT, the BUYER and the SELLER individually referred to as a "PARTY" and together as the "PARTIES", hereby firstly declare as follows:

1. In accordance with the Regulation of the Minister of Energy and Mineral Resources Number 19 of 2015, the BUYER is assigned to buy the electricity from the Hydroelectric Powerplant with the capacity of up to 10 MW (ten megawatt) from the business entity which is in the business of providing electricity that has been stipulated

as the Manager of the Hydroelectric Powerplant and has obtained an Electrical Power Supply Business License (IUPTL).

2. That in accordance with the letter of Director General of Renewable Energy and Energy Conservation Number 712/04/DJE/2015 dated 14 September 2015, Power Purchase Agreement from the PLTA with the capacity of up to 10 MW can use foreign currency with the payment transaction conducted in Rupiah.
3. That the SELLER has acquired (i) Stipulation Letter of the Water Developer for Power Plant from the Directorate General of Renewable Energy and Energy Conservation Number: 67/20/DJE/2015 dated 21 August 2015 which stipulates the SELLER as the hydropower management that is generated from PLTM Pelangai Hulu with the actual capacity of 9.8 MW (2 x 4.9 MW), that is located in region/system ....., and (ii) Temporary Electrical Power Supply Business License (IUPTL) from the Head of the Investment Coordinating Board of the Republic of Indonesia (BKPM) on behalf of the Minister of Energy and Mineral Resources Number 32/1/IUPTL-S/PMDN/2015 dated 29 September 2015.
4. That as a follow up of the Water Powered Management Assesment as stipulated above and in the framework of energy diversification and fulfilling the burden needed in region/system ....., the SELLER is willing to sell and provide electricity to the BUYER and the BUYER is willing to buy and receive the electricity that has been sold and produced from PLTM Pelangai Hulu owned by the SELLER.
5. That in the context of construction and development of PLTM Pelanga Hulu, other than the permit as stated in point 3 above, the SELLER has fulfilled the licenses and requirements as follows:
  - a. Evidence of Certificate Deposit in the amount of Rp ....., namely ..... (.....) from the total PLTA construction investment that has been submitted to the Directorate General of Renewable Energy and Energy Conservation on the date of .... Month .... Year.....
  - b. Location Permit from Pemda ~~Province~~/Regency Pesisir Selatan to PT Dempo Sumber Energi No. 570/001/Kpts/BPMP2T-PS/III/2015, dated 30 March 2015.
  - c. Water Utilization and Usage Permit (SIPPA) from the Ministry of Public Works Number ..... date .....
  - d. Feasibility Study PLTM Pelangai Hulu with the actual capacity of 2 x 4.9 MW.

Based on the abovementioned, the PARTIES agree to enter into a Power Purchase Agreement PLTM Pelangai Hulu with the installed capacity of 2 x 4.9 MW at Regency/City Pesisir Selatan West Sumatera Province, in accordance with the terms and conditions as formulated in these ARTICLES as follows:

## **ARTICLE 1**

### **DEFINITION AND INTERPERTATION**

1. **MONTH** means the period starting from 00.00 Indonesian Local Time on the first day of the calendar month and ends at 24.00 on the last day of that calendar month.

2. **MONTHLY PRODUCTION DECLARATION (DPB)** means the monthly projection of ELECTRICITY for every FISCAL YEAR which is a part of the PLANT PROFILE and is submitted to the BUYER as regulated by Article 8 paragraph 4.
3. **ANNUAL PRODUCTION DECLARATION (DPT)** means the amount stated to be produced (in kWh) by the SELLER and will be submitted to the BUYER on the month of September of the ongoing year of 1 (one) FISCAL YEAR and is conducted during the OPERATION PERIOD. YEARLY PRODUCTION DECLARATION consists of MONTHLY PRODUCTION DECLARATION for 1 year as stated in ARTICLE 8 paragraph 4.
4. **DJK** means Director General of Electricity, Ministry of Energy and Mineral Resources.
5. **EBTKE** means the Directorate General of Renewable Energy and Energy Conservation.
6. **ELECTRICITY** means the amount of electricity (in kWh) that is distributed from the PLANT owned by the SELLER to the TRANSACTION POINT.
7. **METERED ELECTRICITY** means the electricity distributed from the SELLER to the BUYER which is metered and recorded by METERING SYSTEM.
8. **INTERCONNECTION FACILITIES** means all the land rights, material, tools and facilities installed in order to connect the PLANT with the BUYER'S GRID through the INTERCONNECTION POINT including but not limited to the interconnection electricity, switching, metering, protection system, communication system and safety system as set out in Attachment A.
9. **SPECIAL FACILITIES** means the network that is designed, funded, built, tested and commissioned by the SELLER from the PLANT to the INTERCONNECTION POINT, including the INTERCONNECTION FACILITY, as set out in Attachment G. The SELLER will operate and maintain the SPECIAL FACILITY, unless a transfer occurs as stated in ARTICLE 9 paragraph 3 point d.
10. **GOOD UTILITY PRACTICE** means, that in certain times, practices, methods and actions in accordance with due care standards that is applied for the hydropower generator sector and utility that is supposed to be expected to achieve a result wanted to reach the level of reliability and security that is reasonable.
11. **GWh** means GigaWatt per hour.
12. **ELECTRICITY PRICE** means the price as regulated in ARTICLE 10.
13. **CALENDAR DAY** is the period of 24 (twenty four) hours commende from 00.00 local time and ends at 24.00 local time on the same day.
14. **WORKING DAY** means all days except Saturday, Sunday and other days which in the Republic of Indonesia is considered as a Holiday or on the day that the Bank Institution of Indonesia is allowed not to operate.
15. **LICENSE** means the licenses published by the GOVERNMENT INSTITUTION (Central, Provincial or Local) and other licenses needed to develop and construct the PROJECT in accordance with the applicable laws and regulations.

16. **ELECTRICAL POWER SUPPLY BUSINESS LICENSE** means the license to conduct a business in supplying electricity for the public interest.
17. **GOVERNMENT INSTITUTION** means the Departement, Minstry, Local Government, Governmental Body and Institution that has been appointed to conduct the function of the government in the territory of the Republic of Indonesia.
18. **PRODUCTION HOUR** means the time for the production of electricity, not including the time when the PLANT is in maintenance or cannot produce electricity due to interference.
19. **THE BUYER'S GRID** means the electricity distribution network and relevant facility that is used to distribute the electricity owned by the BUYER to its consumer through the INTERCONNECTING POINT and is owned by the BUYER.
20. **TOTAL ACCOUNTED ENERGY** means the amount of ELECTRICTY (in kWh) based on the amount of METERED ELECTRICTY in addition to the COMPENSATION OF THE ACCOUNTED OUTPUT (if exists) during the INVOICE PERIOD which has been calculated based on the payment calculation as described in Attachment E.
21. **EXCESS OF ELECTRICITY** means the TOTAL ACCOUNTED ENERGY in a month that exceeds 110% from the MONTHLY PRODUCTION DECLARATION of that month.
22. **ACCOUNTED OUTPUT** has the definition as specified in ARTICLE 9 of this AGREEMENT.
23. **COMMISSIONING** means the series of examination activities and testing of an installation and the new equipment, to prove whether the specification and the installation operating system and the new equipment that has been examined and tested, either individually or by system, is in accordance with the specification and requirements set forth in the contract with the CONTRACTOR or the factory and the prevailling laws and regulations (if it exists).
24. **CONTRACTOR** means **contractor, sub-contractor, operator and/or consultant which** have been appointed by the SELLER to conduct the whole work in connection with, inter alia, operating, preserving, maintaining, and procurement of goods for the need of the construction of the PLANT owned by the SELLER and the SPECIAL FACILITY.
25. **kV** means kilo-Volt.
26. **kW** means kilo-Watt.
27. **kWh** means kilo-Watt-hour.
28. **MW** means Mega-Watt.
29. **MWh** means Mega-Watt-hour.
30. **PLANT** means as described in Attachment A.
31. **INVOICE PERIOD** means :

- i. The Period that is counted since the COMMERCIAL OPERATION DATE OF THE PLANT until the last date of the month on the COMMERCIAL OPERATION DATE OF THE PLANT; and
  - ii. Every subsequent calendar month afterwards; and
  - iii. The Period starting from the first date of the last month of the AGREEMENT until the last date of the AGREEMENT, or, if this AGREEMENT is terminated earlier in accordance with the requirements in this AGREEMENT, then the time period starts from the first date of the month where this AGREEMENT is terminated until the last date that has been agreed for the termination of the AGREEMENT.
32. **TERM OF AGREEMENT** means as specified in ARTICLE 3 paragraph 1.
33. **OTHER PARTY** means a party other than the BUYER and SELLER that has a relationship with the implementation of construction, development or the operation of the PLANT.
34. **DISTRIBUTED POTENTIAL (PD)** means the amount of ELECTRICITY (in kWh) per hour that is expected to be able to be distributed by the PLANT at the time of ACCOUNTED OUTPUT, as stated in ARTICLE 9.
35. **STANDARD WORKING PROCEDURES (PROTAP)** means the Standard Working Procedures, Metering, Transaction and Settlement and communication that is created and agreed by the PARTIES.
36. **PROJECT** means as specified in ARTICLE 2.
37. **RUPIAH (Rp)** means the official currency of the Republic of Indonesia.
38. **CERTIFICATE OF OPERATION WORTHINESS (SLO)** means the written statement of viable operation issued by the Technical Inspection Institution that is accredited or set forth by the Minister in accordance with the prevailing laws and regulations.
39. **METERING SYSTEM** means all meters, measurement tools and tools used to measure off and record the delivery and receipt of ELECTRICITY at the TRANSACTION POINT as described in Attachment A.
40. **CONNECTION STUDY** means the high level assessment of the PLANT PROJECT to determine the appropriate connection point and identifying the potential negative effects on the BUYER'S GRID.
41. **INVOICE** means the collection document for the payment in Rupiah of the Electricity distribution for every INVOICE PERIOD.
42. **YEAR** means the period of 12 (twelve) consecutive months with the first month starting at 00.00 Indonesian Local Time on the first day of the next month after the COMMERCIAL OPERATION DATE OF THE PLANT and ends at 24.00 Indonesian Local Time on the last day of the month of the twelfth month, where the next year starts on the day of anniversary of the COMMERCIAL OPERATION DATE OF THE PLANT.
43. **FISCAL YEAR** means the period of 12 (twelve) consecutive months starting from 1 January at 00:00 local time and ends on 31 December at 24:00 local time.



44. **DATE OF CONSTRUCTION** means the date when the SELLER issues and submits the letter of undertaking regarding the commencement of the construction to the BUYER as stated in ARTICLE 5 paragraph 2.
45. **COMMERCIAL OPERATION DATE OF THE PLANT** means the date of the first production of ELECTRICITY produced by the PLANT commenced to be distributed to the INTERCONNECTION POINT, as of the issuance of CERTIFICATE OF OPERATION WORTHINESS, which will be stated in the Minutes of the COMMERCIAL OPERATION DATE OF THE PLANT.
46. **FINANCIAL DATE** means the date where the requirement, condition, prerequisite/precedents for the FINANCIAL DATE as required in Attachment D have been achieved and the Minutes of the Achieving of the FINANCIAL DATE have been created.
47. **SIGNING DATE** means the date where this AGREEMENT is signed and the entire requirement, condition, prerequisite/precedents for the SIGNING DATE in Attachment D has been fulfilled. Since the SIGNING DATE, certain obligations in accordance with ARTICLE 3 paragraph 4 will apply.
48. **FINANCIAL CLOSING DATE** means (i) the date of the signature of the senior debt for the whole fund needed (outside of equity) for the Project development which the source of fund is from loan, or (ii)

The date of the express evidence of the equity ownership for the whole development PROJECT fund based on the audited financial report document and the statement letter from the SELLER and the project account evidence with the minimum of 50% (fifty percent) from the total construction of the PLANT investment cost, for the SELLER which uses the funds entirely from the equity.

49. **COMMERCIAL OPERATION DATE TARGET** means the targeted time to achieve the COMMERCIAL OPERATION DATE OF THE PLANT as stated in Attachment C.

\*) As a reference, the COMMERCIAL OPERATION DATE OF THE PLANT is 27 (twenty seven) months or at maximum of 48 (forty eight) months after the FINANCIAL DATE in accordance with the agreement between the PARTIES stipulated in ARTICLE 6 paragraph 4.

50. **INTERCONNECTION POINT** is the point where the INTERCONNECTION FACILITY connects the BUYER'S GRID with the SPECIAL FACILITY.
51. **TRANSACTION POINT** means the physical point located in ..... as the location of the instalment of the METERING SYSTEM. TRANSACTION POINT is determined by the BUYER based on the Connection Study which is a part of the Pre-Feasibility Study report or Feasibility Study that has been submitted by the SELLER.
52. **UNIT** means the collection of main equipment that consists of turbine, generator, and substation including other auxiliary equipment to the extent the PLANT can operate in line with the criteria applied.

## **ARTICLE 2**

### **PROJECT**

1. The SELLER will develop and build including designing, engineering, funding, constructing, testing and commissioning the PLANT with the installed capacity of 2 UNITS x 4.9 MW in Pesisir Selatan District, West Sumatera Province through the scheme of Build Operate and Own (BOO) including the METERING SYSTEM as per Attachment A, alongside operating and preserving the PLANT in accordance with PROTAP that has been agreed by the PARTIES.
2. THE SELLER will build a SPECIAL FACILITY in the form of networks and INTERCONNECTION FACILITY which connects the PLANT to the INTERCONNECTOIN POINT, which include designing, engineering, FINANCIAL, constructing and commissioning in accordance with the technical specification in Attachment A, and operating and preserving the SPECIAL FACILITY in accordance with PROTAP that has been agreed by the PARTIES except in the case of diversion as stipulated in ARTICLE 9 paragraph 3 letter d..
3. THE SELLER agrees on selling all the produced ELECTRICITY from the PLANT and delivering it to the POINT OF TRANSACTION to the BUYER and the BUYER agrees to buy the ELECTRICITY which has been produced by the PLANT at the POINT OF TRANSACTION based on the terms and conditions as laid out in ARTICLE 9 and other terms and conditions as laid out in the AGREEMENT.
4. Purchase of ELECTRICITY as stated in paragraph 3 of this ARTICLE will be paid based on the rate of kWh as stated as the ELECTRICITY PRICE in ARTICLE 10 of this AGREEMENT and based on the terms and conditions stated in the AGREEMENT.

### **ARTICLE 3**

#### **TERM OF AGREEMENT**

1. Subject to ARTICLE 3 paragraph 4, the AGREEMENT will be effective since the SIGNING DATE until the end of OPERATION PERIOD, except if terminated earlier based on the terms and conditions as stated in this AGREEMENT.
2. OPERATION PERIOD is 240 (two hundred forty) months commenced from 00:00 Indonesian local time on the first day of the month after achieving the DATE OF THE OPERATION OF PLANT and ending at 24:00 Indonesian local time on the last day of month 240.
3. at the expiriy of the AGREEMENT due to the end of the OPERATION PERIOD as stated in paragraph 2 of this ARTICLE, the PARTIES can create a new agreement based on the terms and conditions and in accordance with the prevailing laws and regulations.
4. Certain obligations that are applicable since SIGNING DATE and the condition precedents for the PAYMENT DATE:
  - a. obligations that are applicable since the SIGNING DATE:

In addition to the implementation of ARTICLE 3 paragraph 4 point b, the terms and conditions as set out in ARTICLE 4 paragraph 2 point a, g, h, i, j, k, l, m, and o, ARTICLE 5 paragraph 1, ARTICLE 14, ARTICLE 15, ARTICLE 16, ARTICLE 18, ARTICLE 19, ARTICLE 20 and ARTICLE 22 until ARTICLE 28 as long as reasonably required before the PAYMENT DATE or the other ARTICLE as stated in this AGREEMENT, will be fully applicable on and since the SIGNING DATE.
  - b. Conditions precedents :

Except as set forth in ARTICLE 3 paragraph 4 point a, the obligations of the PARTIES based on the AGREEMENT shall fully applicable since the date where the minutes of the PAYMENT DATE as regulated in ARTICLE 5 paragraph 1 has been jointly signed by the PARTIES.

## **ARTICLE 4**

### **OBLIGATIONS AND RESPONSIBILITIES OF THE PARTIES**

In addition to the rights and obligations as regulated in the other ARTICLES, the obligations and responsibilities of each PARTY includes but not limited to:

1. Obligations and Responsibilities of the BUYER :
  - a. The BUYER is required to buy the ELECTRICITY produced by the PLANT owned by the SELLER on the COMMERCIAL OPERATION DATE OF THE PLANT as stipulated in ARTICLE 9 and in accordance with the provisions regulated in this AGREEMENT.
  - b. The BUYER is required to conduct payment to the SELLER for the AMOUNT OF CALCULATED ENERGY in accordance with the provisions regulated in this AGREEMENT.
  - c. The BUYER is responsible to maintain the reliability and preserve the facility of the BUYERS NETOWRK for recieving and distributing ELECTRICTY from the SELLER
2. Obligations and Responsibilities of the SELLER :
  - a. The SELLER is responsible for the procurement of land along with preparing, negotiating, signing, and executing the contract with the OTHER PARTY, including financial agreement, epc agreement (*engineering, procurement & construction*), insurance commitment, maintenance operation contract (if any) and the contract concerning other PROJECTS, which is required to fulfil the obligations of the SELLER based on this AGREEMENT.
  - b. The SELLER is responsible for the financial, construction, development, ownership, and operation as well as the maintenance of the PLANT with the capacity of 2 UNITS x 4.9 MW (including *Switchyard* and other supporting facilities) and the METERING SYSTEM, as stated in Attachment A, including but not limited to the provisions for fulfilling the requirements and standard that are applicable in Indonesia.
  - c. The SELLER is responsible for the financial, construction, and development of SPECIAL FACILITY namely of the electricity network within 9 kms and INTERCONNECTION FACILITY which connects the PLANT to the INTERCONNECTION POINT, as stated in Attachment A with the requirements and standard that are applicable in Indonesia.
  - d. The SELLER is responsible for the operation and preservation of the SPECIAL FACILITY, except in the case of when it is transferred as stated in ARTICLE 9 paragraph 3 point d.
  - e. The SELLER is obliged to sell and distribute all the ELECTRICITY produced by the PLANT to the BUYER as regulated in this AGREEMENT, except stipulated otherwise on another day with the consent of both PARTIES.
  - f. The SELLER is reponsible to maintain the sustainability/continuability of the sales of ELECTRICITY to the BUYER in accordance with the terms and conditions in

this AGREEMENT, except stated otherwise with the agreement between the PARTIES in the future.

- g. The SELLER is responsible to manage all licenses and/or approvals from the GOVERNMENTAL INSTITUTION, including the required renewal and/or amendment in the implementation of the construction, operation, and maintenance of the PLANT and SPECIAL FACILITY including the administration of land ownership permit.
- h. The SELLER is responsible to manage and guide the labor in accordance with the Worker's Safety and Health Provision and the prevailing regulations. Work accident experienced by the operator or the officer of the SELLER or the OTHER PARTY will be the burden and responsibility of the SELLER.
- i. The SELLER is responsible for answering all legal disputes (including but not limited to claims and/or demand of the OTHER PARTY including the Intellectual Property Right, licensing, environment impact and all that) which is submitted by the OTHER PARTY concerning the PROJECT.
- j. The appointment of CONTRACTOR does not release the SELLER from the obligations and responsibilities as contained in this AGREEMENT.
- k. The SELLER is responsible to fulfill the composition of Local Content (TKDN) in accordance with the prevailing laws and regulations that applies.
- l. The SELLER is responsible for performing the Corporate Social Responsibility (CSR) for the PROJECT environment.
- m. The SELLER is obliged to convey the performance bond and every renewal, extension, or replacement to the BUYER in the form of a Bank Guarantee issued by a Commercial Bank or a Foreign Bank operating in Indonesia (not including rural bank and banks contained in the black list), comprises of :
  - I. Performance Bond Stage I in the sum of USD 121,920,- (One Hundred Twenty One Thousand and Nine Hundred USD)\*, which is submitted by the SELLER to the BUYER before or on the SIGNING DATE, with the validity period of 19 (nineteen) months since the SIGNING DATE and will be returned after the FINANCING DATE has been met.
  - II. Performance Bond Stage II in the sum of USD 304,800,- (Three Hundred Four Thousand Eight Hundred USD)\*\*<sup>1</sup>, which is submitted by the SELLER to the BUYER on the PAYMENT DATE has been met and is effective since the FINANCING DATE until 18 (eighteen) months after the COMMERCIAL OPERATION DATE TARGET and will be returned after the COMMERCIAL OPERATION DATE OF THE PLANT has been met.
- n. The SELLER is responsible to create a technical plan, constructing the PLANT and SPECIAL FACILITY which can be synchronised with the BUYER'S GRID.
- o. During the TERM OF AGREEMENT, the SELLER is required to comply with the terms and conditions required as stated in the applicable laws and regulation including the Minister of Energy and Mineral Resources Regulation Number 19 of 2015.

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<sup>1</sup> In accordance with SE DIR No. 0003.E/DIR/2014 :

\* Minimum of 2 % from the transaction value of the SELLER an kWh for 1 (one) year

\*\* Minimum of 5 % from the transaction value of the SELLER an kWh for 1(one) year

**ARTICLE 5**

**ACHIEVING THE FINANCING DATE AND THE CONSTRUCTION COMMENCEMENT DATE**

1. The SELLER must achieve the FINANCING DATE at the latest 18 (eighteen) months from the SIGNING DATE, with the provisions as follows:
  - a. The achievement of the FINANCIAL DATE acknowledged with the fulfillment of the condition precedents and condition as follows which is set out in the Minutes of the FINANCING DATE and signed by the PARTIES:
    - i. All documents in Attachment D point 3 of this AGREEMENT have been effectively applicable.
    - ii. All licenses and approval from the competent GOVERNMENT INSTITUTION have been obtained.
    - iii. FINANCING CLOSING DATE has been achieved.
  - b. In the case of the FINANCING DATE has not been achieved, then the BUYER has the right to terminate this AGREEMENT and withdraw the Phase 1 Performance Bond as stated in ARTICLE 19.
2. The SELLER must achieve the CONSTRUCTION STARTING DATE in the time at the latest 3 (three) months since the issuance of IUPTL, with the provisions as follows:
  - a. The achievement of the CONSTRUCTION COMMENCEMENT DATE acknowledged by the issuance and submission of the statement of the start of construction by the SELLER to the BUYER that is evidenced by:
    - i. A copy of the Work Order from the SELLER to the CONTRACTOR for the commencement of the PLANT construction; and
    - ii. Opening work and the land preparation for the main building of the PLANT has been commenced, which can be verified by the BUYER by site visit. The SELLER at any time must give field access to the BUYER.
  - b. The achievement of the CONSTRUCTION COMMENCEMENT DATE set out in the Minutes of the CONSTRUCTION COMMENCEMENT DATE and signed by the PARTIES.
  - c. In the case of delay of the CONSTRUCTION COMMENCEMENT DATE then the provisions in ARTICLE 10 paragraph 2 will apply.
  - d. In the case of failure of achieving the CONSTRUCTION COMMENCEMENT DATE that was not caused by FORCE MAJEURE exceeding 15 (fifteen) months since the issuance of IUPTL, then the BUYER has the right to terminate this AGREEMENT and withdraw the Stage II Performance Bond as stated in ARTICLE 19.

**ARTICLE 6**

**CONSTRUCTION OF PLANT AND SPECIAL FACILITY**

1. The SELLER undertakes the construction of the PLANT including the METERING SYSTEM as stated in Attachment A and is in accordance with the technical requirements required in PT PLN (Persero).
2. The SELLER undertakes the construction of the SPECIAL FACILITY within  $\pm$  9 kms including the INTERCONNECTION FACILITY as stipulated in Attachment A and in accordance with the technical requirements required in PT PLN (Persero).
3. The PARTIES agrees that the construction of the PLANT will be conducted or carried out by the SELLER as stated in paragraph (1) and (2) of this ARTICLE in accordance with the technical limit contained in Attachment B, that can be changed, modified, replaced and even adjusted as long as it fulfills the technical requirements that is effective and have been agreed by the PARTIES.
4. Construction of the PLANT as stated in this ARTICLE is required to be completed by the SELLER in accordance with the COMMERCIAL OPERATION DATE TARGET in a maximum period of 27 (twenty seven) months as of the FINANCING DATE in accordance with Attachment C.

## **ARTICLE 7**

### **TESTING AND COMMISSIONING**

1. Testing and Commissioning will be conducted for :
  - a. No Load Test;
  - b. Synchronized PLANT test against the BUYER'S GRID;
  - c. Load Test (50%, 75% dan 100%);
  - d. Capacity Test;
  - e. Free Load Nominal Test (100%);
  - f. PLANT Reliability Test; and
  - g. Other tests in accordance with the standards and technical requirements that are applied in PT PLN (Persero) and the prevailing laws and regulations.
2. Before the PLANT is operated and interconnected with the BUYER'S GRID, it is required to conduct a test and commissioning on the PLANT equipment with the provision before the test and COMMISSIONING is conducted, the protection of the relay coordination between the PLANT and the BUYER'S GRID has been conducted.
3. The SELLER is required to inform/convey to the BUYER at the latest 30 (thirty) CALENDAR DAYS before COMMISSIONING, covering the schedule and test procedure.
4. Reliability test is conducted for 72 hours straight with a maximum load. If during the reliability test there is glitch that is caused by the system of the SELLER in time of more than 1 (satu) hour, then the implementation of the reliability test will have to start over. In the event of interference caused by the BUYERS system, then the reliability test can be continued with the remaining time.
5. The working test for the PLANT and the reliability test must be implemented with the supervision of the Business Entity which holds Electricity Support Business License in Technical Inspection that has been accredited by the Accreditation Institution in the context of the COMMISSIONING OF THE PLANT.

6. Individual PLANT equipment test can be conducted by the SELLER on its own, and the test result must be submitted to the BUYER.
7. The SELLER can implement the interconnection to the system of the BUYER after the SELLER obtains the recommendation of laik bertegangan and laik sinkron which have been issued by Business Entity which holds Electricity Support Business License in Technical Inspection that has been accredited by the Accreditation Institution.

## **ARTICLE 8**

### **OPERATION AND MAINTENANCE OF THE PLANT**

#### **1. Initial Operation:**

- a. The operation of the PLANT to the BUYERS NETWORK system is performed after the obtaining the CERTIFICATE OF OPERATION WORTHINESS published by the accredited Business Entity which holds Electricity Support Business License in Technical Inspection.
- b. After obtaining the OPERATION ACCEPTANCE TEST CERTIFICATE as stated in point a paragraph 1 of this ARTICLE and the Electrical Power Supply Business Licence, then the SELLER will perform the operation of the PLANT commercially. The starting date of the operation will be set forth as the COMMERCIAL OPERATION DATE OF THE PLANT and create the Minutes of the Plant Commercial Operation that has been signed by the PARTIES.

#### **2. Early completion of the PLANT:**

If the SELLER can finish and operate the PLANT earlier than the time limit stipulated in ARTICLE 6 paragraph 4 with the written notice to the BUYER 6 (six) months before the early operation, then the PARTIES will agree upon the completion date as the COMMERCIAL OPERATION DATE with the making of the Minutes of Early Operation that has been signed by the PARTIES.

#### **3. Operation and Maintenance Provisions**

- a. The SELLER must operate and maintain the PLANT and all its facilities including the SPECIAL FACILITY in accordance with the PROTAP determined and agreed by the PARTIES and based on GOOD UTILITY PRACTICE.
- b. The PARTIES will conduct the setting of the safety relay with the safety equipment on the BUYER'S GRID to the extent it will interconnect properly with the BUYER'S GRID.
- c. For planned maintenance, the SELLER must inform in writing to the BUYER 15 (fifteen) CALENDAR DAYS beforehand, including the estimated output.
- d. If there are disturbances to the PLANT that affect it to stop distributing ELECTRCITY by the SELLER, then the SELLER must inform the BUYER at least 1x24 hours before the occurance of that disturbance that is caused by emergency output occurred in the PLANT owned by the SELLER.

- e. If the disturbance as stated in point b above needs repair for more than 1 x 24 hours, then the SELLER must inform the BUYER of the estimate time needed in order to reoperate the PLANT.
- f. The appointment of CONTRACTOR does not release the SELLER from the obligation and responsibility in accordance with the AGREEMENT.

**4. Operation Procedure**

- a. 1 (one) month before the COMMERCIAL OPERATION DATE OF THE PLANT, the SELLER submits the ANNUAL PRODUCTION DECLARATION to the BUYER for the rest of the FISCAL YEAR on that year (tahun ke 0), starting from the 1<sup>st</sup> of the first month after the COMMERCIAL OPERATION DATE OF THE PLANT until the month of December of that year.

This ANNUAL PRODUCTION DECLARATION does not include the ANNUAL PRODUCTION DECLARATION in the table of the YEARLY PRODUCTION DECLARATION as stated in Attachment A.

Except if the COMMERCIAL OPERATION DATE OF THE PLANT has been reached on the month of December of the 0 year, then the SELLER submits the ANNUAL PRODUCTION DECLARATION for the first year.

- b. For the following year, every September of the ongoing FISCAL YEAR, the SELLER must submit the PLANT PROFILE planning for the next year to the BUYER.

The ANNUAL PRODUCTION DECLARATION contained in this PLANT PROFILED is in accordance with the table contained in Attachment A.

- c. If ACCOUNTED OUTPUT occurs, the PARTIES will take note of the time and the duration of the ACCOUNTED OUTPUT and will be set out in the Minutes of the ACCOUNTED OUTPUT.

**5. Plant Profile**

The PLANT PROFILE consists of monthly periods in the term of 12 (twelve) FISCAL YEAR months and must cover:

- a. Planned output schedule dan Planned Maintenance for 1 (one) FISCAL YEAR
- b. ANNUAL PRODUCTION DECLARATION which consists of MONTHLY PRODUCTION DECLARATION for every MONTH on that FISCAL YEAR.
- c. Condition and performance of the PLANT which consists of but not limited to: preparedness of the PLANT and the latest status from all the equipments that affects the preparedness of the plant and the electricity distribution.



6. On the end of every current FISCAL YEAR, the SELLER and the BUYER conducts the annual reconciliation based on the DPT and the total ACCOUNTED ENERGY, for 1 (one) FISCAL YEAR except for year 0. The result of reconciliation is set out in the Minutes of the Reconciliation as stated in ARTICLE 9 paragraph 4.
7. The SELLER must provide and install the telecommunication device in accordance with the standard of the BUYER as specified in Attachment A. The PARTIES must inform one another orally and in writing the operating condition and must conduct the communication in accordance with the PROTAP.
8. During th AGREEMENT PERIOD, the representatives that have the authority from the BUYER has the right at anytime and with clear reasoning beforehand, have access to the PLANT owned by the SELLER as stated in this AGREEMENT, including the control room and INTERCONNECTION FACILITY, for recital and meter maintenance and conducting all the inspection coverage, maintenance, services and operational that may be required to facilitate the output performance of this AGREEMENT.

## **ARTICLE 9**

### **PURCHASE OF ELECTRICITY AND THE TRANSACTION PROCEDURE**

1. **Provisions of the Electricity Purchase and the Transaction**
  - a. ELECTRICITY delivered by the SELLER before the COMMERCIAL OPERATION DATE OF THE PLANT, during the testing and commissioning and acceptance test as stated in ARTICLE 7 is not considered as a conduct of purchase and the BUYER does not have the obligation to pay for the ELECTRICITY.
  - b. The beginning of commercial operation which is declared by Minutes of Commercial Operation of the PLANT and signed by the Parties as described on Article 8 Paragraph 1 or Article 8 Paragraph 2 shall be deemed as the commencement of the purchase of ELECTRICITY from the SELLER to the BUYER.
  - c. In case where there is an excess of ELECTRICITY, the BUYER has an option, but is not obliged to accept and purchase ELECTRICITY according to the terms and conditions in the AGREEMENT. In case where the BUYER receives such excess of ELECTRICITY. The price of the EXCESSES ELECTRICITY is as set out in Article 10 Paragraph 4.
  - d. The SELLER is allowed to purchase electricity from the BUYER for captive purpose as referred to in Article 2 point e of these ARTICLES, however the SELLER is not allowed to purchase electricity other than from the BUYER for any use.
2. **Special Condition for the SELLER**
  - a. The Seller has to undertake necessary steps required to fulfill the amount of ELECTRICITY listed in the PLANT PROFILE delivered to the BUYER according to Article 8 paragraph (5).
  - b. The Seller may cease or reduce the delivery of ELECTRICITY to the BUYER based on PLANT PROFILE which is resulted from the following conditions:
    - i. There is a planned maintenance work as scheduled in the PLANT PROFILE in accordance with Article 8 paragraph 5.
    - ii. The existence of emergency situation/FORCE MAJEURE
  - c. The SELLER may not cease or reduce the distribution of ELECTRICITY to the BUYER based on PLANT PROFILE, and will be imposed by PENALTY if the

ELECTRICITY distributed is less than ... % of the DPB as referred to in Annex E, which is the result of the following conditions:

- i. There is a termination or reduction of ELECTRICITY as the result of the unavailability of water for the operation of PLANT and distribution of ELECTRICITY.
  - ii. There is a termination or reduction of ELECTRICITY with the purpose of transferring the distribution of such ELECTRICITY for usage/distribution to ANOTHER PARTY.
  - iii. Other conditions which are not resulted from the conditions as referred to in item b paragraph 2 of this ARTICLE.
- d. Before commencing the temporary termination or reduction of ELECTRICAL ENERGY distribution as referred to in Paragraph 2 item b of this ARTICLE, the SELLER shall deliver or notify the BUYER no later than 30 (thirty) CALENDAR DAYS in advance, this notification shall content the explanation of the cause of the suspension as well as the prediction on the beginning and period of the suspension.
- e. If the SELLER needs ELECTRICITY for captive use in the moments before and during construction period, as well as during operational period, if any, including for the maintenance or reparation of outage (at the time when PLANT machine owned by the SELLER cannot be operated), then the SELLER may submit a request for the BUYER to distribute such ELECTRICITY. For the use of such electricity, the cost of the extension and the type of tariff imposed will be determined by the BUYER according to the applicable provisions.

**3. Special Conditions for the BUYER**

- a. The BUYER shall inform in writing at least 15 (fifteen) DAYS to the SELLER concerning the Buyer's System Maintenance Plan which will affect the distribution of ELECTRICITY from the SELLER.
- b. THE BUYER may temporarily cease or reduce the distribution of ELECTRICITY from the SELLER as well as exempt from the calculation of ACCOUNTED OUTPUT if:
  - i. There is a scheduled maintenance work on the system owned by the BUYER as referred to in Article 3 item a of this ARTICLE.
  - ii. There is an emergency situation/FORCE MAJEURE or other conditions which are not resulted from the conditions as referred to in Art. 3 item c of this ARTICLE.
- c. ACCOUNTED OUTPUT is an event (calculated since the FISCAL YEAR 1) when the BUYER is unable to receive ELECTRICITY produced by the PLANT at PRODUCTION HOUR which is caused by the following conditions:
  - i. System disturbance which exceeds 30 (thirty) minutes for each disturbance
  - ii. If the disturbance is resulted from among others and not limited to the burnt or disintegration of BUYER'S GRID then the provision on the calculation of ACCOUNTED OUTPUT will begin to be applicable if the BUYER is unable to fix or rectify such disturbance within 3x24 hours for each disturbance.

The ACCOUNTED OUTPUT is accounted only on the PRODUCTION HOUR. With the condition if the ACCOUNTED OUTPUT as declared in here exceeds 300 hours per year (every FISCAL YEAR), then the BUYER will be imposed by the payment obligation on COMPENSATION OVER ACCOUNTED OUTPUT for that FISCAL YEAR.

Every event of ACCOUNTED OUTPUT is obtained from the recording data of METERING SYSTEM and if possible, from data logger.

- d. In case where the BUYER needs to use the SPECIAL FACILITY, then the SELLER will deliver the SPECIAL FACILITY to the BUYER in accordance to the Procedure of Delivery and Acceptance on Annex G and further, the BUYER will possess and be responsible to operate and maintain SPECIAL FACILITY.

**4. Reconciliation and Penalty Calculation**

On each January 1<sup>st</sup> of current FISCAL YEAR, the Parties will jointly perform an annual reconciliation for INVOICE PERIOD of 1 (one) FISCAL YEAR before the current year which is set forth in the Minutes of Annual Reconciliation.

Reconciliation is performed over the total of TOTAL OF ACCOUNTED ENERGY during the foregoing year over the DPT on the foregoing year.

Based on the result of reconciliation, calculation of PENALTY will be performed as regulated in the ANNEX E.

**ARTICLE 10**

**ELECTRICITY PURCHASE PRICE**

**1. Electricity Purchase Price**

- a. The BUYER and the SELLER agree that the price of METERED ELECTRICITY on the TRANSACTION POINT as referred to in Article 2 Paragraph 4 of this Agreement is:
    - (i). 12 cent USD per kWh for the 1st year until 8th year since the COMMERCIAL OPERATION DATE OF PLANT; and
    - (ii). 7.5 cent USD per kWh for the 9th year until the 20th year since the COMMERCIAL OPERATION DATE OF THE PLANT.
  - b. The price of METERED ELECTRICITY as referred to in item a already includes SPECIAL FACILITY, which is the cost of procurement of network connection from the PLANT to the BUYER'S GRID and be applicable permanently without escalation.
  - c. In case when there is a law provision or government's discretion which does not allow the use of transaction with non-rupiah (foreign currency), the BUYER and SELLER agreed that the price of the METERED ELECTRICITY as referred to in item a above will be stated in form of Rupiah and set forth in the Amendment of the AGREEMENT.
- 2.** In case when there is a delay on the CONSTRUCTION COMMENCEMENT DATE which is not resulted from FORCE MAJEURE, then a sanction of price reduction is imposed on the price of METERED ELECTRICITY for the first 8 (eight) years as referred to in Article 10 item a (i) subject to the following conditions:
- a. Delays of up to 3 (three) months since the issuance of IUPTL will be imposed with price reduction of 1% (one percent);
  - b. Delays of more than 3 (three) months until 6 (six) months since the issuance of IUPTL will be imposed with price reduction of 2% (two percent); and
  - c. Delays of more than 6 (six) months since the issuance of IUPTL will be imposed with price reduction of 3% (three percent).

3. Price reduction as referred to in paragraph 2 of this Article shall be set forth in the Amendment of AGREEMENT, with the condition, if the SELLER by any reason is unable to or refuse to sign the Amendment of Agreement concerning the above price reduction, then the BUYER has the right to impose the penalty of price reduction automatically calculated since COMMERCIAL OPERATION DATE OF THE PLANT without requiring the prior approval of the SELLER.

4. **EXCESS ELECTRICITY PRICE**

The BUYER and SELLER agree that the PRICE that will be paid by the BUYER for the EXCESS ELECTRICITY is equal to 50% (fifty percent) from the PRICE OF ELECTRICITY as defined in paragraph 1 of this ARTICLE.

5. **Change of Price outside Article 10 paragraph 1**

Adjustment of price of ELECTRICITY can only be done if there is a change on the laws and regulations or Regulations from the Government which directly affect the execution of construction and operation of PLANT and causes additional cost and change of price.

## **ARTICLE 11**

### **BILLING AND PAYMENT**

1. SELLER shall deliver a detailed invoice for every INVOICE PERIOD to the BUYER with the calculation according to the conditions of Annex E no later than 7 (seven) WORKING DAYS from the end of INVOICE PERIOD and the BUYER shall pay to the SELLER according to the INVOICE which is due in the account on behalf of the SELLER to:

Name : PT DEMPO SUMBER ENERGI.

Name of Bank : Bank Muamalat Cabang Padang – Sumatera Barat

Account Number : 4990000166

2. The payment as referred to in paragraph 1 of this Article will be done every month by the BUYER to the SELLER no later than 15 (fifteen) WORKING DAYS since the BUYER receives Request of Payment Letter which is complete, correct, with no defects from the SELLER.
3. The payment over the METERED ELECTRICITY according to the INVOICE has to be made in the currency of Rupiah using the middle conversion rate from Bank of Indonesia or exchange rate from Jakarta Interbank Spot Dollar Rate (JISDOR) dated D-1 from the date of INVOICE.
4. The submission of payment to the BUYER will be done by the SELLER in accordance with Annex E.
5. Billing Documents:

Request of Payment Letter as referred to in paragraph 2 of this Article has to be completed with the documents as follows:

- a. Request of Payment Letter

- b. 3 duplicates of receipt
  - c. Original Minutes of TOTAL OF ACCOUNTED ENERGY
  - d. Minutes of Payment
  - e. Copy of the Power Purchase Agreement for the first payment;
6. If the payment request from the SELLER to the BUYER is not completed with either in whole or in part from the documents as referred to in paragraph 5 of this Article, then the BUYER shall notify the SELLER no later than 5 (five) WORKING DAYS since the request of payment letter is received by the BUYER.
7. If the BUYER performs a delay of payment as referred in paragraph (2), then the BUYER has to pay the cost of delay for every WORKING DAYS of payment delay in the amount of 0.2 ‰ (two per ten thousand) for each day with the maximum limit of 1% from the INVOICE amount as of the due date as referred to in paragraph 2 of this ARTICLE.
8. Payment Dispute

In case where one of the PARTIES partially or entirely disputes the TOTAL OF ACCOUNTED ELECTRICITY including the payment over invoice which was previously not disputed, then:

- a. The disputing PARTY can submit the dispute to Arbitration based on the condition of Article 24 of this AGREEMENT.
- b. The BUYER has to pay the invoice that is not in disputed to the SELLER.
- c. For the remaining part of INVOICE that is in dispute shall be paid after an agreement or decision is reached.

## **ARTICLE 12**

### **LATENESS OF COMMERCIAL OPERATION DATE OF THE PLANT**

1. If the SELLER is late in achieving the COMMERCIAL OPERATION DATE OF THE PLANT which is not caused by FORCE MAJEURE or the unpreparedness of BUYER'S GRID according to the time limitation that is set as referred to in ARTICLE 6 paragraph 4, then the SELLER will be imposed a penalty for delay amounting to 1 ‰ (one per ten thousand) from the total annual payment estimation for each CALENDAR DAY of delay with a maximum limit of for 180 (one hundred eighty) CALENDAR DAYS.
2. In the event that after 15 (fifteen) days since the COMMERCIAL OPERATION DATE TARGET, the SELLER cannot achieve the COMMERCIAL OPERATION DATE OF THE PLANT, then the BUYER has the right to terminate the AGREEMENT and disburse the Bank Guarantee as regulated in ARTICLE 19.
3. In the event that the PLANT is ready to be commercially operated upon the COMMERCIAL OPERATION DATE TARGET, but the COMMERCIAL OPERATION DATE cannot be achieved because BUYER'S GRID is not ready then the DATE OF COMMERCIAL OPERATION is deemed to have occurred and is set forth in the Minutes of the Deemed Commercial Operation Date.
4. In the event that the above the DEEMED COMMERCIAL OPERATION DATE occurs, then the PARTIES agree that the determination of the COMMERCIAL OPERATION DATE is executed by the following arrangements:
  - a. If after the BUYER'S GRID is deemed as ready and at the time when the examination conducted the PLANT successfully fulfil the Examination and COMMISSIONING terms as regulated in this AGREEMENT, then the PARTIES agreed that:
    - i. The DEEMED COMMERCIAL OPERATION DATE is deemed to be COMMERCIAL OPERATION DATE.
    - ii. The calculation of ELECTRICITY during the period of establishment of the DEEMED COMMERCIAL OPERATION DATE until the PLANT is examined after BUYER'S GRID is declared ready is not counted as ACCOUNTED OUTPUT.
    - iii. The SELLER shall not be imposed by Penalty for Delay.
  - b. If after the BUYER'S GRID is declared ready but at the time of examination the PLANT fails or cannot fulfill the terms of Testing and COMMISSIONING as regulated in the AGREEMENT then the PARTIES agreed that:
    - i. The COMMERCIAL OPERATION DATE has not occurred and the Minutes of COMMERCIAL OPERATION DATE is declared void.
    - ii. The SELLER will be imposed by Penalty for Delay calculated since the PLANT fails to fulfill the terms of Examination and COMMISSIONING when BUYER'S GRID is ready until when the PLANT is stipulated to have fulfilled the terms of Testing and COMMISSIONING as regulated in this AGREEMENT.

## **ARTICLE 13**

### **METERING, CALIBRATION, AND MONITORING SYSTEM**

1. **METERING SYSTEM OF ELECTRICITY**
  - a. To calculate the total of ELECTRICAL ENERGY (kWh) that is sold by the SELLER to the BUYER as referred to in ARTICLE 2 paragraph 3, the SELLER shall use electronic kWh meter which has 0.2 class as the PRIMARY METER at the TRANSACTION POINT. The BUYER can install COMPARISON METER near

TRANSACTION POINT as a comparison data. If there is a difference on the reading result, then the PARTIES can suggest conducting an examination or calibration for the PRIORITY METER that is witnessed by the PARTIES, in according with the agreement sets forth in the PROTAP.

- b. The installed kWh meter is from the type of electronic that can measure and record
  - Electrical Energy (in kWh) in two ways
  - Power (in kWh)
  - Reactive Power (kVArh)
  - Voltage and Current
- c. The electronic kWh meter shall has a storage ability and recording of a minimum 3 (three) months with a 10 minutes recording time interval.

## **2. Reading Guidelines**

- a. The reading and recording of the kWh meter as referred to in paragraph 1 this ARTICLE is executed together by the representatives of the PARTIES.
- b. The first reading and recording is executed on the COMMERCIAL OPERATION DATE OF THE PLANT and later on each month to be noted and uploaded on each 1st (first) date.
- c. The taken data is the data from the foregoing 1(one) month.
- d. If the representative of one of the PARTIES is unable to attend, on the schedule of reading as provided in paragraph 2 item b of this ARTICLE, then the reading that is done by the attending PARTY, is deemed to be valid.
- e. From the result of reading and recording as referred to in paragraph 2 item a and b this ARTICLE and from the result of the data recording on the electronic kWh meter as referred to in paragraph 1 this ARTICLE a Minute of TRANSACTION containing METERED ELECTRICITY distributed and ACCOUNTED OUTPUT.
- f. The Minutes of Transaction shall be signed by representatives of each PARTIES.
- g. The Minutes of Transaction shall be approved by the authorised authority from the SELLER which will be used to calculate the total INVOICE that shall be paid by the BUYER.
- h. The Minutes of Transaction will be requested for approval of the BUYER no later than 5(five) WORKING DAYS since the delivery of Minutes of Transaction by the SELLER.

## **3. Monitoring and Calibration**

- a. Metering Instrument as referred to in paragraph 1 of this ARTICLE before being installed shall be calibrated and sealed beforehand by the local Agency for Metrological witnessed by the PARTIES and to be made its Minutes of Meeting.
- b. The cost of calibration of metering instruments as referred to in item a is the burden and responsibility of the SELLER.
- c. The BUYER is allowed to install comparative metering instruments, such comparative metering instrument cannot be used to make an INVOICE unless there is a failure upon the metering instrument as referred to in paragraph 1.
- d. The SELLER executes a re-calibration at least once a year and shall be executed by the local Agency for Metrological and witnessed by the PARTIES.
- e. If there is an abnormality on the metering instrument among others broken security seal or the metering instrument fails to record properly (not in accordance with the standard) the ELECTRICITY which is distributed, then the calculation of ELECTRICITY which is distributed is set based on the comparative metering instrument owned by the BUYER (metering instrument/ kWh meter in a

good condition), or in another way agreed by the PARTIES as set forth in the PROTAP if there is no comparative metering instrument.

- f. If one of the PARTIES requires a re-calibration for the metering instrument as intended in paragraph 3 item d of this ARTICLE, then the costs needed for the re-calibration will be the burden and responsibility of the PARTY who requires the execution of re-calibration. Re-calibration is in accordance with the condition of the local Agency for Metrological.

## **ARTICLE 14**

### **INSURANCE**

1. The SELLER at its own cost shall insure the PROJECT including all equipments and labors during the construction period and operation of the PLANT towards all lost and damage which may occurred including business interruption risk.
2. The SELLER at its own cost shall insure the SPECIAL FACILITY until being delivered to the BUYER in case when there is a transfer as referred to in Article 9 paragraph 3 item d.
3. The SELLER shall provide Liability Insurance to OTHER PARTY whether in a form of bodily injury or property damage in respect to the execution of PLANT construction done by the SELLER.
4. Failure of the SELLER to insure do not release the SELLER from its obligation to maintain the insurance scope as specified.
5. The Insurance Company that will bear the insurance as mentioned in paragraph 1 and 2 of this ARTICLE is in accordance with the List of Insurance Company issued by the Director of PT PLN (Persero).

## **ARTICLE 15**

### **COMPENSATION**

1. If within the execution of the AGREEMENT there is an accident, damage, fire, or loss and number of other reasons including indirect or loss or a continuation of the fault or negligence one of the PARTIES which creates a loss to the other PARTY or OTHER PARTY, then the PARTY which creates the loss shall bear the burden of loss that occurs.
2. If within the implementation of the AGREEMENT either now or in the future that happen before the end of this AGREEMENT as referred to in ARTICLE 3 or TERMINATION OF AGREEMENT as referred to in ARTICLE 19 there is a claim from OTHER PARTY to one PARTY, then the resolution of such claim has to be done by the PARTY who has the obligation to settle the claim and that PARTY ensures that the other PARTY will not be claimed by the OTHER PARTY.
3. The condition on this ARTICLE shall continue to apply even though the AGREEMENT has been terminated.

## **ARTICLE 16**

### **FORCE MAJEURE**



1. For the purpose of this AGREEMENT, the definition of FORCE MAJEURE is an event that occurs due to something that is outside the power of the PARTIES that cannot be predicted before by the PARTIES and/or is outside the limit of power of the PARTIES which directly affect the targeted of this AGREEMENT which may cause a delay or a termination of the construction work, execution of PLANT, or a failure of delivery/receipt of the ELECTRICITY which is resulted from, among others and not limited to:
  - a. War
  - b. General public disorder: riots, insurgency, sabotage, riots and demonstrations with violence;
  - c. Natural disasters: earthquakes, droughts, floods or other natural disasters or discoveries of objects related to the history of the on site;
  - d. Strikes or prohibition of work or the presence of riot and assault carried out by the workers of another company;
2. If the BUYER or the SELLER fail to execute their entire or partial obligation as regulated in this AGREEMENT as a result from a FORCE MAJEURE, as specified in paragraph 1 of this ARTICLE, then such PARTY will be released from the obligation with the condition that the PARTY who cannot fulfill such obligation will:
  - a. Deliver immediately an oral notification no later than 3 (three) CALENDER DAYS and followed by a written notification within no later than 14 (fourteen) CALENDAR DAYS calculated since the stated accident along with a written explanation from the competent institution concerning the occurrence of the SEBAB KAHAR or for a condition that is clearly can be seen that such condition is included in the FORCE MAJEURE then there is no need to proof by a written explanation from the competent authority.
  - b. Take an immediate action to fix/overcome the events that arises due to such FORCE MAJEURE and submit the evidences that can be accounted for that all appropriate efforts has been taken to overcome the result of such FORCE MAJEURE.
  - c. To execute all appropriate efforts to reduce or limit the loss to the other PARTY as long as that action will not give a bad influence towards its own self interest.
  - d. To immediately deliver a written notification no later than 3 (days) of CALENDAR DAYS to the other PARTY concerning the end of FORCE MAJEURE.

3. If within the time limit as referred to in paragraph 2 of this ARTICLE the PARTY who experiences FORCE MAJEURE does not notify the event of FORCE MAJEURE to the other PARTY, the event is deemed to not be a result of FORCE MAJEURE.
4. The obligation of one of the PARTY that needs to be done before the event of FORCE MAJEURE which causes the non-execution of such obligation cannot be released as a result of the event of FORCE MAJEURE.
5. In case when FORCE MAJEURE occurred outside Indonesia, then the notification concerning FORCE MAJEURE shall be accompanied by the explanation of local authority and certified by the local Official Representatives of the Republic of Indonesia.
6. The BUYER is not obliged to receive or pay ELECTRICITY during the event of FORCE MAJEURE.

## **ARTICLE 17**

### **EXTENSION OF THE TERM OF THE AGREEMENT**

By taking into account the condition of ARTICLE 12 paragraph 1 of this Agreement, in case of termination of the construction and/or the operation of the PLANT as referred to in ARTICLE 6 and ARTICLE 8 of this AGREEMENT, which is resulted from FORCE MAJEURE as referred to in ARTICLE 16, to the SELLER is given an extension of time as agreed by the PARTIES in writing in a form of Amendment towards this AGREEMENT as a compensation for such delay subject to the applicable laws and regulations.

## **ARTICLE 18**

### **ASSIGNMENT OF AGREEMENT**

The SELLER is not allowed to assign its partial or entire rights and obligation based on this AGREEMENT to any OTHER PARTY during the TERM OF AGREEMENT

## **ARTICLE 19**

### **TERMINATION OF AGREEMENT**

1. Other than the result of condition as referred to in paragraph 5 of this ARTICLE, every event on the following below is not a failure, negligence, and inability of the SELLER which may result to the TERMINATION OF AGREEMENT:
  - a. Failure of the SELLER to meet the CONSTRUCTION COMMENCEMENT DATE exceeding 15 (fifteen) days since the issuance of IUPTL as referred to in ARTICLE 5.
  - b. Failure of the SELLER to achieve the COMMERCIAL OPERATION DATE for more than 15 (fifteen) MONTHS after COMMERCIAL OPERATION DATE TARGET as referred to in ARTICLE 12.
  - c. Failure of the SELLER to operate the PLANT for 7 (seven) DAYS consecutively which is not resulted from FORCE MAJEURE or as a result of BUYER's failure to perform its obligation based on the AGREEMENT.
  - d. The occurrence of the following events:
    - (i). a delivery of a decision concerning bankruptcy, financial incapability, liquidation process, or liquidation or similar events related to the SELLER;

- (ii). the appointment of trustee, liquidator, custodian, temporary official to execute the process on item (i), where the appointment of that person is not revoked or lasted for more than 60 (sixty) CALENDAR DAYS, or
    - (iii).an order from court which reserves the right to execute liquidation process, or to confirm bankruptcy or financial incapability, where such order is not revoked or lasted for more than 60 (sixty) CALENDAR DAYS.
  - e. Stipulation of the SELLER as the Water Developer for Power Plant is revoked by the authorised GOVERNMENT INSTITUTION or declared as void by law.
  - f. Failure of the SELLER to execute other responsibility and obligation in this AGREEMENT outside item a,b,c,d and e above.
- 2. At the time when there is a failure of the SELLER as referred to in paragraph 1 of this ARTICLE, the following procedures shall be followed by the SELLER:
  - a. The BUYER may give a warning letter to the SELLER upon the event of failure of SELLER ("Warning Letter to Repair")
  - b. The SELLER has to deliver a report of the cause of failure and reparation program in details to the BUYER no later than 30 (thirty) CALENDAR DAYS since receiving Warning Letter to Repair. The term of execution of reparation is maximum 90 (ninety) CALENDAR DAYS since the report from the SELLER is received by the BUYER.
  - c. In case where the term of reparation as referred to in Reparation Program is passed an/or cannot be reached a decision between the PARTIES, then the BUYER has the right to terminate the AGREEMENT by giving "Termination Warning Letter" to the SELLER, mentioning the date of Agreement termination which cannot be less than 30 (thirty) CALENDAR DAYS since the date of the Termination Warning Letter.
  - d. At the end of the term of reparation as referred to in paragraph 2 item C of this ARTICLE and except:
    - i. there is another agreement from the PARTIES, or
    - ii. the event which makes the Termination Warning Letter is already repaired, then this AGREEMENT is automatically will be ended without needing Termination Letter of Agreement beforehand calculated since the date as referred to in the Termination Warning Letter or the next date which is agreed by the PARTIES.
  - e. In case where the SELLER does not deliver the Reparation Program as referred to in paragraph 2 item b, then the SELLER has the right to end the AGREEMENT by giving "Termination Warning Letter" to the SELLER by mentioning the date of the termination of Agreement which cannot be less than 30 (thirty) CALENDAR DAYS after the date of such Termination Warning Letter.
- 3. Other than due to the conditions as referred to in paragraph 5 of this ARTICLE, each of the following events constitutes as the failure of the BUYER which may leads to the TERMINATION OF AGREEMENT:
  - a. Failure of the BUYER to make payment based on this AGREEMENT within 3 (three) consecutive months.
  - b. Process of liquidation, merger, consolidation, acquisition, reorganization, reconstruction or privatization of the BUYER, unless as long as that matter does not affect the ability of the new company to execute its obligation based on this AGREEMENT.

4. At the time when there is a failure of the BUYER, as referred to in paragraph 3, the following procedures have to be followed by the BUYER:
  - a. The Seller may give Warning Letter to the Buyer upon the failure of the BUYER ("Warning Letter to Repair")
  - b. Within the terms of maximum 30 (thirty) CALENDAR DAYS after receiving the Warning Letter for Revision, the BUYER is required to finish all of its obligation based on this AGREEMENT.
  - c. In case when the BUYER is unable to finish its obligation as referred to in paragraph 4 item b and/or cannot be found an agreement between the PARTIES, then the SELLER can terminate this AGREEMENT.
  - d. In case of the termination of AGREEMENT as referred to in paragraph 4 item c occurs on the following period:
    - i. The 1<sup>st</sup> year until the 8<sup>th</sup> year since the COMMERCIAL OPERATION DATE, then the BUYER is required to buy the PROJECT and pay the Price of the Termination of Project to the SELLER according to Annex H.
    - ii. The 9<sup>th</sup> year until the 20<sup>th</sup> year since the COMMERCIAL OPERATION DATE, then this AGREEMENT is ended without the obligation from one of the PARTY to the other PARTY, and for that the SELLER has no right to file for claim, indemnification or compensation in any form to the BUYER.
  - e. After the termination of this AGREEMENT, in case where the BUYER purchase the PROJECT and pay Price of the Termination of the PROJECT as referred to in paragraph 4 item d, then the SELLER is obliged to transfer the ownership of the PROJECT to the BUYER or OTHER PARTY appointed by the BUYER. Where the BUYER, based on its own discretion and choice, may execute the transfer through the transfer of shares of the Shareholders from the SELLER or the transfer of asset ownership of the PROJECT as referred to in the procedure as a regulated procedure in the Annex H of this AGREEMENT.
5. Termination of AGREEMENT as a Result of Other Condition:
  - a. The BUYER has the right to make a TERMINATION OF AGREEMENT, by submitting a termination letter to the SELLER if the conditions to meet the FINANCING DATE is not/not yet fulfilled within no later than 18 (eighteen) month after the SIGNING DATE, unless the non-fulfillment of such conditions is resulted from the condition of FORCE MAJEURE but not including the failure of the SELLER to release the land for the purpose of PROJECT, this AGREEMENT will end at the date mentioned in such Termination Letter without the obligation from one of the PARTY to the OTHER PARTY, unless the right of the BUYER to withdraw the Phase I Performance Bond.
  - b. The BUYER or SELLER may execute the TERMINATION OF AGREEMENT in case of (i) authorised GOVERNMENT INSTITUTION issued a decision in any form including letter, stipulation, decision, regulation, to revoke the stipulation of the SELLER as the water developer for power plant which is not resulted from the negligence of the SELLER to fulfill the conditions of applicable laws and regulation or to cancel the assignment of the BUYER to purchase the Electricity from the PLANT of the SELLER and/or (ii) there is a condition of laws and or Government's discretion that does not allow the execution of this AGREEMENT, then this AGREEMENT is terminated automatically on the date of revocation of stipulation, cancelation of

assignment or stipulation of conditions and there is no single PARTY which will be responsible to the other PARTY for the termination of the AGREEMENT based on this paragraph.

- c. The BUYER or the SELLER may end this AGREEMENT as a result of FORCE MAJEURE, if such FORCE MAJEURE has lasted for 180 (one hundred and eighty) calendar days consecutively through written notification to the other PARTY.

6. Consequence of Termination and Payment of Performance Bond:

- a. In case where TERMINATION OF AGREEMENT is because of the failure of the SELLER to meet DATE OF FINANCING, then the BUYER has the right to withdraw the Phase I Performance Bond.
- b. In case where the TERMINATION OF AGREEMENT at the time after the FINANCING DATE until before the COMMERCIAL OPERATION DATE, which is resulted from the failure of the SELLER, then the BUYER has the right to withdraw the Phase II Performance Bond.

- 7. In case where there is a termination of this AGREEMENT, the PARTIES declared to have agreed to waive the provisions of ARTICLE 1266 of Civil Code towards this AGREEMENT, termination can be made validly and is sufficient with a notification letter in writing without waiting a decision from Judge.
- 8. The PARTY who terminates the AGREEMENT is declared to be released from any legal claim from the other PARTY as a result of termination of this AGREEMENT, therefore entirely becomes the obligation of the PARTY who terminates.
- 9. If during the termination of this AGREEMENT, there is still an obligation that is not yet fulfilled by one of the PARTY to the other PARTY, then the PARTY who still has the obligation is still responsible for all the obligations that occur before the termination of this AGREEMENT in accordance with the conditions under this AGREEMENT.
- 10. At the time when this AGREEMENT is terminated due to the failure of the SELLER as referred to in paragraph 1 of this ARTICLE, the BUYER will deliver a letter of recommendation of revocation concerning related permits to the Regional Government and related Institutions, as well as to announce the termination of this AGREEMENT in the media.

**ARTICLE 20**

**TAX AND LEVIES**

The SELLER is required to pay taxes in accordance with the laws and regulations issued by the Central Government or Regional Government which are related to the construction and operation of the PLANT as referred to in this AGREEMENT.

**ARTICLE 21**

**ENVIRONMENTAL PROTECTION**

1. The SELLER is required to meet the environmental quality standards as well as to do an environment management and supervision in accordance with the condition of Annex F and applicable laws and regulations.
2. The SELLER is required report regularly, concerning the environment condition since the construction of PLANT is started, during COMMISSIONING and during the operation of PLANT to the Ditjen Ketenagalistrikan or the authorised Government Authority and the BUYER

## **ARTICLE 22**

### **APPLICABLE LANGUAGE AND LAW PROVISIONS**

1. The language that is used in this AGREEMENT is Indonesian Language, in case where required for the purpose of funding/financing the SELLER on its own cost may translate this AGREEMENT into English, however the PARTIES agreed such translation is not binding and has no legal power.
2. This Agreement, its interpretation and execution as well as its consequences are regulated, subjected to and is under the condition of the law of Republic of Indonesia.

## **ARTICLE 23**

### **AMENDMENTS**

1. The PARTIES agreed that every amendment on this AGREEMENT can only be done with approval from the PARTIES.
2. Amendments as referred to in paragraph 1 of this AGREEMENT after being agreed, is made in an addendum/amendment or in any other written form which is signed by the PARTIES which becomes inseparable part from this AGREEMENT.

## **ARTICLE 24**

### **DISPUTE RESOLUTION**

1. If a dispute arises between the PARTIES in relation to the execution of this AGREEMENT, then the PARTY who acknowledges such dispute will notify in writing about the existence of the dispute to the other PARTY and the PARTIES will try to settle the dispute by way of deliberation within 30 (thirty) CALENDAR DAYS since the notification.
2. If the terms of settlement as referred to in paragraph 1 of this ARTICLE is already passed and the dispute cannot be settled by a consensus deliberation as referred to in paragraph 1 of this AGREEMENT, then the PARTIES agreed to settle the dispute through Indonesian National Arbitration Body seated in Jakarta which decision is final and binding

## **ARTICLE 25**

### **CONFIDENTIALITY**

3. The PARTIES agreed that each PARTY is willing and will ensure that its employee, its officer, and its commissioner and director is willing, and take reasonable efforts to make sure that its agent will keep the confidentiality of every information,

documentation, data or knowledge which is disclosed to them by the other PARTY and is addressed to in writing as "classified" ("classified information"), and not to disclose to the OTHER PARTY or use the Classified Information or one part of it without prior written approval from the other PARTY, with the conditions that the Classified Information can be disclosed to:

- a. an organ or government institutions according to law provisions; and
  - b. bona-fide financial institution(s), potential buyer or seller, as well as consultant and the CONTRACTOR which needs such disclosure in a reasonable manner, as long as that OTHER PARTY shall agree beforehand to not disclose the related Classified Information to any OTHER PARTY for any purposes.
4. The limitation in paragraph 1 of this ARTICLE is not applicable or cease its applicability, towards one part of the Classified Information which (i) become a public domain besides because of a violation reason over this AGREEMENT; (ii) in a legal ownership of a receiving PARTY or one of the employee, officer, commissioner, or director of the first PARTY during or before the disclosure; (iii) is obtained by the first PARTY in good faith from the other PARTY which has the right to disclose it or (iv) information which is allowed to be disclosed based on the laws and regulations, Government's Regulation, Decision Letter or Regulation which is applicable.
5. The limitations that are set out in paragraph 1 of this ARTICLE shall continue to be applicable even though this AGREEMENT has been terminated or is expired.

## **ARTICLE 26**

### **ADDRESS AND REPRESENTATIVES OF THE PARTIES**

1. Unless otherwise specified in this AGREEMENT, every correspondence as well as notification that are required and obliged in implementing this AGREEMENT including every INVOICE, request to settle a dispute or other relation shall be done in writing and is delivered in writing to each related PARTIES in personal, facsimile, or through POST with the address and destination as follows:

#### **BUYER**

Name (Attn) : SUPRIYADI

Position : General Manager of PT PLN PT PLN (Persero) Distribusi/  
Sumatera Barat Region

Address : Jl. DR. Wahidin No. 8 Padang

Telephone : (0751) 33446

Facsimile : (0751) 29540 & 31564

Email :

#### **SELLER**

Name (Attn) : SUPRIYADI

Position : President Director of PT Dempo Sumber Energi  
Address : JL.Tim-Tim Blok Y No.2 RT 003 RW 005  
Kel. Ulak Karang Utara Kec. Padang Utara, Padang  
Telephone : (0751) 442991  
Facsimile : (0751) 442990

2. Change of representatives or address of the PARTIES above can be done through prior notification in writing to the other PARTY.

## **ARTICLE 27**

### **MISCELLANEOUS**

1. **Entirety of Agreement**

This AGREEMENT is the entire AGREEMENT between the BUYER and SELLER for the execution of matters regulated within the AGREEMENT. The entire agreement, correspondence of deliberation before the signing of this AGREEMENT whether oral or writing in relation to the execution of the PROJECT which is not in contrary to the conditions of this AGREEMENT becomes not applicable and is deemed to have been amended with the conditions within this AGREEMENT.

2. **Waiver of Rights**

There is no PARTY, who is deemed to have waived its right based on this AGREEMENT, unless that PARTY has submitted in writing and signed by the authorised authority from the PARTY waiving its right. Any delay, omission in using its right or doing any reparation shall not constitute as a waiver of rights or a failure that comes from the other PARTY.

3. **Partial Inapplicability**

This AGREEMENT will not be null and void by law if one of the provisions under this AGREEMENT becomes inapplicable, invalid, or cancelled, or cannot be applied. The PARTIES in good faith take the effort to discuss on a substitution of the provisions which will be applied towards the AGREEMENT which reflects the true intention from the PARTIES according to the applicable provisions and/or best practices.

4. **No Partnership.**

There is no single partnership within this AGREEMENT which is interpreted as to create any association, partnership or joint partnership, or to cause any obligation or task, liability or partnership responsibility with other PARTY, or to create a task or responsibility to someone or a body which is not a PARTY from this AGREEMENT. Each PARTY is responsible individually and separably for its obligation based on this AGREEMENT.

5. **Cost and Expenses.**

Each PARTY bears and is responsible for its own cost and expenses (including but not limited to wages and expenses for its agent/supplier, representatives, advisors,



consultants, and accountant) which is needed for deliberation, preparation, signing, delivery, execution, and fulfillment of the conditions within this AGREEMENT.

**6. Title of AGREEMENT**

The title of this AGREEMENT is only intended for the sole purpose of convenience and does not affect the interpretation of this AGREEMENT.

**7. Indonesian Businessman Participation and Local Content Level**

According to the Minister of Industry Regulation No.54/M-IND/PER/3/2012 dated 21 March 2012 on Guidelines on the Use of Domestic Products for the Construction of Electricity Infrastructure, in the following days whether before or after the SIGNING DATE OF AGREEMENT, then the SELLER has to bind the contractor as maximum as possible to use the plant and product from Indonesia in doing the construction of PLANT and Local Content fulfill according to the applicable conditions.

**8. Exemption of Import Duty Facility**

As prescribed under the Ministry of Finance Regulation No. 154/PMK.011/2008 and its amendment ("Minister of Finance Regulation 154/2008"), the SELLER declares and ensure that the price for equipment and import materials (capital import good which receives exemption of import facility according to Minister of Finance Regulation 154/2008) as sets forth and become part from Purchase Price of Electrical Energy according to ARTICLE 10 has calculated the existence of exemption of import duty facility and because of that the Electricity Purchase Price is not included as an import duty.

With the conditions, to avoid doubts, the SELLER will still be fully responsible for the import duty which is imposed to every capital import good which does not received exemption of import duty facility according to PMK 154/2008 and/or other taxes without causing reimbursement claim from the SELLER to the BUYER or price adjustment.

**9. REPORT**

The SELLER is obliged to submit a progress report on the execution of the PLANT every 6 (six) months started from the date of the determination to the Directorate General of Renewable Energy and Energy Conservation (EBTKE) until the COMMERCIAL OPERATION DATE with a copy to the Directorate General of Electricity and the Board of Directors of the BUYER.

**ARTICLE 28**

**CLOSING**

This AGREEMENT is made in 2 (two) original copies and 2 (two) duplicate copies, each 2 (two) original copies has a legal power which is equal and applicable on the date, month, and year as mentioned in the beginning of AGREEMENT, 1 (one) copy for the BUYER and 1 (one) copy for the SELLER and after being stamped with sufficient stamp, signed by the PARTIES.

**BUYER,**

**SELLER,**

**SUPRIYADI**

**GENERAL MANAGER OF PT PLN (PERSERO)  
SUMATERA BARAT REGION**

**MUHAMMAD YAMIN KAHAR**

**PRESIDENT DIRECTOR  
PT DEMPO SUMBER ENERGI**