

DEPARTMENT CIRCULAR NO. 2023-__-____

**REVISED OMNIBUS GUIDELINES GOVERNING THE AWARD AND
ADMINISTRATION OF RENEWABLE ENERGY CONTRACTS AND THE
REGISTRATION OF RENEWABLE ENERGY DEVELOPERS**

WHEREAS, pursuant to Section 2, Article XII, of the 1987 Philippine Constitution, all forces of potential energy and other natural resources within the Philippine territory belong to the State and their exploration, development and utilization shall be under the full control of the State;

WHEREAS, under Section 2 of Republic Act (RA) No. 7638, as amended, otherwise known as the *“Department of Energy Act of 1992”*, the Department of Energy (DOE) is mandated to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution and conservation, among others;

WHEREAS, Section 5(b) of the same Act empowers the DOE to develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy, and which program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry and reduction of dependency on oil-fired plants;

WHEREAS, Section 2 of RA No. 9136, otherwise known as the *“Electric Power Industry Reform Act of 2001”* or *“EPIRA”*, declares that it is the policy of the State to, among others, (i) ensure and accelerate the total electrification of the country; (ii) enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors; (iii) assure socially and environmentally compatible energy sources and infrastructure; and (iv) promote the utilization of indigenous and new and renewable energy resources in power generation in order to reduce dependence on imported energy;

WHEREAS, Joint Administrative Order (JAO) No. 2008-1, Series of 2008, otherwise known as the *“Guidelines Governing the Biofuel Feedstocks Production, and Biofuels and Biofuel Blends Production, Distribution and Sale”*, provides for the accreditation of biofuel producers, among others, under RA No. 9367, otherwise known as the *“Biofuels Act of 2006”*;

WHEREAS, Section 2 of RA No. 9513, otherwise known as the *“Renewable Energy Act of 2008”* or *“RE Act”*, directs the State to encourage and accelerate the exploration, development and utilization of renewable energy (RE) resources such as, but not limited

to, biomass, solar, wind, hydropower, geothermal, and ocean energy sources, and including hybrid systems;

WHEREAS, Section 19(c), Rule 6 of Department Circular (DC) No. DC2009-05-0008 which prescribes the Implementing Rules and Regulations (IRR) of the RE Act, requires the DOE to issue a regulatory framework containing the guidelines that shall govern the transparent and competitive system of awarding RE Service/Operating Contracts from Pre-Development to Development onto Commercial Operations stage, or the awarding of direct operating contracts to specific RE technologies, among others;

WHEREAS, under Section 2 of RA No. 11032, otherwise known as the “*Ease of Doing Business and Efficient Government Service Delivery Act of 2018*”, it is the duty of the State to, among others, promote integrity, accountability, proper management of public affairs and public property, aimed at efficient turnaround of the delivery of government services and the prevention of graft and corruption in government;

WHEREAS, in Section 2 of RA No.11234, otherwise known as the “*Energy Virtual One-Stop Shop Act*” or “*EVOSS Act*”, the State is likewise commanded to, among others, ensure transparency and accountability in the process of approving power generation, transmission, or distribution projects, and deliver efficient and effective service to the public;

WHEREAS, on 01 August 2019, the DOE issued the DC No. DC2019-08-0012 which aims to introduce Energy Storage System (ESS) technologies to serve a variety of functions in the generation, transmission, and distribution of electric energy;

WHEREAS, after DC No. DC2019-10-0013 took effect, the DOE implemented further enhancements in the award and administration of RE Contracts and the registration of RE Developers, to wit:

- (a) DC2009-07-0011 dated 12 Jul 2009;
- (b) DO2013-08-0011 dated 20 July 2013;
- (c) DO2013-10-0018 dated 09 October 2013;
- (d) DO2013-12-0020 dated 02 December 2013;
- (e) DO2013-12-0023 dated 27 December 2013;
- (f) DO2014-06-0010 dated 09 June 2014;
- (g) DO2014-10-0018 dated 14 October 2014;
- (h) DO2016-09-0011 dated 05 September 2016;
- (i) DO2016-06-0010 dated 24 June 2016;
- (j) DO2017-04-0005 dated 07 April 2017;
- (k) DO2018-03-0003 dated 16 March 2018;
- (l) DO2019-01-0003 dated 11 January 2019; and
- (m) DO2019-07-0018 dated 30 July 2019;

WHEREAS, after DC No. DC2019-10-0013 took effect, the DOE implemented further enhancements in the award and administration of RE Contracts and the registration of RE Developers, to wit:

- (a) DC2022-11-0034 dated 15 November 2022;
- (b) Advisory No. 1 dated 15 March 2023;
- (c) Advisory No. 2 dated 15 March 2023; and
- (d) Advisory No. 3 dated 29 April 2023;

WHEREAS, after DC No. DC2019-10-0013 took effect, the DOE implemented further enhancements in the award and administration of RE Contracts and the registration of RE Developers, to wit:

- (a) DC2022-11-0034 dated 15 November 2022;
- (b) Advisory No. 1 dated 15 March 2023;
- (c) Advisory No. 2 dated 15 March 2023; and
- (d) Advisory No. 3 dated 29 April 2023;

WHEREAS, there is a need to integrate and harmonize the above issuances and the DOE's recent policies for an effective and efficient award and administration of RE Contracts and registration of RE Developers;

NOW, THEREFORE, in consideration of the foregoing premises, the DOE hereby issues the following revised guidelines and procedures governing the awarding of RE Contracts, and the registration and management of RE Projects:

CHAPTER I - GENERAL PROVISIONS

Section 1. Title. This Circular shall be known as the *“Revised Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers.”*

Section 2. Coverage. This Circular shall prescribe the guidelines and procedures on:

- 2.1. The pre-application, application, and award of RE Contracts;
- 2.2. The conversion of existing service contracts to RE Contracts for the exploration, development or utilization of RE resources with the DOE, subject to Section 39, Rule 13, of the IRR of the RE Act;
- 2.3. The issuance by the DOE of Certificates of Registration (COR) for RE Developers of projects with or without RE Contracts; and

2.4. The administration of RE Contracts.

Section 3. Definition of Terms. As used in this Circular and in other issuance of the DOE, the following terms shall be understood to mean, as follows:

- 3.1. *“Biomass Energy Operating Contract”* or *“BEOC”* refers to the RE Contract issued for the development and operation of RE Projects utilizing biomass as RE Resource.
- 3.2. *“Blocking System”* refers to the subdivision of the Philippines, for purposes of RE Applications for wind, geothermal and ocean resources, into RE meridional blocks (RE blocks) of 30 seconds of latitude and 30 seconds of longitude using Philippine Reference System of 1992 (PRS’92) as the standard reference system. One (1) RE block shall have an approximate area of eighty-one (81) hectares. Each block shall have a unique number designated by the DOE.
- 3.3. *“Certificate of Authority”* refers to the certificate duly signed by the DOE Secretary exclusively authorizing an RE Developer to procure the necessary permits and tenurial instruments for the exploration, development, construction and installation, and commercial operation of the RE Project and conduct reconnaissance and other activities needed for pre-feasibility studies.
- 3.4. *“Certificate of Confirmation of Commerciality”* or *“COCOC”* refers to the certificate duly signed by the DOE Secretary confirming the Declaration of Commerciality by the RE Developer and shall serve as a notice to proceed for the construction of the RE Project or the installation of the RE Facilities. The date of issuance of the COCOC shall be considered as the commencement date of the Development Stage of the RE Project.
- 3.5. *“Commercial Operations”* refers to the phase commencing at the operation of the RE Project, following its successful testing and commissioning, and confirming its readiness to inject power into the grid to sell or supply its produced energy, as duly confirmed by the DOE and other relevant regulatory bodies.
- 3.6. *“Commercial Quantities”* refers to quantities of energy to be produced from the RE Resources using commercially available technology to develop the RE Systems which have a reasonable chance of being sufficient and technically compliant to support the Commercial Operations of the project.
- 3.7. *“Contract Area”* *Contract Area* refers to the total area, which is the subject of the RE Contract as detailed and outlined in the map with its technical description, and where the RE Developer has the exclusive right to explore, develop and utilize the RE Resources.

- 3.8. *“Declaration of Commerciality”* or *“DOC”* refers to a written declaration made by the RE Developer to the DOE, stating that the RE Resource is of Commercial Quantities.
- 3.9. *“Direct Application”* refers to the mode of RE Application whereby the RE Applicant identifies a Contract Area it wishes to explore and develop. The identified Contract Area must first be certified by the DOE to be free and open for exploration or development.
- 3.10. *“Energy Application Management System”* or *“EAMS”* refers to an intranet-based system utilizing radio frequency identification (RFID) technology to uniquely identify an application and monitor its real-time location.
- 3.11. *“Financial Closing”* refers to such milestone in the Pre-Development or Development Stage of the RE Project when the RE Developer has secured a written commitment from the financier/s to provide its full funding requirements through equity and/or commercial borrowings, or other financing schemes.
- 3.12. *“Financial Qualifications”* refers to the criteria and procedures set out by the DOE to establish the financial capability of the RE Developer to implement the RE Project.
- 3.13. *“Force Majeure”* refers to extraordinary events not foreseeable or avoidable, events that could not be foreseen, or which, though foreseen, are inevitable.
- 3.14. *“Geothermal Service Contract”* or *“GSC”* refers to the RE Contract issued for the exploration, development and/or utilization of geothermal resources as RE Resource for the operation of RE Projects.
- 3.15. *“Hydropower Service Contract”* or *“HSC”* refers to the RE Contract for the exploration, development and/or utilization of hydropower resources as RE Resource for the operation of RE Projects.
- 3.16. *“Letter of Intent”* or *“LOI”* refers to the written notice or document submitted by a Person to the DOE, indicating interest in the exploration, development, utilization and commercialization of RE Resource.
- 3.17. *“Ocean Energy Service Contract”* or *“OESC”* refers to the RE Contract for the exploration, development and/or utilization of ocean resources for the operation of RE Projects.
- 3.18. *Pre-Determined Area”* or *“PDA”* refers to area/s with RE Resource potential through sufficient available technical data as may be determined by the REMB, and approved by the DOE Secretary for its inclusion in the Open and Competitive Selection Process (OCSP).

- 3.19. *“Person”* refers to a natural or juridical person, as the case may be.
- 3.20. *“Production Area”* refers to that portion of the Contract Area identified in metes and bounds by the RE Developer and approved by the DOE, where RE Resources are utilized to produce electricity in Commercial Quantities.
- 3.21. *“RE Applicant”* refers to any Person, subject to the limitations provided in this Circular, who applies for the assessment, exploration, harnessing, development, utilization and commercialization of RE Resources.
- 3.22. *“RE Application”* refers to the set of documents submitted by RE Applicants pertaining to their legal, technical and financial qualifications to enter into an RE Contract with the government, through OCSP or Direct Application, in accordance with the requirements under this Circular. For this purpose, the RE Application shall be comprised of one (1) electronic copy and four (4) printed copies, where one (1) set of the printed copy shall be in the original.
- 3.23. *“RE Contract”* refers to the service agreement between the Government, through the DOE and an RE Developer over an appropriate period as determined by the DOE which grants to the RE Developer the exclusive right to explore, develop, or utilize the RE Resource within a particular area. The RE Contract may be in the nature of a financial or technical assistance agreement which shall be entered into by the Government, through the President of the Philippines, pursuant to Article XII, Section 2 of the Philippine Constitution.
- 3.24. *“RE Developer”* refers to an individual or juridical entity created, registered and/or authorized to operate in the Philippines in accordance with existing Philippine laws, and engaged in the exploration, development and/or utilization of RE Resources, and actual operation of RE Project. It shall include existing entities engaged in the exploration, development and/or utilization of RE Resources, or the generation of electricity from RE Resources, or both.
- 3.25. *“RE Operating Contract”* refers to the service agreement between the DOE and RE Developer for the development and/or utilization of biomass, solar and other RE Resources as may be determined by the DOE which, due to their inherent technical characteristics, need not go through Pre-Development Stage.
- 3.26. *“RE Project”* refers to the power generation and related facilities utilizing RE Resources under a particular RE Contract or COR issued by the DOE pursuant to the RE Act.
- 3.27. *“RE Project for Non-Commercial Operations”* refers to an RE Project which is intended for demonstration purposes of any new or modified RE technologies, and those that are covered by Official Development Assistance (ODA), and all other programs and projects which are not designed and operated for profit.

- 3.28. *“RE Project for Own-Use”* refers to an RE Project located within the premises of or in an area contiguous to an End-User’s premises, and operated solely for the supply of a portion or all of the electricity requirements of such End-User. For this purpose, an “End-User” shall refer to any person or entity requiring the supply and delivery of electricity generated by the RE Project dedicated for its own consumption, which facility is installed either by the End-User or through a third-party provider.
- 3.29. *“RE Resource”* refers to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, but are not limited to, biomass, solar, wind, geothermal, ocean energy, and hydropower, conforming with internationally accepted norms and standards on dams, and other emerging RE technologies.
- 3.30. *“RE Service Contract”* refers to a service agreement between the Philippine Government, through the President or the DOE Secretary, and RE Developer, covering an appropriate period as stated therein, in which the RE Developer shall have the exclusive right to explore, develop and utilize geothermal, hydropower, wind, ocean and other RE Resources within a particular area.
- 3.31. *“RE Zone”* refers to area/s or region/s as may be identified by the DOE, in partnership with other stakeholders, pursuant to DC No. DC2018-09-0027, entitled *“Establishment of Competitive Renewable Energy Zones in the Country”*
- 3.32. *“Renewable Energy Management Bureau”* or *“REMB”* refers to the unit of the DOE created under Section 32 of the RE Act, mandated to, among others, implement policies, plans, and programs aimed at accelerating the development, transformation, utilization, and commercialization of RE Resources and technologies.
- 3.33. *“Solar Energy Operating Contract”* or *“SEOC”* refers to the RE Contract issued for the development and operation of RE Projects utilizing solar energy as RE Resource.
- 3.34. *“Wind Energy Service Contract”* or *“WESC”* shall refer to the RE Contract issued for the exploration, development and/or utilization of wind energy as RE Resource for the operation of RE Projects.
- 3.35. *“Offshore Wind Energy Service Contract”* or *“OSWESC”* refers to the RE Contract issued and awarded by the DOE for the exploration, development and/or utilization of wind energy in offshore areas, which include estuaries and other bodies of water. This includes WESCs awarded for offshore wind development prior to the issuance of Executive Order No. 21 and its Implementing Guidelines.

- 3.36. *“Work Program”* refers to the plans and programs and other related activities formulated for the performance of the work obligations under the RE Contract by the RE Developer, along with the corresponding budgetary estimate, duly approved by the DOE.

CHAPTER II – BIOMASS ENERGY RESOURCE

CHAPTER III – GEOTHERMAL ENERGY RESOURCE

CHAPTER IV – SOLAR ENERGY RESOURCE

Section 1. Eligibility of Floating Solar Energy Operating Contract Applicant. Any Person, local or foreign, may apply for Floating Solar Energy Operating Contract (FSEOC), subject to the provisions in this Chapter.

- 1.1. The SEOC Applicant may be a Filipino and/or a foreign citizen, or a Filipino- and/or foreign-owned corporation or association which is authorized by its articles or deed of incorporation to engage in solar energy exploration, development, and utilization.
- 1.2. In case the SEOC Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under the RA No. 11232, otherwise known as the “Revised Corporation Code of the Philippines,” or secure the appropriate license from the Securities and Exchange Commission, in case the joint venture or consortium was incorporated outside of the Philippines.

Section 2. Modes of Awarding Solar Energy Operating Contract. SEOC shall be awarded through (a) an Open and Competitive Selection Process (OCSP) or (b) Direct Application.

- 2.1. The OCSP shall be adopted for the selection and award of SEOCs for Pre-Determined Areas (PDAs) covering solar energy resources for commercial purposes. This shall be governed by Sections 3 and 4 of this Chapter.
- 2.2. Direct Application shall be available for the selection and award of:
 - (a) Solar Energy Operating Contract (SEOC);
 - (c) SEOCs covering PDAs, following a failed OCSP pursuant to Section 4.4 and the procedures in Section 4 of this Chapter; and

(d) SEOC in an area identified by an SEOC Applicant and verified with or confirmed by the DOE-Information Technology and Management Services (ITMS) as available for exploration, development and/or utilization of solar energy resources.

- 2.3. RE Projects for Own-Use and/or RE Projects for Non-Commercial Purposes shall not require the issuance of RE Contracts but shall comply with the registration requirements provided under Chapter IX of this Circular. Provided further, that the physical connection of Own-Use and/or RE Projects for Non-Commercial Purposes shall be Self-generating facility in the which the generating unit has no connection to the distribution system or grid.

Section 3. RE Zones and Pre-Determined Areas. Interested parties may apply for SEOC for RE Zones or PDAs offered by the DOE during a prescribed period (Annex G).

- 3.1. **Selection of RE Zones and PDAs.** The REMB shall identify and submit a list of RE Zones and PDAs for SEOC Application, with the respective location maps and technical descriptions thereof, to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary, for approval.
- 3.2. **Launch and Publication.** RE Zones and PDAs approved by the DOE Secretary shall be scheduled for launch and shall be publicly announced by the DOE for submission of SEOC Applications. RE Zones and PDAs for offer shall be published for at least once (1) a week for two (2) consecutive weeks in at least two (2) newspapers of general circulation and shall likewise be posted at the DOE website..
- 3.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the availability of data packages for the approved RE Zones and PDAs that can be purchased by interested parties in support of their applications. The REMB shall conduct promotional activities to promote the OCSP and the corresponding data packages so as to ensure maximum participation and awareness of prospective investors and stakeholders.

Section 4. Procedure for Awarding Solar Energy Operating Contract under RE Zone Auction and Open and Competitive Selection Process.

- 4.1. **Solar Energy Contract Application.** Applications may be submitted a day after the publication date until the last day of submission which shall be sixty (60) calendar days from the date of first publication in accordance with the following requirements:
- 4.1.1. The SEOC Applicant shall submit to the DOE a Letter of Intent (LOI) following the prescribed format (Annex H) together with the SEOC Application in accordance with prescribed Checklist of Requirements (Annex I). The LOI shall be addressed

to the REMB Director and shall indicate whether the interested participant will avail of the Certificate of Authority referred to in Sections 6 and 7.1 of this Chapter.

Each SEOC Application shall cover only one RE Zone or PDA as published;

4.1.2. The The SEOC Application must be in both paper and electronic (flash drive in Portable Data Format) copies, which shall use Times New Roman in 12-point font size and employ single line spacing. Figures and maps shall be printed and submitted in a document that is not smaller than A3 size. For legibility, figures and maps shall be submitted at a larger scale (1:10,000) as appendices; and

4.1.3. An application fee shall be paid by each SEOC Applicant, along with the submission of SEOC Application. All payments may be made in cash, manager/company cheque, payable to “Department of Energy” or by wire/bank transfer. All wire/bank transfers should be net of all applicable bank and financial charges.

4.2. **Opening and Evaluation of Solar Energy Operating Contract Applications.** The DOE shall open the applications at exactly 1300H, on the last day of the submission of SEOC Applications.

4.3. **Evaluation, Selection and Award.** The evaluation and selection of SEOC Applications and award of SEOC shall be conducted following the criteria and procedures set hereunder:

4.3.1 Applications with incomplete documents based on the Checklist of Requirements shall be automatically disqualified during the opening of SEOC Applications. No additional documents shall be accepted after the deadline for submission of SEOC Applications.

4.3.2 SEOC Applicants shall be duly informed by the Review Committee (REC) Chairperson whether their application passed the completeness check and shall be subjected to further legal, technical, and financial evaluations. Applicants who were disqualified for submitting incomplete documents shall likewise be informed by the REC Chairperson of the fact of their disqualification and the reasons therefor.

4.3.3 SEOC Applications which passed the completeness check shall be evaluated based on the following criteria:

Legal Qualification	Pass/Fail
Work Program	40%
Technical Qualification	20%
Financial Qualification	40%

The guidelines and procedures, including the qualification criteria per scoring item, of every OCSP shall be determined at the beginning of every OCSP round and will be covered by a Department Circular.

- 4.3.4 The highest ranked SEOC Application that meets the legal, technical, and financial requirements shall be selected.
- 4.3.5 After a complete review and evaluation of the legal, technical and financial qualifications of the SEOC Applications, the REC Chairperson, shall transmit to the DOE Secretary a written endorsement of the selected SEOC Application.
- 4.3.6 Based on the written endorsement of the REC Chairperson, the DOE Secretary may approve the application and issuance of the corresponding RE Contract.
- 4.4 An OCSP, with respect to any or all RE Zones or PDAs included therein, as applicable, shall be declared a failure when any of the following circumstances exists:
 - 4.4.1 No SEOC Application was received by the DOE;
 - 4.4.2 No SEOC Application passed the legal requirements; or
 - 4.4.3 When one or more SEOC Applications passed the legal requirements but after the evaluation of technical and financial proposals, none of such SEOC Applications were able to meet either the technical or financial requirements.

In any of the foregoing cases, the RE Zone or PDA shall be opened for Direct Applications. To initiate the change of mode of awarding SEOC from OCSP to Direct Application for the relevant areas, the DOE shall include in the announcement of the result of the OCSP the area/s which shall be open for Direct Application, indicating thereat when the new application process shall commence.

Section 5. Procedure for Awarding Solar Energy Operating Contract under Direct Application.

- 5.1. **Coverage.** Direct Application shall be observed in processing SEOC Applications for: (a) solar energy resources located in RE Zones or PDAs which the DOE shall declare as available under this mode pursuant to Section 4.4 of this Chapter, and (b) solar energy resources in areas other than those included in the RE Zones or PDAs, subject to the procedures provided herein.

Part 1. Pre-Application Process

- 5.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with Solar and Wind Energy Management Division (SWEMD).

- 5.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area, in accordance with the mapping requirements (Annex J). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the Certificate of Authority referred to in Sections 6 and 7.1 of this Chapter. The submission of the LOI shall not be considered as a filing of an SEOC Application and shall not commence the application process.
- 5.4. **Orientation of Interested Participant.** The orientation is intended to inform interested participants about the SEOC Application requirements, and to guide them through the process for evaluation thereof, awarding of SEOC and the registration of a Floating solar PV project.
- 5.4.1. All interested participants shall be informed of the schedule of orientation or briefing on the SEOC Application requirements and processes.
- 5.4.2. Any interested participant may waive attendance to the orientation in writing either in its LOI or in response to the notice of the schedule of orientation provided in the preceding paragraph.

Part 2. Area Verification and Technical Guidelines

- 5.5. **Configuration of Area of Interest.** The interested participant shall specify the type of Floating solar power project, whether it is ground-mounted, roof-mounted or solar power project with integrated ESS, and it shall indicate the geographic coordinates of the area of interest (AOI) except for roof-mounted solar project. In the case of roof-mounted solar power project, only the size of AOI in hectares and the latitude and longitude points shall be submitted with the LOI. The AOI for the SEOC Application shall either be polygonal or in block following the Blocking System or a combination of both.
- 5.6. **Proof of Access to Proposed Area of Interest.** The SEOC Applicant shall submit proof of ownership or possessory rights over real property/ies covered by the proposed solar power project area/site located in private lands: *Provided*, That in the case of public lands, proof of application to acquire possessory rights over the real property/ies covered by the proposed area shall suffice. *Provided*, further, That the SEOC Applicant shall execute and submit a sworn statement describing in detail in which the possessory rights were acquired. The sworn statement must include an endorsement, signed by the declarant, which states that the declaration, particularly on the possessory rights, is truthful and made under penalty of perjury.
- 5.7. **Area Verification.** Within fourteen (14) days from receipt of the LOI, ITMS shall complete the area verification and determine whether the AOI is:

- 5.7.1. Covered by an existing PDA under the OCSP, SEOC or SESC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
- 5.7.2. Within or overlaps with the area of an existing energy service or operating contract such as Petroleum Service Contract (PSC), Coal Operating Contract (COC), Small-Scale Coal Mining Permit (SSCMP) or Renewable Energy Service Contract (RESC), other than SEOC or SESC;
- 5.7.3. Within or overlaps with the area of an existing energy service or operating contract application such as Petroleum SC, COC, SSCMP or RESC, other than SEOC Application;
- 5.7.4. Within the protected and environmentally critical areas under RA No. 11038, or the “Expanded National Integrated Protected Areas System Act of 2018” (“ENIPAS”), *i.e.*, within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with Tenurial Instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the SEOC Application based on available data on file with ITMS and the National Mapping Resource Information Authority’s Philippine Geoportal Project website;

Pursuant to the mandate of the DOE to supervise and control all government activities relative to energy project under the EPIRA, concerned government agencies and entities shall provide the DOE the list of abovementioned areas with technical description;

- 5.7.5. Covered by the LOI of the same or other energy resource; or
- 5.7.6. Open for SEOC Application.
- 5.8. **Area Verification Results.** ITMS shall provide SWEMD with the results of area verification through the EVOSS System. SWEMD shall conduct the final technical verification and determine whether the proposed solar power project will cause substantial disruption to an existing solar power project. Within three (3) working days upon receipt of the final technical verification results, SWEMD, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

If the SWEMD Application cannot proceed based on the final technical verification results, the interested participant may either (a) reconfigure the AOI, (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 5.7.3 of this Chapter, as applicable.

5.8.1. **Reconfigured Area of Interest.** Within ten (10) days from uploading of the final technical verification results, the interested participant and SWEMD may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed solar project. The interested participant may reconfigure its AOI to cover only such portion as may allow the SEOC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 5.6.1, 5.6.2, 5.6.3 or 5.6.5 of this Chapter, SWEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the SEOC Application.

5.8.2. **Multiple Resources in an Area.** If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor as provided under Sections 5.6.2 and 5.6.3 of this Chapter, the interested participant may still pursue the SEOC Application, subject to the provisions herein below set forth:

(a) The interested participant shall:

- (i) Explain in writing why the proposed solar power project will not be feasible without the overlapping area, duly supported by technical data, proposed project design, and other relevant information.
- (ii) Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing applicants and/or developers of other energy resources within the overlapping area; that the design, construction and operation of the proposed solar power project will ensure safe and optimal development of solar power project and other energy resources in the overlapping area; and that all costs needed therefor shall be borne by the interested participant.

(b) SWEMD shall inform the applicant or energy contractor/developer on the intent to develop the solar power project within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the existing applicant or contractor/developer.

(c) If no objection is received from the existing applicant or energy contractor/developer within the prescribed period, SWEMD, through the REMB Assistant Director, shall endorse and upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the SEOC Application.

(d) If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify SWEMD thereof within ten (10) days from receipt of notice, citing the impracticability of multiple resource development as to additional costs, safety, substantial decrease in the utilization of the energy resource, and other relevant factors. Copies of the

written objection shall be furnished to the DOE Division processing the application or administering the energy project. A statement that multiple resource development in the overlapping area is impracticable without technical basis shall not be considered as an objection.

- (e) Within five (5) days from receipt of an objection, SWEMD shall furnish the interested participant with a copy thereof. Within the same period, SWEMD and the concerned DOE Division shall jointly determine whether exploration of solar power project within the overlapping area may be conducted without material adverse effect on the activities of the existing energy contractor/developer. Such determination shall consider the interested participant's proposal, the objection and the technical bases cited therein. The evaluation shall be endorsed to the REMB Director.
- (f) Upon receipt of the endorsement, the REMB Director may issue a Notice to Apply if s/he concurs that the exploration will not cause material injury the existing energy contractor/developer.

5.8.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 5.6.4 of this Chapter, the interested participant may still pursue the SEOC Application if there is no material adverse effect on the feasibility of the proposed solar power project after applying the provisions herein below set forth:

- (a) If the AOI overlaps with areas within strict protection zones under the ENIPAS, the interested participant shall submit a revised AOI net of the said areas.
- (b) If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced shall be subject to the ENIPAS and its implementing rules and regulations.
- (c) If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced subject to RA No. 8371 or "The Indigenous Peoples Rights Act of 1997" and its implementing rules and regulations.
- (d) If the AOI overlaps with areas with Tenorial Instruments from other government agencies, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced subject to the relevant rules and regulations of the concerned government agency.
- (e) If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be

reduced subject to the relevant rules and regulations of the concerned government agency.

Part 3. Filing and Evaluation of Floating Solar Energy Operating Contract Applications

- 5.9. **Receipt of Solar Energy Operating Contract Applications.** After the Notice to Apply is uploaded in the EVOSS System, the interested participant may file its SEOC Application by complying with the procedures and requirements, as follows:
- 5.9.1. The SEOC Applicant shall submit through the EVOSS System the complete set of documentary requirements which include legal, technical and financial based on the Checklist of Requirements (Annex I).
 - 5.9.2. SWEMD shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the solar power project within three (3) working days.
 - 5.9.3. If the submission is complete, SWEMD shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the SEOC Applicant through a system-generated email to pay the application and processing fees within five (5) days. Failure to do so will result in the abandonment of the application.
 - 5.9.4. The EVOSS System shall notify LS, FS and ITMS of the complete submission.
- 5.10. **Evaluation of Floating Solar Energy Operating Contract Applications.**
- 5.11. After the payment of the processing fee, SWEMD, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) days from uploading of the proof of payment of application and processing fees in the EVOSS System.
 - 5.12. Preference shall be given to proposed solar power projects that are situated in close proximity to existing and available transmission facilities. Alternatively, preference may also be given to SEOC Applicants with a proposal for the construction of the necessary transmission facilities.
 - 5.13. SWEMD shall consolidate all the evaluation results and proceed with the processing of the application, as follows:
 - (a) If the SEOC Application passes the evaluations, SWEMD shall, within two (2) days from its receipt of the evaluation documents, prepare REMB's memorandum for the Secretary endorsing the award of the SEOC Application;

the draft Certificate of Authority; and the draft SEOC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the Secretary shall act on the SEOC Application in accordance with Section 7 of this Chapter.

- (b) If the SEOC Application does not pass the legal, technical, and/or financial evaluations, SWEMD shall notify the SEOC Applicant through the EVOSS System to rectify the submission within ten (10) days.
 - (i) Failure of the SEOC Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the SEOC Application. SWEMD shall notify the SEOC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.
 - (ii) If the SEOC Applicant submits supplementary complete documents within the prescribed period above, SWEMD, LS and FS shall be notified by the EVOSS System of the submission. SWEMD, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) working days.
 - (iii) Should the SEOC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, SWEMD shall notify the SEOC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.

5.13.1. No Request for Reconsideration (RR) of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the SEOC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by Investment Promotion Office (IPO). In such circumstances, the SEOC Applicant may file the RR with REMB within three (3) days from uploading of the Notice of Disqualification.

- (a) Upon receipt of the RR, SWEMD shall request IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, SWEMD, FS and/or LS shall evaluate the SEOC Application considering the additional submission.
- (b) If the SEOC Application passes the evaluation, REMB shall grant the RR. Thereafter, SWEMD shall proceed in accordance with Section 5.9.3(a) of this Chapter.

5.14. If the Solar Energy Developer waived the Certificate of Authority during the pre-application process, SWEMD shall proceed with the application in accordance with Section 7.2 of this Chapter.

Section 6. Terms of Certificate of Authority. The awardee of a SEOC shall have exclusive authority to procure permits or certifications and tenurial instruments needed for the exploration, development and utilization of the solar energy resources within an area specified in the SEOC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of Certificate of Authority by the DOE.

- 6.1. The Certificate of Authority shall be valid for a period not exceeding two (2) years. During its validity, the Certificate of Authority shall serve as the DOE's exclusive endorsement for the Solar Energy Developer to secure the necessary permits or certifications and tenurial instruments from government agencies, entities or instrumentalities having jurisdiction over any aspect of the solar power project operations. The denomination of each permit or certification or tenurial instrument to be procured for the solar power project shall be listed in the Certificate of Authority.
- 6.2. The Certificate of Authority shall reflect the metes and bounds of the area as proposed in the SEOC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenurial instruments may be secured by the Solar Energy Developer for the project. For this purpose, a copy of the technical description of the area to be covered by the SEOC shall form part of the Certificate of Authority.
- 6.3. The validity of the Certificate of Authority shall not be extendible. Any reconnaissance activity that is not conducted and/or permit or certification or tenurial instrument that remains unissued upon the lapse of the Certificate of Authority shall be procured and the necessary activities therefor conducted, as part of the Development Stage.
- 6.4. The Solar Energy Developer shall have the option to shorten the period of validity of the Certificate of Authority or utilize its full term.
 - 6.4.1. If the Solar Energy Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the HSC and a proposed Work Program.
 - 6.4.2. If the Solar Energy Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the SEOC and a proposed Work Program not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the Certificate of Authority.
- 6.5. Within three (3) days from notice, SWEMD shall prepare REMB's memorandum for the Secretary endorsing the execution of the SEOC in accordance with Section 7.2 of this Chapter.

Section 7. Award of Floating Solar Energy Operating Contract and Registration of Solar Energy Developers.

- 7.1. **Issuance of Certificate of Authority.** After the approval of an SEOC Application and before the execution of an SEOC, the DOE shall issue a Certificate of Authority; Provided, that the Certificate of Authority may be waived in accordance with Section 6.4 of this Chapter.
- 7.2. **Signing of the Floating Solar Energy Operating Contract.** The following procedure shall govern the awarding of SEOC:
 - 7.2.1. **Notification of Award.** The DOE shall notify the selected (under the OCSP) or qualified (under Direct Application) SEOC Applicant of the award of the SEOC.
 - 7.2.2. **Signing of the Solar Energy Operating Contract.** The signing of the SEOC shall be divided into two stages, namely: a) pre-signing by the SEOC Applicant; and b) signing of the DOE Secretary.
 - 7.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary within two (2) working days from receipt thereof. The Undersecretary shall act on the endorsement within two (2) working days from receipt of the documents. Within one (1) working day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the SEOC Applicant to pre-sign the original copies of the SEOC following the prescribed template.
 - 7.2.2.2. W Within one (1) working day, the SWEMD shall validate the pre-signed SEOC, and shall forward the pre-signed HSC, along with the endorsement and all its attachments to the Office of the DOE Secretary.
 - 7.2.2.3. The Office of the DOE Secretary shall receive the pre-signed SEOC and all its attachments, shall act on the documents within seven (7) days from receipt thereof.
 - 7.2.3. **Payment of Signing Fee.** The SWEMD, through the EVOSS System, shall issue the Order of Payment within one (1) day. The SEOC Applicant shall pay the signing fee within fifteen (15) days, which shall be paid directly to the Treasury, and post the performance bond, within the relevant period, covering the first contract year.

The SEOC Applicant shall upload proof of payment of the signing fee within fifteen (15) days from receipt of notice. The failure of the Solar Energy Developer to do so shall be deemed as an abandonment of the SEOC Application and shall cause the revocation of the SEOC. Further, non-posting of the performance bond within thirty (30) days from receipt of notice shall cause the SEOC to be deemed void.

- 7.2.4. **Delivery of the Signed Solar Energy Operating Contract.** The SWEMD shall upload the signed and notarized copy of the SEOC and COR, as applicable, and inform the Solar Energy Developer to pick up the said documents. Simultaneous with the receipt of the SEOC, the Solar Energy Developer shall surrender to the DOE the Certificate of Authority issued pursuant to this Circular.
- 7.2.5. **Duty to Maintain Records.** The SWEMD shall maintain a record of all LOIs received, pending SEOC Applications, and signed SEOC in the EVOSS System.
- 7.2.6. The ITMS shall make the area available to other applicants only when: a) the SEOC Applicant failed to qualify; or b) withdraws or abandons its LOI or SEOC Application, as the case may be, and only after due notice is given to the concerned interested participant/SEOC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Once an area is declared to be available, subsequent SEOC Applications covering the same may be allowed, and only on a first-come, first-served basis.
- 7.3. **Registration of Solar Energy Developers.** The DOE, through the REMB, shall issue a COR to a Solar Energy Developer holding a valid SEOC for purposes of entitlement to the incentives under Chapter VIII of this Circular. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the SEOC, at the option of the Solar Energy Developer.

Section 8. Terms of Floating Solar Energy Operating Contract. The development of solar energy resources shall be covered by a FSEOC following the prescribed template (Annex D).

- 8.1. The SEOC shall have a term of twenty-five (25) years from the date of execution, which shall include the Development Stage and Commercial Stage but shall exclude the period covered by the Certificate of Authority.
- 8.2. Not earlier than six (6) months prior to the expiration of the twenty-five (25) year period, the SEOC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the SEOC.
- 8.3. The Work Program depends on the type of development, whether the Floating PV Project is integrated with ESS or not.
- 8.4. The RE Developer shall be given a period of six (6) years from the date of effectivity of the SEOC to achieve Commercial Operations of the RE Project. The SEOC shall have a term of twenty-five (25) years from the date of its effectivity and may be renewed for the same period, subject to terms and conditions provided therein.

Section 9. Stages of Floating Solar Energy Operating Contract.

- 9.1. **Stages of a Solar Energy Operating Contract.** A SEOC shall cover two (2) stages of the solar power project, namely:
- (a) Development Stage. Involves the conduct of final feasibility study up to Financial Closing, construction, test and commissioning and until application of Certificate of Compliance (COC) of the solar power project; and
 - (b) Commercial Stage: Involves the commercial operation of the solar power project from the issuance of COC.
- 9.2. **Transition from Pre-Development Stage to Development/Commercial Stage.** The SESC shall transition from the Pre-Development Stage to Development/Commercial Stage only after issuance by the DOE of a COCOC. The process of the issuance of a COCOC is provided in Section 15.3 of this Chapter.
- 9.3. **Contract Area.** Upon transition from the Pre-Development to Development Stage of the SESC, the Contract Area shall be amended, if necessary, to cover the Production Area only. In the case of SEOCs, the Contract Area is equivalent to the Production Area.

Section 10. Conversion of Existing Solar Energy Service Contract. For existing solar power projects that have been operating prior to the effectivity of the RE Act pursuant to contracts issued under the relevant preceding laws and those that have been issued SESCOs after the RE Act but prior to this Circular, the contract holder may elect to convert its service contract or agreement by applying for an SESC under this Circular, within one (1) year from the effectivity of this Circular. However, the period of the SESC to be issued in relation thereto shall be the balance of the contract term remaining under the existing and valid service/operating contract or agreement. The requirements and procedures for conversion to SESC templates in Annex D is provided in Section 15.4 of this Chapter.

Section 11. Amendment of Floating Solar Energy Operating/Service Contract.

- 11.1. **Amendment of Solar Energy Operating/Service Contract.** SEOC/SESC shall be amended in any of the following instances:
- 11.1.1. Change of company name;
 - 11.1.2. Change of project name;
 - 11.1.3. Correction of project location;
 - 11.1.4. Change to the Contract Area;
 - 11.1.5. Change in the proposed capacity of the solar power project; and/or
 - 11.1.6. Change of the terms of the SEOC/SESC.
- 11.2. No amendment to the SESC is required when the solar power project transitions from the Pre-Development to the Development Stage. However, the relinquishment of a portion of the Contract Area after identifying the Production

Area pursuant to Section 10.4 of this Chapter shall result in the issuance of new annex to the SESC, indicating the revised Contract Area, with corresponding map and technical description.

Further, no need for the amendment if there are changes in the Registered Capacity, provided that the Solar Energy Developer shall provide the DOE with the updated COC issued by the ERC.

11.3. Requirements for Amendments to the Contract Area. The Solar Energy Developer shall submit a request in writing addressed to the REMB Director, and shall comply with the following:

11.3.1. Technical description of proposed amendment to the Contract Area indicates the technical specifications and other mapping requirement for the purpose of area verification.

11.3.2. The proposed amendment of the Contract Area shall be allowed either to increase or decrease the existing area. shall cover an area that are technically feasible to connect with the existing Contract Area and, upon verification by the ITMS pursuant to the process in Section 5.7 of this Chapter.

11.3.3. The amendment of the Contract Area is justified and reasonable, which may be proven by: (a) the results of the resource assessment, duly verified by the SWEMD; (b) proof that the Solar Developer is not in default of its technical and financial obligations under the SEOC; and (c) other relevant facts and/or documents; and

11.3.4. The Work Program with respect to the amended Contract Area is acceptable.

11.4. Requirements for Other Amendments. The Solar Energy Developer shall submit a request in writing addressed to the REMB Director, together with the following.

11.4.1. Proof that the amendment is justified and reasonable;

11.4.2. Proof that the Solar Energy Developer is not in default of its technical and financial obligations under the SEOC/SESC; and.

11.4.3. Other relevant facts and/or documents.

11.5. Only a revised COR shall be issued in case of the following changes:

11.5.1.1. Company name of the Solar Energy Developer; and/or

11.5.1.2. Assignment of SEOC/SESC in accordance with the terms thereof, to an entity that has the legal, technical, and financial qualifications to undertake the solar power project.

- 11.6. Evaluation of Requests for Amendment of Solar Energy Operating/Service Contract.** The Solar Energy Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for amendment of SEOC/SESC, which shall be processed as follows:
- 11.6.1.1. SWEMD shall check the completeness and consistency of the submission within three (3) working days.
 - 11.6.1.2. If the submission is complete, SWEMD shall upload a copy of the order of payment to pay for the application and processing fees. The EVOSS System shall notify the Solar Energy Developer through a system generated email to pay the fees within five (5) days.
 - 11.6.1.3. After payment of the processing fee, SWEMD shall evaluate the request within five (5) days. In case the evaluation of the SWEMD shows that: (a) there are additional costs to be incurred that should warrant another financial evaluation; (b) there are any legal concerns regarding the solar power project; and/or (c) there is a need of re-plotting the Contract Area, SWEMD, through the EVOSS System, shall endorse the request to FS, LS and/or ITMS which shall conduct simultaneous financial and legal evaluations, and/or area verification within five (5) days.
 - 11.6.1.4. SWEMD shall consolidate all the evaluation results and recommend the same to the REMB Director for further action, and if the Solar Energy Developer passes the evaluation, endorse the Memorandum to the Undersecretary and Approval Letter / Revised COR through LS within two (2) days.
 - 11.6.1.5. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) days.
- 11.7. Revision of the Work Program.** The Work Program Subject to terms and conditions stipulated in the SEOC/SESC, the Solar Energy Developer may request for revision of its Work Program with justification on such revision; Provided, that such revision shall not extend the Pre-Development Stage.
- 11.8. Evaluation of Requests for Revision of the Work Program.** The Solar Energy Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for revision of the Work Program, which shall be processed as follows:
- 11.8.1. SWEMD shall check the completeness and consistency of the submission within three (3) days.
 - 11.8.2. If the submission is complete, SWEMD, LS and FS shall conduct simultaneous technical, legal (if necessary), and financial (for Pre-Development Stage only) evaluations within five (5) days.

- 11.8.3. SWEMD shall consolidate all the evaluation results and recommend the same to the REMB Director for further action and if the Solar Energy Developer passes the evaluation, endorse the Memorandum to the Undersecretary and Approval Letter, through LS, within two (2) days. SWEMD, through the REMB Director, shall provide the Supervising Assistant Secretary with its recommendation on the request and the complete basis thereof.
- 11.8.4. The Supervising Assistant Secretary shall act on the recommendation and endorse the same to the Undersecretary for approval within two (2) days.
- 11.8.5. SWEMD, through the EVOSS System, shall notify the Solar Energy Developer of the approval and upload a copy of the letter approving the revised work program.
- 11.8.6. The SWEMD shall immediately provide to the TSMD, ITMS, and DOE-Investment Promotion Office (IPO) the status of HSC and/or COR for timely update of database.
- 11.9. The changes to the Work Program necessitated by Force Majeure that extends the Pre-Development Stage shall be treated as an amendment of the HSC and shall be approved in accordance with Section 15.7.3.

Section 12. Assignment of Solar Energy Operating/ Service Contract.

- 12.1. All assignments of SEOC/SESC shall be subject to prior written approval of the DOE.
- 12.2. The Solar Energy Developer may assign all of its rights and obligations under the SEOC/SESC to its Affiliate or any third party, subject to Section 13.1 of this Chapter, and in accordance with the following:
- 12.2.1. The Solar Energy Developer shall submit to the DOE copies of the written document which unequivocally shows the agreement of the parties thereat to the assignment of the SEOC/SESC;
- 12.2.2. The Solar Energy Developer shall guarantee in writing to the DOE the performance of the assigned rights and obligations; and
- 12.2.3. The assignee shall be substituted for the Solar Energy Developer in the performance bond posted in accordance with Section 15.1 of this Chapter.
- 12.2.4. An assignment of the SEOC/SESC to a non-Affiliate, may be allowed only once during: a) the entire period of the Pre-Development Stage of the SEOC/SESC; or b) the entire term of the RE Operating Contract. An assignment shall not be allowed to a non-Affiliate during the first two (2) years of the SEOC/SESC from its effectivity.

12.3. **Evaluation of Requests for Assignment of Solar Energy Operating/Service Contract.** The Solar Energy Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for assignment of SEOC/SESC, which shall be processed as follows:

12.3.1. SWEMD shall check the completeness and consistency of the submission within three (3) working days.

12.3.2. If the submission is complete, SWEMD shall upload a copy of the order of payment to pay for the application and processing fees. The EVOSS System shall notify the Solar Energy Developer through a system generated email to pay the fees within five (5) days.

12.3.3. After payment of the processing fee, SWEMD, LS and FS shall conduct simultaneous technical, legal, and financial evaluations within seven (7) days.

12.3.4. SWEMD shall consolidate all the evaluation results and endorse, through REMB Director, the recommendation for approval of LS within two (2) days.

12.3.5. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) days.

Section 13. Investments.

13.1. **New Investments.** Solar Energy Developers undertaking discovery, exploration, development and/or utilization of new solar energy resources or the development of new generation facilities within the Contract Area distinct from the originally registered solar power project under commercial stage operations may qualify as new projects, subject to setting up of new separate books of accounts. The Solar Energy Developer may, upon its discretion, relinquish the Contract Area and apply for a new SEOC over the area of new investment, subject to constitutional term limits.

13.2. **Additional Investments.** Additional investment may cover investment for improvements, modernization, rehabilitation, or expansion duly registered with the DOE, which may or may not result in increased capacity, subject to the conditions to be determined by the DOE, such as, but not limited to, the following:

- (a) Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation of the solar power plant; and

- (b) Improvements to the solar power facilities such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the solar power project.

If, by reason of the additional investment, the capacity of the solar power project will be increased by at least thirty percent (30%), the Solar Energy Developer shall have the option to pre-terminate its existing contract and enter into a new SEOC, subject to constitutional term limits. Upon the award of the new HSC, the incentives under the RE Act shall be reset.

If the additional investment will not increase the capacity of the solar power project by thirty percent (30%), the Solar Energy Developer shall only be entitled to such incentives as may be warranted under the RE Act.

Section 14. Administration of Floating Solar Energy Operating/Service Contracts

14.1. **Posting of a Performance Bond.** The Solar Energy Developer shall post a bond or any other guarantee of sufficient amount, but not less than the minimum expenditures commitment for the first contract year, which shall be a condition precedent for the effectivity of the SEOC/SESC. A valid and subsisting performance bond is required to be maintained annually until the pre-construction phase of the solar power project.

14.2. **Updating of Solar Power Projects Data to the EVOSS System and DOE Website.** The following shall govern the posting and updating of SEOC/SESC awarded and pending SEOC/SESC Applications on the DOE website.

14.2.1. The REMB-Technical Service Management Division (TSMD), in coordination with SWEMD, shall collate and update the list of SEOC/SESC awarded and SEOC Applications filed and under evaluation on a quarterly basis. Upon full operation of the EVOSS System, updating of data shall be in accordance with the periods provided in the system.

14.2.2. All concerned DOE units shall provide updates to the EVOSS System and DOE websites.

14.2.3. All Solar Energy Developers shall be required to register with the EVOSS System for regular updating of their respective solar power projects.

14.3. **Procedure for the Transition from Pre-Development to Development of the Solar Energy Service Contract.**

14.3.1. The Solar Energy Developer shall submit through the EVOSS System the complete documentary requirements specified in Annex L of this Circular prior to

the expiration of the Pre-Development Stage. The SWEMD shall determine the completeness and consistency of the submission within three working (3) days.

- 14.3.2. If the submission is complete, the SWEMD, ITMS and LS shall conduct the evaluations and upload the evaluation results through the EVOSS System within seven (7) days.
- 14.3.3. The SWEMD shall consolidate the evaluation results and endorse, through REMB Director, the recommendation for approval of LS within two (2) days.
- 14.3.4. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) days.
- 14.3.5. The SWEMD, through the EVOSS System, shall upload the signed letter and COCOC and notify the Solar Energy Developer to pick-up the said documents.
- 14.3.6. Within thirty-one (31) days from receipt of the DOC, the DOE shall either.
 - 14.3.6.1. Issue the COCOC, if the results of the evaluation of the DOC are satisfactory, which shall likewise be considered the transition of the SESC from Pre-Development Stage to Development/ Commercial Stage; or
 - 14.3.6.2. Issue a written notice to the Solar Energy Developer indicating that it has the remainder of the Pre-Development Stage to correct any deficiencies and/or satisfy the requirements for issuance of the COCOC, if the results of the evaluation of the DOC are unsatisfactory. Said written notice shall be signed by the REMB Director.
- 14.3.7. The failure of the Solar Energy Developer to correct any deficiencies or otherwise satisfy the requirements for issuance of the COCOC before the expiration of its Pre-Development Stage shall be a cause for the termination of its SESC.
- 14.4. **Conversion to the New Solar Energy Operating Contract Template.** Holders of contracts/agreements prior to the effectivity of this Circular may apply for conversion to the new SEOC templates provided in Annex D hereof and are subject to the conditions and procedures hereinbelow provided.
- 14.5. **Requirements for Conversion to New Solar Energy Operating Contract Template.** ~~Contractors~~/Solar Energy Developers may apply for conversion to the new SEOC templates subject to the following conditions:
 - 14.5.1.1. Solar Energy Developers must be fully compliant with the terms of the approved Work Program/Work Plan and the material terms and conditions of the contract/agreement for the past six (6) months prior to the date of filing its

application for conversion. For Solar Energy Developers with SEOC executed less than six (6) months from date of application for conversion, the evaluation of their compliance of the commitments under the approved Work Program and of the material terms and conditions of the SEOC shall be the basis of their performance.

14.5.1.2. Submission of a letter of application for conversion with the following documentary requirements:

- (a) Work Program covering the first five (5) years of the remaining term of the old contract/agreement, reckoned from the date of its execution.
- (b) Revised Contract Area following the mapping requirements provided in Annex J hereof. Any remaining portion of the original Contract Area shall be deemed relinquished.

14.5.1.3. The conversion of SESC awarded under the RE Act but prior to the effectivity of this Circular shall be limited to those covering solar power projects which are under pre-commissioning/commercial operation phase.

14.5.2. **Procedures for Application.** Applications for conversion to the new SEOC template shall be processed based on the following procedures:

14.5.2.1. The Solar Energy Developer shall submit through the EVOSS System the complete documents, and the SWEMD shall check the completeness and consistency of the submission within three (3) working days.

14.5.2.2. The SWEMD and LS shall conduct technical and legal (if required) evaluation based on performance of the Solar Energy Developer of its contractual obligations under the old contract/agreement and its application documents within five (5) days.

14.5.2.3. The SWEMD shall then endorse the mapping requirements to the ITMS who shall produce/print the map of the Production Area within three (3) days.

14.5.2.4. Qualified applications shall be endorsed by the SWEMD to the Supervising Assistant Secretary and Undersecretary, which shall be acted upon within four (4) days.

14.5.2.5. Upon the concurrence of the Assistant and Undersecretary, the SWEMD shall notify the Solar Energy Developer of such fact and require the pre-signing of the SEOC within two (2) days.

14.5.2.6. Within one (1) day from the SEOC pre-signing, the REMB shall endorse the pre-signed SEOC along with the evaluation results to the DOE Secretary for

approval. The DOE Secretary shall act on the documents within seven (7) days from receipt thereof.

14.5.2.7. The SWEMD, through the EVOSS System, shall upload the copy of the New SEOC and notify the Solar Energy Developer to pick-up a copy of said document.

14.6. **Abandonment.** The Abandonment and Termination Plan shall be prepared by the Solar Energy Developer and submitted as a requirement for issuance of a COCOC and approved by the Department of Environment and Natural Resources (DENR) and the DOE for the decommissioning, abandonment and surface restoration or rehabilitation of the Contract Area. Such abandonment work plan may be amended, supplemented or modified by the Solar Energy Developer, the DOE, and the DENR from time to time.

14.7. **Performance Review and Audit.**

14.7.1. The DOE shall conduct regular performance review of the Solar Energy Developers and recommend appropriate actions therefor.

14.7.2. The DOE shall have the right to inspect the Solar Energy Developers books and accounts directly relating to the SEOC/SESC for any calendar or fiscal year sixty (60) months following the end of each calendar or fiscal year. Any such audit shall be completed within one (1) year from its commencement. Any exceptions must be made to the Solar Energy Developer in writing within ninety (90) days following the completion of such audit. If the DOE fails to give such written exception within such time, then the Solar Energy Developer's books of accounts and statements for such calendar or fiscal year shall be established as correct and final for all purpose.

14.7.3. The DOE, upon at least fifteen (15) days advance written notice to the Solar Energy Developer, is entitled to access, during reasonable hours without affecting solar power project/plant operations, all books of accounts and records and may inspect such sites and facilities as necessary.

14.7.4. If the DOE notifies the Solar Energy Developer of an exception to the Solar Energy Developer's books of accounts within the period specified in Section 15.6.2 of this Chapter, the Solar Energy Developer shall within ninety (90) days from receipt of written exception from the DOE, question its validity, otherwise, the same shall become final and binding on the Solar Energy Developer. If the DOE and the Solar Energy Developer are not able to agree on the exceptions or adjustments after ninety (90) days from the date of receipt of the Solar Energy Developer's response to the DOE's exception report, they shall resolve the dispute in accordance with the SEOC.

- 14.8. Suspension of Obligations under the Solar Energy Operating/Service Contract.** In case the default of the Solar Energy Developer is attributable to Force Majeure, the obligation of the Solar Energy Developer may be suspended for a period of six (6) months or until the Force Majeure event ceases to exist, whichever comes earlier, subject to the following conditions:
- 14.8.1. The Solar Energy Developer shall file a notice of Force Majeure to the SWEMD within fifteen (15) days from its existence along with proof that:
- 14.8.1.1. The Force Majeure exists;
- 14.8.1.2. The event/s occurred independent of the will of the Solar Energy Developer;
- 14.8.1.3. The event/s rendered it impossible for the Solar Energy Developer to fulfill its obligations in a normal manner;
- 14.8.1.4. The Solar Energy Developer is free of participation in, or aggravation of, the injury to the DOE.
- 14.8.2. After due validation which shall be made within twenty (20) days from receipt of such notice, the REMB Director shall issue an approval of suspension of contractual obligation/s affected by Force Majeure; Provided, that if the suspension of the obligations will extend the Pre-Development Stage, the REMB Director shall endorse the approval to the DOE Secretary.
- 14.8.3. Within ten (10) days from receipt of the notice of approval, the Solar Energy Developer shall submit a new Work Program to be acted upon by the Supervising Assistant Secretary and thereafter endorsed to the Undersecretary for approval.
- 14.8.4. The Solar Energy Developer shall continue to post the performance bond, if necessary, observe administrative requirements and comply with reportorial obligations on its work commitments not affected by Force Majeure.
- 14.8.5. Once the Force Majeure has ceased, the Solar Energy Developer shall notify the SWEMD within five (5) days from cessation together with the revised Work Program covering the remaining contract term.
- 14.8.6. Any failure or delay on the part of the Solar Energy Developer or the DOE in the performance of its obligations or duties under the SEOC shall be excused to the extent attributable to Force Majeure.
- 14.8.7. If the solar power project/plant operations are curtailed or prevented by such causes, then the time for enjoying the rights and carrying out the obligations thereby affected, and all rights and obligations hereunder shall be extended for a period equal to the period of delay, curtailment or prevention; Provided, however, that the suspension of obligation shall in no way extend the term of the contract;

Provided, further, that if operations are delayed, curtailed or prevented by Force Majeure for a continuous period of six (6) months, the Solar Energy Developer may, at its option (a) terminate the SEOC/SESC, or (b) request for the suspension of the SEOC/SESC in accordance with Section 15.8 of this Chapter, subject to confirmation of the DOE.

- 14.8.8. The party whose ability to perform its obligations under the SEOC/SESC is so affected shall notify the other party thereof in writing stating the cause and such affected party shall do all reasonably within its power to remove such cause.

Section 15. Termination of Solar Energy Operating/Service Contracts. The DOE shall have the power to terminate SEOC/SESC, after due notice to the Solar Energy Developer.

15.

15.1. **Evaluation Process for Solar Energy Operating/Service Contract Termination.** The SWEMD shall recommend the termination of the SEOC/SESC within the following timelines:

15.1.1. Five (5) days from the lapse of the Pre-Development Stage of the SEOC/SESC where the Solar Energy Developer failed to submit its DOC;

15.1.2. Three (3) days from the voluntary relinquishment of the Solar Energy Developer of the SEOC/SESC;

15.1.3. Prior to the pre-construction phase of the SEOC/SESC, upon the discovery that the Solar Energy Developer failed to maintain the required performance bond;
or

15.1.4. At any stage of the SEOC/SESC, upon findings of any of the grounds for SEOC/SESC termination as stipulated therein.

The failure of the DOE to adhere to the periods provided above shall not be construed as a waiver of its power to evaluate and recommend the termination of SEOC/SESC at a later time.

- 15.2. With respect to Sections 16.1.1 and 16.1.4 of this Chapter, the SWEMD shall prepare a letter, signed by the REMB Director, requiring the Solar Energy Developer to explain in writing why its SEOC/SESC should not be terminated. The Solar Energy Developer shall be given a non-extendible period of thirty (30) days to submit its explanation, which shall be accompanied by supporting documents.
- 15.3. No later than twenty (20) days from its receipt of the Solar Energy Developer's written explanation, the SWEMD shall submit its findings and recommendation to the REMB Director.

- 15.4. Within three (3) days from receipt of the findings and/or recommendation, the REMB Director shall act upon the same and recommend a course of action to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary.
- 15.5. In case the DOE Secretary approves the REMB Director's recommendation, the Solar Energy Developer shall be notified in writing of the termination of its SEOC/SESC. The SWEMD shall inform the TSMD, ITMS, and IPO of such fact.
- 15.6. Subject to the conditions under this Section, areas covered by terminated SEOC/SESC shall be declared by the DOE open for development, specifying the mode of awarding of the SEOC, which, if the area is determined as within a RE Zone or a PDA, SEOC Applications shall be through OCSP, respectively, as provided herein. Otherwise, the area shall be available to all interested parties for solar power project development under Direct Application, and only on a first-come first-served basis.

Section 16. Request for Reconsideration. A Solar Energy Developer whose SEOC/SESC was terminated may request for the reconsideration of the same. The request shall be made in writing, addressed to the REMB Director, and filed within ten (10) days from the Solar Energy Developer's receipt of the notice of termination. The REMB Director shall evaluate the merits of the request for reconsideration and endorse such recommendations to the DOE Secretary, through the REMB Supervising Assistant Secretary and Undersecretary.

16.

16.1. **Procedures for Processing of Request for Reconsideration.** Request for reconsideration shall be processed based on the following procedures:

16.1.1. The Solar Energy Developer shall submit through the EVOSS System the complete documents, and the SWEMD shall check the completeness and consistency of the submission within three (3) days.

16.1.2. The SWEMD, LS, FS, ITMS shall conduct simultaneous technical, legal, financial evaluations and area verification within ten (10) days.

16.1.3. The SWEMD shall consolidate all the evaluation results and endorse, through the REMB Director, the recommendation for approval of LS within three (3) days.

16.1.4. Qualified applications shall be endorsed by the REMB to the Supervising Assistant Secretary and Undersecretary, which shall be acted upon within six (6) days.

16.1.5. Upon the concurrence of the Assistant and Undersecretary, the SWEMD shall endorse the recommendation to the DOE Secretary. The DOE Secretary shall act on the documents within five (5) days from receipt thereof.

16.1.6. The SWEMD, through the EVOSS System, shall upload a copy of the letter approving or denying the request for reconsideration and notify the Solar Energy Developer to pick-up a copy of said document.

CHAPTER VII – WIND ENERGY RESOURCE

CHAPTER VIII – RE RESOURCES UNDER NEW EMERGING TECHNOLOGIES

For other RE Resources which are developed through emerging RE technologies and are not enumerated in Chapter II to VII of this Circular, the REMB shall develop a regulatory framework for the exploration, development, utilization and commercialization of such RE Resources utilizing such emerging technologies. In the absence of such regulatory framework, the procedures governing a particular RE Resource that is most analogous to the emerging technology shall be adopted.

Chapter IX – ADMINISTRATION OF RENEWABLE ENERGY SERVICE/OPERATING CONTRACTS

Section 1. Posting of a Performance Bond. The RE Developer shall post a bond or any other guarantee of a sufficient amount, but not less than the minimum expenditures commitment for the first contract year, which shall be a condition precedent for the effectivity of the RE Contract. A valid and subsisting performance bond is required to be maintained annually until the pre-construction phase of the RE Project. The detailed terms of reference governing the Performance Bond are outlined in Annex N.

Section 2. Updating of RE Projects Data to the EVOSS System and DOE Website. The following shall govern the posting and updating of RE Contracts awarded and pending RE Applications on the DOE website.

2.1. The REMB-Technical Service Management Division (TSMD), in coordination with the relevant REMB divisions, shall collate and update the list of RE Contracts awarded and RE Applications filed and under evaluation on a quarterly basis. Upon full operation of the EVOSS System, updating of data shall be in accordance with the periods provided in the system.

2.2. All concerned DOE units shall provide updates to the EVOSS System and DOE websites.

- 2.3. All RE Developers shall be required to register with the EVOSS System for regular updating of their respective RE Projects.

Section 3. Transition from Pre-Development Stage to Development/Commercial Stage. The RE Service Contract shall transition from the Pre-Development Stage to Development/Commercial Stage only after issuance by the DOE of a COCOC.

3.1. Procedure for the Transition from Pre-Development to Development.

- 3.1.1. The RE Developer shall submit through the EVOSS System the complete documentary requirements specified in Annex O of this Circular prior to the expiration of the Pre-Development Stage. The concerned REMB division shall determine the completeness and consistency of the submission within three (3) days.
- 3.1.2. If the submission is complete, the concerned REMB division, ITMS and LS shall conduct the evaluations and upload the evaluation results through the EVOSS System within seven (7) days.
- 3.1.3. The concerned REMB division shall consolidate the evaluation results and endorse, through REMB Director, the recommendation for approval of LS within two (2) days.
- 3.1.4. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) days.
- 3.1.5. The concerned REMB division, through the EVOSS System, shall upload the signed letter and COCOC and notify the RE Developer to pick-up the said documents.
- 3.1.6. Within thirty-one (31) days from receipt of the DOC, the DOE shall either:
 - 3.1.6.1. Issue the COCOC, if the results of the evaluation of the DOC are satisfactory, which shall likewise be considered the transition of the GSC from Pre-Development Stage to Development/ Commercial Stage; or
 - 3.1.6.2. Issue a written notice to the RE Developer indicating that it has the remainder of the Pre-Development Stage to correct any deficiencies and/or satisfy the requirements for issuance of the COCOC, if the results of the evaluation of the DOC are unsatisfactory. Said written notice shall be signed by the REMB Director.

- 3.1.7. The failure of the RE Developer to correct any deficiencies or otherwise satisfy the requirements for issuance of the COCOC before the expiration of its Pre-Development Stage shall be a cause for the termination of its RE Contract.
- 3.2. **Contract Area.** Upon transition from the Pre-Development to Development Stage of the RE Contract, the Contract Area shall be amended, if necessary, to cover the Production Area only.

Section 4. Conversion to the New RE Contract Template. Holders of contracts/agreements prior to the effectivity of this Circular may apply for conversion to the new RE Contracts templates provided in Annexes A to G hereof, and are subject to the conditions and procedures hereinbelow provided.

- 4.1. **Requirements for Conversion to New RE Contract Template.** Contractors/RE Developers may apply for conversion to the new RE Contract templates subject to the following conditions:
- 4.1.1. Contractors/RE Developers must be fully compliant with the terms of the approved Work Program/Work Plan and the material terms and conditions of the contract/agreement for the past six (6) months prior to the date of filing its application for conversion. For RE Developers with RE Contracts executed less than six (6) months from date of application for conversion, the evaluation of their compliance of the commitments under the approved Work Program and of the material terms and conditions of the RE Contract shall be the basis of their performance.
- 4.1.2. Submission of a letter of application for conversion with the following documentary requirements:
- (a) Work Program covering the first five (5) years of the remaining term of the old contract/agreement, reckoned from the date of its execution; and
 - (b) Revised Contract Area following the mapping requirements provided in Annex M hereof. In the case of biomass and solar development, the revised Contract Area is its Production Area only. Any remaining portion of the original Contract Area shall be deemed relinquished.
- 4.1.3. The conversion of RE Contracts awarded under the RE Act but prior to the effectivity of this Circular shall be limited to those covering RE projects which are under pre-commissioning/commercial operation phase.
- 4.2. **Procedures for Application.** Applications for conversion to the new RE Contract template shall be processed based on the following procedures:

- 4.2.1. The RE Developer shall submit through the EVOSS System the complete documents, and the relevant REMB division shall check the completeness and consistency of the submission within three (3) working days.
- 4.2.2. The concerned REMB division and LS shall conduct technical and legal (if required) evaluation based on performance of the contractor/RE Developer of its contractual obligations under the old contract/agreement and its application documents within five (5) days.
- 4.2.3. The REMB shall then endorse the mapping requirements to the ITMS who shall produce/print the map of the Production Area within three (3) days.
- 4.2.4. Qualified applications shall be endorsed by the REMB to the Supervising Assistant Secretary and Undersecretary, which shall be acted upon within four (4) days.
- 4.2.5. Upon the concurrence of the Assistant and Undersecretary, the REMB shall notify the RE Developer of such fact and require the pre-signing of the RE Contract within two (2) days.
- 4.2.6. Within one (1) day from the RE Contract pre-signing, the REMB shall endorse the pre-signed RE Contract along with the evaluation results to the DOE Secretary for approval. The DOE Secretary shall act on the documents within seven (7) days from receipt thereof.
- 4.2.7. The REMB, through the EVOSS System, shall upload the copy of the New RE Contract and notify the RE Developer to pick-up a copy of said document.

Section 5. Amendment of RE Contracts.

- 5.1. **Amendment of RE Contracts.** RE Contracts shall be amended in any of the following instances:
 - 5.1.1. Change to the Contract Area;
 - 5.1.2. Increase or decrease in the installed capacity of the RE project; or
 - 5.1.3. Change of location of project site.
- 5.2. No amendment to the RE Contract is required when the RE project transitions from the Pre-Development to the Development Stage. However, the relinquishment of a portion of the Contract Area after identifying the Production Area pursuant to Section 3.2 of this Chapter shall result in the issuance of new annex to the RE Contract, indicating the revised Contract Area, with corresponding map and technical description.

5.3. **Requirements for Amendments to the Contract Area.** The RE Developer shall submit a request in writing addressed to the REMB Director, and shall comply with the following:

5.3.1. Technical description of proposed amendment to the Contract Area indicates the technical specifications and other mapping requirement for the purpose of area verification;

5.3.2. The proposed amendment shall cover an area contiguous to the existing Contract Area and, upon verification by the ITMS pursuant to the process in Section 5.6 of this Chapter, is available and open for RE resource exploration, development and/or utilization;

5.3.3. The amendment of the Contract Area is justified and reasonable, which may be proven by: (a) the results of the resource assessment, duly verified by the concerned REMB unit; (b) proof that the RE Developer is not in default of its technical and financial obligations under the RE Contract; and (c) other relevant facts and/or documents; and

5.3.4. The Work Program with respect to the amended Contract Area is acceptable.

5.4. **Requirements for Other Amendments.** The RE Developer shall submit a request in writing addressed to the REMB Director, together with the following:

5.4.1. Proof that the amendment is justified and reasonable;

5.4.2. Proof that the RE Developer is not in default of its technical and financial obligations under the RE Contract; and

5.4.3. Other relevant facts and/or documents.

5.5. Only a revised COR shall be issued in case of the following changes:

5.5.1. Company name of the RE Developer; and/or

5.5.2. Assignment of RE Contract in accordance with the terms thereof, to an entity that has the same legal, technical, and financial qualifications to undertake the RE project.

The amendments under this Section shall require the surrender of the original COR prior to evaluation of the request; Provided, that in the case of an amendment solely for the change of the company name, the request shall be directly endorsed to the DOE Secretary after legal evaluation.

5.6. **Evaluation of Requests for Amendment of RE Service Contract.** The RE Developer shall submit through the EVOSS System the complete set of

documentary requirements for the request for amendment of RE Contract, which shall be processed as follows:

- 5.6.1. The concerned REMB division shall check the completeness and consistency of the submission within three (3) days.
 - 5.6.1.1. If the submission is complete, REMB shall upload a copy of the Billing Statement to pay for the application and processing fees. The EVOSS System shall notify the RE Developer through a system generated email to pay the fees within five (5) days.
- 5.6.2. After payment of the processing fee, the concerned REMB Division shall evaluate the request within five (5) days. In case the evaluation of the concerned REMB Division shows that: (a) there are additional costs to be incurred that should warrant another financial evaluation; (b) there are any legal concerns regarding the RE Project; and/or (c) there is a need of re-plotting the Contract Area, REMB, through the EVOSS System, shall endorse the request to FS, LS and/or ITMS which shall conduct simultaneous financial and legal evaluations, and/or area verification within five (5) days.
- 5.6.3. The concerned REMB Division shall consolidate all the evaluation results and recommend the same to the REMB Director for further action and if the RE Developer passes the evaluation, endorse the Memorandum to the Undersecretary and Approval Letter / Revised COR through LS within two (2) days.
- 5.6.4. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) days.
- 5.7. Requests to change the terms of the RE Contract other than those in Section 5.1 of this Chapter may be considered by the DOE if the RE Developer complies with the conditions set forth in Section 5.4 hereof, subject to negotiations between the DOE and the RE Developer.
- 5.8. **Revision of the Work Program.** Subject to terms and conditions stipulated in the RE Contract, the RE Developer may request for revision of its Work Program with justification on such revision; Provided, that such revision shall not extend the Pre-Development Stage.
 - 5.8.1. **Evaluation of Requests for Revision of the Work Program.** The RE Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for revision of the Work Program, which shall be processed as follows:
 - 5.8.1.1. The concerned REMB division shall check the completeness and consistency of the submission within three (3) days.

- 5.8.1.2. If the submission is complete, REMB, LS and FS shall conduct simultaneous technical, legal (if necessary), and financial (for Pre-Development Stage only) evaluations within five (5) days.
- 5.8.1.3. The concerned REMB Division shall consolidate all the evaluation results and recommend the same to the REMB Director for further action and if the RE Developer passes the evaluation, endorse the Memorandum to the Undersecretary and Approval Letter, through LS, within two (2) days. REMB, through the REMB Director, shall provide the Supervising Assistant Secretary with its recommendation on the request and the complete basis thereof.
- 5.8.1.4. The Supervising Assistant Secretary shall act on the recommendation and endorse the same to the Undersecretary for approval within two (2) days.
- 5.8.1.5. The concerned REMB Division, through the EVOSS System, shall notify the RE Developer of the approval and upload a copy of the letter approving the revised work program.
- 5.8.1.6. The concerned REMB Division shall immediately provide to the TSMD, ITMS, and DOE-Investment Promotion Office (IPO) the status of the RE Contract and/or COR for timely update of database.
- 5.8.1.7. The changes to the Work Program necessitated by Force Majeure that extends the Pre-Development Stage shall be treated as an amendment of the RE Contract and shall be approved in accordance with Section 5.

Section 6. Assignment of RE Contracts.

- 6.1. All assignments of RE Contracts shall be subject to prior written approval of the DOE.
- 6.2. The RE Developer may assign all of its rights and obligations under the RE Contract to its Affiliate or any third party, subject to Section 6.1 hereof, and in accordance with the following:
 - 6.2.1. The RE Developer shall submit to the DOE copies of the written document which unequivocally shows the agreement of the parties thereat to the assignment of the RE Contract;
 - 6.2.2. The RE Developer shall guarantee in writing to the DOE the performance of the assigned rights and obligations; and
 - 6.2.3. The assignee shall be substituted for the RE Developer in the performance bond posted in accordance with Section 1 of this Chapter.

- 6.3. **Evaluation of Requests for Assignment of RE Contract.** The RE Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for assignment of the RE Contract, which shall be processed as follows:
- 6.3.1. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) days.
- 6.3.2. If the submission is complete, the concerned REMB shall upload a copy of the Billing Statement to pay for the application and processing fees. The EVOSS System shall notify the RE Developer through a system generated email to pay the fees within five (5) days.
- 6.3.3. After payment of the processing fee, REMB, LS and FS shall conduct simultaneous technical, legal, and financial evaluations within seven (7) days.
- 6.3.4. The concerned REMB Division shall consolidate all the evaluation results and endorse, through REMB Director, the recommendation for approval of LS within two (2) days.
- 6.3.5. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) days.

Section 7. Change in Control. Any sale or acquisition of shares or other share capital that results in a change in control over the RE Developer shall be subject to the prior written approval of the DOE. Such approval shall be given if the RE Developer remains legally, technically and financially qualified and capable of discharging the obligations under the RE Contract. For this purpose, the RE Developer shall submit to the DOE copies of the instrument of conveyance and other documents showing that the sale or acquisition will not affect its legal, technical and financial qualification. The procedure for evaluation approval of the sale or acquisition shall be in accordance with Section 6.3 of this Chapter.

Control is presumed to exist when, as a result of the sale or acquisition, the buyer/s or transferee/s shall own more than one half (1/2) of the voting power of the RE Developer.

Section 8. Abandonment. The Abandonment and Termination Plan shall be prepared by the RE Developer and submitted not later than three (3) months from the award of RE Contract and five (5) years from confirmation of the Declaration of Commerciality and approved by the Department of Environment and Natural Resources (DENR) and the DOE for the decommissioning, abandonment and surface restoration or rehabilitation of the Contract Area. Such abandonment work plan may be amended, supplemented or modified by the RE Developer, the DOE, and the DENR from time to time.

Section 9. Performance Review and Audit.

- 9.1. The DOE shall conduct regular performance review of the RE Developers and recommend appropriate actions therefor.
- 9.2. The DOE shall have the right to inspect the RE Developers books and accounts directly relating to the RE Contract for any calendar or fiscal year sixty (60) months following the end of each calendar or fiscal year. Any such audit shall be completed within one (1) year from its commencement. Any exceptions must be made to the RE Developer in writing within ninety (90) days following the completion of such audit. If the DOE fails to give such written exception within such time, then the RE Developer's books of accounts and statements for such calendar or fiscal year shall be established as correct and final for all purpose.
- 9.3. The DOE, upon at least fifteen (15) days advance written notice to the RE Developer, is entitled to access, during reasonable hours without affecting RE operations, all books of accounts and records and may inspect such sites and facilities as necessary.
- 9.4. If the DOE notifies the RE Developer of an exception to the RE Developer's books of accounts within the period specified in Section 9.2 of this Chapter, the RE Developer shall within ninety (90) days from receipt of written exception from the DOE, question its validity, otherwise, the same shall become final and binding on the RE Developer. If the DOE and the RE Developer are not able to agree on the exceptions or adjustments after ninety (90) days from the date of receipt of the RE Developer's response to the DOE's exception report, they shall resolve the dispute in accordance with the RE Contract.

Section 10. Suspension of Obligations under the RE Service/Operating Contract. In case the default of the RE Developer is attributable to Force Majeure, the obligation of the RE Developer may be suspended for a period of six (6) months or until the Force Majeure event ceases to exist, whichever comes earlier, subject to the following conditions:

- 10.1. The RE Developer shall file a notice of Force Majeure to the concerned REMB Division within fifteen (15) days from its existence along with proof that:
 - 10.1.1. The Force Majeure exists;
 - 10.1.2. The event/s occurred independent of the will of the RE Developer;
 - 10.1.3. The event/s rendered it impossible for the RE Developer to fulfill its obligations in a normal manner;
 - 10.1.4. The RE Developer is free of participation in, or aggravation of, the injury to the DOE.

- 10.2. After due validation which shall be made within twenty (20) days from receipt of such notice, the REMB Director shall issue an approval of suspension of contractual obligation/s affected by Force Majeure; Provided, that if the suspension of the obligations will extend the Pre-Development Stage, the REMB Director shall endorse the approval to the DOE Secretary.
- 10.3. Within ten (10) days from receipt of the notice of approval, the RE Developer shall submit a new Work Program. The new Work Program will be reviewed by the concerned REMB Division and thereafter endorsed to the Supervising Assistant Secretary and Undersecretary for approval.
- 10.4. The RE Developer shall continue to post the performance bond, if necessary, observe administrative requirements and comply with reportorial obligations on its work commitments not affected by Force Majeure.
- 10.5. Once the Force Majeure has ceased, the RE Developer shall notify the REMB within five (5) days from cessation together with the revised Work Program covering the remaining contract term.
- 10.6. Any failure or delay on the part of the RE Developer or the DOE in the performance of its obligations or duties under the RE Contract shall be excused to the extent attributable to Force Majeure.
- 10.7. If the RE operations are curtailed or prevented by such causes, then the time for enjoying the rights and carrying out the obligations thereby affected, and all rights and obligations hereunder shall be extended for a period equal to the period of delay, curtailment or prevention; Provided, however, that the suspension of obligation shall in no way extend the term of the contract; Provided, further, that if operations are delayed, curtailed or prevented by Force Majeure for a continuous period of six (6) months, the RE Developer may, at its option (a) terminate the RE Contract, or (b) request for the suspension of the RE Contract in accordance with Section 11 of this Chapter, subject to confirmation of the DOE.
- 10.8. The party whose ability to perform its obligations under the RE Contract is so affected shall notify the other party thereof in writing stating the cause and such affected party shall do all reasonably within its power to remove such cause.

Section 11. Suspension of the RE Service/Operating Contract. In case the RE operations are delayed, curtailed or prevented by Force Majeure for a continuous period of six (6) months, the efficacy of the RE Contract may be suspended for a maximum period of three (3) years or until the Force Majeure event ceases to exist, whichever comes earlier. The period of such suspension shall not be counted against the constitutional term limits.

The RE Developer and the DOE shall comply with the following conditions:

- 11.1. Upon strict compliance with the conditions under Section 10 of this Chapter, the RE Developer may file a request for suspension of the RE Contract with REMB within fifteen (15) days following the last day of the said six (6)-month period.
- 11.2. The concerned REMB Division shall endorse the request to the REMB. For a period of ninety (90) days from receipt of endorsement, REMB shall exert best efforts to enable the RE Developer to resume RE operations.
- 11.3. If, despite such efforts, the Force Majeure persists and the RE operations cannot resume, the DOE shall approve the request for suspension of the RE Contract. Notice of suspension shall be given to the RE Developer within fifteen (15) days following the last day of the ninety (90)-day period.
- 11.4. Within ten (10) days from receipt of notice of suspension, the RE Developer shall submit a sworn undertaking to notify the DOE and submit proof that the Force Majeure has ceased. Failure to give notice within ten (10) days from cessation shall be deemed a relinquishment of the RE Contract.
- 11.5. If the RE Developer intends to resume operations, it shall submit to REMB a request to resume RE operations together with the notice abovementioned.

Section 12. Power to Compel or Conduct Operations. The DOE shall have the power to compel the RE Developer to perform RE operations when the following conditions exist:

- 12.4. The RE Developer fails, refuses or neglects to perform the RE operations without any justifiable cause; and
- 12.5. Such failure, refusal or neglect:
 - 12.5.1. Results in or contributes to a shortage in the supply of electricity, based on the report of the EPIMB; and
 - 12.5.2. Poses an imminent threat to the country's national security and/or economy, as determined by the DOE Secretary and as recommended by the concerned government agencies.

If the RE Developer does not comply with the DOE's directive within three (3) calendar days from receipt, such noncompliance shall be deemed sufficient authority for the DOE to conduct RE operations directly or through another government entity; Provided, that the DOE's authority herein set forth shall only subsist for such period as may be needed to avert or arrest the threat, or upon the RE Developer's resumption of RE operations, whichever comes earlier.

Section 13. Termination of RE Contracts. The DOE shall have the power to terminate RE Contracts, after due notice to the RE Developer.

13.3. **Evaluation Process for RE Contract Termination.** The concerned REMB Division shall recommend the termination of the RE Contract within the following timelines:

- 13.3.1. Five (5) days from the lapse of the Pre-Development Stage of the RE Contract where the RE Developer failed to submit its DOC;
- 13.3.2. Three (3) days from the voluntary relinquishment of the RE Developer of the RE Contract;
- 13.3.3. Prior to the pre-construction phase of the RE Contract, upon the discovery that the RE Developer failed to maintain the required performance bond;
- 13.3.4. During the Development Stage, upon the DOE's finding that the conditions set forth in Section 12.1 and 12.2 of this Chapter exist; or
- 13.3.5. At any stage of the RE Contract, upon findings of any of the grounds for RE Contract termination as stipulated therein.

The failure of the DOE to adhere to the periods provided above shall not be construed as a waiver of its power to evaluate and recommend the termination of RE Contracts at a later time.

- 13.4. With respect to Sections 13.1.1, 13.1.4 and 13.1.5 of this Chapter, the concerned REMB Division shall prepare a letter, signed by the REMB Director, requiring the RE Developer to explain in writing why its RE Contract should not be terminated. The RE Developer shall be given a non-extendible period of thirty (30) days to submit its explanation, which shall be accompanied by supporting documents.
- 13.5. No later than twenty (20) days from its receipt of the RE Developer's written explanation, the concerned REMB Division shall submit its findings and recommendation to the REMB Director.
- 13.6. Within three (3) days from receipt of the findings and/or recommendation, the REMB Director shall act upon the same and recommend a course of action to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary.
- 13.7. In case the DOE Secretary approves the REMB Director's recommendation, the RE Developer shall be notified in writing of the termination of its RE Contract. The concerned REMB Division shall inform the TSMD, ITMS, and IPO of such fact.
- 13.8. Subject to the conditions under this Section, areas covered by terminated RE Contracts shall be declared by the DOE open for development, specifying the mode of awarding of the RE Contract, which, if the area is determined as within a PDA, RE Contract Applications shall be through OCSP, as provided herein.

Otherwise, the area shall be available to all interested parties for RE resource development under Direct Application, and only on a first-come first-served basis.

Section 14. Request for Reinstatement of RE Contract. An RE Developer whose RE Contract was terminated may request for the reconsideration of the same. The request shall be made in writing, addressed to the REMB Director, and filed within ten (10) days from the RE Developer's receipt of the notice of termination. The REMB Director shall evaluate the merits of the request for reconsideration and endorse such recommendations to the DOE Secretary, through the REMB Supervising Assistant Secretary and Undersecretary.

16.2. Procedures for Processing of Request for Reconsideration. Request for reconsideration shall be processed based on the following procedures:

16.2.1. The RE Developer shall submit through the EVOSS System the complete documents, and the concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.

16.2.2. The REMB, LS, FS, ITMS shall conduct simultaneous technical, legal, financial evaluations and area verification within ten (10) days.

16.2.3. The concerned REMB Division shall consolidate all the evaluation results and endorse, through the REMB Director, the recommendation for approval of LS within three (3) days.

16.2.4. Qualified applications shall be endorsed by the REMB to the Supervising Assistant Secretary and Undersecretary, which shall be acted upon within six (6) days.

16.2.5. Upon the concurrence of the Assistant and Undersecretary, REMB shall endorse the recommendation to the DOE Secretary. The DOE Secretary shall act on the documents within five (5) days from receipt thereof.

16.2.6. The concerned REMB Division, through the EVOSS System, shall upload a copy of the letter approving or denying the request for reconsideration and notify the RE Developer to pick-up a copy of said document.

CHAPTER X – REGISTRATION OF RE PROJECTS FOR OWN-USE AND/OR NON-COMMERCIAL OPERATIONS

Part 1. General Provisions

Section 1. Certificate of Registration. A Certificate of Registration is the proof of registration of the RE Developer with the DOE and is required to avail of the incentives

under the RE Act. A RE Contract is required for the issuance of a COR except for RE Projects for Own-Use and/or Non-Commercial Operations

Part 2. Procedures for Registration

Section 2. Issuance of Certificate of Registration for RE Projects for Own-Use and/or for Non-Commercial Operations. The COR shall be issued to the RE Developer only upon its complete submission of the requirements herein below provided, and only after the evaluation of the same by the REMB which shall recommend its approval to the DOE Secretary.

Section 3. Documentary Requirements. Any proponent intending to install, construct, and operate an RE Project under this Chapter shall strictly comply with the following:

3.1. Technical Requirements.

3.1.1. Application letter addressed to the REMB Director;

3.1.2. Project description detailing the following:

(a) Technical Design:

- (i) Single Line Diagram of Alternating Current and Direct Current (if applicable)
- (ii) Mass Energy Balance (if applicable)

3.1.3. Target Commissioning Date

3.1.4. Project Location

3.2. **Legal Requirements** – The same legal requirements in Checklist of Requirements in Annex L of this Circular shall be submitted.

To ensure the completeness of the application documents, the REMB may provide a venue to serve as the pre-filing conference/meeting/orientation among the concerned DOE units and the proponent, prior to submission of formal application to the RMD.

Section 4. Pre-Qualification, Filing, and Processing of Application for Registration.

4.1. **Pre-Qualification Process.** – The concerned REMB Division shall determine, on a pass or fail basis, whether the requirements for registration have been fully complied with and the proponent has submitted all the documents prescribed under Section 3 hereof. Thereafter, the concerned REMB Division shall issue a Billing Statement for application and processing fees.

No Billing Statement shall be issued unless all the documentary requirements have been complied with and submitted by the proponent.

- 4.2. **Payment of Application and Processing Fees.** – After determining the completeness of documents, the proponent shall be advised to pay the prescribed application fee for each application. No application shall be accepted without the payment of the application and processing fees.
- 4.3. **Processing Period.** – The application shall be processed within twenty-eight (28) days from the receipt of the complete documents and the payment of the application and processing fees.

Section 5. Evaluation and Process for Issuance of COR.

- 5.1. **Qualification Evaluation.** – After receipt of the Application and payment of fees, the Application is deemed filed and submitted for legal and technical evaluations:
 - 5.1.1. The LS shall complete its review and evaluation within five (5) days from receipt of the endorsement of the Application by the concerned REMD Division.
 - 5.1.2. The concerned REMB Division shall complete its technical evaluation within five (5) days from receipt of the registration documents from the REMB Director.
 - 5.1.2.1. In case additional documents are required to support the legal qualifications of the Application, the LS shall immediately notify the concerned REMB Division of the documents required.
 - 5.1.2.2. The concerned REMB Division has two (2) days from its receipt of the notice of the LS, to notify the Applicant of the additional documents required for the evaluation of its Application. Thereafter, the Applicant shall be given five (5) days to submit the documents required.
 - 5.1.3. If the Application is deemed legally and technically qualified, the Application shall be submitted for final processing by the concerned REMB Division for the issuance of a COR.
- 5.2. **Request for Reconsideration.** – In case any Application is deemed not legally, technically or financially qualified, the REMB Assistant Secretary shall, within two (2) days from receipt of the full evaluation result from the concerned REMB Division, issue a written notice to the Applicant of the decision on its Application. The notice to the Applicant shall indicate the basis of or reasons for the disqualification.

- 5.3. The Applicant, however, may request for reconsideration in writing, addressed to the REMB Supervising Undersecretary, within ten (10) days from receipt of notice of disqualification.
- 5.4. The REMB Supervising Undersecretary shall resolve the request for reconsideration within five (5) days from receipt of the same.

Section 6. Validity of the Registration. The COR shall have an initial validity period of five (5) years, renewable for the same period until the end-of-project life is reached or a maximum of twenty-five (25) years.

Section 7. Terms and Conditions of the Registration. Any RE Developer and its Project shall be issued a COR (Annex P) which shall contain the terms and conditions thereof.

Chapter XI – INCENTIVES

Section 1. Fiscal Incentives for Renewable Energy Projects and Activities. DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives under the RE Act:

1.1. Income Tax Holiday (ITH)

1.1.1. **Period of Availment.** The duly registered RE Developer shall be fully exempt from income taxes levied by the Government for the period as follows:

(a) **Existing RE Projects** — seven (7) years from the start of Commercial Operations;

All RE Developers that acquire, operate and/or administer existing RE facilities that were or have been in Commercial Operation for more than seven (7) years, upon the effectivity of the RE Act, shall not be entitled to ITH, except for any additional investment.

(b) **New investment in RE Resources** — seven (7) years from the start of Commercial Operations resulting from new investments; and

(c) **Additional investment in the RE Project** — not more than three (3) times the period of the initial availment by the existing or new RE project or covering new or additional investments.

The maximum period within which an RE Developer may be entitled to an ITH shall be twenty-one (21) years, inclusive of the initial seven (7)-year ITH for its new and additional investments in a specific RE facility.

1.1.2. Entitlement for New and Additional Investments subject to prior approval by the DOE

(a) **New Investment.** A fresh package of ITH from the start of commercial operations shall apply.

(b) **Additional Investment.** The ITH for additional investments in an existing RE project shall be applied only to the income attributable to the additional investment.

1.2. Exemption from Duties on RE Machinery, Equipment, and Materials. Within the first ten (10) years from the issuance of a COR to an RE Developer, the importation of machinery and equipment, and materials and parts thereof, including control and communication equipment, shall be exempt from tariff duties.

1.2.1. Conditions for Duty-Free Importation. An RE Developer may import machinery and equipment, materials and parts thereof exempt from the payment of any and all tariff duties due thereon subject to the following conditions:

(a) The machinery and equipment are directly and actually needed and will be used exclusively in the RE facilities for the transformation of and delivery of energy to the point of use;

(b) The importation of materials and spare parts shall be restricted only to component materials and parts for the specific machinery and/or equipment authorized to be imported;

(c) The kind of capital machinery and equipment to be imported must be in accordance with the approved work and financial program of the RE facilities; and

(d) Such importation shall be covered by shipping documents in the name of the duly registered RE Developer/operator to whom the shipment will be directly delivered by customs authorities.

1.2.2. Sale or Disposition of Capital Equipment. Any sale, transfer, assignment, donation, or other modes of disposition of originally imported capital equipment/machinery including materials and spare parts, brought into the RE facilities of the RE Developer which availed of duty-free importation within ten (10) years from date of importation shall require prior endorsement of the DOE. Such endorsement shall be granted only if any of the following conditions is present:

- (a) If made to another RE Developer enjoying tax and duty exemption on imported capital equipment;
- (b) If made to a non-RE Developer, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold;
- (c) Exportation of the used capital equipment, machinery, spare parts, or source documents or those required for RE development; and
- (d) For reasons of proven technical obsolescence as may be determined by the DOE.

When the aforementioned sale, transfer, or disposition is made under any of the conditions provided for in the foregoing paragraphs after ten (10) years from the date of importation, the sale, transfer, or disposition shall require prior endorsement by the DOE and shall no longer be subject to the payment of taxes and duties.

1.3. Special Realty Tax Rates on Equipment and Machinery

- 1.3.1. Realty and other taxes on civil works, equipment, machinery, and other improvements by a registered RE Developer actually and exclusively used for RE facilities shall not exceed one and a half percent (1.5%) of their original cost less accumulated normal depreciation or net book value; Provided, that in the case of an integrated RE resource development and Generation Facility as provided under the RE Act, the real property tax shall be imposed only on the power plant.
- 1.3.2. "Original Cost" shall refer to (1) the tangible cost of construction of the power plant component, or of any improvement thereon, regardless of any subsequent transfer of ownership of such power plant; or (2) the assessed value prevailing at the time the RE Act took into effect or at the time of the completion of the power plant project after the effectivity of the RE Act, as the case may be, and in any case assessed at a maximum level of eighty percent (80%), whichever is lower.
- 1.3.3. "Net Book Value" shall refer to the amount determined by applying normal depreciation on the original cost based on the estimated useful life
- 1.4. **Net Operating Loss Carry-Over (NOLCO).** The NOLCO of the RE Developer during the first three (3) years from the start of commercial operation shall be carried over as a deduction from gross income for the next seven (7) consecutive taxable years immediately following the year of such loss, subject to the following conditions:
 - (a) The NOLCO had not been previously offset as a deduction from gross income; and

(b) The loss should be a result of the operation and not from the availment of incentives provided for in the RE Act.

1.5. **Corporate Tax Rate**

1.5.1. After availment of the ITH, all Registered RE Developers shall pay a corporate tax of ten percent (10%) on their net taxable income as defined in the National Internal Revenue Code (NIRC) of 1997, as amended; Provided, that the RE Developers shall pass on the savings to the end-users in the form of lower power rates.

1.5.2. All RE Developers that acquire, operate, and/or administer existing RE facilities that were or have been in commercial operation for more than seven (7) years, upon the effectivity of the RE Act, shall pay a corporate tax rate of ten percent (10%) on their net taxable income, upon registration with the DOE.

1.6. **Accelerated Depreciation**

1.6.1. If an RE project fails to receive an ITH before full operation, the RE Developer may apply for accelerated depreciation in its tax books and be taxed on the basis of the same.

1.6.2. If an RE Developer applies for accelerated depreciation, the project or its expansions shall no longer be eligible to avail of the ITH.

1.6.3. Plant, machinery and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE Resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Department of Finance (DOF) and the provisions of the NIRC of 1997, as amended. Any of the following methods of accelerated depreciation may be adopted:

(a) Declining balance method; and

(b) Sum-of-the years digit method.

1.7. **Zero Percent Value-Added Tax Rate.** The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the NIRC of 1997, as amended:

(a) Sale of fuel from RE sources or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels;

- (b) Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers; and
- (c) Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

1.8. **Tax Exemption of Carbon Credits.** All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes.

1.9. **Tax Credit on Domestic Capital Equipment and Services Related to the Installation of Equipment and Machinery.** A tax credit equivalent to one hundred percent (100%) of the value of the VAT and customs duties that would have been paid on the RE machinery, equipment, materials, and parts had these items been imported shall be given to a registered RE Developer who purchases machinery, equipment, materials, and parts from a domestic manufacturer, fabricator or supplier subject to the following conditions:

- (a) That the said equipment, machinery, and spare parts are reasonably needed and shall be used exclusively by the Registered RE Developer in its registered activity;
- (b) That the purchase of such equipment, machinery, and spare parts is made from an accredited or recognized domestic source, in which case, prior approval by the DOE should be obtained by the local manufacturer, fabricator, or supplier; and
- (c) That the acquisition of such machinery, equipment, materials, and parts shall be made within the validity of the RE Service/Operating Contract.

Any sale, transfer, assignment, donation, or other mode of disposition of machinery, equipment, materials, and parts purchased from domestic source, if made within ten (10) years from the date of acquisition, shall require prior DOE approval.

Section 2. Hybrid and Co-generation Systems. The tax exemptions and/or incentives provided for in Section 13 and item D, Section 17 of the IRR of the RE Act shall be availed of by a registered RE Developer of hybrid and cogeneration systems utilizing both RE sources and conventional energy. However, the tax exemptions and incentives for hybrid and cogeneration systems shall apply only to the equipment, machinery, and/or devices utilizing RE Resources.

Section 3. Incentives for RE Commercialization. All manufacturers, fabricators, and suppliers of locally produced RE equipment and components shall be entitled to the privileges set forth below pursuant to the RE Act:

- 3.1. **Tax and Duty-free Importation of Components, Parts, and Materials.** All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempted from importation tariff and duties and value-added tax (VAT); Provided, that the said components, parts, and materials are:
- (a) Not manufactured domestically in reasonable quantity and quality at competitive prices;
 - (b) Directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment; and
 - (c) Covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities.
- Prior approval of the DOE shall be required before the importation of such components, parts, and materials.
- 3.2. **Tax Credit on Domestic Capital Components, Parts, and Materials.** A tax credit equivalent to one hundred percent (100%) of the amount of the value-added tax (VAT) and customs duties that would have been paid on the components, parts, and materials had these items been imported shall be given to an RE equipment manufacturer, fabricator, and supplier who purchases RE components, parts, and materials from a domestic manufacturer; Provided, that such components and parts are directly needed and shall be used exclusively by the RE manufacturer, fabricator, and supplier for the manufacture, fabrication and sale of the RE equipment; Provided, further, That prior approval by the DOE was obtained by the local manufacturer.
- 3.3. **Income Tax Holiday and Exemption.** For seven (7) years starting from the date of recognition/accreditation provided under Section 18 of the IRR of the RE Act, an RE manufacturer, fabricator, and supplier of RE equipment shall be fully exempt from income taxes levied by the National Government on net income derived only from the sale of RE equipment, machinery, parts, and services.
- 3.4. **Zero-Rated Value-Added Tax Transactions.** All manufacturers, fabricators, and suppliers of locally produced RE equipment shall be subject to zero-rated value-added tax on their transactions with local suppliers of goods, properties, and services.

Section 4. Incentives for Farmers Engaged in the Plantation of Biomass Resources.

All individuals and entities engaged in the plantation of crops and trees used as biomass resources shall be entitled to duty-free importation and exemption from payment of VAT on all types of agricultural inputs, equipment, and machinery within ten (10) years from the effectivity of the RE Act, subject to the certification by the DOE and the following conditions:

- 4.1. That the crops and trees such as, but not limited to, jatropha, coconut, and sugarcane shall be actually utilized for the production of biomass resources; and
- 4.2. That the agricultural inputs, equipment and machinery such as, but not limited to, fertilizers, insecticides, pesticides, tractors, trailers, trucks, farm implements and machinery, harvesters, threshers, hybrid seeds, genetic materials, sprayers, packaging machinery and materials, bulk handling facilities, such as conveyors and mini-loaders, weighing scales, harvesting equipment, and spare parts of all agricultural equipment shall be used actually and primarily for the production of said biomass resources.

Section 5. Other Incentives and Privileges.

- 5.1. **Tax Rebate for Purchase of RE Components.** To encourage the adoption of RE technologies, the DOF shall, in consultation with the Department of Science and Technology (DOST), DOE, and Department of Trade and Industry (DTI), provide rebates for all or part of the tax paid for the purchase of RE equipment for residential, industrial, or community use.
- 5.2. **Financial Assistance Program.** Government financial institutions (GFIs) such as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), Philippine Exim Bank and others shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, provide preferential financial packages for the development, utilization, and commercialization of RE projects that are duly recommended and endorsed by the DOE.
- 5.3. **Exemption from the Universal Charge.** "Universal Charge" refers to the charge, if any, imposed for the recovery of the stranded cost and other purposes pursuant to Section 34 of the EPIRA.

All consumers shall be exempted from paying the Universal Charge under the following circumstances:

- (a) If the power or electricity generated through the RE System is consumed by the generators themselves; and/or
 - (b) If the power or electricity through the RE System is distributed free of charge in the off-grid areas.
- 5.4. **Cash Incentive of Renewable Energy Developers for Missionary Electrification.** An RE Developer registered pursuant to Section 15 of the RE Act and Section 18 of the IRR of the RE Act, shall be entitled to a cash generation-based incentive per kilowatt-hour rate generated, equivalent to fifty percent (50%) of the universal charge for the power needed to service missionary areas where it

operates the same, to be chargeable against the universal charge for Missionary Electrification. This provision shall apply to RE capacities for Missionary Electrification undertaken upon effectivity of the Act.

5.5. **Payment of Transmission Charges.** A registered RE Developer producing power and electricity from an intermittent RE Resource may opt to pay the transmission and wheeling charges of National Transmission Corporation (TRANSCO), its concessionaire or its successor-in-interests on a per kilowatt-hour basis at a cost equivalent to the average per kilowatt-hour rate of all other electricity transmitted through the Grid.

5.6. **Priority and Must Dispatch for Intermittent RE Resource**

5.6.1. Qualified and registered RE generating units with intermittent RE Resources shall be considered "must dispatch" based on available energy and shall enjoy the benefit of priority dispatch.

5.6.2. TRANSCO or its successor-in-interest shall, in consultation with stakeholders, determine, through technical and economic analysis, the maximum penetration limit of the intermittent RE-based power plants to the Grid.

5.6.3. The Philippine Electricity Market Corporation (PEMC) and TRANSCO or its successor-in-interest shall implement technical mitigation and improvements in the system in order to ensure safety and reliability of electricity transmission.

5.6.4. "RE generating units with intermittent RE Resources" refers to an RE generating unit or group of units connected to a common connection point whose RE Resource is location-specific, naturally difficult to precisely predict the availability of the RE Resource thereby making the energy generated variable, unpredictable and irregular, and the availability of the resource inherently uncontrollable, which include plants utilizing wind, solar, run-of-river hydropower, or ocean energy.

Section 6. Incentive Regime. In lieu of the incentives allowed under the RE Act, as enumerated in the preceding Sections of this Chapter, an RE Developer may elect to avail itself of the incentives under the NIRC of 1997, as amended by RA No. 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act" or "CREATE". Unless the RE Developer signifies its intention to avail itself of the incentives under CREATE at the time of issuance of COR, it shall be considered as having availed itself of the incentives under the RE Act. Once the RE Developer elects to avail itself of the incentives under CREATE, such election shall be considered irrevocable and no incentives under the RE Act shall be allowed thereafter.

CHAPTER XII – TRANSITORY PROVISIONS

Section 1. Evaluation of Pending Applications. RE Applications filed prior to the effectivity of this Circular shall be governed by the existing guidelines at the time of the filing of the applications. The ITMS shall report to the REMB all areas covered by pending RE Applications and RE Contracts within fifteen (15) days from the date of this Circular. REMB shall use this information to commence the process of identifying PDAs for preparation of the OCSP. RE Applicants that have passed the legal, technical and financial requirements under the existing guidelines prior to the effectivity of this Circular shall be given an option to choose which RE Contract template to adopt: Provided, however, that should there be any new application requirements for RE Contract covering development of a particular type of RE resource, the applicant must satisfy first such requirement/s.

Section 2. Re-filing of the Application for RE Contract and Certificate of Registration. Pending applications for RE Contract or issuance of CORs may be re-applied, at the option of the RE Applicant, within (30) days from effectivity of this Circular without need of new or re-payment of the application fees. Failure of the applicants to re-file its application within the said period shall be construed as its decision to: (a) submit to the ongoing evaluation of its RE Application under the prior rules or guidelines, and (b) comply with the results of such evaluation of its pending RE Application.

CHAPTER XIII – FINAL PROVISIONS

Section 1. Extension of Timelines. Subject to the provisions of RA No. 11032, the respective timelines provided under this Circular may be extended for the same period prior to the lapse of the subject period, Provided, That the DOE shall notify the affected party in writing of the reason for the extension and shall provide the final date of release of the matter requested.

Only one extension is allowed and shall, in no case, exceed sixty (60) days.

For this purpose, the Citizen's Charter of the REMB shall be amended to reflect the timelines herein provided.

Section 2. Information, Education and Communication Activities. Pursuant to Section 31, Rule 10 of the IRR of the RE Act, the DOE, together with National Renewable Energy Board, shall develop and implement a comprehensive information, education and communication activities that are designed to increase the public awareness and appreciation of this Circular and the RE industry in general.

Section 3. Separability Clause. If for any reason, any provision of this Circular is declared unconstitutional or invalid by a court of competent jurisdiction, the other parts or provisions not affected thereby shall remain in full force and effect.

Section 4. Repealing Clause. The provisions of other circulars, orders, issuances, rules and regulations, which are inconsistent with the provisions of this Circular are hereby repealed, amended, superseded or modified accordingly.

Section 5. Effectivity. This Circular shall take into effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation. Copies of this Circular shall be filed with the University of the Philippines Law Center – Office of the National Administrative Register.