

MEMORANDUM OF UNDERSTANDING

AMONG

NEW ENERGY AND INDUSTRIAL TECHNOLOGY
DEVELOPMENT ORGANIZATION
JAPAN

AND

CITY OF SPEYER
FEDERAL REPUBLIC OF GERMANY

AND

STADTWERKE SPEYER GMBH
FEDERAL REPUBLIC OF GERMANY

CONCERNING

IMPLEMENTATION

OF

A DEMONSTRATION PROJECT
ON A SMART COMMUNITY SYSTEM

This Memorandum of Understanding (hereinafter referred to as “MOU”) defines an agreement among the New Energy and Industrial Technology Development Organization of Japan (hereinafter referred to as “NEDO”), the City of Speyer (hereinafter referred to as “SPEYER”) and Stadtwerke Speyer GmbH (hereinafter referred to as “SWS”) regarding implementation of a demonstration project on smart community system (hereinafter referred to as “PROJECT”). NEDO, SPEYER and SWS are hereinafter referred to singularly as “PARTY” and collectively as “PARTIES”.

The PARTIES hereby agree as follows:

ARTICLE 1

OBJECTIVE OF THE PROJECT

The objective of the PROJECT is to develop and demonstrate the technology for a smart community system which is specifically designed for “local production for local consumption of energy” (hereinafter referred to as “SYSTEM”). It is expected that the SYSTEM will enable SPEYER to achieve its aggressive goal of generating 100% of its energy from renewable sources.

ARTICLE 2

COOPERATION

The PARTIES shall cooperate as necessary in order to achieve the above-mentioned objective by carrying out and completing the PROJECT.

ARTICLE 3

LOCATION OF THE PROJECT

The PROJECT shall be carried out in Speyer, Rheinland-Pfalz, Federal Republic of Germany.

ARTICLE 4

OVERALL SCHEDULE OF THE PROJECT

The scheduled term for the PROJECT is from the date of signing of this MOU through March 31, 2018. The overall schedule for the PROJECT is set forth in Annex. The schedule is subject to change and amendment after due consultation among NEDO, SPEYER, SWS and the PROJECT PARTNERS as defined in Article 8.

A major change in the schedule will be discussed at a meeting of the PROJECT STEERING COMMITTEE (as defined in Article 9) and validated by the decision of the PROJECT STEERING COMMITTEE.

ARTICLE 5
PROJECT OUTLINE

The PROJECT shall encompass the following activities for improvement and dissemination of the SYSTEM:

- a. Planning, design and engineering
- b. Manufacturing and procurement of equipment
- c. Transportation of equipment
- d. Installation and inspection
- e. Training for operation of the SYSTEM and an education campaign for residents in the project site
- f. Technical verification
- g. Dissemination of the SYSTEM

ARTICLE 6
EQUIPMENT OF THE SYSTEM

1. The following constitutes the primary equipment of the SYSTEM:
 - a. Photovoltaic panels and a control system
 - b. Heat pump system
 - c. Battery
 - d. HEMS
2. The following primary equipment of the SYSTEM (hereinafter referred to as “NEDO SYSTEM”) will be procured or provided by NEDO:
 - a. Photovoltaic panels control system
 - b. Heat pump system
 - c. Battery
 - d. HEMS
3. The following primary equipment of the SYSTEM will be procured or provided by SWS :
 - a. Photovoltaic panels
4. Details regarding the technical specifications of the equipment for the SYSTEM will be set forth in an implementation document (hereinafter referred to as “ID”) as provided for in Article 8.

ARTICLE 7
WORK AND COST SHARING

Each PARTY shall be responsible for implementing its work and bearing the cost of its work.

No PARTY shall bear any additional work-related costs attributable to or incurred by any other PARTY or any third party. Details regarding the work and cost sharing for the PROJECT shall be set forth in the ID provided for in Article 8.

ARTICLE 8

PROJECT IMPLEMENTATION

1. NEDO will entrust its work for implementing the PROJECT to NTT DOCOMO, INC., NTT FACILITIES, INC., Hitachi Chemical Company, Ltd. and Hitachi Information & Telecommunication Engineering, Ltd. (hereinafter collectively referred to as “JAPANESE ENTRUSTED COMPANIES”).
2. SPEYER will confide its work for implementing the PROJECT to SWS and GEWO Wohnen GmbH (hereinafter referred to as “GEWO”) (SWS and GEWO are hereinafter collectively referred to as “GERMAN PARTNERS”), and SPEYER will provide assistance and cooperation between the JAPANESE ENTRUSTED COMPANIES and the GERMAN PARTNERS.
3. Details regarding the implementation of the PROJECT shall be set forth in an ID to be agreed upon between the JAPANESE ENTRUSTED COMPANIES and the GERMAN PARTNERS (hereinafter collectively referred to as “PROJECT PARTNERS”). The following matters, as well as details regarding the PROJECT not specified in this MOU, shall be stipulated in the ID:
 - a. A comprehensive schedule with clear milestones and detailed specifications
 - b. Work and cost sharing details
 - c. Treatment of intellectual property rights
 - d. Methods for resolving disputes that may arise
 - e. Confirmation of quality
 - f. Applicable standards and specifications
 - g. Measures for demonstration and dissemination
 - h. Determination of basic conditions of ownership and usage of the equipment of SYSTEM
 - i. Other matters necessary for implementation of the PROJECT

ARTICLE 9

FRAMEWORK FOR CORDINATION OF THE PROJECT

1. The PARTIES shall form a steering committee (hereinafter referred to as “PROJECT STEERING COMMITTEE”) for the purpose of providing communication and coordination for the PROJECT
2. The PROJECT STEERING COMMITTEE shall be composed of two (2) representatives from

each of the PARTIES. Each PARTY is free to invite other participants to meetings of the PROJECT STEERING COMMITTEE as observers. The number of such invited participants at one meeting shall be limited to four (4) for each PARTY.

3. The responsibilities of the PROJECT STEERING COMMITTEE shall include, without limitation:
 - (i) Monitoring and updating the progress of the PROJECT;
 - (ii) Examining, discussing and making decisions on matters raised by any PARTY;
 - (iii) Discussing and agreeing to take necessary actions to deal with unexpected situations during the implementation of the PROJECT.
4. PROJECT STEERING COMMITTEE meetings shall be held twice every year or upon a request made by any PARTY. The decisions of the PROJECT STEERING COMMITTEE shall be made by unanimity of all members of the PROJECT STEERING COMMITTEE attending the meeting.

ARTICLE 10 FACILITATION

1. SPEYER will provide, in good faith, reasonable assistance in order to minimize tax liabilities or any other public charges for equipment provided by NEDO.
2. SPEYER will provide, in good faith, reasonable assistance to NEDO and the PROJECT PARTNERS in acquiring all necessary permits, licenses, authorizations and other forms of approval required for implementation of the PROJECT. However, SPEYER shall not be obligated to incur any costs when providing such assistance.

ARTICLE 11 LANGUAGE AND STANDARDS

1. This MOU, agreements, correspondence, documents, letters and technical documents, such as drawings and specifications made during the PROJECT, shall be written in English.
2. In principle, applicable international standards and regulations agreed upon by the PARTIES shall be used in technical documents such as drawing and specifications. In the event that such standards and regulations cannot be applied, the PROJECT PARTNERS shall agree upon applicable standards and regulations.

ARTICLE 12 DAMAGES AND RESPONSIBILITY

1. EACH PARTY shall assume responsibility and bear its own costs for any material damage incurred as a result of its work undertaken for the PROJECT.

2. No PARTY shall make a claim for compensation against any other PARTY in the event of any material damage, injury, or loss of life due to an accident, natural calamity, or any reason other than willful misconduct or gross negligence.

ARTICLE 13

INTELLECTUAL PROPERTY AND OPERATIONAL DATA

1. SPEYER and SWS hereby agree to accept and acknowledge that any technologies, inventions, devices, works of authorship, know-how and other results which are developed through the implementation of the PROJECT will be the exclusive property of the persons who developed them and that no right in or license to any intellectual property rights (including without limitation any patents, designs, know-how, trademarks, or copyrights) which are disclosed, developed or provided by either NEDO, the JAPANESE ENTRUSTED COMPANIES, or the GERMAN PARTNERS during or through the implementation of the PROJECT are granted, transferred, or implied by this MOU.
2. SPEYER and SWS hereby agree to accept and acknowledge that any information and data collected related to the equipment and/or services in the PROJECT (hereinafter referred to as "OPERATIONAL DATA") before the date of transfer of the equipment of the NEDO SYSTEM to SWS, will be the exclusive property of persons other than SPEYER and SWS and that no right in or license to any OPERATIONAL DATA which are (i) disclosed or provided by either NEDO, the JAPANESE ENTRUSTED COMPANIES, or the GERMAN PARTNERS, or (ii) collected or acquired by SPEYER or SWS are granted, transferred, or implied by this MOU.
3. The PARTIES mutually agree to take necessary measures to protect intellectual property rights and other proprietary data used in, provided, developed, or collected during the PROJECT.
4. In the course of implementation of the PROJECT, if there exists intellectual property arising out of cooperative activities, the PARTIES shall, except as provided in paragraphs 1 and 2 of this article, mutually determine or cause the PROJECT PARTNERS to determine the ownership of the intellectual property rights.
5. The PARTIES agree that the provisions of this article shall remain effective for a period of three (3) years after the termination or expiration of this MOU.

ARTICLE 14

CONFIDENTIALITY OF TECHNICAL INFORMATION AND DISCLOSURE OF PROJECT RESULTS

1. No PARTY shall disclose any technical documents or information obtained during the

implementation of the PROJECT to a third party other than for the purpose of implementation of the PROJECT, which includes dissemination activities.

2. The PARTIES agree that if a PARTY wishes to disclose the results of the PROJECT to a third party for any reason other than for the purpose of implementation of the PROJECT, the disclosing PARTY must obtain prior written consent from all of the other PARTIES before any such disclosure can be made.
3. The PARTIES agree that the provisions of this article shall remain effective for a period of three (3) years after the termination or expiration of this MOU.

ARTICLE 15

DISSEMINATION OF PROJECT RESULTS

During and after the implementation of the PROJECT, the PARTIES will provide assistance and cooperation for the dissemination of the results of the PROJECT in Germany. In particular, the PARTIES will provide assistance and cooperation to the GERMAN PARTNERS to deploy the SYSTEM in the City of Speyer if the PARTIES can confirm the technical and commercial effectiveness of the SYSTEM.

ARTICLE 16

OWNERSHIP AND MAINTENANCE OF EQUIPMENT

1. The equipment that constitutes the NEDO SYSTEM will be the property of NEDO during the term of the PROJECT (hereinafter referred to as “TERM”).
2. At the end of the TERM, ownership of the equipment that constitutes the NEDO SYSTEM will be transferred by NEDO to SWS, at no cost on an “as is” and “where is” basis.
3. After the transfer of the equipment that constitutes the NEDO SYSTEM to SWS in accordance with paragraph 2 of this article, SWS shall continue to operate the SYSTEM for a minimum period of three (3) years in accordance with the terms and conditions stipulated in the ID (hereinafter referred to as “POST DEMONSTRATION PERIOD”). During the POST DEMONSTRATION PERIOD and to the extent that the equipment remains operational and in working order, the GERMAN PARTNERS shall:
 - (a) Use the SYSTEM to continue operation and maintenance consistent with the original objectives of the PROJECT as well as in accordance with the terms and conditions stipulated in the ID.
 - (b) Carry out repair of the SYSTEM according to the ID.
 - (c) Provide reporting of specific data, including generated OPERATIONAL DATA, to NEDO if requested, and ensure free access, use and analysis by NEDO of the OPERATIONAL DATA; and

- (d) Ensure that NEDO will have free access to the site where the NEDO SYSTEM is installed after this MOU has expired to enable confirmation of the operational status of the NEDO SYSTEM.
4. NEDO shall not assume any responsibility for warranty and maintenance or any other costs pertaining to the equipment upon and subsequent to the transfer of the equipment that constitutes the NEDO SYSTEM to SWS.
 5. Detailed terms and conditions regarding operation and maintenance of the SYSTEM during and after the implementation of the PROJECT will be separately agreed in the ID.
 6. The PARTIES agree that paragraphs 3 and 4 of this article shall remain effective for a period of three (3) years from the date of transfer of the equipment that constitutes the NEDO SYSTEM, notwithstanding the termination or expiration of this MOU.

ARTICLE 17

MUTUAL TRUST AND CONSULTATION

In the event a dispute arises between the PARTIES in connection with or arising out of this MOU, including without limitation any question regarding its existence, validity or termination, all of the PARTIES shall enter into amicable consultation and use all reasonable endeavors to settle the dispute, based on the principle of cooperation, equality, and trust.

ARTICLE 18

AMENDMENT

The PARTIES may amend this MOU by mutual written agreement.

ARTICLE 19

VALIDITY

1. This MOU shall enter into force on the date of its signing by all of the PARTIES and shall remain effective until March 31, 2018, unless otherwise extended or terminated as provided herein.
2. This MOU can be extended for a specified period of time by mutual written agreement among all of the PARTIES.
3. This MOU may be terminated by mutual written agreement of all of the PARTIES following ninety (90) days prior written notice by any PARTY to all of the other PARTIES.

IN WITNESS WHEREOF, the PARTIES have executed three (3) original copies of this MOU in the English language on the date indicated below, with each original being equally valid. Each PARTY shall retain one (1) original copy.

Executed in [Place] on [Month] [Day], 2015.

New Energy and Industrial Technology Development Organization

Hiroshi Kuniyoshi
Executive Director

City of Speyer

Hansjörg Eger
Mayor

Stadtwerke Speyer GmbH

Wolfgang Bühring
Managing Director

