

## BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Application of NEVADA POWER COMPANY d/b/a NV Energy and SIERRA PACIFIC POWER COMPANY d/b/a NV Energy, seeking approval to add 1,001 MW of renewable power purchase agreements and 100 MW of energy storage capacity, among other items, as part of their joint 2019-2038 integrated resource plan, for the three year Action Plan period 2019-2021, and the Energy Supply Plan period 2019-2021

Docket No. 18-06\_\_\_\_

### VOLUME 15 OF 18

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**REN-6-TS5 (a)**

**LONG-TERM RENEWABLE  
POWER PURCHASE AGREEMENT**

**BETWEEN**

**NEVADA POWER COMPANY D/B/A NV ENERGY**

**AND**

**TECHREN SOLAR V, LLC**

**Techren V  
Boulder City, NV**

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## LONG-TERM RENEWABLE POWER PURCHASE AGREEMENT

This Long-Term Renewable Power Purchase Agreement (this “Agreement”) is made and entered into as of May 14, 2018 (the “Effective Date”) by and between **NEVADA POWER COMPANY**, a Nevada corporation, d/b/a NV Energy acting in its merchant function capacity (“Buyer”), and **TECHREN SOLAR V, LLC**, a Delaware limited liability company (“Supplier”). Buyer and Supplier are sometimes referred to individually as a “Party” and collectively as the “Parties.”

**WHEREAS**, Buyer is an operating electric public utility, subject to the applicable rules and regulations of the PUCN and FERC (as such terms are defined below);

**WHEREAS**, Buyer intends to construct or cause to be constructed the Facility (as such term is defined below) upon the terms and conditions set forth herein; and

**WHEREAS**, Supplier desires to sell to Buyer, and Buyer desires to purchase from Supplier, Product (as such term is defined below) from the Facility upon the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the premises and the covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Supplier, intending to be legally bound, hereby agree as follows:

### 1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below:

- 1.1 “Accepted Compliance Costs” is defined in Section 3.5.
- 1.2 “Adjusted Annual Supply Amount” means, with respect to a Contract Year, the Annual Supply Amount less the total amount of Net Energy associated with Excused Product, if any, for such Contract Year.
- 1.3 “Adjusted Stub Period Supply Amount” means, with respect to the Stub Period, the Stub Period Supply Amount less the total amount of Net Energy associated with Excused Product, if any, for the Stub Period.
- 1.4 “Affiliate” means, with respect to any Person, each Person that directly or indirectly, controls or is controlled by or is under common control with such Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise. Notwithstanding the foregoing, with respect to Buyer, Affiliate shall only include Berkshire Hathaway Energy Company and its direct and indirect, wholly owned subsidiaries.

- 1.5 “Agreement” means this Long-Term Renewable Power Purchase Agreement together with the Exhibits attached hereto, as amended from time to time.
- 1.6 “ALTA Survey” means a land survey prepared and certified in accordance with the standards jointly promulgated by the American Land Title Association and the American Congress on Surveying and Mapping.
- 1.7 “Annual Supply Amount” means, with respect to each Contract Year, the sum of the twelve (12) Monthly Supply Amounts for that Contract Year.
- 1.8 “ASC” is defined in Section 12.7.
- 1.9 “Availability Notice” means a notice delivered by Supplier to Buyer pursuant to Section 14.2 notifying Buyer of the availability of the Facility.
- 1.10 “Average On-Peak Mead” means the simple average of the Mead for the On-Peak hours of the Summer Months or the Non-Summer Months, as applicable.
- 1.11 “Balancing Authority Area” is defined in the OATT (as may be modified from time to time) of the Balancing Authority Area Operator.
- 1.12 “Balancing Authority Area Operator” means a Person, and its agents and any successors thereto, that is responsible for the operation of the electric transmission system and for maintaining reliability of the electric transmission system, including the Transmission System, within the Balancing Authority Area where the Facility is located. As of the Effective Date, the Balancing Authority Area Operator is the Transmission Provider.
- 1.13 “Billing Period” is defined in Section 7.2.1.
- 1.14 “Business Day” means any day other than Saturday, Sunday and any day that is a holiday observed by Buyer.
- 1.15 “Buyer” is defined in the preamble of this Agreement and includes such Person’s permitted successors and assigns.
- 1.16 “Buyer ROFO Notice” is defined in Section 6.1.1.
- 1.17 “Buyer’s PC Account” means the account maintained by the PC Administrator for the purpose of tracking the production, sale, transfer, purchase and retirement of PCs by Buyer, or such other account, including a WREGIS account, as Buyer may designate from time to time.
- 1.18 “Buyer’s Required Regulatory Approvals” means the approvals, consents, authorizations or permits of, or filing with, or notification to the Governmental Authorities listed on Exhibit 9, and such others as are deemed by Buyer to be necessary or desirable from time to time.

- 1.19 “CAMD” means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator, or any state or federal Governmental Authority given jurisdiction over a program involving transferability of Renewable Energy Benefits or any part thereof.
- 1.20 “Capacity Rights” means any current or future defined characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, including any of the same counted towards any current or future resource adequacy or reserve requirements, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce energy. Capacity Rights are measured in MW and do not include any Tax incentives of any kind existing now or in the future associated with the construction, ownership or operation of the Facility.
- 1.21 “Certified Nameplate Capacity Rating” is defined in Section 8.3.2.2.
- 1.22 “Commercial Operation” means that: (a) the Generating Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System; (b) Supplier shall have received or obtained all Required Facility Documents; and (c) which occurs when all of the requirements set forth in Sections 8.1, 8.3 and 17.2 and Exhibits 6 and 7 (i) have occurred, and (ii) remain simultaneously true and accurate: (A) as of the date and time Supplier gives Buyer notice that Commercial Operation has occurred; and (B) for the period Buyer has to review Supplier’s notice of Commercial Operation pursuant to Section 8.2.1.
- 1.23 “Commercial Operation Date” means the date on which Commercial Operation occurs.
- 1.24 “Commercial Operation Deadline” means the date specified in Exhibit 6 by which the Commercial Operation Date must occur, as such date may be extended if and to the extent Supplier fails to achieve the Commercial Operation Date as a result of Force Majeure.
- 1.25 “Compliance Cost Cap” is defined in Section 3.5.
- 1.26 “Construction Contract” means one or more construction and equipment supply agreements, in each case, between a Construction Contractor and Supplier (or one of its Affiliates), pursuant to which, in the aggregate, the Facility will be designed, engineered, constructed, tested and commissioned.
- 1.27 “Construction Contractor” with respect to a Construction Contract, means the construction contractor and/or equipment supplier that is party to such Construction Contract.
- 1.28 “Contract Representative” of a Party, means the individual designated by that Party in Exhibit 4 as responsible for ensuring effective communication, coordination and cooperation between the Parties. A Party may change its Contract Representative



by providing notice of such change to the other Party in accordance with the procedures set forth in Section 29.1.

- 1.29 “Contract Year” means each year during the Term beginning on January 1 and ending on December 31 of the year following the Commercial Operation Date (or commencing on the Commercial Operation Date if the Commercial Operation Date is January 1).
- 1.30 “Controlling Interest” with respect to a Person, means fifty percent (50%) or more of the outstanding ownership interest of such Person, or the power to vote such percentage of ownership interest.
- 1.31 “Covered Facility” is defined in Section 24.5.1.
- 1.32 “Credit Rating” of a Person means the credit rating then assigned by a Relevant Rating Agency to the long-term, senior, unsecured, non-credit-enhanced indebtedness of that Person.
- 1.33 “Critical Project Milestone” means a Project Milestone designated as a Critical Project Milestone on Exhibit 6.
- 1.34 “Cure Period” is defined in Section 24.3.
- 1.35 “Curtailed Product” is defined in Section 10.3.
- 1.36 “Daily Delay Damages” means an amount equal to: (a) with respect to the first (1st) through and including the sixtieth (60th) day subsequent to the Commercial Operation Deadline, one hundred ninety four and 44/100 dollars (\$194.44) per MW of Expected Nameplate Capacity Rating per day; (b) with respect to the sixty-first (61st) through and including the one-hundred-twentieth (120th) day subsequent to the Commercial Operation Deadline, three hundred eighty eight and 89/100 dollars (\$388.89) per MW of Expected Nameplate Capacity Rating per day; and (c) with respect to the one-hundred-twenty-first (121st) through and including the one hundred and eighty (180th) day subsequent to the Commercial Operation Deadline, five hundred eighty three and 33/100 dollars (\$583.33) per MW of Expected Nameplate Capacity Rating per day.
- 1.37 “Daily On-Peak Supply Amount” means, with respect to a month, the sum of the Supply Amounts for the Delivery Hours ending 07:00 through 22:00 PPT for each day in that month.
- 1.38 “Daily Supply Amount” means, with respect to each day of a month, the sum of the Supply Amounts for the Delivery Hours ending 01:00 through 24:00 PPT for that month.
- 1.39 “Defaulting Party” is defined in Section 24.1.
- 1.40 “Deficit Damages” is defined in Section 8.6.1.

- 1.41 “Deficit Damages Rate” means two hundred thousand dollars \$200,000 per MW.
- 1.42 “Delivered Amount” means, with respect to any Delivery Hour, the actual amount of Net Energy delivered by Supplier and accepted by Buyer at the Delivery Point during such Delivery Hour.
- 1.43 “Delivered PCs” means PCs that have been delivered by Supplier and awarded to Buyer pursuant to the terms of this Agreement, in accordance with the Portfolio Standard and which have been properly delivered and recorded to Buyer’s PC Account.
- 1.44 “Delivery Hour” means each hour.
- 1.45 “Delivery Point” means, with respect to Net Energy, the delivery point on the Transmission System set forth in Exhibit 5.
- 1.46 “Derating” means a condition of the Generating Facility as a result of which it is unable to produce the Supply Amount during a Delivery Hour.
- 1.47 “Development Security” is defined in Section 17.1.
- 1.48 “Dispute” is defined in Section 21.1.
- 1.49 [Reserved]
- 1.50 “Early Purchase Option” is defined in Section 6.2.
- 1.51 “Economic Curtailment” is defined in Section 10.4.1.
- 1.52 “Economic Curtailed Product” is defined in Section 10.4.2.
- 1.53 “Effective Date” is defined in the preamble of this Agreement.
- 1.54 “Electric System Authority” means each of NERC, WECC, WREGIS, Balancing Authority Area Operator, Market Operator, a Regional Transmission Organization, a regional or sub-regional reliability council or authority, and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the WECC region.
- 1.55 “Emergency” means any circumstance or combination of circumstances or any condition of the Facility, the Transmission System or the transmission system of other transmission operators, which is determined or reported by Buyer, the Transmission Provider or any Electric System Authority to be (a) reasonably likely to endanger life or property and necessitates immediate action to avert injury to persons or serious damage to property or (b) reasonably likely to adversely affect, degrade or impair Transmission System reliability or transmission system reliability of the transmission system of other electric utilities.
- 1.56 “Energy” means all energy that is generated by the Generating Facility.

- 1.57 “Energy Choice Initiative” means the initiated constitutional amendment that: (a) appeared as ballot question 3 in the State of Nevada general election held on November 8, 2016 (titled Nevada Legislature to Minimize Regulations on the Energy Market and Eliminate Legal Energy Monopolies Amendment); (b) was approved by a majority of the Nevada voters in the State of Nevada general election on November 8, 2016; and (c) will appear on the ballot of the State of Nevada general election scheduled to be held on or about November 6, 2018.
- 1.58 “Energy Imbalance Market” means generation facilities electrically located within the Balancing Authority Area that are, from time to time, bid into or otherwise subject to dispatch instructions issued or originating from the Market Operator.
- 1.59 “Environmental Contamination” means the introduction or presence of Hazardous Substances at such levels, quantities or location, or of such form or character, as to constitute a violation of Laws and present a material risk under Laws that the Project Site will not be available or usable for the purposes contemplated by this Agreement.
- 1.60 “Environmental Law” shall mean any Law relating to the protection, preservation or restoration of human health, the environment, or natural resources, including any Law relating to the releases or threatened releases of Hazardous Substances into any medium (including ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, release, transport and handling of Hazardous Substances.
- 1.61 “Event of Default” is defined in Section 24.1.
- 1.62 “EWG” means an “exempt wholesale generator” as defined in the Public Utility Holding Company Act of 2005 and in implementing regulations issued thereunder.
- 1.63 “Excess Charging Energy” is defined in Section 3.4.6.3.
- 1.64 “Excess Energy” means, (a) with respect to the Stub Period, the portion of the Delivered Amount for the Stub Period, if any, that exceeds one hundred percent (100%) of the Adjusted Stub Period Supply Amount, and (b) with respect to a Contract Year, the portion of the Delivered Amount for such Contract Year, if any, that exceeds one hundred (100%) of the Adjusted Annual Supply Amount for such Contract Year; provided, however, that Delivered Amount in excess of the Maximum Amount for any Delivery Hour shall be excluded for purposes of determining Excess Energy.
- 1.65 “Excused Product” is defined in Section 3.6.4.
- 1.66 “Expected Nameplate Capacity Rating” is defined in Exhibit 1.
- 1.67 “Facility” means the Generating Facility and any and all of Supplier’s right, title, and interest in and to the Shared Facilities.

- 1.68 “Fair Market Value” means the price which a willing buyer would pay for the Facility in an arm’s-length transaction to a willing seller under no compulsion to sell, as such price shall be determined by mutual agreement of the Parties or, absent mutual agreement of the Parties, pursuant to Article 21.
- 1.69 “FERC” means the Federal Energy Regulatory Commission and any successor.
- 1.70 “Final Purchase Option” is defined in Section 6.3.
- 1.71 “Force Majeure” is defined in Section 20.2.
- 1.72 “Generating Facility” means Supplier’s generating power plant as described in Exhibit 1, located at the Project Site as identified in Exhibit 3A and 3B and including mechanical equipment and associated facilities and equipment required to deliver Net Energy to the Delivery Point, including items as further described in Exhibits 1, 3A, 3B, 5 and 14, and as such generating power plant may be expanded or otherwise modified from time to time in accordance with the terms hereof.
- 1.73 “Good Utility Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, whether or not the Party whose conduct at issue is a member of any relevant organization and otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period with respect to grid-interconnected, utility-scale generating facilities in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale generating facilities in the Western United States. Good Utility Practice shall include compliance with applicable Laws, applicable reliability criteria, and the criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.
- 1.74 “Governmental Approval” means any authorization, approval, consent, license, ruling, permit, tariff, certification, exemption, order, recognition, grant, confirmation, clearance, filing, notification, or registration of, by, with or to any Governmental Authority.
- 1.75 “Governmental Authority” means, as to any Person, any federal, state, local, or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over such Person or its property or operations, and with respect to Supplier, specifically includes FERC, the PUCN, NERC, WECC and WREGIS.

- 1.76 “Hazardous Substance” means: (a) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, friable asbestos, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls (PCBs) in regulated concentrations; (b) any chemicals or other materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “contaminants,” “pollutants” or words of similar import under any Environmental Law; and (c) any other chemical or other material or substance, exposure to which is now or hereafter prohibited, limited or regulated as such under any Environmental Law, including the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. section 9601 et seq., or any similar state statute.
- 1.77 “IA” means the Large Generator Interconnection Agreement executed on [\_\_\_\_\_], as amended from time to time, between Supplier and the Transmission Provider for the Facility.
- 1.78 “IEEE-SA” means the Institute of Electrical and Electronics Engineers Standards Association and any successor entity thereto.
- 1.79 “Indemnified Party” is defined in Section 18.1.
- 1.80 “Indemnifying Party” is defined in Section 18.1.
- 1.81 “Invoice” means the statements described in Section 7.2 setting forth the information required therein, as well as the associated payment due for the Billing Period, the Measurement Period or the Contract Year, as the case may be, in accordance with Exhibits 2B and 2C.
- 1.82 “ITC” means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.
- 1.83 “Law” means any federal, state, local or other law (including any Environmental Laws), common law, treaty, code, rule, ordinance, binding directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval of a Governmental Authority which is binding on a Party or any of its property.
- 1.84 “Loss” with respect to a Person means, any and all claims, demands, suits, obligations, payments, liabilities, costs, fines, Penalties, sanctions, Taxes, judgments, damages, losses or expenses imposed by a third party upon such Person or incurred in connection with a claim by a third party against such Person.
- 1.85 “Licensed Professional Engineer” means a person proposed by Supplier and acceptable to Buyer in its reasonable judgment who: (a) is licensed to practice

engineering in the appropriate engineering discipline for the required certification being made in Nevada; (b) has training and experience in the engineering disciplines relevant to the matters with respect to which such person is called upon to provide a certification, evaluation or opinion; (c) has no economic relationship, association, or nexus with Supplier and is not an employee of its members or Affiliates, other than with the prior written consent of Buyer, for services previously or currently being rendered to Supplier or its members or Affiliates; and (d) is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility.

- 1.86 “Market Operator” means, if applicable, the California Independent System Operator Corporation or any other entity performing the market operator function for the Energy Imbalance Market.
- 1.87 “Material Adverse Effect” means, with respect to a Party, a material adverse effect on: (a) the ability of such Party to perform its obligations under this Agreement, individually or in the aggregate; (b) the validity or enforceability of this Agreement or the transaction contemplated hereby; or (c) on the business, assets, operations, property or condition (financial or otherwise) of such Party.
- 1.88 “Maximum Amount” means, with respect to a Delivery Hour, 50 MWh.
- 1.89 “Mead” means the Hourly Mead Index published by Powerdex.
- 1.90 “Measurement Period” means each two (2) consecutive Contract Years commencing with the first two (2) Contract Years of the Term.
- 1.91 “Meter” means any of the physical or electronic metering devices, data processing equipment and apparatus associated with the meters required for: (a) accurate determination of the: quantities of Delivered Amounts and Station Usage from the Facility and for recording other related parameters required for the reporting of data to Supplier; (b) the computation of the payments due from one Party to another under this Agreement; and (c) compliance with requirements of any Electric System Authority, any Governmental Authority or Transmission Provider. Meters do not include any check meters Supplier may elect to install as contemplated by Section 7.1.1.
- 1.92 “Minimum Credit Rating” of a Person means that the Credit Rating of that Person is at least (a) BBB- (or its equivalent) as determined by Standard & Poor’s and (b) Baa3 (or its equivalent) as determined by Moody’s.
- 1.93 “Monthly Supply Amount” means, with respect to a month, the sum of the Daily Supply Amount for each day in such month.
- 1.94 “Monthly On-Peak Supply Amount” means, with respect to a month, the sum of the Daily On-Peak Supply Amount for each day in such month.
- 1.95 “Moody’s” means Moody’s Investor Services, Inc. and any successor.

- 1.96 “MW” means megawatts of electrical power in AC.
- 1.97 “MWh” and “MWhs” mean a megawatt hour or megawatt hours of electrical energy.
- 1.98 “NAC” means the Nevada Administrative Code.
- 1.99 “NERC” means the North American Electric Reliability Corporation and any successor.
- 1.100 “Net Energy” means all Energy and capacity produced by the Generating Facility, less Station Usage and transformation and transmission losses and other adjustments (e.g., Supplier’s load other than Station Usage), if any, delivered to and received by Buyer at the Delivery Point. Buyer’s payment for Net Energy shall not be for more than the amount of Energy flowing through, and delivered at, the Delivery Point.
- 1.101 “Network Resource” is defined in the OATT.
- 1.102 “Non-Defaulting Party” means the Party other than the Defaulting Party.
- 1.103 “Non-Summer Months” means all months of the Stub Period or a Contract Year, not including the Summer Months.
- 1.104 “Notice” is defined in Section 29.1.1.
- 1.105 “Notice to Proceed” means the initial notification by Supplier to its Construction Contractor to commence work under the Construction Contract.
- 1.106 “NRS” means the Nevada Revised Statutes.
- 1.107 “OATT” means Transmission Provider’s or the Balancing Authority Area Operator’s then-effective Open Access Transmission Tariff, which has been accepted for filing by FERC.
- 1.108 “Offered Interests” is defined in Section 6.1.1.
- 1.109 “Off-Peak” means hours ending 01:00 through 06:00 PPT and hours ending 23:00 through 24:00 PPT of each day.
- 1.110 “On-Peak” means hours ending 07:00 through 22:00 PPT of each day.
- 1.111 “Operating Representative” of a Party means any of the individuals designated by that Party, as set forth in Exhibit 4, to transmit and receive routine operating and Emergency communications required under this Agreement. A Party may change any of its Operating Representatives by providing notice of the change to the other Party in accordance with the notice procedures set forth in Section 29.1.

- 1.112 “Operating Security” is defined in Section 17.2.
- 1.113 “Operation Date” means the first date on which the Generating Facility is energized and operates in parallel with the Transmission System and delivers Net Energy to and at the Delivery Point.
- 1.114 “Other Techren Projects” is defined in Section 24.5.1.
- 1.115 “PPT” means Pacific Standard Time or Pacific Daylight Time, whichever is then prevailing in Las Vegas, Nevada.
- 1.116 “Party” or “Parties” means each entity set forth in the preamble of this Agreement and its permitted successor or assigns.
- 1.117 “PC” or “Portfolio Energy Credit” means a unit of credit which equals one kilowatt-hour of electricity generated, acquired or saved (or deemed so) by the Facility, all as calculated by the PUCN operations staff and certified by the PC Administrator pursuant to the Renewable Energy Law (or by a successor Governmental Authority pursuant to a successor Law if the Renewable Energy Law is replaced, superseded or preempted by another Law or regulatory regime tasked with enforcement of renewable energy quotas by utility providers in Nevada), and certified by WREGIS.
- 1.118 “PC Administrator” means the Person appointed by the PUCN to administer the system of Portfolio Energy Credits established pursuant to the Portfolio Standard or a successor Governmental Authority pursuant to a successor law if the Renewable Energy Law is replaced, superseded or preempted by another Law or regulatory regime tasked with enforcement of renewable energy quotas by utility providers in Nevada.
- 1.119 “PC Replacement Costs” is defined in Section 3.7.1.
- 1.120 “PC Shortfall” is defined in Section 3.7.1.
- 1.121 “PC Shortfall Amount” is defined in Section 3.7.1.
- 1.122 “Penalties” means any penalties, fines, damages, or sanctions attributable to Supplier’s failure to perform under this Agreement and actually imposed on Buyer pursuant to an order issued by any Governmental Authority, the Transmission Provider or any Electric System Authority.
- 1.123 “Person” or “Persons” means any natural person, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, or Governmental Authority.
- 1.124 “Planned Outage” is defined in Article 11.1.
- 1.125 “Portfolio Standard” means the amount of electricity that Buyer must generate, acquire, or save from renewable energy systems or efficiency measures specified by the percentage of the total amount of electricity sold by Buyer to its retail



customers in the State of Nevada pursuant to the Renewable Energy Law, as established pursuant to NRS 704.7821, and the regulations, guidance and requirements promulgated thereunder, as may be amended, preempted or superseded from time to time (or pursuant to a successor law if the Renewable Energy Law is replaced, superseded or preempted by another Law or regulatory regime tasked with enforcement of renewable energy quotas by utility providers in Nevada).

- 1.126 “Power Quality Standards” means the power quality standards established by NERC, WECC, Buyer, IEEE-SA, National Electric Safety Code, the National Electric Code, or their respective successor organizations or codes, as they may be amended or superseded from time to time, and consistent with Good Utility Practice.
- 1.127 “Product” means all (a) Net Energy, (b) PCs (and any equivalent rights in any other jurisdiction), (c) Renewable Energy Benefits, and (d) Capacity Rights, in each case, arising from or relating to the Facility.
- 1.128 “Product Rate” means, for any period, the applicable rate set forth in Exhibit 2A.
- 1.129 “Project Milestone” means each of the milestones listed in Exhibit 6.
- 1.130 “Project Site” means the site for the Facility, as more particularly described in Exhibit 3A and depicted in Exhibit 3B.
- 1.131 “Provisional Energy” means Net Energy (but not Test Energy) that is delivered by Supplier to Buyer prior to the Commercial Operation Date and at the request of Buyer in increments of no less than five (5) MW up to an aggregate maximum of fifty (50) MW.
- 1.132 “Provisional Rate” is defined in Section 4.1.1.2.
- 1.133 “PTC” means the production tax credit established pursuant to Section 45 of the United States Internal Revenue Code of 1986.
- 1.134 “PUCN” means the Public Utilities Commission of Nevada and any successor.
- 1.135 “PUCN Approval” is defined in Section 16.2.
- 1.136 “PUCN Approval Date” means the date the PUCN Approval becomes effective pursuant to NAC §703.790.
- 1.137 “PUCN Approval Deadline” means December 28, 2018.
- 1.138 “QF” means a cogeneration or small power production facility that meets the criteria as defined in Title 18, Code of Federal Regulations, §§ 292.201 through 292.207.

- 1.139 “Qualified Financial Institution” means a financial institution having an office in the United States, with a total tangible net worth of at least ten billion dollars (\$10,000,000,000) U.S. and whose Credit Rating is at least “A-” by S&P and “A3” by Moody’s.
- 1.140 “Qualified Transferee” means a Person that is at least as financially and operationally qualified as Supplier as of the Effective Date and, at a minimum, (a) has a tangible net worth of at least thirty million dollars (\$30,000,000) or provides adequate assurance in an amount and form reasonably acceptable to Buyer, and (b) has (or agrees to contract with an operator who has) at least three (3) years of experience operating a generating plant of similar technology and similar size to the Facility.
- 1.141 “Relevant Rating Agency” means Moody’s or S&P.
- 1.142 “Renewable Energy Benefits” means any and all renewable and environmental attributes, emissions reductions attributes, Portfolio Energy Credits (and any equivalent rights in any other jurisdictions), credits, offsets, allowances, reporting rights and benefits, howsoever entitled, and includes any and all: (a) available, allocated, assigned, awarded, certified or otherwise transferred or granted to Supplier or Buyer by the PC Administrator or any Governmental Authority in any jurisdiction in connection with the Facility or the generation, transmission or use of the Product, including those related to the Clean Air amendments of 1970 and regulations of the Environmental Protection Agency thereunder; (b) associated with the production of Energy or based in whole or part on the Facility’s use of renewable resources for generation or because the Generating Facility constitutes a Renewable Energy System or the like or because the Facility does not produce or produces less greenhouse gasses, regulated emissions or other pollutants, whether any such credits, offsets, allowances or benefits exist now or in the future and whether they arise under existing Law or any future Law or whether such credit, offset, allowance or benefit or any Law, or the nature of such, is foreseeable or unforeseeable; (c) credits, offsets, allowances or benefits attributable to Energy generated and consumed by the Facility, such as Station Usage (parasitic load); (d) claims, credits, benefits, emissions, reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water or generation of the Product, and include : (1) any avoided emissions of pollutants into the air, soil, or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; and (e) the Renewable Energy Benefits Reporting Rights. Renewable Energy Benefits exclude and do not include: (i) any Tax Credits or other Tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility; (ii) matters designated by Buyer as sources of liability; and (iii) adverse wildlife or environmental impacts.

- 1.143 “Renewable Energy Benefits Reporting Rights” means the exclusive right of a purchaser of Renewable Energy Benefits to report ownership of Renewable Energy Benefits in compliance with any applicable Law, and to Governmental Authorities or other Persons at such purchaser’s discretion, and include reporting under: (a) Section 1605(b) of the Energy Policy Act of 1992; (b) the Environmental Protection Agency; (c) the Clean Air Act Amendments Section 111(d) and regulations thereunder; and (d) any present or future domestic, international or foreign emissions trading program or renewable portfolio standard.
- 1.144 “Renewable Energy Law” means an act of the Nevada Legislature relating to energy that requires certain electric service providers to comply with the portfolio standard for renewable energy, and providing for other matters relating thereto, codified as NRS §§ 704.7801 through 704.7828, inclusive, and the rules and regulations of WREGIS, and the regulations, guidance and other requirements promulgated thereunder, in each case, as such Laws, rules, regulations, guidance and other requirements may be amended, preempted or superseded from time to time.
- 1.145 “Renewable Energy System” means a generation facility that is both (a) a “renewable energy system” as defined in the Renewable Energy Law and (b) a “renewable Generating Unit” under WREGIS.
- 1.146 “Replacement Costs” is defined in Section 3.6.1.3 with respect to the Summer Months and Section 3.6.2.3 with respect to Non-Summer Months.
- 1.147 “Required Facility Documents” means the Governmental Approvals, rights and agreements now or hereafter necessary for construction, operation and maintenance of the Facility set forth in Exhibit 12. Nothing set forth in Exhibit 12 limits Supplier’s obligation to obtain the Governmental Approvals set forth in Exhibit 12 or otherwise required hereunder or with respect to the Facility.
- 1.148 “Restricted Period” is defined in Section 8.4.2.
- 1.149 “Restricted Transaction” is defined in Section 6.1.1.
- 1.150 “ROFO” is defined in Section 6.1.
- 1.151 “ROFO Period” is defined in Section 6.1.1.
- 1.152 “ROFO Seller” is defined in Section 6.1.1.
- 1.153 “Seller ROFO Notice” is defined in Section 6.1.1.
- 1.154 “Shared Facilities” means any facilities shared with an adjacent solar project, including but not limited to equipment storage and maintenance facilities, communication networks, roads, water supply facilities, and certain rights under the IA.

- 1.155 “Shared Facilities Agreement” is defined in Section 8.1.
- 1.156 “Shortfall” is defined in Section 3.6.1.1 with respect to the Summer Months and Section 3.6.2.1 with respect to Non-Summer Months.
- 1.157 “Shortfall Amount” is defined in Section 3.6.1.2 for the Summer Months and Section 3.6.2.2 for Non-Summer Months.
- 1.158 “Shortfall Threshold” is defined in Section 3.6.1.1 for the Summer Months and Section 3.6.2.1 for the Non-Summer Months.
- 1.159 “Standard and Poor’s” or “S&P” means Standard and Poor’s Ratings Group, a division of McGraw Hill, Inc., and any successor.
- 1.160 “Standby Service” means the electric service supplied by Nevada Power Company for Station Usage pursuant to Schedule LSR, Large Standby Service Rider, as such tariff is in effect and as may be amended from time to time.
- 1.161 “Station Usage” means all Energy used by the Facility.
- 1.162 “Stub Period” means the period of time commencing on the Commercial Operation Date and ending on December 31 of the year in which the Commercial Operation Date occurs (provided, however, that if the Commercial Operation Date occurs on January 1, then the term “Stub Period” will have no application to this Agreement).
- 1.163 “Stub Period Supply Amount” means the sum of the Daily Supply Amount for each day of the Stub Period.
- 1.164 “Summer Months” means the months of June, July, August and September occurring during the Stub Period or a Contract Year.
- 1.165 “Supplier” is defined in the preamble of this Agreement and includes such Person’s permitted successors and assigns.
- 1.166 “Supplier’s Lenders” means any Person, other than an Affiliate of Supplier, and its permitted successors and assigns, providing money or credit in connection with any development, bridge, construction, takeout, permanent debt or tax equity financing or refinancing for the Facility, including lease, inverted lease, sale-leaseback, partnership-flip, monetization of tax benefits, back-leverage financing, or credit derivative arrangements.
- 1.167 “Supplier’s Required Regulatory Approvals” means the Governmental Approvals listed on Exhibit 10.
- 1.168 “Supply Amount” means, with respect to any Delivery Hour, the amount of Net Energy stated in Exhibit 13.
- 1.169 “Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium,

windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property (including assessments, fees or other charges based on the use or ownership of real property), personal property, transactional, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated tax, or other tax of any kind whatsoever, or any liability for unclaimed property or escheatment under common law principles, including any interest, penalty or addition thereto, whether disputed or not, including any item for which liability arises as a transferee or successor-in-interest.

- 1.170 “Tax Credits” means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of renewable energy and/or investments in renewable energy facilities.
- 1.171 “Term” is defined in Section 2.2.
- 1.172 “Test Energy” is defined in Section 4.1.1.1.
- 1.173 “Test Product Rate” is defined in Section 4.1.1.1.
- 1.174 “Transmission Provider” means Nevada Power Company or any successor operator or owner of the Transmission System.
- 1.175 “Transmission System” means the facilities used for the transmission of electric energy in interstate commerce, including any modifications or upgrades made to such facilities, owned or operated by the Transmission Provider.
- 1.176 “Weather Meter” is defined in Section 7.1.8.
- 1.177 “WECC” means the Western Electric Coordinating Council (formerly Western System Coordinating Council) and any successor.
- 1.178 “WREGIS” means the Western Renewable Energy Generation Information System and any successor.
- 1.179 “Yearly PC Amount” means the amount of PCs for a Contract Year as stated in Exhibit 18.

## **2. TERM; TERMINATION AND SURVIVAL OF OBLIGATIONS**

- 2.1 Effective Date. Subject to Article 16, this Agreement shall become effective on the Effective Date.
- 2.2 Term. Supplier’s obligation to deliver Product, and Buyer’s obligation to accept and pay for Product, shall commence on the Operation Date and shall continue for a period of 25 Contract Years, subject to earlier termination of this Agreement pursuant to the terms hereof (the “Term”); provided, however, that Buyer’s obligations to pay for or accept any Product are conditioned on the receipt of the

PUCN Approval in form and substance acceptable to Buyer in its sole discretion. Buyer shall not be obligated to accept or pay for any Product, unless the PUCN Approval is received in form and substance acceptable to Buyer in its sole discretion or Buyer waives its right to terminate this Agreement pursuant to Article 16.

## 2.3 Termination.

2.3.1 For Cause. Except as provided below in this Section 2.3.1, this Agreement may be terminated at any time by the Non-Defaulting Party upon two (2) Business Days' prior notice to the Defaulting Party if an Event of Default has occurred and is continuing (after the applicable Cure Period (if any) in Section 24.3 has expired); provided, however, that any purported termination by Supplier shall first require that Supplier deliver Notice to Buyer stating prominently therein in type font no smaller than 14 point all-capital letters that "THIS IS A TERMINATION NOTICE UNDER A RENEWABLE RESOURCE PPA. YOU MUST CURE A DEFAULT, OR THE PPA WILL BE TERMINATED," and shall state therein any amount purported to be owed and wiring instructions.

2.3.2 Failed Conditions Precedent. This Agreement may be terminated by Buyer in accordance with Article 16 without payment or penalty or liability of any kind.

2.3.3 Force Majeure. This Agreement may be terminated by Buyer if Supplier's obligations hereunder have been excused by the occurrence of an event of Force Majeure for longer than twelve (12) consecutive months or three hundred sixty (360) days in any five hundred forty (540) day period.

## 2.4 Effect of Termination - Survival of Obligations. The termination or expiration of this Agreement shall not release either Party from any applicable provisions of this Agreement with respect to:

2.4.1 The payment of any amounts owed to the other Party arising prior to or resulting from termination or breach of this Agreement;

2.4.2 Indemnity obligations contained in this Agreement, including Article 18, which shall survive to the full extent of the statute of limitations period applicable to any third-party claim;

2.4.3 Limitation of liability provisions contained in Article 19;

2.4.4 For a period of two (2) years after the termination date, the right to submit a payment Dispute pursuant to Article 21; or

2.4.5 The resolution of any Dispute submitted pursuant to Article 21 prior to, or resulting from, termination.

### 3. SUPPLY SERVICE OBLIGATIONS

- 3.1 Dedication. One hundred percent (100%) of the Product from the Generating Facility shall be dedicated exclusively to Buyer for so long as this Agreement is in force and effect. Subject to Section 24.2, Supplier shall not: (a) sell, divert, grant, transfer or assign Product to any Person other than Buyer; (b) provide Buyer with any Product from any source other than the Facility; or (c) divert, redirect or make available the Facility or any resource therefrom to another generating facility or storage facility or any third party. The Parties agree that remedies at Law may be inadequate in the event of a breach of this Section 3.1, and Supplier agrees that Buyer shall be entitled, without proof of actual damages and without necessity of posting bond or other security, to temporary, preliminary and permanent injunctive relief from any Governmental Authority of competent jurisdiction restraining Supplier from committing or continuing any breach of this Section 3.1.
- 3.2 Purchase and Sale. For and in consideration of Buyer's payment for the Product, Supplier sells to Buyer, and Buyer accepts from Supplier, any right, title and interest that Supplier may have in and to the Product, including Capacity Rights and Renewable Energy Benefits on all Energy (including Excess Energy) existing during the Term.
- 3.3 No Double Sales. Supplier represents that it has not sold, and covenants that during the Term it will not sell or attempt to sell to any other Person, the Product, including the Capacity Rights, if any, and the Renewable Energy Benefits on all Energy (including Excess Energy) existing during the Term, other than as provided in Section 24.2. During the Term, Supplier shall not report to any person or entity that the Product, including the Capacity Rights, if any, and the Renewable Energy Benefits on all Energy (including Excess Energy) existing during the Term, belong to anyone other than Buyer. Buyer may report to any person that it exclusively owns the Product, including the Capacity Rights, if any, and the Renewable Energy Benefits on all Energy (including Excess Energy) existing during the Term. At Buyer's request, the Parties shall execute such documents and instruments as may be reasonably required to effect recognition and transfer of the Capacity Rights, if any, to Buyer.
- 3.4 Delivery Responsibilities.
- 3.4.1 Product. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date and throughout the Term, Supplier shall supply and deliver the Product to Buyer at the Delivery Point
- 3.4.2 Delivered Amount. Buyer shall take delivery of the Net Energy, including any Excess Energy, at the Delivery Point in accordance with the terms of this Agreement. Supplier shall be responsible for paying or satisfying when due all costs or charges imposed in connection with the scheduling and delivery of Net Energy up to the Delivery Point, including transmission costs, transmission line losses and any operation and maintenance charges imposed by the Transmission Provider. Buyer shall be responsible for all costs or charges, if any, imposed in connection with the delivery of Net

Energy at and after the Delivery Point, including transmission costs and transmission line losses and imbalance charges. Without limiting the generality of the foregoing, Buyer, in its merchant capacity, shall not bear costs associated with the modifications to the Transmission System (including system upgrades) caused by or related to: (a) the interconnection of the Facility with the Transmission System; and (b) any increase in generating capacity of the Generating Facility. The Parties agree that the terms of the IA shall govern the allocation of costs associated with any modifications or upgrades to the Transmission System. To the extent any terms of this Agreement conflict with the IA, the terms of the IA shall prevail.

3.4.3 Title and Risk of Loss. Title and risk of loss with respect to Net Energy delivered by Supplier shall pass from Supplier to Buyer at the Delivery Point. Supplier shall be deemed in exclusive control of the Net Energy and shall be responsible for any damage or injury caused prior to the Delivery Point. Buyer shall be deemed in exclusive control of the Net Energy and shall be responsible for any damage or injury caused at and after the Delivery Point. Supplier warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

3.4.4 Provisional Energy Delivery. Buyer may request by written notice to Supplier to deliver Provisional Energy prior to the Commercial Operation Date, in increments as defined in Section 1.131, and on and after a specified date. Supplier may, in its sole discretion, elect to deliver such Provisional Energy to Buyer by delivering written notice thereof to Buyer. Notwithstanding the foregoing, Buyer and Supplier shall mutually agree on the amounts of Provisional Energy to be supplied and the date and time when such Provisional Energy shall be supplied.

3.4.5 Voltage Support. The IA requires the Facility to maintain a composite power delivery at continuous rated power output at the point of interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless Transmission Provider has established different requirements that apply to the Facility and all generators in the control area on a comparable basis.

3.5 Renewable Energy System. Notwithstanding anything in this Agreement to the contrary, Buyer shall not be obligated to purchase or accept delivery of Product if the Generating Facility: (a) is not at the time of delivery qualified as a Renewable Energy System; or (b) is not delivering to Buyer all of the Renewable Energy Benefits associated with the Net Energy being delivered; provided that if there is a change in the Renewable Energy Law after the execution of this Agreement that causes the Net Energy from the Generating Facility to be ineligible or non-qualifying as a Renewable Energy System under such Renewable Energy Law, Supplier shall use commercially reasonable efforts to comply with such Renewable Energy Law. For purposes hereof, commercially reasonable efforts shall include the expenditure of amounts up to one hundred thousand dollars (\$100,000) (the “Compliance Cost Cap”) in any Contract Year. If Supplier reasonably concludes



that it may incur costs in excess of the Compliance Cost Cap in any Contract Year in order to comply with the Renewable Energy Law, it shall provide Buyer with a notice itemizing such excess costs. Buyer shall evaluate such notice and either: (i) agree to reimburse Supplier for such excess costs (the “Accepted Compliance Costs”); or (ii) waive Supplier’s obligation to comply with the Renewable Energy Law to the extent such inability results from failing to expend amounts in excess of the Compliance Cost Cap. If Buyer agrees to reimburse Supplier for the Accepted Compliance Costs, then Supplier shall be required to comply in full with the Renewable Energy Law, and Buyer shall reimburse Supplier for Supplier’s actual and reasonable out-of-pocket compliance costs in excess of the Compliance Cost Cap, not to exceed the Accepted Compliance Costs. If Supplier’s inability to comply with the Renewable Energy Law cannot be cured by the expenditure of money, such noncompliance shall be excused and shall not constitute an Event of Default.

- 3.6 Shortfall; Replacement Costs. Supplier shall pay Buyer Replacement Costs and any Penalties incurred as a result of any Shortfall in any Measurement Period in accordance with the following provisions:

3.6.1 Summer Months – On-Peak.

- 3.6.1.1 If, for the Summer Months of any Measurement Period, the sum of all Delivered Amounts during the On-Peak hours of such Summer Months is less than the Shortfall Threshold for such Summer Months, then a shortfall of Net Energy (a “Shortfall”) will be deemed to exist for such Summer Months. “Shortfall Threshold” means, with respect to the Summer Months in any Measurement Period, the product of (a) 0.90 multiplied by (b) the difference between (i) the sum of the Monthly On-Peak Supply Amount for such Summer Months minus (ii) the total amount of Net Energy associated with Excused Product (if any) during the On-Peak hours of such Summer Months.
- 3.6.1.2 If a Shortfall exists with respect to the Summer Months in any Measurement Period, then a Shortfall Amount will be calculated in accordance with the following. “Shortfall Amount” means, with respect to the Summer Months in any Measurement Period, an amount expressed in MWh equal to the Shortfall Threshold for such Summer Months minus the sum of all Delivered Amounts during the On-Peak hours of such Summer Months, provided that if the calculation of Shortfall Amount yields an amount of zero or less for the Summer Months in any Measurement Period, then no Shortfall Amount will be deemed to exist with respect to such Summer Months.
- 3.6.1.3 Buyer’s “Replacement Costs” with respect to any Summer Months in any Measurement Period shall equal (a) the Shortfall Amount for such Summer Months multiplied by (b) the greater of (i) ten-percent (10%) of the applicable Product Rate or (ii) an amount equal to

Average On-Peak Mead for the Summer Months minus the applicable Product Rate, provided that if the calculation of Replacement Costs yields an amount of zero or less for such Summer Months, then no Replacement Costs will be payable with respect to such Summer Months.

- 3.6.1.4 Within five (5) Business Days after the end of any Measurement Period in which a Shortfall has occurred with respect to the Summer Months, Supplier will calculate the Replacement Costs with respect to such Shortfall Amount and provide Buyer with written notice of such calculation. Such Replacement Costs shall be reflected on the Invoice for the same Billing Period in which such Replacement Costs are calculated.

3.6.2 Non-Summer Months – On-Peak.

- 3.6.2.1 If, for the Non-Summer Months of any Measurement Period, the sum of all Delivered Amounts during the On-Peak hours of such Non-Summer Months is less than the Shortfall Threshold for such Non-Summer Months, then a shortfall of Net Energy (a “Shortfall”) will be deemed to exist for such Non-Summer Months. “Shortfall Threshold” means, with respect to the Non-Summer Months in any Measurement Period, the product of (a) 0.90 multiplied by (b) the difference between (i) the sum of Monthly On-Peak Supply Amount for such Non-Summer Months minus (ii) the total amount of Net Energy associated with Excused Product (if any) during the On-Peak hours of such Non-Summer Months.
- 3.6.2.2 If a Shortfall exists with respect to the Non-Summer Months in any Measurement Period, then a Shortfall Amount will be calculated in accordance with the following. “Shortfall Amount” means, with respect to the Non-Summer Months in any Measurement Period, an amount expressed in MWh equal to the Shortfall Threshold for such Non-Summer Months minus the sum of all Delivered Amounts during the On-Peak hours of such Non-Summer Months, provided that if the calculation of Shortfall Amount yields an amount of zero or less for the Non-Summer Months, then no Shortfall Amount will be deemed to exist with respect to such Non-Summer Months.
- 3.6.2.3 Buyer’s “Replacement Costs” with respect to any Non-Summer Months in any Measurement Period shall equal (a) the Shortfall Amount for such Non-Summer Months multiplied by (b) an amount equal to Average On-Peak Mead for the Non-Summer Months minus the applicable Product Rate, provided that if the calculation of Replacement Costs yields an amount of zero or less for such Non-Summer Months, then no Replacement Costs will be payable with respect to such Non-Summer Months.

3.6.2.4 Within five (5) Business Days after the end of any Measurement Period in which a Shortfall has occurred with respect to the Non-Summer Months, Supplier will calculate the Replacement Costs with respect to such Shortfall Amount and provide Buyer with written notice of such calculation. Such Replacement Costs shall be reflected on the Invoice for the same Billing Period in which such Replacement Costs are calculated.

3.6.3 Not a Penalty. The Parties recognize and agree that the payment of amounts by Supplier pursuant to this Section 3.6 is an appropriate remedy and that any such payment does not constitute a forfeiture or penalty of any kind, but rather constitutes anticipated costs to Buyer under the terms of this Agreement. The Parties further acknowledge and agree that the damages for the failure of Supplier to supply and deliver Net Energy are difficult or impossible to determine, or otherwise obtaining an adequate remedy is inconvenient and the damages calculated hereunder constitute a reasonable approximation of the harm or loss.

3.6.4 Calculations. As soon as practicable following any period of: (a) Force Majeure; (b) Buyer's failure to accept Net Energy or PCs in breach of this Agreement; (c) Emergency (except for an Emergency with respect to the Facility that is not also a Force Majeure); (d) Planned Outage; (e) Curtailed Product; or (f) Economic Curtailed Product, in each case as a result of which Supplier has failed to deliver Product to Buyer during such period and, subject to the terms of this Agreement, such failure and Supplier's liability for damages therefor may be excused, Supplier shall calculate the amount of Net Energy that Supplier was unable to generate and deliver to Buyer at the Delivery Point solely as a result of such event, by summing for each hour of the period the difference between (i) the Net Energy that Supplier would have been capable of delivering if not for such event during each hour (not to exceed the Supply Amount) and (ii) the Delivered Amount during each hour (the "Excused Product"); provided that the amount of Curtailed Product shall be determined in accordance with Section 10.3 and the amount of Economic Curtailed Product shall be determined in accordance with Section 10.4. Supplier shall provide Buyer its calculations and include all relevant back-up data and other information reasonably requested by Buyer. If Buyer disagrees with the calculation of Excused Product, then the Excused Product will be determined through the Dispute resolution provisions of Article 21.

### 3.7 PC Shortfall; PC Replacement Costs.

3.7.1 If after the PC Administrator issues all the PC statements or certificates for any Measurement Period there is a PC Shortfall, then Supplier shall pay Buyer for the replacement costs and any Penalties associated with such PC Shortfall (collectively, the "PC Replacement Costs"). Subject to the last sentence of this Section 3.7.1, for purposes of this Agreement a "PC Shortfall" shall occur in any Measurement Period if the sum of all Delivered PCs is less than the product of (a) 0.90 multiplied by (b) an amount equal

to (i) the sum of the Yearly PC Amount for the Contract Years in such Measurement Period minus (ii) the total amount of PCs associated with Excused Product during such Measurement Period. For purposes of this Agreement, a “PC Shortfall Amount” with respect to any Measurement Period means: (A) the sum of the Yearly PC Amount for the Contract Years in such Measurement Period; minus (B) the total amount of PCs associated with Excused Product during such Measurement Period; minus (C) the Delivered PCs during such Measurement Period. If the calculation of the PC Shortfall Amount set forth in this Section 3.7.1 yields an amount of zero or less for any Measurement Period, then no PC Shortfall will be deemed to exist with respect to such Measurement Period.

3.7.2 The PC Replacement Costs shall be determined by Buyer exercising its reasonable discretion based on the estimated cost of purchasing PCs to replace the PC Shortfall Amount from the same resource type with a comparable expiration date or the cost of replacing the PC Shortfall Amount with PCs of Buyer’s choice already in Buyer’s PC Account; provided, however, that Buyer shall not be required to actually purchase replacement PCs in order to receive payment from Supplier for PC Replacement Costs. Buyer shall include in the PC Replacement Costs any Penalties allocable to Supplier’s proportionate amount of Buyer’s aggregate shortfall under the applicable Portfolio Standard (factoring in Supplier’s shortfall in prior years carried forward as a deficit or reducing the surplus in such prior years).

3.7.3 The Parties recognize and agree that the payment of amounts by Supplier pursuant to this Section 3.7 is an appropriate remedy and that any such payment does not constitute a forfeiture or penalty of any kind, but rather constitutes anticipated costs to Buyer under the terms of this Agreement. The Parties further acknowledge and agree that the amount payable by Supplier pursuant to this Section 3.7 is difficult or impossible to determine, or otherwise obtaining an adequate remedy is inconvenient and the damages calculated hereunder constitute a reasonable approximation of the harm or loss.

3.7.4 All information used by Buyer to establish PC Replacement Costs shall be verifiable by Supplier; and Buyer shall provide reasonable access to all such information supporting calculations within five (5) Business Days of Supplier’s request for such information. Supplier agrees to execute a confidentiality agreement regarding the review of this information upon request by Buyer.

3.7.5 For any Measurement Period, Buyer, at its sole option, may allow Supplier to meet its PC Replacement Cost obligation by transferring a quantity of PCs to Buyer in the amount of no less than the PC Shortfall Amount. Such PCs shall be from the same resource type with a comparable expiration date as the PCs that should have been delivered to Buyer under this Agreement.

3.8 Supply Degradation. Beginning with the second Contract Year, and each Contract Year thereafter, each Supply Amount, the Maximum Amount and the Yearly PC

Amount shall be reduced by three-tenths of a percent (0.3%). No later than January 1 of each Contract Year Buyer shall deliver to Supplier revised Exhibits 13 and 18 which shall reflect such reductions, and effective as of January 1 of each Contract Year this Agreement shall automatically be amended to substitute such revised Exhibits 13 and 18 for the then existing Exhibits 13 and 18.

#### **4. PRICE OF PRODUCT**

4.1 Product Payments. Supplier shall be paid for the Product as follows:

4.1.1 Prior to the Commercial Operation Date.

4.1.1.1 On and after the Operation Date and prior to the Commercial Operation Date, all Product associated with Delivered Amounts of Net Energy from the Generating Facility, other than (a) Excess Energy (which shall not be compensable) and (b) Provisional Energy (“Test Energy”), shall be paid for by Buyer at the lesser of: (i) fifty percent (50%) of the applicable Product Rate; or (ii) the Mead for each Delivery Hour of Test Energy (“Test Product Rate”).

4.1.1.2 Notwithstanding the above, if Buyer requests Supplier to deliver Provisional Energy and Supplier elects to deliver Provisional Energy and delivers written notice to Buyer that it is delivering Provisional Energy in accordance with Section 3.4.4, Buyer shall pay Supplier seventy-five percent (75%) of the applicable Product Rate (“Provisional Rate”) for such Provisional Energy.

4.1.1.3 Provisional Energy shall be distinguished from Test Energy in so far as Provisional Energy is for a determined amount of energy provided as the Generating Facility is capable of consistently generating such amounts of energy, whereas Test Energy is energy generated after the Operation Date and prior to Commercial Operation that is needed to commission the Generating Facility. Supplier shall provide notice when Provisional Energy is available and Buyer and Supplier shall mutually agree to the date and time when Provisional Energy shall be supplied in accordance with Section 3.4.4. Five (5) Business Days prior to the start of each month Supplier shall provide notice to Buyer with an estimate of the forecasted amounts of Test Energy and Provisional Energy for that month with correlated meter data for actual amounts of Test Energy and Provisional Energy amounts to be provided with invoicing. Such determination shall be subject to verification by Buyer in the exercise of its reasonable discretion.

4.1.2 Subsequent to the Commercial Operation Date.

- 4.1.2.1 All Product associated with Delivered Amounts of Net Energy from the Generating Facility, other than Excess Energy, shall be paid for by Buyer at the applicable Product Rate set forth in Exhibit 2A and based on the quantity of Net Energy; provided, however, that such payment constitutes the entirety of the amount due to Supplier from Buyer for the Product associated with Delivered Amounts of Net Energy; provided further that Supplier shall be paid at the Test Product Rate for the month in which the Commercial Operation Date occurs if the Commercial Operation Date occurs on or after the sixteenth (16<sup>th</sup>) day of such month.
- 4.1.2.2 All Product associated with Economic Curtailed Product shall be paid for at the Product Rate.
- 4.1.2.3 All Product associated with Excess Energy shall be paid for at the Test Product Rate.
- 4.1.3 No payment shall be owing to Supplier for any Product associated with Energy that is for any reason not Net Energy except as otherwise provided in Section 4.1.2.3.
- 4.1.4 Buyer shall not be required to accept from Supplier any Product associated with Delivered Amounts of Net Energy from the Generating Facility delivered during any Delivery Hour in excess of the Maximum Amount, and no payment shall be owing to Supplier for any Product associated with Delivered Amounts of Net Energy from the Generating Facility accepted by Buyer during any Delivery Hour in excess of the Maximum Amount.
- 4.2 Excused Product. Buyer shall not pay for Product comprising Excused Product except as otherwise provided in Section 4.1.2.3.
- 4.3 Tax Credits. The Parties agree that neither the Product Rate nor the Test Product Rate are subject to adjustment or amendment if Supplier fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Supplier or the Facility in whole or in part, or Supplier or its investors are unable to benefit from any Tax Credits. Supplier shall bear all risks, financial and otherwise, throughout the Term, associated with Supplier's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Supplier's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Supplier's obligation to deliver Net Energy and Product, shall be effective regardless of whether the sale of Energy or Net Energy from the Facility is eligible for, or receives Tax Credits during the Term.

## **5. PORTFOLIO ENERGY CREDITS/RENEWABLE ENERGY BENEFITS**

- 5.1 Delivery of Renewable Energy Benefits and Portfolio Energy Credits.

5.1.1 All Renewable Energy Benefits are exclusively dedicated to and vested in Buyer. Supplier shall deliver to Buyer all Renewable Energy Benefits derived from the Facility, including Renewable Energy Benefits associated with Energy for Station Usage. Supplier shall timely prepare and execute all documents and take all actions necessary under Law or the requirements of any Governmental Authority or Person and otherwise to cause the Renewable Energy Benefits to vest in Buyer, without further compensation, including: (a) taking all actions necessary to register or certify any Renewable Energy Benefits or the Facility with the PUCN or any other Person (pursuant to NAC 704.8921 or otherwise) and WREGIS; (b) causing the automatic transfer of the Renewable Energy Benefits derived from the Facility to Buyer (pursuant to NAC 704.8927 or otherwise); (c) providing all production data and satisfying the reporting requirements of the PUCN or PC Administrator, as applicable; and (d) cooperating in any registration by Buyer of the Facility in any other renewable portfolio standard or equivalent program in any states in which Buyer may wish to register or maintain registration of the Facility, including providing copies of all such information as Buyer reasonably requires for such registration. Without limitation of the foregoing, Supplier acknowledges that the Renewable Energy Benefits, may be used by Buyer in meeting its present and future obligations pursuant to applicable Law, including the Portfolio Standard, and agrees to cooperate with Buyer in all respects to assist in Buyer's compliance with all applicable requirements set forth in the Portfolio Standard and provide all information reasonably requested by Buyer or otherwise necessary to allow the PUCN to determine compliance with the Portfolio Standard. No Person other than Buyer (or its designee) will be entitled to claim Renewable Energy Benefits in any jurisdiction in connection with the Facility. All representations and warranties made by Supplier with respect to Renewable Energy Benefits are freely transferrable by Buyer to any purchaser or transferee of such Renewable Energy Benefits or part thereof.

5.1.2 On or before January 31 of each year following the Operation Date, Supplier, as owner or operator of the Renewable Energy System, shall deliver to Buyer a written attestation for the prior year that no part of the Renewable Energy Benefits: have been or will be (a) used for or by any Person to obtain renewable energy credit in any state or jurisdiction, except for Buyer pursuant to this Agreement; (b) sold or otherwise exchanged for compensation or used for credit in any other state or jurisdiction; and (c) included within a blended energy product certified to include a fixed percentage of renewable energy in any other state or jurisdiction, pursuant to Chapter 704 of the NAC. No Person other than Buyer (or its designee) will be entitled to claim Portfolio Energy Credits, Renewable Energy Benefits (or equivalents in any jurisdiction) in connection with the Facility.

5.2 Injunction. If any Person other than Buyer (or its designee) attempts to claim such Renewable Energy Benefits or part thereof, the Parties agree that remedies at Law may be inadequate to protect Buyer in the event of a breach of this Section 5.2, and Supplier hereby in advance agrees: (a) that Buyer shall be entitled to seek without

proof of actual damages or the necessity of posting any bond or other security, temporary, preliminary and permanent injunctive relief from any Governmental Authority of competent jurisdiction restraining Supplier from committing or continuing any breach of this Section 5.2; and (b) that Supplier will promptly undertake all necessary actions to prevent such other Person from claiming such Renewable Energy Benefits (including joining with or otherwise assisting Buyer in seeking the relief described in clause (a)).

- 5.3 Transfers. Buyer shall be entitled to PC Replacement Costs for Renewable Energy Benefits associated with any Energy for which WREGIS Certificates, PCs or any part of the Renewable Energy Benefits that are not delivered to Buyer. Supplier shall promptly give Buyer copies of all documentation it submits to WREGIS or PUCN or otherwise with respect to Renewable Energy Benefits. Further, in the event of the promulgation of a scheme involving any part of the Renewable Energy Benefits administered by CAMD, upon notification by CAMD that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfers can be recorded. Supplier shall not report under Section 1605(b) of the Energy Policy Act of 1992 or under any applicable program that any of the Renewable Energy Benefits belong to any person other than Buyer. Without limiting the generality of Buyer's ownership of the Renewable Energy Benefit Reporting Rights, Buyer may report under such program that all Renewable Energy Benefits purchased hereunder belong to it. Each Party shall promptly give the other Party copies of all documents it submits to the CAMD to effectuate any transfers.

## **6. RIGHT OF FIRST OFFER; RIGHT OF FIRST REFUSAL; EARLY PURCHASE OPTION; END OF TERM PURCHASE OPTION**

### **6.1 Right of First Offer ("ROFO").**

- 6.1.1 Except in accordance with this Section 6.1.1, Supplier: (a) shall not sell, transfer or offer or negotiate to sell or transfer, the Facility; and (b) shall cause its immediately upstream owner(s) (together with Supplier, each a "ROFO Seller") not to sell, transfer or offer or negotiate to sell or transfer, any ownership interest in Supplier (the Facility and ownership interests in Supplier, each the "Offered Interests") other than to an Affiliate in accordance with the provisions of Section 23.2 (each a "Restricted Transaction"). If a ROFO Seller intends to enter into a Restricted Transaction, Supplier shall provide Buyer with written notice of same (a "Seller ROFO Notice"), and Buyer shall have a right of first offer with respect to the purchase of such Offered Interests. Within fifteen (15) days after receipt of the Seller ROFO Notice, Buyer shall notify Supplier in writing of its decision whether or not to negotiate with ROFO Seller for the purchase of the Offered Interests (the "Buyer ROFO Notice"). If Buyer elects to negotiate with ROFO Seller for the purchase of the Offered Interests, Supplier shall cause ROFO Seller to negotiate in good faith and exclusively with Buyer, for a period of not less than one hundred twenty (120) days following ROFO Seller's receipt of the Buyer ROFO Notice, the terms of a purchase by Buyer or its designee of the Offered Interests (such



fifteen (15)-day period as extended, if applicable, by such one hundred twenty (120)-day period, the “ROFO Period”).

6.1.2 In the event that Buyer does not elect to negotiate with ROFO Seller for the purchase of the Offered Interests pursuant to Section 6.1.1, or if definitive transaction documents between ROFO Seller and Buyer or its designee have not been executed with respect to the Offered Interests within the ROFO Period, ROFO Seller may negotiate a Restricted Transaction with any other Person, subject, in all cases, to the terms and conditions of this Agreement, including Section 6.1.3 and the provisions of Article 23. In no event may ROFO Seller enter into a Restricted Transaction with any other Person on terms less favorable to ROFO Seller than such terms, if any, as were offered by Buyer during the ROFO Period.

6.1.3 If ROFO Seller and such other Person do not agree upon the terms, conditions and pricing for the Offered Interests within one hundred twenty (120) days following the expiration of the ROFO Period, ROFO Seller and any Offered Interests shall again be subject to this Section 6.1 with respect to any Restricted Transaction.

6.2 Early Purchase Option. Supplier hereby grants to Buyer options to purchase (“Early Purchase Option”) on a date chosen by Buyer during the six (6) months after the Facility’s 6<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup> and 20<sup>th</sup> anniversaries of the Commercial Operation Date at the greater of (i) Fair Market Value and (ii) \$35,958,583, \$35,022,723, \$34,963,596, and \$34,925,263 for the Early Purchase Option applicable to the 6th, 10th, 15th and 20th anniversaries of the Commercial Operation Date, respectively, which option may be exercised by Buyer providing written notice to Supplier no less than one hundred and eighty (180) days before the applicable anniversary.

6.3 Purchase Option at the End of Term. Supplier hereby grants to Buyer the option to purchase the Facility at the end of the Term at the greater of (i) Fair Market Value and (ii) \$33,596,245 (the “Final Purchase Option”), which option may be exercised by Buyer providing written notice to Supplier no less than one hundred and eighty (180) days prior to the end of the Term of Buyer’s election to exercise such option.

6.4 Efforts Required to Transfer Facility and Offered Interests. If Buyer exercises the Early Purchase Option, the Final Purchase Option or otherwise agrees to purchase the Facility pursuant to Section 6.1, then such purchase shall occur pursuant to a form of purchase and sale agreement prepared by Buyer which shall contain customary representations, warranties and covenants and otherwise be in form reasonably acceptable to Buyer. It shall be a condition of any such purchase that Buyer obtains all necessary Governmental Approvals and notwithstanding any language to the contrary in this Agreement Buyer shall be given sufficient time to obtain such approvals in accordance with applicable statutes and regulations. Pursuant to the purchase and sale agreement, Supplier will take all actions necessary to transfer by deed, bill of sale, or both, the Facility to Buyer, as well as all other improvements placed on the Project Site by Supplier that are required for

the continued and uninterrupted use, maintenance and operation of the Facility, free and clear from any lien or monetary encumbrance created by or on behalf of Supplier or its Affiliates. In addition, Supplier will assign to Buyer all transferrable Governmental Approvals applicable to the Facility and Required Facility Documents, and all transferrable warranties for the Facility. Supplier shall cooperate with Buyer to assign and enforce any and all warranties that apply to the Facility or any of its component parts, which obligation shall survive the termination of this Agreement.

- 6.5 Due Diligence; Cooperation; Governmental Approvals; Notice of Rights. Supplier will provide in a timely manner, information regarding the Offered Interests which is reasonably requested by Buyer to allow Buyer to perform due diligence for the purchase of the Offered Interests pursuant to this Article 6. Supplier shall further provide commercially reasonable cooperation and assistance to Buyer, without further compensation, throughout Buyer's efforts to properly account for and obtain any necessary Governmental Approvals with respect to the purchase of the Offered Interests pursuant to this Article 6. Notwithstanding anything in this Agreement or any definitive transaction documentation, Buyer shall not be obligated to proceed with the purchase of any Offered Interests pursuant to this Article 6 if Buyer does not receive all necessary Governmental Approvals in connection with such transaction. Supplier shall put any Person with which it enters into discussions or negotiations regarding a Restricted Transaction on notice of the rights of Buyer set forth in this Article 6. Buyer shall be permitted to file a notice of the rights contained in this Article 6 with respect to the Project Site.
- 6.6 Termination of Agreement. Upon the acquisition of the Facility by Buyer pursuant to Section 6.4, this Agreement shall terminate and neither Party shall have any obligation to the other under this Agreement, except with respect to the terms and provisions hereof that expressly survive the termination of this Agreement.

## **7. METERING, INVOICING AND PAYMENTS**

### **7.1 Metering.**

- 7.1.1 Meters. Buyer shall, at Supplier's cost, provide, install, own, operate and maintain all Meter(s) in good operating condition. The metering system design shall be subject to Buyer's approval and shall be submitted to Buyer not later than Supplier's completion of the Project Milestone in Section 2(A) of Exhibit 6. The meter system shall have Buyer specified equipment to connect with Buyer's automated meter database. The Meters shall be used for quantity measurements under this Agreement. Such equipment shall be bi-directional, shall be capable of measuring and reading instantaneous and hourly real and reactive energy and capacity and account for losses from the meter location to the Delivery Point. The Meters shall also be used for, among other things, metering Station Usage of the Facility. Supplier, at its expense, may install additional check meters. Supplier shall not install any check-metering equipment on or connected to Buyer-owned facilities including instrument transformers or metering circuitry wiring. Supplier shall, at its sole expense, install any additional or different Meters

or related equipment necessary to comply with the requirements of Transmission Provider, any Electric System Authority or any Governmental Authority.

- 7.1.2 WREGIS Metering. Supplier shall cause, at its sole cost and expense, the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Supplier shall be responsible to obtain all qualified reporting entity services required by WREGIS at Supplier's expense should Buyer not in its sole and absolute discretion provide them.
- 7.1.3 Location. Meters shall be installed at the location(s) specified in Exhibit 5, or as otherwise may be reasonably determined by Buyer to effectuate this Agreement.
- 7.1.4 Non-Interference. Supplier shall not undertake any action that may interfere with the operation of the Meters. Supplier shall be liable for all costs, expense, and liability associated with any such interference with the Meters. Metering requirements shall apply such that there is no impact on the infrastructure and output associated with the Facility due to the presence of any other contiguous project.
- 7.1.5 Meter Testing. Meters shall be tested at least once every two (2) years by Buyer. Either Party may request a special test of Meters or check meters, but the requesting Party shall bear the cost of such testing unless there is an inaccuracy outside the limits established in American National Standard Institute Code for Electricity Metering (ANSI C12.1, latest version), in which case the Party whose meters were found to be inaccurate shall be responsible for the costs of the special testing. Meters installed pursuant to this Agreement shall be sealed and the seal broken only when the meters are to be adjusted, inspected or tested. Authorized representatives of both Parties shall have the right to be present at all routine or special tests and to inspect any readings, testing, adjustment or calibration of the Meters or check meters. Buyer's Operating Representative shall provide fifteen (15) Business Days prior notice of routine Meter testing to Supplier's Operating Representative. If Supplier has installed check meters in accordance with Section 7.1.1, Supplier shall test and calibrate each such meter at least once every two (2) years. Supplier's Operating Representative shall provide fifteen (15) Business Days prior notice of routine check meter testing to Buyer's Operating Representative. In the event of special Meter testing, the Parties' Operating Representatives shall notify each other with as much advance notice as practicable.
- 7.1.6 Metering Accuracy. If the Meters are registering but their accuracy is outside the limits established in ANSI C12.1, Buyer shall repair and recalibrate or replace the Meters and Buyer shall adjust payments to Supplier for the Delivered Amount for the lesser of the period in which the inaccuracy existed and ninety (90) days. If the period in which the

inaccuracy existed cannot be determined, adjusted payments shall be made for a period equal to one-half of the elapsed time since the latest prior test and calibration of the Meters; provided, however, that the adjustment period shall not exceed ninety (90) days. If adjusted payments are required, Buyer shall render a statement describing the adjustments to Supplier within thirty (30) days of the date on which the inaccuracy was rectified. Additional payments to Supplier by Buyer shall be made within thirty (30) days of receipt of Buyer's statement. Any payments due Buyer pursuant to this Section 7.1.6 shall accompany Supplier's next Billing Period statement.

7.1.7 Failed Meters. If the Meters fail to register, Buyer shall make payments to Supplier based upon Supplier's check metering; provided, however, that if the accuracy of the check meters is subsequently determined to be outside the limits established in ANSI C12.1, Buyer shall adjust the payments to Supplier for the Delivered Amount calculated using the check meters for the lesser of the period in which the inaccuracy existed and ninety (90) days. If the period in which the inaccuracy existed cannot be determined, adjusted payments shall be made for a period equal to one-half of the elapsed time since the latest prior test and calibration of the check meters; provided, however, that the adjustment period shall not exceed ninety (90) days. If no such metering is available, payments shall be based upon the Parties' best estimate of the Delivered Amount. In such event, such payments made based upon the Parties' estimate of the Delivered Amount shall be in full satisfaction of payments due hereunder. If the Parties cannot agree on a best estimate of the Delivered Amount the Dispute shall be resolved in accordance with Article 21.

7.1.8 Weather Meter. Supplier shall, at Supplier's cost and no later than six (6) months prior to the Commercial Operation Date, provide, install, own, operate and maintain a device for the measurement of weather conditions relevant to the generation of Energy at the Project Site (the "Weather Meter"), provided that Supplier shall not select the type of Weather Meter without the prior written consent of Buyer, which shall not be unreasonably withheld. No later than twelve (12) months prior to the Commercial Operation Date, the Parties shall agree on the location of the Weather Meter and any applicable protocols for testing, accuracy, failure or other relevant characteristics of the Weather Meter.

## 7.2 Invoices.

7.2.1 Monthly Invoicing and Payment. On or before the 10<sup>th</sup> day of each month, Supplier shall send to Buyer an Invoice for the prior month (a "Billing Period"). Supplier shall calculate the Invoice based upon Meter data available to Supplier and as set forth in Exhibit 2B. Any correction or Dispute with respect to an Invoice is waived unless Buyer is notified within twelve (12) months, or Supplier is notified within thirty-six (36) months, after the Invoice is rendered or any specific adjustment to the Invoice is made. If an Invoice is not delivered to Buyer within twelve (12) months

after the close of the Billing Period, the right to payment for such Billing Period is waived.

7.2.2 Replacement PC Invoice Calculation. In addition to the requirements for monthly Invoices set forth in this Section 7.2, if after the PC Administrator issues its final PC statement covering any Measurement Period and a PC Shortfall (as determined in accordance with Section 3.7.1) exists, Buyer shall send to Supplier an Invoice for such Measurement Period, which shall include the calculations set forth in Exhibit 2C.

7.2.3 Amounts Owing to Buyer. The Invoice referred to in Section 7.2.1 shall offset any amounts owing to Buyer with amounts owing to Supplier, and shall indicate the net payment due Supplier or Buyer, as applicable. Supplier shall provide supporting data in reasonable detail to support its calculations of any amounts owing to Buyer. Buyer may prepare and send to Supplier an Invoice for amounts owing to Buyer under this Agreement, and any such amounts will be payable to Buyer within ten (10) Business Days from Supplier's receipt of such Invoice, subject to the terms and provisions of Section 7.2.5.

7.2.4 Method of Payment. Buyer or Supplier, as applicable, shall remit the payment of any undisputed amounts by wire or electronic fund transfer or otherwise pursuant to the instructions stated in Exhibit 4. Payment will be made on or before the later of the twentieth (20<sup>th</sup>) day following the end of each Billing Period (or the next following Business Day, if such twentieth (20<sup>th</sup>) day does not fall on a Business Day) or ten (10) Business Days from receipt of Invoice.

7.2.5 Examination and Correction of Invoices. As soon as practicable either Party shall notify the other Party in writing of any alleged error in an Invoice.

7.2.5.1 If a Party notifies the other Party of an alleged error in an Invoice, the Parties agree to use good faith efforts to reconcile the billing and mutually agree on the appropriate correction, if any.

7.2.5.2 If a correction is determined to be required, the invoicing Party shall provide an adjusted Invoice to the invoiced Party. If such error results in an additional payment to the invoicing Party, the invoiced Party shall pay such invoicing Party the amount of the adjusted Invoice within thirty (30) days of the date of receipt of the adjusted Invoice. If such error resulted in a refund owed to the invoiced Party, the invoicing Party shall pay the invoiced Party the amount of the adjusted Invoice within thirty (30) days of the date of receipt of the statement or at the invoiced Party's option, the invoiced Party may net such amount against the subsequent monthly payment to the invoicing Party.

7.3 Overdue Amounts and Refunds. Overdue amounts and refunds of overpayments shall bear interest from and including, the due date or the date of overpayment, as

the case may be, to the date of payment of such overdue amounts or refund at a rate calculated pursuant to 18 C.F.R. § 35.19a.

- 7.4 Access to Books and Records. Supplier agrees to make available for inspection upon five (5) Business Days written notice from Buyer its books and records for the purpose of allowing Buyer to verify the information contained within the invoices presented pursuant to Section 7.2.
- 7.5 Parties' Right to Offset. Either Party shall have the right to offset any amounts owed to the other Party under this Agreement including amounts owed by Supplier to Buyer for Standby Service.
- 7.6 Taxes. Buyer is responsible for any Taxes imposed on or associated with the Net Energy or its delivery from and after the Delivery Point. Supplier is responsible for any Taxes imposed on or associated with the Net Energy or its delivery up to or at the Delivery Point. Either Party, upon written request of the other Party, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if such Party is exempt from Taxes, and shall use reasonable efforts to obtain and cooperate with the other Party in obtaining any exemption from or reduction of any Tax. Each Party shall hold harmless the other Party in accordance with Article 18 from and against Taxes imposed on the other Party as a result of such Party's actions or inactions in contravention of this Section 7.6.

## **8. FACILITY CONSTRUCTION; OPERATIONS AND MODIFICATIONS**

- 8.1 Construction of Facility. Supplier shall construct or cause the Facility to be constructed in accordance with Good Utility Practices and the Project Milestones and to ensure that: (a) Supplier is capable of meeting its supply and delivery obligations with respect to Product over the Term; (b) the Facility is consistent with the technical specifications set forth in Exhibit 11; (c) the Generating Facility is at all times considered a Renewable Energy System; and (d) the Generating Facility is at all times in compliance with all requirements imposed on Renewable Energy Systems as set forth in the applicable Renewable Energy Law. Supplier shall deliver to Buyer an ALTA Survey of the Project Site within ten (10) days of such survey becoming available to Supplier, but in no event later than the issuance of the Notice to Proceed in accordance with Exhibit 6. Supplier shall provide to Buyer in a form satisfactory to Buyer: (y) not later than the Project Milestone described in Section 2(A) of Exhibit 6, a completed version of Exhibit 14; and (z) within thirty (30) days after the Commercial Operation Date, a revised version of Exhibit 14 reflecting the Facility as built. At Buyer's request, Supplier shall provide Buyer with copies of the Construction Contract and any documentation and drawings reasonably requested by Buyer, redacted of any pricing information and any other information Supplier is not permitted to disclose pursuant to a confidentiality agreement, provided that Supplier shall use commercially reasonable efforts to secure in the Construction Contract the ability to disclose the terms of the Construction Contract other than pricing information. The Facility and its mechanical components, buildings, and infrastructure shall be used solely for the purpose of generating Energy under this Agreement. Under no circumstances shall the Generating Facility share facilities with another facility, whether an affiliate of Supplier or not, other than as set forth in a shared facilities agreement with Buyer (and any other party that may be added as a signatory to the shared facilities agreement from time to time pursuant to

the terms thereof) (the “Shared Facilities Agreement”). The Generating Facility and its mechanical components, buildings and infrastructure shall be used solely for the purpose of generating Energy under this Agreement other than to the extent set forth in the Shared Facilities Agreement with Buyer. The project gen-tie line, site road access, access to the substation, the interconnection line and items such as fencing, gates, parking and similar items as may be reasonably agreed upon between the parties and other facilities specified in the Shared Facilities Agreement may be used as shared facilities with third parties.

8.2 Performance of Project Milestones. Supplier shall complete each Project Milestone specified in Exhibit 6 on or before 16:00 hours PPT on the date specified for each Project Milestone listed in Exhibit 6.

8.2.1 Completion of Project Milestones. Upon Supplier’s completion of each Project Milestone, Supplier shall provide to Buyer in writing, pursuant to Section 29.1, documentation as specified in Exhibit 6 and reasonably satisfactory to Buyer demonstrating such Project Milestone completion. Such documentation shall be provided within thirty (30) days of such completion but not later than the date specified for such Project Milestone listed in Exhibit 6. Buyer shall acknowledge receipt of the documentation provided under this Section 8.2.1 and shall provide Supplier with written acceptance or denial of each Project Milestone within fifteen (15) Business Days of receipt of the documentation. If Buyer does not acknowledge receipt or provide written acceptance or denial of any Project Milestone within fifteen (15) Business Days, then such Project Milestone will be deemed to occur on the date that such documentation was provided to Buyer. Failure of Supplier to achieve a Critical Project Milestone on or before the scheduled date (or, in the case of the Commercial Operation Deadline, after expiration of the applicable period for which Daily Delay Damages are owed by Supplier pursuant to Section 8.5.1) will constitute an Event of Default as provided in Article 24. If any Project Milestone (other than a Critical Project Milestone) is not completed on or before the date specified in Exhibit 6, Supplier will (i) inform Buyer of a revised projected date for the occurrence or completion of such Project Milestone (which will be deemed the new deadline for such Project Milestone), and any impact on the timing of the Commercial Operation Date (and on any other Project Milestone) and (ii) provide Buyer with a written report containing Supplier’s analysis of the reasons behind the failure to meet the original Project Milestone deadline and whether remedial actions are necessary or appropriate, and describing any remedial actions that Supplier intends to undertake to ensure the timely achievement of the Commercial Operation Date. Provided that Supplier complies with the preceding sentence, no failure of Supplier to achieve a Project Milestone (other than a Critical Project Milestone) on or before the scheduled date will constitute an Event of Default.

8.2.2 Progress Towards Completion. Supplier shall notify Buyer’s Contract Representatives promptly (and in any event within ten (10) Business Days) following its becoming aware of information that leads to a reasonable

conclusion that a Project Milestone will not be met, and shall convene a meeting with Buyer to discuss the situation not later than fifteen (15) Business Days after becoming aware of this information.

8.3 Commercial Operation Date.

8.3.1 Notice of Testing. Supplier shall notify Buyer's Contract Representatives at least ten (10) Business Days prior to the commencement of any performance tests required by the Construction Contract, including any performance tests required by Exhibit 7. Buyer shall have the right to witness all tests or have Buyer's representatives witness all tests. The presence of Buyer or a Buyer representative shall not be construed as an obligation on Buyer's part to design, conduct, monitor or endorse any test results or as a ratification or acceptance thereof. Buyer shall be deemed to waive its right to be present at the performance tests if Buyer fails to appear at the scheduled time for the performance tests.

8.3.2 Certifications. Within five (5) Business Days of the successful completion of the performance tests pursuant to Exhibit 7, Supplier shall provide Buyer with written notice stating when Supplier believes that the Facility has achieved Commercial Operation, including the following written certifications.

8.3.2.1 A certification by a duly authorized officer of Supplier stating the following:

"I, [Name], in my capacity as the duly appointed [Title] of [Supplier] ("Supplier") hereby certify, on behalf of Supplier that: (a) the Facility has been constructed in accordance with Good Utility Practice and the Generating Facility has delivered Net Energy to and at the Delivery Point; (b) all of the requirements set forth in Sections 8.1, 8.3 and 17.2, and Exhibits 6 and 7 of the Long-Term Renewable Power Purchase Agreement between Supplier and Buyer dated [\_\_\_\_], ("Agreement") have been satisfied; (c) I am authorized to act on behalf of and bind Supplier with respect to this certificate; (d) Supplier has received the Supplier Required Regulatory Approvals listed in Exhibit 10 and has entered into or obtained all Required Facility Documents as listed in Exhibit 12, true, correct and complete copies of which are attached (other than confidential or commercial terms which have been redacted); and (e) Supplier acknowledges that Buyer is relying on this certification in connection with carrying out its obligations under the Agreement and Supplier will indemnify Buyer for any inaccuracy related to this certification."

8.3.2.2 A certificate addressed to Buyer from a Licensed Professional Engineer confirming: (1) the nameplate capacity rating of the Generating Facility at the anticipated time of Commercial



Operation in MW (“Certified Nameplate Capacity Rating”) and (2) that the Facility is able to generate and deliver electric power reliably in amounts expected by this Agreement and in accordance with all other terms and conditions hereof, including the Operating Procedures; and, (3) performance tests required by Exhibit 7 have been successfully completed. The Certified Nameplate Capacity Rating must not be less than 50 MW.

8.3.2.3 A certificate addressed to Buyer from a Licensed Professional Engineer stating that, all required interconnection tests have been completed and the Facility is physically interconnected with the Transmission System and able to deliver Net Energy consistent with the terms of this Agreement.

8.3.2.4 An opinion from an attorney licensed in the state of Nevada that is not an employee of Supplier (or any Affiliate) and has no financial interest in the Facility addressed to Buyer with respect to such customary matters as Buyer may reasonably request and in form and substance reasonably satisfactory to Buyer.

8.3.3 Dispute of Commercial Operation. Buyer will have fifteen (15) Business Days after receipt of the certifications required by this Section 8.3 in which to Dispute the Commercial Operation Date by written notice to Supplier. In the event of such a Dispute, Buyer and Supplier will attempt in good faith to resolve the Dispute. If the Parties are unable to resolve the Dispute within fifteen (15) Business Days’ after Buyer’s notice of Dispute, then either Party may seek resolution of the Dispute in accordance with Article 21. Notwithstanding the foregoing, Buyer’s failure to Dispute the certification will in no way affect its rights to indemnification for any inaccuracy related to the certification, including overpayments that may be paid by Buyer due to such inaccurate certification.

#### 8.4 Failure to Achieve Commercial Operation.

8.4.1 In the event Supplier fails to achieve Commercial Operation by the Commercial Operation Deadline and Supplier fails to promptly pay Daily Delay Damages as provided in Section 8.5.1, Buyer may elect to terminate this Agreement and, Supplier shall pay to Buyer, and Buyer shall be entitled to collect or retain, as applicable, the full Development Security amount as liquidated damages for Supplier’s failure to meet its obligations prior to the Commercial Operation Deadline. Upon Buyer’s collection of the full Development Security amount from Supplier (or from security provided on Supplier’s behalf), this Agreement will be terminated, and neither Party will have any further obligations hereunder including under Section 8.5, except those obligations expressly provided to survive termination pursuant to Section 2.4. The Parties agree that it would be extremely difficult and impracticable under presently known and anticipated facts and circumstances to ascertain and fix the actual damages Buyer would incur if the Supplier does not meet its obligations hereunder prior to the Commercial Operation Deadline, and, accordingly, the Parties agree that

retention by Buyer of the full Development Security is reasonable as liquidated damages, and is not a penalty.

- 8.4.2 The provisions of this Section 8.4 are in addition to, and not in lieu of, any of Buyer's rights or remedies under this Agreement, including Article 24.

8.5 Delay Damages.

- 8.5.1 In the event Supplier fails to achieve Commercial Operation by the Commercial Operation Deadline, then for each day up to, but not exceeding, one hundred and eighty (180) days, that Supplier fails to achieve Commercial Operation, Supplier shall be obligated to pay to Buyer liquidated damages equal to Daily Delay Damages. If Daily Delay Damages have been accumulated for one hundred and eighty (180) days and Commercial Operation has not been achieved, Buyer may terminate this Agreement. Supplier shall pay any amounts owed to Buyer under this Section 8.5 in the Billing Periods immediately succeeding the Billing Period during which Supplier's obligation to pay such amounts arose.
- 8.5.2 In addition to amounts payable pursuant to Section 8.5.1, Supplier shall be liable, in accordance with Section 18.1, for any Penalties incurred or suffered by Buyer as a result of Supplier's failure to achieve Commercial Operation by the Commercial Operation Deadline.
- 8.5.3 The provisions of this Section 8.5 are in addition to, and not in lieu of, any of Buyer's rights or remedies under Article 24.
- 8.5.4 The Parties agree that it would be extremely difficult and impracticable under presently known and anticipated facts and circumstances to ascertain and fix the actual damages Buyer would incur if the Supplier does not meet its obligations hereunder prior to the Commercial Operation Deadline, and, accordingly, the Parties agree that payment by Supplier of Daily Delay Damages is reasonable as liquidated damages, and is not a penalty.

8.6 Nameplate Damages.

- 8.6.1 If the Certified Nameplate Capacity Rating is less than the Expected Nameplate Capacity Rating, Supplier shall provide Buyer a onetime payment in an amount equal to (a) subtracting (i) Certified Nameplate Capacity Rating from (ii) the Expected Nameplate Capacity Rating in MW, multiplied by (b) Deficit Damages Rate per MW of difference ("Deficit Damages"). Supplier's total liability for Deficit Damages shall not exceed one million dollars (\$1,000,000). Deficit Damages, if any, shall be paid to Buyer within five (5) business days of Buyer's receipt of the certification required in Section 8.3.2.2. Upon payment of Deficit Damages: (i) Exhibit 1 shall be revised to reflect the Certified Nameplate Capacity Rating; and (ii) the Annual Supply Amount, each Supply Amount, the Maximum Amount and the Yearly PC Amount shall each be adjusted by the ratio of

the Certified Nameplate Capacity Rating to the Expected Nameplate Capacity Rating, and Exhibits 13 and 18 shall be revised accordingly.

- 8.6.2 If the Certified Nameplate Capacity Rating is greater than the Expected Nameplate Capacity Rating by greater than two percent (2%), Supplier shall pay Buyer a onetime payment in an amount equal to one half of the Development Security, paid to Buyer within five (5) Business Days of Buyer's receipt of the certification required in Section 8.3.2.2. If Supplier fails to make such payment in a timely manner, Buyer may retain such amount from the Development Security or Operational Security. Supplier shall take all necessary actions, including but not limited to software or hardware solutions, to limit the Certified Nameplate Capacity Rating to the Expected Nameplate Capacity Rating.
- 8.7 Modification. Without the prior written consent of Buyer, which may be withheld in Buyer's sole discretion, Supplier shall not make any modification to the Facility that might: (a) expose Buyer to any additional liability or increase its obligations under this Agreement; (b) adversely affect Supplier's or Buyer's ability to perform its obligations under this Agreement or any Law or to any third party; or (c) increase the Expected Nameplate Capacity Rating, the Certified Nameplate Capacity, generating capability, or the rate of production and delivery of Net Energy of the Generating Facility. Any permitted modifications shall be conducted in accordance with Good Utility Practice and all applicable Laws and reliability criteria, as such may be amended from time to time, and the requirements of Article 11. If Supplier makes a modification to the Facility that is not approved by Buyer, Buyer shall be entitled to receive in addition to any other remedy available to Buyer as liquidated damages the full amount of the Development Security or Operating Security, as applicable. The Parties agree that it would be extremely difficult and impracticable under presently known and anticipated facts and circumstances to ascertain and fix the actual damages Buyer would incur if the Supplier does not meet its obligations hereunder, and, accordingly, the Parties agree that payment by Supplier of Development Security or Operating Security, as applicable, is reasonable as liquidated damages, and is not a penalty.
- 8.8 Operation and Maintenance. Supplier, at all times shall install, operate, maintain and repair the Facility in accordance with Good Utility Practice and applicable Laws and to ensure: (a) Supplier is capable of meeting its supply obligations over the Term; (b) the Generating Facility is at all times a Renewable Energy System; and (c) Supplier is at all times in compliance with all requirements of a renewable energy generator set forth in the Renewable Energy Law. Supplier shall (x) maintain records of all operations of the Facility in accordance with Good Utility Practice, and (y) follow all regulations, directions and procedures of Buyer, Transmission Provider, any Electric System Authority and any other Governmental Authority to protect and prevent the Transmission System from experiencing any negative impacts resulting from the operation of the Facility. In the event of an inconsistency between any applicable procedures, Buyer may direct which procedures shall govern (or barring direction from Buyer, the more stringent procedure shall govern). Supplier shall use all reasonable efforts to avoid any interference with Buyer's operations. Supplier shall cause the Energy to meet the

Power Quality Standards at all times, and shall operate the Facility consistent with WECC, NERC, Buyer, Electric System Authority, Governmental Authority and Transmission Provider requirements.

- 8.9 Operation and Maintenance Agreement. No later than ninety (90) days prior to the Commercial Operation Date, if Supplier intends to subcontract any aspect of the operation of the Facility, Supplier shall provide a copy of any proposed agreement between Supplier and such sub-operator which requires the sub-operator to operate the Facility in accordance with the terms hereof which shall be attached to this Agreement as Exhibit 15. Supplier shall also provide a certified copy of a certificate warranting that the sub-operator is a corporation, limited liability company or partnership in good standing with the State in which the Facility is located, which shall be attached to this Agreement as part of Exhibit 15. Buyer shall have fifteen (15) days in which to notify Supplier of its objection to any proposed sub-operator, in which case Supplier shall not subcontract with such proposed sub-operator.
- 8.10 Right to Review. Buyer shall have the right to review during normal business hours the relevant books and records of Supplier to confirm the accuracy of anything relating to this Agreement. Buyer is under no obligation to exercise any of these review rights. Buyer shall have no liability to Supplier for failing to advise it of any condition, damages, circumstances, infraction, fact, act, omission or disclosure discovered or not discovered by Buyer with respect to the Facility or this Agreement.
- 8.11 Undertaking of Agreement; Professionals and Experts. Supplier has engaged those professionals or other experts it believes necessary to understand its rights and obligations pursuant to this Agreement. All professionals or experts, including engineers, attorneys or accountants, that Supplier may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Supplier. In entering into this Agreement and the undertaking by Supplier of the obligations set forth herein, Supplier has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Buyer in connection with the transactions contemplated by this Agreement.

## **9. EMERGENCY**

- 9.1 Compliance. Supplier shall promptly comply with any applicable requirements of any Electric System Authority, Governmental Authority, Transmission Provider, transmission operator or their successors, regarding the reduced or increased production of the Facility or otherwise in the event of any Emergency.
- 9.2 Notification. Supplier shall provide prompt oral and written notification to Buyer of any Emergency, including a description in reasonable detail of the Emergency and any actions undertaken to prevent, avoid or mitigate Loss therefrom or to expedite the restoration of service.
- 9.3 Due Care. In the event of an Emergency, Supplier shall take all reasonable actions to prevent, avoid or mitigate Loss therefrom or to expedite the restoration of

service; provided, however, that Supplier shall give Buyer prior notice, if practicable, before taking any action. This Section 9.3 shall not be construed to supersede Sections 9.1 and 9.2.

- 9.4 Not Excused Product. An Emergency declared by Supplier will not result in any Excused Product except to the extent the Emergency qualifies as an event of Force Majeure.
- 9.5 No Buyer Liability. Notwithstanding any provision to the contrary contained in this Agreement, Buyer shall have no obligation to pay Supplier in respect of any Product Supplier is unable to deliver or Buyer is unable to receive in accordance with the requirements of this Agreement due to an Emergency or Force Majeure.

## 10. CURTAILMENT

- 10.1 Compliance. Supplier shall obey all orders for curtailment of Energy by the Transmission Provider or any Electric System Authority.
- 10.2 Curtailments. Without limiting Section 10.1, Buyer shall not be obligated to purchase, receive, pay for or pay any damages associated with or impose any liability on Buyer with respect to, compliance or curtailment of Energy by Supplier made in response to any orders for curtailment provided for in Section 10.1, including in respect of Net Energy (or associated Renewable Energy Benefits) not delivered to the Delivery Point for any reason, including due to any of the following: (a) the interconnection between the Facility and the Transmission System is disconnected, suspended or interrupted, in whole or in part; (b) the Transmission Provider, Electric System Authority or Market Operator directs a general curtailment, reduction or re-dispatch of generation in the area (which would include the Net Energy), for any reason, even if such curtailment, reduction or re-dispatch directive is carried out by Buyer, which may fulfill such directive by acting in its sole discretion; (c) if Buyer curtails or otherwise reduces the Net Energy in order to meet its obligations to the Transmission Provider, Electric System Authority or Market Operator to operate within system limitations; (d) the Facility's Energy is not received because the Facility is not fully integrated or synchronized with the Transmission System; or (e) an event of Force Majeure prevents either Party from delivering or receiving Net Energy at the Delivery Point.
- 10.3 Curtailed Product. The amount of Net Energy curtailed under Sections 10.1 or 10.2 ("Curtailed Product") shall be reasonably determined by Supplier after the curtailment has ended based upon the Net Energy that could have been generated and delivered to Buyer at the Delivery Point consistent with the provisions of this Agreement, but that was not generated and delivered solely as a result of such curtailment. Supplier shall promptly provide Buyer with such information and data as Buyer may request to confirm the amount of the Curtailed Product that was not generated as a result of the curtailment. During any such period of curtailment, Supplier shall not produce Energy (to the extent curtailed by Transmission Provider) or sell Product to any third party. Curtailed Product shall constitute Excused Product for purposes of calculating a Shortfall or PC Shortfall. Under no

circumstance shall the provisions of this Section 10.3 apply to a curtailment of the Facility based upon an Emergency with respect to the Facility.

10.4 Economic Curtailment.

10.4.1 Buyer shall be permitted to require curtailment of Energy for economic reasons or otherwise refuse to take Product for economic reasons in accordance with the provisions of this Section 10.4 (“Economic Curtailment”). Buyer shall provide notice to Supplier of any Economic Curtailment, including the Delivery Hours in which Energy is to be curtailed, in accordance with the requirements of the Operating Procedures.

10.4.2 Supplier shall obey all orders for Economic Curtailment issued by Buyer in accordance with Section 10.4.1. The amount of Net Energy curtailed under this Sections 10.4.2 (“Economic Curtailed Product”) shall be reasonably determined by Supplier after the Economic Curtailment has ended based upon the Net Energy that would have been generated and delivered to Buyer at the Delivery Point consistent with the provisions of this Agreement, but that was not generated and delivered solely as a result of the Economic Curtailment. Supplier shall promptly provide Buyer with such information and data as Buyer may request to confirm the amount of the Economic Curtailed Product that was not generated as a result of the Economic Curtailment. During any period of Economic Curtailment, Supplier shall not produce Energy (to the extent curtailed by Buyer) or sell Product to any third party. Economic Curtailed Product shall constitute Excused Product for purposes of calculating a Shortfall or PC Shortfall. Under no circumstance shall the provisions of this Section 10.4.2 apply to a curtailment of the Facility based upon an Emergency with respect to the Facility.

10.4.3 For the avoidance of doubt, in no event shall curtailment of Energy pursuant to Section 10.3 be treated as Economic Curtailed Product.

10.5 Network Resource Designation. Within sixty (60) days after the Effective Date, Buyer will submit an application to Transmission Provider to designate the Facility as a Network Resource. Supplier will provide all information related to the Facility required for such application within thirty (30) days after the Effective Date. Buyer will provide a copy of such application to Supplier.

## 11. PLANNED OUTAGES

11.1 Approvals. Supplier shall request and obtain Buyer’s prior written approval, which approval shall not be unreasonably withheld, before conducting any non-forced outage of the Facility or reducing the capability of the Generating Facility to deliver the Supply Amount (each such reduction or outage, a “Planned Outage”) so as to minimize the impact on the availability of the Facility. Supplier shall only schedule Planned Outages during the months of March, April, October and November, unless otherwise approved by Buyer, and as may be otherwise restricted by Law.

11.2 Schedules. Planned Outages will be scheduled and conducted in accordance with the following:

- 11.2.1 Within ninety (90) days prior to the Commercial Operation Date and on or before October 1 of each Contract Year, Supplier shall provide Buyer with a schedule of proposed Planned Outages for the remainder of the year or upcoming Contract Year, as applicable. The proposed schedule will designate the Delivery Hours and amount (in MW) in which the Energy will be reduced in whole or in part by the proposed Planned Outages. Each proposed schedule shall include all applicable information, including the following: the month, day and Delivery Hour each requested outage will begin and conclude, the facilities impacted, the purpose of the requested outage, and any other relevant information. The total combined Delivery Hours of Planned Outages in any Contract Year shall not exceed four percent (4%) of the MWs comprising the Annual Supply Amount (prorated for the Stub Period, if any) unless otherwise approved by Buyer.
- 11.2.2 Buyer shall promptly review Supplier's proposed schedule of Planned Outages and either require modifications or approve the proposed schedule within thirty (30) days of Buyer's receipt of such schedule. If Buyer requires modifications to the proposed schedule, then Supplier shall promptly circulate a revised schedule of Planned Outages to Buyer consistent with Buyer's requested modifications. Product not delivered to Buyer during periods of Planned Outages, up to the MW specified, (a) will comprise Excused Product to the extent such Planned Outages are conducted in accordance with the Planned Outage schedule approved by Buyer in accordance with this Article 11, and (b) will not comprise Excused Product to the extent any outage period or MW exceed that set forth in the Planned Outage schedule approved by Buyer in accordance with this Article 11, or is not approved by Buyer. Supplier shall make reasonable efforts to accommodate any proposed revisions by Buyer to the approved Planned Outage schedule.
- 11.2.3 Regardless of approval of a Planned Outage, Supplier shall not start a Planned Outage on the Facility without confirming the approved Planned Outage with Buyer's Operating Representative five (5) Business Days prior to the start of such Planned Outage.
- 11.2.4 If following a notice pursuant to Section 11.2.3, Buyer requests that Supplier not undertake an approved Planned Outage as scheduled, for reasons other than Force Majeure or Emergency, then Supplier may promptly deliver to Buyer a written reasonable estimate of the costs expected to be incurred as a result of Supplier not undertaking the Planned Outage as scheduled. If Buyer agrees to the estimated costs, then Supplier shall not undertake the Planned Outage, and Buyer shall reimburse Supplier for its documented out-of-pocket costs actually incurred by Supplier in connection with not undertaking such Planned Outage (not to exceed the written estimated costs prepared by Supplier and delivered to Buyer). Any Planned Outage that is not instituted pursuant to this Section 11.2.4 will be

rescheduled to occur in the same Contract Year in which it was originally scheduled, in accordance with Section 11.2.2.

## **12. REPORTS; OPERATIONAL LOG**

- 12.1 Copies of Communications. Supplier shall promptly provide Buyer with copies of any orders, decrees, letters or other written communications to or from any Governmental Authority asserting or indicating any violation of Laws which relate to Supplier or construction, operation or maintenance of the Facility. Supplier shall keep Buyer apprised of the status of any such matters.
- 12.2 Notification of Facility Regulatory Status. Supplier shall notify Buyer of the regulatory status of the Facility as an EWG or QF no later than ninety (90) days prior to the Operation Date, and will provide Buyer with evidence documenting receipt of the required Governmental Approvals related to such designation (as such approvals are set forth in Exhibit 10). Following the Operation Date, Supplier shall notify Buyer, as soon as practicable, of any changes in regulatory status of the Facility, and will provide Buyer with evidence documenting receipt of the required Governmental Approvals related to such changed regulatory status (as such approvals are set forth in Exhibit 10) and reasonable support data requested by Buyer.
- 12.3 Notices of Change in Facility. In addition to any consent required pursuant to Section 8.7, Supplier shall provide notice to Buyer as soon as practicable prior to any temporary or permanent change to the performance, operating characteristics, or major generation components (such as turbines, generators, inverters, solar panels or similar equipment, as applicable) of the Facility. Such notice shall describe any changes, expected or otherwise, to the Expected Nameplate Capacity Rating, generating capability, the rate of production and delivery of Net Energy and other Product, interconnection and transmission issues, and any additional information requested by Buyer.
- 12.4 Project Reports and Project Review Meetings.
  - 12.4.1 Prior to the Commercial Operation Date. Prior to the Commercial Operation Date, Supplier shall provide to Buyer a monthly project report, which shall include the following: status in obtaining Project Milestones, including level one schedule; progress in obtaining any Governmental Approvals in connection with achieving the Commercial Operation Date; and a discussion of any foreseeable disruptions or delays. The monthly project reports will be provided to Buyer no later than ten (10) Business Days after expiration of the previous month. The Parties shall conduct meetings every six (6) months (or more frequently if requested by Buyer) to review this data and any information related to Supplier's completion of or progress toward the Project Milestone activities listed in Exhibit 6. In addition to any other requirements for Commercial Operation under this Agreement, Supplier shall: (a) provide notice to Buyer of its best estimate of the projected Operation Date, Commercial Operation Date and the PUCN Approval Date; (b) notify Buyer as soon as Supplier becomes aware of any



changes in such projected dates: and (c) coordinate with Buyer regarding the commencement of operation of the Facility. In addition to the foregoing, Supplier will provide Buyer with such other operational or technical data as Buyer may reasonably request and as may be reasonably necessary to determine Supplier's compliance with its obligations hereunder and its progress toward Commercial Operation.

12.4.2 After Commercial Operation Date. After the Commercial Operation Date, Supplier shall provide to Buyer within thirty (30) days of the end of each quarter throughout the Term, in electronic format, a report which shall include all pertinent information in connection with the Facility, including: (a) all weather data from any collection device measuring data with respect to the Facility (such as a met tower or similar measurement device); (b) any available site condition reports; (c) all reporting information maintained in the operational log and any other SCADA data from the Facility; and (d) any reports pertaining to the Facility resource and such other data and reports as may be reasonably requested by Buyer and which should be maintained by Supplier in accordance with Good Utility Practice for the relevant technology. In addition, Supplier shall provide remote access to Buyer for the Facility's operations and maintenance data for purposes of Buyer integrating such data into Buyer's Monitoring & Diagnostics center.

12.4.3 Operations Log. Supplier shall maintain in accordance with Good Utility Practice an operations log, which shall include: (a) all Planned Outages and unplanned outages, alarms, circuit breaker trip operations, partial deratings of equipment, mechanical impairments defects or unavailability with respect to generating equipment; (b) the cause (including any root cause analysis undertaken) and remediation undertaken by Supplier with respect to the events listed in (a); (c) the Delivered Amounts for the Stub Period and each Contract Year; and (d) any other significant event or information related to the operation of the Facility or the delivery of Net Energy or other Product. The operations logs shall be available for inspection by Buyer upon forty-eight (48) hours' notice together with all data maintained by Supplier as support for such logs. Supplier shall be responsible for maintaining sufficient evidentiary support in order to document the information contained in such operation logs.

12.5 Financial Information. Within thirty (30) days of Buyer's written request, Supplier shall provide Buyer with copies of Supplier's most recent quarterly and annual unaudited financial statements, which financial statements shall be prepared in accordance with generally accepted accounting principles.

12.6 Information to Governmental Authorities. Supplier shall, promptly upon written request from Buyer, provide Buyer with data collected by Supplier related to the construction, operation and maintenance of the Facility reasonably required by Buyer or an Affiliate thereof for reports to, and information requests from, any Governmental Authority, or any intervenor or party in any rate case or regulatory proceeding of Buyer or an Affiliate thereof. In addition, Supplier shall provide to Buyer copies of all submittals to a Governmental Authority directed by Buyer and

related to the operation of the Facility with a certificate that the contents of the submittals are true and accurate to the best of Supplier's knowledge after due inquiry. Supplier shall use best efforts to provide this information to Buyer with sufficient advance notice to enable Buyer to review such information and meet any submission deadlines imposed by the requesting Governmental Authority.

- 12.7 Accounting Standards. If Buyer or one of its Affiliates determines that it may hold a variable interest in Supplier under the Accounting Standards Codification ("ASC") 810, Consolidation of Variable Interest Entities, or requirements of Law, but it lacks the information necessary to make a definitive conclusion, Supplier hereby agrees to provide, upon Buyer's written request, sufficient financial and ownership information so that Buyer or its Affiliate may confirm whether a variable interest does exist under ASC 810 or requirements of Law. If Buyer or its Affiliate determines that, it holds such a variable interest in Supplier, Supplier hereby agrees to provide, upon Buyer's written request, sufficient financial and other information to Buyer or its Affiliate so that Buyer may properly consolidate the entity in which it holds the variable interest or present the disclosures required by ASC 810 or applicable Law. Supplier shall have the right to seek confidential treatment of any such information from any Governmental Authority entitled to receive such information. Information provided pursuant to this Section 12.7 is subject to Buyer's rights to disclose such information pursuant to this Agreement and pursuant to any applicable requirements of Law.
- 12.8 Documents to Governmental Authorities. Supplier shall promptly provide to Buyer a copy of any statement, application, and report or any document with any Governmental Authority relating to operation and maintenance of the Facility.
- 12.9 Environmental Information. Supplier shall, promptly upon written request from Buyer, provide Buyer with all data reasonably requested by Buyer relating to environmental information under any Required Facility Document listed in Exhibit 12 or otherwise in effect with respect to the Facility. Supplier shall further provide Buyer with information relating to environmental impact mitigation measures it is taking in connection with the Facility's construction or operation that are required by any Governmental Authority. As soon as it is known to Supplier, Supplier shall disclose to Buyer, the extent of any actual or alleged violation of any Environmental Laws arising out of the construction or operation of the Facility, or the actual or alleged presence of Environmental Contamination at the Facility or on the Project Site, or occurrence of any enforcement, legal or regulatory action or proceeding relating to the foregoing.

### **13. COMMUNICATIONS**

- 13.1 Supplier's Operating Representative. Supplier's Operating Representative shall be available to address and make decisions on all operational matters under this Agreement on a twenty-four (24) hour per day, seven (7) day per week basis. Supplier shall, at its expense, provide a protocol with Buyer's Operating Representative at Buyer's operations center and with Buyer's scheduling personnel, as listed on Exhibit 4, to maintain communications between personnel at the

Facility and Buyer's Operating Representative, Buyer's schedulers and Electric System Authorities at all times.

13.2 Communications. In connection with meeting its obligations pursuant to this Article 13, Supplier shall provide at its expense:

13.2.1 For the purposes of telemetering, a telecommunications circuit from the Facility to Buyer's operations center, or other readily accessible real-time performance monitoring (e.g., a web-based performance monitoring system);

13.2.2 Two (2) dedicated T1 lines for purposes of accessing Buyer's metering equipment and for communications with Buyer's operations center; and

13.2.3 Equipment to transmit to and receive facsimiles and email from Buyer and the Balancing Authority Area Operator, including cellular telephones.

#### **14. SCHEDULING NOTIFICATION**

14.1 Scheduling Notification. Supplier shall provide to Buyer's Operating Representative notices containing information including Supplier's good faith daily and hourly forecast of the Delivered Amount, Planned Outages, Derating, other outages and similar changes that may affect the Delivered Amount and the availability of Product otherwise, in accordance with the Availability Notice procedures in Section 14.2.

14.2 Availability Notice Procedures.

14.2.1 No later than 05:00 PPT each day or as otherwise specified by Buyer consistent with Good Utility Practice, Supplier shall deliver to Buyer's Operating Representative an Availability Notice in the form set forth in Exhibit 8. The Availability Notice will cover WECC scheduling practices for day-ahead energy or such other period specified by Buyer consistent with Good Utility Practice. The Parties agree to modify the Availability Notice as may be required consistent with other scheduling practices which may be applicable to the Facility from time to time.

14.2.2 Supplier shall update the Availability Notice and notify Buyer's Operating Representative as soon as practical after becoming aware of (a) an expected Derating; or (b) an expected increase of Delivered Amount.

14.2.3 The information in the Availability Notice, including the forecasted Delivered Amount, will be Supplier's good faith forecast and will indicate any Delivery Hour for which the Delivered Amount is expected to be less than or greater than the Supply Amount.

14.2.4 In the event of a Derating of the Facility, Supplier shall provide: (a) the extent, if any, to which the Derating is attributable to a Planned Outage; (b)

the magnitude of the Derating; (c) the Delivery Hours during which the Derating is expected to apply; and (d) the cause of the Derating.

## 15. COMPLIANCE

- 15.1 Laws. Each Party shall comply with all relevant Laws in connection with the performance of its obligations under this Agreement. Supplier shall comply with all Laws to ensure that, the Generating Facility is at all times a Renewable Energy System and Supplier is at all times in compliance with all requirements of a renewable energy generator as set forth in the Renewable Energy Law, and shall, at its sole expense, maintain in full force and effect all relevant material Governmental Approvals required for the maintenance of the Facility and the performance of its obligations under this Agreement. Supplier shall be responsible for any costs associated with the Clean Power Plan, including for obtaining, at its sole cost, any allowances that may be required under applicable Law pertaining to the Clean Power Plan, in a quantity or amount sufficient to support Supplier's obligations set forth in this Agreement. Each Party and its representatives shall comply with all relevant requirements of each Electric System Authority, Transmission Provider and each Governmental Authority to ensure the safety of its employees and the public.
- 15.2 Good Utility Practice. Each of Buyer and Supplier shall perform, or cause to be performed, its obligations under this Agreement in all material respects in accordance with Good Utility Practice.
- 15.3 Interconnection Agreement. Supplier shall operate the Facility in accordance with the IA and to the extent there is a conflict between this Agreement and the IA, the IA shall prevail.

## 16. APPROVALS

- 16.1 Condition Precedent. Notwithstanding any provision to the contrary contained in this Agreement, each Party's performance of its respective obligations under Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of this Agreement is subject to: (a) Buyer obtaining the PUCN Approval described in Section 16.2 before the PUCN Approval Deadline and in form and substance satisfactory to Buyer in its sole discretion; and (b) (c)the Energy Choice Initiative failing to pass a second consecutive vote by a majority of the Nevada voters in the State of Nevada general election scheduled to be held on or about November 6, 2018.
- 16.2 PUCN Approval. Within one hundred twenty (120) days after the Effective Date and in accordance with the requirements of Law, Buyer shall submit this Agreement to the PUCN for approval ("PUCN Approval") consisting of:
- 16.2.1 A determination that the terms and conditions of this Agreement are just and reasonable; and

16.2.2 A determination that the costs of purchasing Product under this Agreement are prudently incurred and that the Buyer may recover all just and reasonable costs of Product purchased under this Agreement.

16.3 Failure to Obtain PUCN Approval; Conditions of PUCN Approval. If the PUCN fails to grant the PUCN Approval on or before the PUCN Approval Deadline or grants the PUCN Approval on or before the PUCN Approval Deadline, but in form and substance not acceptable to Buyer in its sole discretion, then within thirty (30) days after the PUCN Approval Deadline or the date PUCN grants the PUCN Approval, as the case may be, Buyer shall have the right to terminate this Agreement upon ten (10) Business Days prior written notice to Supplier. Under no circumstances shall either Party have any liability to the other Party due to the failure of the PUCN to grant PUCN Approval by the PUCN Approval Deadline or the inclusion of conditions to the PUCN Approval which are unacceptable to Buyer.

16.4 [Reserved]

16.5 [Reserved]

16.6 Energy Choice Initiative. If the Energy Choice Initiative should pass a second consecutive vote by a majority of the Nevada voters in the State of Nevada general election scheduled to be held on or about November 6, 2018, then within thirty (30) days after the date of the general election Buyer shall have the right to terminate this Agreement upon ten (10) Business Days prior written notice to Supplier. Under no circumstances shall either Party have any liability to the other Party due to the Energy Choice Initiative passing a second consecutive vote by a majority of the Nevada voters in the State of Nevada general election scheduled to be held on or about November 6, 2018.

16.7 Cooperation. If requested by Buyer, Supplier shall cooperate with Buyer as Buyer may deem necessary in order to obtain any Governmental Approval (including the PUCN Approval and any FERC approval) in connection with this Agreement, including providing affidavits, providing timely responses to data requests of the relevant Governmental Authority, intervening in any relevant dockets, and requesting “commenter” or “intervener” status in any relevant docket. Each Party agrees to notify the other Party of any significant developments in obtaining any Governmental Approval in connection with achieving Commercial Operation of the Facility, including the PUCN Approval. Each Party shall use reasonable efforts to obtain such required Governmental Approvals and shall exercise due diligence and shall act in good faith to cooperate with and assist each other in acquiring each Governmental Approval necessary to effectuate this Agreement.

## 17. SECURITY

17.1 Development Security. As a condition of Buyer’s execution of and continuing obligations under this Agreement, Supplier shall provide to Buyer, as security for the performance of Supplier’s obligations hereunder, either: (a) a letter of credit from a Qualified Financial Institution substantially in the form attached hereto as Exhibit 17; or (b) a cash deposit, in either case, in an amount equal to one million

two hundred fifty thousand dollars (\$1,250,000) (the “Development Security”). The Development Security shall be posted within five (5) Business Days after the Effective Date. Upon the PUCN Approval Date, the Development Security shall increase to an amount equal to three million five hundred thousand dollars (\$3,500,000). The revised Development Security shall be posted within five (5) Business Days after the PUCN Approval Date and be maintained until fifteen (15) Business Days after the Commercial Operation Date. Buyer shall have the right to draw upon the Development Security, at Buyer’s sole discretion: (i) as a non-exclusive remedy available to Buyer under Article 24; (ii) in the event Supplier fails to achieve Commercial Operation by the Commercial Operation Deadline and fails to pay Daily Delay Damages as provided in Section 8.5.1; (iii) if Supplier fails to make any payments owing under this Agreement; or (iv) if Supplier fails to reimburse Buyer for costs, including Replacement Costs, PC Replacement Costs and Penalties, that Buyer has incurred or may incur as a result of Supplier’s failure to perform its obligations under this Agreement. Unless this Agreement is terminated, any such drawing on the Development Security by Buyer shall give rise to an obligation of Supplier to replenish the Development Security to its required amount within two (2) Business Days of the drawing. In the event that no amounts are due and owing by Supplier to Buyer under this Agreement and Supplier has provided the Operating Security to Buyer, the Development Security shall be released to Supplier upon the earlier of (x) termination of this Agreement in accordance with its terms or (y) on the fifteenth (15<sup>th</sup>) Business Day after the Facility achieves Commercial Operation. With the consent of Buyer, Supplier may apply and maintain the Development Security as a portion of Operating Security required to be provided by Supplier pursuant to Section 17.2.

- 17.2 Operating Security. As a condition to achieving Commercial Operation, Supplier shall provide to Buyer, as security for the performance of Supplier’s obligations hereunder, either: (a) a letter of credit from a Qualified Financial Institution substantially in the form attached hereto as Exhibit 17; or (b) a cash deposit, in each of (a) and (b), in an amount equal to four million one hundred and ninety-seven thousand nine hundred dollars (\$4,197,900); or (c) a Guaranty substantially in the form of Exhibit 20 if the guarantor meets Buyer’s minimum credit requirements as determined by Buyer in its sole and absolute discretion (the “Operating Security”). The Operating Security shall be posted no later than five (5) Business Days prior to the Commercial Operation Date. Buyer shall have the right to draw upon the Operating Security, at Buyer’s sole discretion: (1) as a non-exclusive remedy available to Buyer in the event this Agreement is terminated under Article 24; (2) in the event Supplier fails to make any payments owing under this Agreement; or (3) if Supplier fails to reimburse Buyer for costs, including Replacement Costs, PC Replacement Costs and Penalties that Buyer has incurred or may incur as a result of Supplier’s failure to perform its obligations under this Agreement. Unless this Agreement is terminated, any such drawing on the Operating Security by Buyer shall give rise to an obligation of Supplier to replenish the Operating Security to its original amount within two (2) Business Days. In the event that no amounts are due and owing by Supplier to Buyer under this Agreement, the Operating Security shall be released to Supplier upon the fifteenth (15<sup>th</sup>) Business Day after the earlier of (x) termination of this Agreement in accordance with its terms or (y) the expiration of the Term.

- 17.3 Letters of Credit. With respect to any letter of credit posted by Supplier as Development Security or Operating Security: (a) no later than thirty (30) days prior to the expiration date of any such letter of credit, Supplier shall cause the letter of credit to be renewed or replaced with another letter of credit in an equal amount; (b) in addition to the conditions specified in Sections 17.1 and 17.2, Buyer shall have the right to draw on such letter of credit, at Buyer's sole discretion (i) if such letter of credit has not been renewed or replaced at least thirty (30) days prior to the date of its expiration or (ii) if the Credit Rating of the financial institution that issued such letter of credit has been downgraded to below that required of a Qualified Financial Institution and Supplier has not caused a replacement letter of credit to be issued for the benefit of Buyer within five (5) Business Days of such downgrade pursuant to Section 17.4.
- 17.4 Maintaining Letter of Credit. If at any time after the Effective Date of this Agreement, Standard & Poor's, Moody's or another nationally recognized firm downgrades the Credit Rating of the financial institution issuing a letter of credit pursuant to this Agreement to below that required of a Qualified Financial Institution, then Supplier shall: (a) provide Buyer with written notice of such downgrade within two (2) Business Days of Supplier being notified of any such downgrade; and (b) cause a replacement letter of credit satisfying the conditions of Section 17.3 or other acceptable Development Security or Operating Security, as applicable, to be issued in favor of Buyer within five (5) Business Days of such downgrade. In the event such a downgrade also constitutes an Event of Default pursuant to Article 24, then the requirements of this Section 17.4 are in addition to, and not in lieu of, the provisions of Article 24. Supplier shall take all necessary action and shall be in compliance with Section 17.1 and/or Section 17.2, as the case may be, within five (5) Business Days of the downgrade.
- 17.5 Guarantors. Supplier shall promptly notify Buyer regarding downgrade or other material change regarding the creditworthiness or financial condition of any guarantor providing a guaranty pursuant to Sections 17.1 or 17.2. If at any time after the Effective Date, any guarantor providing a guaranty pursuant to Sections 17.1 or 17.2 fails to meet Buyer's minimum credit requirements as determined by Buyer in its sole and absolute discretion, then Buyer shall notify Supplier in writing and Supplier shall cause a letter of credit or cash in the amount of the Development Security or Operating Security, as the case may be, to be delivered to Buyer within five (5) Business Days of such notice. Failure to provide the Development Security or Operating Security pursuant hereto in a timely manner shall constitute an Event of Default pursuant to Article 24.
- 17.6 No Interest on Supplier Security. Supplier shall not earn or be entitled to any interest on any security provided pursuant to this Article 17, including any cash amounts deposited.
- 17.7 Grant of Security Interest. To secure its obligations under this Agreement, Supplier hereby grants to Buyer, as the secured party, a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all Development Security or Operating Security, as the case may be, posted with Buyer

in the form of cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Buyer. Supplier agrees to take such action as Buyer reasonably requires in order to perfect a first-priority security interest in, and lien on (and right of setoff against), such performance assurance and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default, Buyer, as the Non-Defaulting Party, may do any one or more of the following: (a) exercise any of the rights and remedies of a secured party with respect to all Development Security or Operating Security, as applicable, including any such rights and remedies under Law then in effect; (b) exercise its right of setoff against any and all property of Supplier, as the Defaulting Party, in the possession of the Buyer or Buyer's agent; (c) draw on any outstanding letter of credit issued for its benefit; and (d) liquidate all Development Security or Operating Security, as applicable, then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever by Supplier, including any equity or right of purchase or redemption by Supplier. Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Supplier's obligations under the Agreement (Supplier remaining liable for any amounts owing to Buyer after such application), subject to the Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

- 17.8 Waiver of Buyer Security. Supplier hereby waives any and all rights it may have, including rights at Law or otherwise, to require Buyer to provide financial assurances or security (including cash, letters of credit, bonds or other collateral) in respect of its obligations under this Agreement.
- 17.9 Security is Not a Limit on Supplier's Liability. The security contemplated by this Agreement: (a) constitutes security for, but is not a limitation of, Supplier's obligations hereunder; and (b) shall not be Buyer's exclusive remedy for Supplier's failure to perform in accordance with this Agreement.

## 18. INDEMNIFICATION

- 18.1 Indemnification for Losses. Each Party to this Agreement (the "Indemnifying Party") shall indemnify, defend and hold harmless, on and after state and federal Tax basis, the other Party, its Affiliates, and each of their officers, directors, employees, attorneys, agents and successors and assigns (each an "Indemnified Party") from, for and against any and all Losses arising out of, relating to, or resulting from the Indemnifying Party's breach, or performance or non-performance of its obligations under this Agreement, including the Indemnifying Party's negligence and willful misconduct (including reasonable attorneys' fees and costs); provided, however, that no Party shall be indemnified hereunder for any Loss to the extent resulting from its own gross negligence, fraud or willful misconduct. Supplier shall be solely responsible for (and shall defend and hold Buyer harmless against) any damage that may occur as a direct result of Supplier's acts that affect the Transmission System.



- 18.1.1 In furtherance of the foregoing indemnification and not by way of limitation thereof, the Indemnifying Party hereby waives any defense it otherwise might have against the Indemnified Party under applicable workers' compensation Laws.
- 18.1.2 In claims against any Indemnified Party by an agent of the Indemnifying Party, or anyone directly or indirectly employed by them or anyone for whose acts the Indemnifying Party may be liable, the indemnification obligation under this Article 18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Indemnifying Party or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
- 18.2 No Negation of Existing Indemnities; Survival. Each Party's indemnity obligations under this Agreement shall not be construed to negate, abridge or reduce other rights or obligations, which would otherwise exist at Law or in equity. The obligations contained herein shall survive the termination or expiration of this Agreement to the extent that any third-party claim is commenced during the applicable statute of limitations period.
- 18.3 Indemnification Procedures.
- 18.3.1 Any Indemnified Party seeking indemnification under this Agreement for any Loss shall give the Indemnifying Party notice of such Loss promptly but in any event on or before thirty (30) days after the Indemnified Party's actual knowledge of such claim or action. Such notice shall describe the Loss in reasonable detail, and shall indicate the amount (estimated if necessary) of the Loss that has been, or may be sustained by, the Indemnified Party. To the extent that the Indemnifying Party will have been actually and materially prejudiced as a result of the failure to provide such notice, the Indemnified Party shall bear all responsibility for any additional costs or expenses incurred by the Indemnifying Party as a result of such failure to provide notice.
- 18.3.2 In any action or proceeding brought against an Indemnified Party by reason of any claim indemnifiable hereunder, the Indemnifying Party may, at its sole option, elect to assume the defense at the Indemnifying Party's expense, and shall have the right to control the defense thereof and to determine the settlement or compromise of any such action or proceeding. Notwithstanding the foregoing, an Indemnified Party shall in all cases be entitled to control its own defense in any action if it:
- 18.3.2.1 May result in injunctions or other equitable remedies with respect to the Indemnified Party;
- 18.3.2.2 May result in material liabilities which may not be fully indemnified hereunder; or

18.3.2.3 May have a Material Adverse Effect on the Indemnified Party (including a Material Adverse Effect on the Tax liabilities, earnings, ongoing business relationships or regulation of the Indemnified Party) even if the Indemnifying Party pays all indemnification amounts in full.

18.3.3 Subject to Section 18.3.2, neither Party may settle or compromise any claim for which indemnification is sought under this Agreement without the prior written consent of the other Party; provided, however, that said consent shall not be unreasonably withheld, conditioned or delayed.

## 19. LIMITATION OF LIABILITY

19.1 Responsibility for Damages. Except where caused by the other Party's breach or performance or non-performance of its obligations under this Agreement, each Party shall be responsible for all physical damage to or destruction of the property, equipment and/or facilities owned by it, and each Party hereby releases the other Party from any reimbursement for such damage or destruction.

19.2 Limitation on Damages. To the fullest extent permitted by Law and notwithstanding any other provisions of this Agreement to the contrary, except for Replacement Costs, PC Replacement Costs or payment made by either Party to satisfy Penalties or payments owing under Sections 3.4, 3.5, 3.6, 3.7, 7.5, 8.4, 8.5, 15.1, 17.1, 17.2, 18.1, 19.1, 27.1, in no event shall a Party be liable to the other Party, whether in contract, warranty, tort, negligence, strict liability, or otherwise, for special, indirect, incidental, multiple, consequential (including lost profits or revenues, business interruption damages and lost business opportunities), exemplary or punitive damages related to, arising out of, or resulting from performance or nonperformance of this Agreement (unless due to the willful or intentional breach of this Agreement by such Party, in which case the limitation shall not apply). In addition, this limitation on damages shall not apply with respect to claims brought by third parties for which a Party is entitled to indemnification under this Agreement.

19.3 Survival. The provisions of this Article 19 shall survive the termination or expiration of this Agreement.

## 20. FORCE MAJEURE

20.1 Excuse. Subject to Section 20.4, neither Party shall be considered in default under this Agreement for any delay or failure in the performance of its obligations under this Agreement (including any obligation to deliver or accept Product) if such delay or failure is due to an event of Force Majeure.

20.2 Definition. "Force Majeure" or "an event of Force Majeure" means an event that: (a) is not reasonably anticipated as of the Effective Date; (b) is not within the reasonable control of the Party affected by the event; (c) is not the result of the affected Party's negligence or failure to act; and (d) could not be overcome by the affected Party's use of due diligence in the circumstances. Force Majeure includes,

but is not restricted to, events of the following types (but only to the extent that such an event, in consideration of the circumstances, satisfies the requirements set forth in the preceding sentence): acts of God; civil disturbance; sabotage; strikes not attributable to Supplier's actions; lock-outs not attributable to Supplier's actions; work stoppages not attributable to Supplier's actions; action or restraint by court order or Governmental Authority (as long as the affected Party has not applied for or assisted in the application for, and has opposed to the extent reasonable, such action or restraint ).

20.3 Exclusions. Notwithstanding the foregoing, none of the following shall constitute Force Majeure:

20.3.1 Economic hardship of either Party, including lack of money;

20.3.2 The non-availability or reduced availability of the resource supply to generate electricity from the Generating Facility, including due to weather, high or low temperatures or climate conditions;

20.3.3 A Party's failure to obtain any Governmental Approval from a Governmental Authority;

20.3.4 A Party's failure to meet a Project Milestone, except to the extent it is caused by an event of Force Majeure;

20.3.5 The imposition of costs or Taxes on a Party;

20.3.6 Supplier's failure to obtain, or perform under, the IA, or its other contracts and obligations to Transmission Provider unless due to a Force Majeure event;

20.3.7 Supplier's ability to sell, or Buyer's ability to purchase energy, PCs (and equivalent rights in any other jurisdiction), Renewable Energy Benefits, or Capacity Rights at a more advantageous price than is provided hereunder;

20.3.8 Any breakdown or malfunction of the Facility's equipment (including any serial equipment defect) that is not caused by an independent event of Force Majeure;

20.3.9 Delay or failure of Supplier to obtain or perform any Required Facility Document unless due to a Force Majeure event;

20.3.10 Any delay, alleged breach of contract, or failure by the Transmission Provider unless due to a Force Majeure event;

20.3.11 Maintenance upgrade or repair of any facilities or right of way corridors whether performed by or for Supplier, or other third parties (except for repairs made necessary as a result of an event of Force Majeure); or

20.3.12 The increased cost of electricity, equipment, steel, labor, or transportation.

- 20.4 Conditions. In addition to the conditions set forth in Section 20.2, a Party may rely on a claim of Force Majeure to excuse its performance only to the extent that such Party:
- 20.4.1 Provides prompt notice of such Force Majeure event to the other Party, giving an estimate of its expected duration and the probable impact on the performance of its obligations under this Agreement (which notice, in the case of Supplier, shall be provided within forty-eight (48) hours following such Force Majeure event);
  - 20.4.2 Exercises all reasonable efforts to continue to perform its obligations under this Agreement;
  - 20.4.3 Expeditiously takes action to correct or cure the Force Majeure event excusing performance so that the suspension of performance is no greater in scope and no longer in duration than is dictated by the event; provided, however, that nothing herein requires a Party to settle a strike or other labor dispute;
  - 20.4.4 Exercises all reasonable efforts to mitigate or limit damages to the other Party resulting from the Force Majeure event; and
  - 20.4.5 Provides prompt notice to the other Party of the cessation of the Force Majeure event giving rise to its excuse from performance.

## 21. DISPUTES

- 21.1 Dispute or Claim. Any cause of action, claim or dispute which either Party may have against the other Party arising out of or relating to this Agreement, including the interpretation of the terms hereof or any Laws that affect this Agreement, or the transactions contemplated hereunder, or the breach, termination or validity hereof (“Dispute”) shall be submitted in writing to the other Party. The written submission of any Dispute shall include a concise statement of the question or issue in dispute together with a statement listing the relevant facts and appropriate supporting documentation.
- 21.2 Good Faith Resolution. The Parties agree to cooperate in good faith to expedite the resolution of any Dispute. Pending resolution of a Dispute, the Parties shall proceed diligently with the performance of their obligations under this Agreement.
- 21.3 Informal Negotiation. The Parties shall first attempt in good faith to resolve any Dispute through informal negotiations by the Operating Representatives or Contract Representatives and senior management of each Party. If the Parties fail to resolve any Dispute through informal negotiations within thirty (30) days after the Dispute is submitted in writing to the other Party in accordance with Section 21.1, then either Party may exercise their rights at equity or law to resolve such Dispute.

- 21.4 Jurisdiction, Venue. Each Party irrevocably: (a) submits to the exclusive jurisdiction of the federal and state courts located in the County of Washoe, State of Nevada; (b) waives any objection which it may have to the laying of jurisdiction or venue of any proceedings brought in any such court; and (c) waives any claim that such proceedings have been brought in an inconvenient forum.
- 21.5 Recovery of Costs and Attorneys' Fees. In the event of a Dispute arising from or relating to this Agreement, whether or not an action is commenced in any court to enforce any provision or for damages by reason of any alleged breach of this Agreement, the prevailing Party will be entitled to recover from the other Party all costs and attorneys' fees reasonably incurred in resolving the Dispute. For purposes hereof, the "prevailing" Party need not prevail on every issue involved in the Dispute, but only on the main issue giving rise to the Dispute.
- 21.6 Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

## **22. NATURE OF OBLIGATIONS**

- 22.1 Relationship of the Parties. The provisions of this Agreement shall not be construed to create an association, trust, partnership, or joint venture; or impose a trust or partnership duty, obligation, or liability or agency relationship between the Parties.
- 22.2 No Public Dedication. By this Agreement, neither Party dedicates any part of its facilities nor the services provided under this Agreement to the public.

## **23. ASSIGNMENT**

Except as stated below, neither this Agreement nor any of the rights or obligations hereunder shall be assigned by either Party, including by operation of Law, without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any assignment of this Agreement in violation of the foregoing shall be, at the option of the non-assigning Party, void.

- 23.1 Buyer Assignment. Buyer may, without the consent of Supplier, assign this Agreement or assign or delegate its rights and obligations under this Agreement, in whole or in part, if such assignment or delegation is made to: (a) Sierra Pacific Power Company; (b) any successor to Buyer, provided that such successor is a public utility holding a certificate of public convenience and necessity granted by the PUCN pursuant to NRS Chapter 704, where such assignment does not occur by operation of Law; (c) a Person (other than a natural person) providing retail electric service in Nevada; (d) a wholesale electric provider which meets the Minimum Credit Rating or provides adequate credit assurance or a guarantee from a party that

meets the Minimum Credit Rating; (e) a Person (other than a natural person) whose Credit Rating, as published by either Relevant Rating Agency, is equal or superior to the Minimum Credit Rating as of the time of assignment; or (f) a Person (other than a natural person) as otherwise required by Law. Buyer shall provide Supplier with written notice of any assignment pursuant to this Section 23.1.

- 23.2 Supplier Assignment. Supplier may, without the consent of Buyer (and without relieving itself from liability hereunder), (a) transfer, pledge, encumber or assign this Agreement or the account, revenues or proceeds hereof in connection with any financing, or tax equity financing, and (b) transfer or assign a Controlling Interest in Supplier to any of Supplier's Affiliates or this Agreement to any of Supplier's Affiliates in connection with a transfer of the Facility to such Affiliate or a corporate reorganization between Supplier and its Affiliates so long as the purposes of the ROFO in Article 6 are not frustrated by such a transfer or assignment; provided that Supplier provides Buyer prior notice of any such transfer or assignment and (i) either (1) the Credit Rating of such Affiliate is equal to or superior to the Credit Rating of Supplier as of the Effective Date, as determined by Buyer in its reasonable discretion, or (2) the Development Security or Operational Security, as applicable, is maintained without change due to such transfer or assignment or is replaced with Development Security or Operational Security, as applicable, in accordance with the requirements of Article 17, and (ii) such Affiliate enters into an assignment and assumption agreement, in form and substance satisfactory to Buyer, pursuant to which such Affiliate assumes all of Supplier's obligations hereunder and otherwise agrees to be bound by the terms of this Agreement. Supplier agrees that it will provide written notice to Buyer (and, if required, the PUCN Regulatory Operations Staff, and the State of Nevada Attorney General's Bureau of Consumer Protection) of any transfer or assignment of this Agreement by Supplier to an Affiliate pursuant to this Section 23.2, together with information supporting the permissible nature of the transfer or assignment in accordance with the requirements of this Section 23.2, no less than five (5) Business Days prior to the effective date of any such transfer or assignment.
- 23.3 Liability After Assignment. A Party's assignment or transfer of rights or obligations pursuant to this Article 23 (other than Section 23.2) of this Agreement shall relieve such Party from any liability and financial responsibility for the performance thereof arising after any such transfer or assignment, provided that such transferee enters into an assignment and assumption agreement, in form and substance satisfactory to the other Party, pursuant to which such transferee assumes all of the assigning or transferring Party's obligations hereunder and otherwise agrees to be bound by the terms of this Agreement.
- 23.4 Transfers of Ownership. Subject to the provisions of Article 6, Supplier shall not directly or indirectly sell, transfer, assign or otherwise dispose of its ownership interest in the Facility to any third party absent: (a) a transfer of this Agreement to such third party; (b) Supplier entering into an assignment and assumption agreement, in form and substance satisfactory to Buyer, with such third party pursuant to which such third party assumes all of Supplier's obligations hereunder and otherwise agrees to be bound by the terms of this Agreement; (c) Buyer's prior written approval, not to be unreasonably withheld, of such third party; and (d) such

third party being a Qualified Transferee. This Section 23.4 shall not apply or restrict any sale, transfer, assignment or disposal of the Facility in accordance with the provisions of Section 23.2. This Section 23.4 shall also not apply to any transfer that complies with the ROFO provisions of Section 6.1, provided that such transfer is to a Qualified Transferee.

- 23.5 Controlling Interest. Subject to the provisions of Article 6, no Controlling Interest in Supplier may be directly or indirectly sold, transferred or assigned (whether through a single transaction or a series of transactions over time) without Buyer's prior written approval, not to be unreasonably withheld, and then only to a Qualified Transferee. This Section 23.5 shall not apply or restrict any sale, transfer or assignment of a Controlling Interest in Supplier (a) in accordance with the provisions of Section 23.2 or (b) that complies with the ROFO provisions of Section 6.1, provided that such transfer is to a Qualified Transferee.
- 23.6 Assignee Obligations with Respect to Granting a Security Interest. As a condition precedent to granting any Person a security interest in the Facility, Supplier shall (a) satisfy the requirements of Section 23.8 or (b) procure and deliver to Buyer an agreement, enforceable by Buyer and in form and substance satisfactory to Buyer, from each such Person to the effect that, if such Person forecloses on its security interest, (i) it will assume Supplier's obligations under and otherwise be bound by the terms of this Agreement, and (ii) it will not sell, transfer or otherwise dispose of its interest in the Facility to any Person other than in accordance with the provisions of this Article 23.
- 23.7 Successors and Assigns. This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective permitted successors and permitted assigns.
- 23.8 Collateral Assignment by Supplier. Supplier may, without the consent of Buyer (and without relieving itself from liability hereunder), transfer, pledge, encumber or collaterally assign this Agreement or the account, revenues or proceeds hereof to Supplier's Lender in connection with any financing, including tax equity financing, or other financial arrangements for the Facility. In the event that Supplier intends to transfer, pledge, encumber or collaterally assign this Agreement to Supplier's Lenders, Supplier shall provide at least thirty (30) days' prior written notice thereof to Buyer, including the address of Supplier's Lenders. Any negotiation of documentation required in connection with a collateral assignment or other financing activity of Supplier shall be at the sole cost and expense of Supplier, and Supplier shall reimburse Buyer for all documented third-party and internal costs in connection with such activities. As a condition precedent to the effectiveness of any such transfer, pledge, encumbrance or collateral assignment to Supplier's Lenders, Buyer and Supplier and Supplier's Lenders shall have entered into a consent to collateral assignment agreement, which agreement shall be substantially in the form and substance of the Lender's Consent in Exhibit 19.

## **24. DEFAULT AND REMEDIES**

- 24.1 Events of Default. An event of default (“Event of Default”) shall be deemed to have occurred with respect to a Party (the “Defaulting Party”) upon the occurrence of one or more of the following events and expiration of any applicable Cure Period:
- 24.1.1 failure to comply with any of its material obligations under this Agreement (not otherwise specifically addressed below) or failure of any its representations or warranties in this Agreement to be true and correct in all material respect when made or deemed made;
  - 24.1.2 failure to make timely payments due under this Agreement;
  - 24.1.3 failure to comply with the material requirements of any Electric System Authority, Transmission Provider or any Governmental Authority;
  - 24.1.4 in the case of Supplier, its failure at any time to qualify and maintain, subject to Section 3.5, the Generating Facility as a Renewable Energy System;
  - 24.1.5 in the case of Supplier, its failure to install, operate, maintain or repair the Facility in accordance in all material respects with Good Utility Practice;
  - 24.1.6 in the case of Supplier, unless excused by an event of Force Majeure, its failure to timely achieve: (a) any of the Critical Project Milestones (excluding Commercial Operation) before the scheduled date set forth in Exhibit 6; and (b) Commercial Operation by the Commercial Operation Deadline as set forth in Exhibit 6, after expiration of the applicable period for which Daily Delay Damages are owed by Supplier pursuant to Section 8.5.1;
  - 24.1.7 in the case of Supplier, its failure to comply with the provisions of Article 17 (including any replenishment requirement);
  - 24.1.8 in the case of Supplier, its failure to comply with the provisions of Article 23;
  - 24.1.9 in the case of Supplier, its failure to comply with the provisions of Article 27;
  - 24.1.10 in the case of Supplier, if Supplier: (a) becomes insolvent, files for or is forced into bankruptcy (and in the case of an involuntary bankruptcy, such proceeding is not dismissed within thirty (30) days); (b) makes an assignment for the benefit of creditors; (c) is unable to pay its debts as they become due; or (d) is subject to a similar action or proceeding (and in the case of an involuntary bankruptcy, such proceeding is not dismissed within thirty (30) days); and
  - 24.1.11 in the case of Supplier, if Supplier: (a) relinquished possession and control of all or substantially all of the Facility, other than pursuant to a transfer permitted under this Agreement; or (b) after commencement of the construction of the Facility, and prior to the Commercial Operation Date,



completely ceases construction, testing, and inspection of the Facility for ninety (90) consecutive days, if not attributable to an Event of Default of, or request by Buyer, or an event of Force Majeure.

- 24.2 Duty/Right to Mitigate. Each Party has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of its obligations under this Agreement. For the purpose of this Section 24.2, commercially reasonable efforts by Supplier shall include maximizing the price for Product received by Supplier from third parties, including entering into an enabling agreement with, or being affiliated with, one or more power marketers of nationally recognized standing to market such Product not purchased or accepted by Buyer during a period Buyer is a Defaulting Party and Supplier is entitled to sell such Product to third parties in accordance with the terms of this Agreement.
- 24.3 Cure Period. Other than for an Event of Default under Sections 24.1.6 or 24.1.10 for which there is no cure period, an Event of Default shall not be deemed to have occurred under Section 24.1, unless and until the Defaulting Party shall: (a) for purposes of Section 24.1.2, 24.1.7, 24.1.8, 24.1.9, and 24.1.11, had a period of ten (10) Business Days from the date the applicable payment or performance was due; and (b) for purposes of all other Events of Default described in Section 24.1 (other than Sections 24.1.2, 24.1.6, 24.1.7, 24.1.8, 24.1.9, 24.1.10 or 24.1.11 which are addressed above), had a period of thirty (30) days from the date of receipt of written notice of the occurrence of any of the Events of Default described in Section 24.1 (each of the cure periods in Section 24.3(a) and (b), a "Cure Period") to cure such potential Event of Default; provided that such thirty (30)-day period may be extended for an additional reasonable period of time (not to exceed ninety (90) days) if: (i) the potential Event of Default is not reasonably capable of being cured within such thirty (30)-day period; (ii) such potential Event of Default is capable of being cured within an additional reasonable period of time (not to exceed ninety (90) days); and (iii) Supplier is diligently and continuously proceeding to cure such potential Event of Default.
- 24.4 Remedies. If an Event of Default is not cured by the Defaulting Party during the applicable Cure Period, if any, then the Non-Defaulting Party shall be entitled to all legal and equitable remedies that are not expressly prohibited by the terms of this Agreement, including termination of this Agreement as provided in Section 2.3, payment of damages, and in the case of Buyer, drawing upon the Development Security and the Operating Security.
- 24.5 Termination of Duty to Buy. If this Agreement is terminated because of an Event of Default by Supplier, neither Supplier nor any Affiliate of Supplier, nor any successor to Supplier with respect to the ownership of the Facility or the Project Site, may thereafter require or seek to require Buyer to make any purchases from the Facility or any electric generation facility constructed on the Project Site, under the Public Utility Regulatory Policies Act of 1978 or any other Law, for any periods that would have been within the Term had this Agreement remained in effect. Supplier, on behalf of itself and any other entity on whose behalf it may act, hereby waives its rights to require Buyer so to do.

24.5.1 Right of Repurchase. If Buyer terminates this Agreement in accordance with Sections 2.3.1 and 2.3.3, then neither Supplier nor Supplier's Affiliates may sell, or enter into a contract to sell, Net Energy or any Product generated by, associated with or attributable to a generating facility that from time to time may be constructed by Supplier or any Affiliate of Supplier on the Project Site ("Covered Facility") installed at the Project Site to a party other than Buyer for a period of three (3) years following the effective date of such termination ("Restricted Period"). For purposes of clarity, "Covered Facility" does not include the current solar projects known as Techren I, Techren II, Techren III, and Techren IV that share the Shared Facilities with Supplier (collectively, the "Other Techren Projects"), and nothing in this Section shall limit the rights of the Other Techren Projects with respect to the Shared Facilities and the production and sale of energy so long as the Other Techren Projects do not infringe on or attempt to exercise any rights in or to the portion of the Project Site and the Shared Facilities allocated to Supplier as of the date hereof. Supplier shall provide Buyer with no less than twelve (12) months' prior written notice of the anticipated commercial operation date for any Covered Facility. Buyer shall notify Supplier within thirty (30) days of receipt of such notice from Supplier as to whether Buyer elects to purchase such Product. If Buyer elects to purchase such Product, then the same shall be sold to Buyer at the Product Rate in this Agreement and the Parties shall enter into a binding agreement consistent with the foregoing and otherwise on terms and conditions substantially similar with this Agreement, the same being modified only as necessary to address changes which arise due to the passage of time. Neither Supplier nor Supplier's Affiliates may sell or transfer the Covered Facility, or any part thereof, or land rights or interests in the Project Site (including the interconnection queue position) during the Restricted Period so long as the limitations contained in this Section 24.5.1 apply, unless the transferee agrees to be bound by the terms set forth in this Section 24.5.1 pursuant to a written agreement approved by Buyer. Notwithstanding the above prohibition on a sale of transfer, this prohibition will not prevent the sale to a third party if an independent engineer provides a notarized certification to the fact that a solar facility cannot be developed on the Project Site. Buyer shall be permitted to file a notice of the rights contained in this Section 24.5.1 with respect to the Project Site. Supplier shall indemnify and hold Buyer harmless from all Losses sustained by Buyer as a result of any breach of the covenants contained in this Section 24.5.1.

24.6 Step-In Rights.

24.6.1 Step-In Rights following an Event of Default. If Supplier commits an Event of Default, including pursuant to Section 24.1.6(b), and this Agreement has not been terminated by Buyer, then without limiting its other rights and remedies hereunder, Buyer shall have the right to enter the Project Site and take possession of the Facility and to take or cause to be taken all such actions and do or cause to be done all such things as Buyer may consider

necessary or desirable to cure the Event of Default, including to complete the Facility and cause Commercial Operation to occur. Following the cure of the Event of Default, Buyer shall: (a) return possession of the Facility to Supplier upon execution by Supplier of an indemnity and release agreement, in form and substance reasonably acceptable to Buyer, pursuant to which Supplier shall indemnify and release Buyer from all claims arising out of Buyer's exercise of its rights pursuant to this Section 24.6; or (b) failing the execution of such indemnity and release agreement: (i) operate the Facility for all or such portion of the remaining Term as Buyer may elect, in its sole discretion, pursuant to the license granted in Section 24.6.2; and/or (ii) exercise its other rights and remedies under this Agreement, including the right to terminate this Agreement without the payment of any damages by Buyer.

24.6.2 License to Operate Facility. Supplier hereby irrevocably grants to Buyer the right, license and authority to enter the Project Site, to construct, operate and maintain the Facility for the Term during the continuance of and following any Event of Default by Supplier. During any period in which Buyer constructs, operates or maintains the Facility pursuant to the license granted in this Section 24.6.2, Supplier shall, upon request from Buyer, reimburse Buyer for all reasonable costs and expenses incurred by Buyer to construct, operate and maintain the Facility.

24.6.3 Records and Access. Supplier shall collect and have available at a convenient, central location at the Project Site all documents, contracts, books, manuals, reports, and records required to construct, operate and maintain the Facility in accordance with Good Utility Practice. Upon Buyer's notice of intent to exercise its rights under this Section 24.6, Buyer, its employees, contractors, or designated third parties shall have the right to enter the Project Site and the Facility for the purpose of constructing, operating or maintaining the Facility. Upon the exercise by Buyer of the its rights under this Section 24.6, Supplier shall cause the Facility contractor or operator (and any Person within the control of Supplier) to give Buyer access to and control of the construction, operation and maintenance of the Facility, as applicable, to the extent reasonably necessary to enable Buyer to exercise its rights under this Section 24.6, and shall provide reasonable assistance and cooperation to Buyer to effect safely the transfer of responsibility for construction, operation and maintenance as may be requested by Buyer. Supplier shall execute such documents and take such other action as may be necessary for Buyer to effectuate its rights under this Section 24.6.

24.6.4 Return. Buyer may, at any time and in its sole discretion, terminate its exercise of its rights under this Section 24.6 whether or not the applicable Event of Default has been cured. If at any time after exercising its rights under this Agreement, Buyer elects to return possession of the Facility to Supplier, Buyer shall provide Supplier with at least ten (10) days advance notice of the date Buyer intends to return such possession, and upon receipt

of such notice Supplier shall take all actions necessary to resume possession of the Facility on such date.

24.6.5 No Assumption. Buyer's exercise of its rights under this Section 24.6 shall not be deemed an assumption by Buyer of any liability of Supplier due and owing prior to the exercise of such rights. Buyer shall not assume any liability of Supplier for the period during which Buyer exercises its rights under this Section 24.6. During any period that Buyer is exercising its rights, Supplier shall retain legal title to and ownership of the Facility and all of its other property and its revenues. When exercising its rights under this Section 24.6, Buyer shall assume possession, operation, and control of the Facility solely as agent for Supplier. In no event shall Buyer's election to exercise its rights under this Section 24.6 be deemed to constitute a transfer of ownership of or title to the Facility, the Project Site or any assets of Supplier.

24.6.6 Costs and Expenses. Supplier shall indemnify and hold harmless Buyer from and against all Losses incurred by Buyer in connection with exercise of its rights under this Section 24.6 other than due to the gross negligence or willful misconduct of Buyer. In connection with its exercise of its rights under this Section 24.6, Buyer shall have the right to recoup and set off all such Losses against amounts otherwise owed by Buyer hereunder. Buyer's exercise of such recoupment and set off rights shall not limit the other rights and remedies available to Buyer hereunder or otherwise.

## **25. REPRESENTATIONS AND WARRANTIES OF SUPPLIER**

Supplier represents and warrants to Buyer as of the Effective Date as follows, and covenants to Buyer that such representations and warranties will be true and correct for so long as this Agreement is in force and effect:

25.1 Organization. Supplier is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware and has all requisite entity power and authority to own or lease and operate its properties and to carry on its business as is now being conducted. Supplier is duly qualified or licensed to do business and is in good standing in the State of Nevada and in each other jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification necessary, except where the failure to be so duly qualified or licensed and in good standing would not reasonably be expected to have a Material Adverse Effect on Supplier.

25.2 Authority. Supplier has full authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated herein and has taken all corporate actions necessary to authorize the execution, delivery and performance of its obligations under this Agreement. No other proceedings or approvals on the part of Supplier are necessary to authorize this Agreement. This Agreement constitutes a legal, valid and binding obligation of Supplier enforceable in accordance with its terms except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency or similar Laws affecting the enforcement of

creditors' rights generally and (b) general principles of equity, whether considered in a proceeding in equity or at law.

- 25.3 Governmental Approvals; No Violation. Other than obtaining the Supplier's Required Regulatory Approvals as set out in Exhibit 10, the execution, delivery and performance of this Agreement by Supplier shall not: (a) conflict with or result in any breach of any provision of the articles of organization (and/or other governing documents) of Supplier; (b) require any Governmental Approval, except where the failure to obtain such Governmental Approval would not reasonably be expected to have a Material Adverse Effect on Supplier; or (c) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation to which Supplier or any of its subsidiaries is a party or by which any of their respective assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained.
- 25.4 Regulation as a Utility. Except for its anticipated future status as a "public utility" as defined in the Federal Power Act, and as set forth in Exhibit 10, Supplier is not subject to regulation as a public utility or public service company (or similar designation) by any Governmental Authority.
- 25.5 Availability of Funds. Supplier has, or will have, and shall maintain sufficient funds available to it to perform all of its obligations under this Agreement and to consummate the transactions contemplated pursuant hereto.
- 25.6 Interconnection Process; Transmission. Supplier has initiated with the Transmission Provider the process of obtaining the rights to interconnect the Facility to the Transmission System in order to provide for the delivery of Net Energy to and at the Delivery Point.
- 25.7 Interconnection Cost Due Diligence. Supplier has conducted due diligence regarding the costs of all facilities and equipment necessary to interconnect the Facility to and at the Delivery Point and all such costs are covered by payments for Product provided for in this Agreement.
- 25.8 Required Facility Documents. All Required Facility Documents are listed on Exhibit 12. Pursuant to the Required Facility Documents, Supplier holds as of the Effective Date, or will hold by the Commercial Operation Date (or such other later date as may be specified under requirements of Law), and will maintain for the Term all Required Facility Documents (including all material authorizations, rights and entitlements) necessary to construct, own, operate and maintain the Facility and to perform its obligations under this Agreement, including the sale and delivery of Product to Buyer in accordance with this Agreement. The anticipated use of the Facility complies with all applicable restrictive covenants affecting the Facility or the Project Site.
- 25.9 Governmental Approvals. Supplier has applied or will apply for or has received the Governmental Approvals listed in Exhibits 10 and 12, and no other Governmental

Approvals are required by Supplier to construct, own, operate and maintain the Facility or perform its obligations under this Agreement. Following the Commercial Operation Date, Supplier shall notify Buyer of any additional material Governmental Approvals that are required for the ownership, operation and maintenance of the Facility or the performance by Supplier of its obligations under this Agreement, in each case, promptly after Supplier makes any such determination.

- 25.10 Related Agreements. Supplier has entered into or will enter into all material agreements as listed in Exhibit 12 necessary for the construction, ownership, operation and maintenance of the Facility and the performance of its obligations under this Agreement.
- 25.11 Certification. The Generating Facility qualifies as a Renewable Energy System and Supplier has been and is in compliance with all requirements set forth in the Renewable Energy Law.
- 25.12 Title. Supplier will own all Product attributable to the Facility and has the right to sell such Product to Buyer. Supplier will convey good title to the Product to Buyer free and clear of any liens or other encumbrances or title defects, including any which would affect Buyer's ownership of any portion of such Product or prevent the subsequent transfer of any portion of such Product by Buyer to a third party.
- 25.13 Project Execution Plan. Supplier will execute the development and construction of the Facility in accordance with the project execution plan submitted by Supplier to Buyer pursuant to the request for proposals dated January 5, 2018. To the extent the Facility uses equipment listed on Exhibit 23, Supplier shall construct the Facility using only such equipment manufactured by the vendors, subcontractors and equipment suppliers listed on Exhibit 23.
- 25.14 Work Site Agreement. Supplier shall enter into a work site agreement, memorandum of understanding, or similar document in the form attached hereto as Exhibit 21.
- 25.15 Continuing Nature of Representations and Warranties; Notice. The representations and warranties set forth in this Article 25 are made as of the Effective Date and shall be deemed repeated as of the Commercial Operation Date. If at any time during the Term, Supplier obtains actual knowledge of any fact, circumstance, event or information that would have caused or cause any of the representations and warranties in this Article 25 to be materially untrue or misleading at the time given or deemed given or at any time thereafter for so long as this Agreement is in force and effect, then Supplier shall provide Buyer with written notice of the fact, circumstance, event or information, the representations and warranties affected, and the action, if any, which Supplier intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section 25.15 shall be given as soon as practicable after Supplier obtains actual knowledge of any such fact, circumstance, event or information.

## 26. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Supplier as of the Effective Date as follows and covenants to Supplier that such representations and warranties will be true and correct for so long as this Agreement is in force and effect:

- 26.1 Organization; Qualification. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of Nevada and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as is now being conducted. Buyer is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification necessary, except where the failure to be so duly qualified or licensed and in good standing would not reasonably be expected to have a Material Adverse Effect on Buyer.
- 26.2 Authority. Buyer has full authority to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated herein and has taken all corporate actions necessary to authorize the execution, delivery and performance of its obligations under this Agreement. No other proceedings or approvals on the part of Buyer are necessary to authorize this Agreement. This Agreement constitutes a legal, valid and binding obligation of Buyer enforceable in accordance with its terms except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency or similar Laws affecting the enforcement of creditors' rights generally and (b) general principles of equity, whether considered in a proceeding in equity or at law.
- 26.3 Governmental Approvals; No Violation. Other than obtaining Buyer's Required Regulatory Approvals as set out in Exhibit 9, the execution, delivery and performance of its obligations under this Agreement by Buyer shall not: (a) conflict with or result in any breach of any provision of the articles of organization (or other similar governing documents) of Buyer; (b) require any Governmental Approval, except: (i) where the failure to obtain such Governmental Approval would not reasonably be expected to have a Material Adverse Effect on Buyer; or (ii) for Governmental Approvals which become applicable to Buyer as a result of specific regulatory status of Buyer or as a result of any other facts that specifically relate to the business or activities in which Buyer is or proposes to be engaged, which Governmental Approvals have been obtained or made by Buyer; or (c) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation to which Buyer or any of its subsidiaries is a party or by which any of their respective assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained.
- 26.4 Continuing Nature of Representations and Warranties; Notice. The representations and warranties set forth in this Article 26 are made as of the Effective Date. If at any time during the Term, Buyer obtains actual knowledge of any fact, circumstance, event or information that would have caused or cause any of the

representations and warranties in this Article 26 to be materially untrue or misleading at the time given or at any time thereafter for so long as this Agreement is in force and effect, Buyer shall provide Supplier with prompt written notice of the fact, circumstance, event or information, the representations and warranties affected, and the action, if any, which Buyer intends to take to make the representations and warranties true and correct.

## **27. INSURANCE**

- 27.1 General Requirements. From and after the Effective Date, Supplier shall maintain at all times, at its own expense, general/commercial liability, worker's compensation, and other forms of insurance relating to its property, operations and facilities in the manner and amounts set forth in this Article 27. Supplier shall maintain coverage on all policies written on a "claims made" or "occurrence" basis. If any policy is maintained on a "claims made" form and is converted to an "occurrence form," the new policy shall be endorsed to provide coverage back to a retroactive date acceptable to Buyer.
- 27.2 Qualified Insurers. Every contract of insurance providing the coverage required herein shall be with an insurer or eligible surplus lines insurer qualified to do business in the State of Nevada and with the equivalent, on a continuous basis, of an "A.M. Best Company Rating" of "A" or better and shall include provisions or endorsements:
- 27.2.1 Stating that such insurance is primary insurance with respect to the interest of Buyer and that any insurance maintained by Buyer is excess and not contributory insurance required hereunder;
- 27.2.2 Stating that no reduction, cancellation or non-renewal of the policy shall be effective until thirty (30) days from the date notice thereof is actually received by Buyer; provided that upon Supplier's receipt of any notice of reduction, cancellation or non-renewal, Supplier shall immediately provide notice thereof to Buyer;
- 27.2.3 Providing Buyer with subrogation waivers on all coverage;
- 27.2.4 Providing for Separation of Insured coverage in the general liability and auto liability insurance policies; and
- 27.2.5 Naming Buyer as an additional insured on the general liability and auto liability insurance policies of Supplier as its interests may appear with respect to this Agreement.
- 27.3 Certificates of Insurance. Within thirty (30) days of the Effective Date and each anniversary thereafter during the Term, and upon any change in coverage or at the request of Buyer (not to exceed once each year), Supplier shall provide to Buyer properly executed and current certificates of insurance with respect to all insurance policies required to be maintained by Supplier under this Agreement. Certificates of insurance shall provide the following information:



- 27.3.1 The name of insurance company, policy number and expiration date;
- 27.3.2 The coverage required and the limits on each, including the amount of deductibles or self-insured retentions, which shall be for the account of Supplier; and
- 27.3.3 A statement indicating that Buyer shall receive at least thirty (30) days prior notice of cancellation or non-renewal of a policy or of a reduction of liability limits with respect to a policy.
- 27.4 Certified Copies of Insurance Policies. At Buyer's request, in addition to the foregoing certificates of insurance, Supplier shall deliver to Buyer a copy of each insurance policy, certified as a true and complete copy by an authorized representative of the issuing insurance company.
- 27.5 Inspection of Insurance Policies. Buyer shall have the right to inspect the original policies of insurance applicable to this Agreement at Supplier's place of business during regular business hours.
- 27.6 Supplier's Minimum Insurance Requirements.
- 27.6.1 Worker's Compensation. Workers' compensation insurance in the form and manner required by statutory requirements and endorsement providing insurance for obligations under the U.S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act where applicable. Employer's liability insurance with the following limits: (a) one million dollars (\$1,000,000.00) per each bodily injury by accident; (b) one million dollars (\$1,000,000.00) per each employee bodily injury by occupational disease; and (c) one million dollars (\$1,000,000.00) in the annual aggregate per each bodily injury by occupational disease.
- 27.6.2 General Liability. General liability insurance including bodily injury, property damage, products/completed operations, contractual and personal injury liability with a combined single limit of at least five million dollars (\$5,000,000) per occurrence and at least five million dollars (\$5,000,000) annual aggregate.
- 27.6.3 Automobile Liability. Automobile liability insurance including owned, non-owned and hired automobiles with combined bodily injury and property damage with a combined single limit of at least two million dollars (\$2,000,000). The minimum insurance limits set forth in Sections 27.6.1, 27.6.2, and 27.6.3 can be met by Supplier's underlying workers' compensation/employer's liability, general liability, and automobile liability policies in combination with an excess/umbrella insurance policy.
- 27.6.4 Failure to Comply. If Supplier fails to comply with the provisions of this Article 27, Supplier shall save harmless and indemnify Buyer from any direct or indirect Loss, including attorneys' fees and other costs of litigation,

resulting from the injury or death of any person or damage to any property if Buyer would have been protected had Supplier complied with the requirements of this Article 27, in accordance with the indemnification provisions of Article 18.

## **28. NO EXPECTATION OF CONFIDENTIALITY; PUBLIC STATEMENTS**

- 28.1 No Expectation of Confidentiality. Supplier has no expectation that any of the terms of this Agreement will be treated as confidential by Buyer, and Buyer has no obligation to seek confidential treatment of this Agreement in connection with Buyer's Required Regulatory Approvals or otherwise.
- 28.2 Public Statements. The Parties shall consult with each other prior to issuing any public announcement, statement or other disclosure with respect to this Agreement and Supplier shall not issue any such public announcement, statement or other disclosure without having first received the written consent of Buyer, except as may be required by Law. Notwithstanding the foregoing, Supplier acknowledges and agrees that Buyer may advertise, issue brochures or make other announcements, publications or releases regarding this Agreement and the Facility for educational, promotional or informational purposes and Supplier may disclose this Agreement and information regarding the Facility to its members, officers, directors, employees, attorneys, agents and representatives in connection with the execution, delivery and performance of its obligations under this Agreement. Supplier shall reasonably cooperate with Buyer regarding such activities, including providing Buyer with reasonable access to the Facility and authorizing the use of pictures of the Facility for such activities. It shall not be deemed a violation of this Section 28.2 to file this Agreement with the PUCN or FERC or any other Governmental Authority in connection with Buyer's Required Regulatory Approvals, Supplier's Required Regulatory Approvals or otherwise.

## **29. MISCELLANEOUS**

- 29.1 Notices.
- 29.1.1 All notices, requests, demands, submittals, waivers and other communications required or permitted to be given under this Agreement (each, a "Notice") shall, unless expressly specified otherwise, be in writing and shall be addressed, except as otherwise stated herein, to the Parties' Contract Representatives as set forth in Exhibit 4, as the same may be modified from time to time by Notice from the respective Party to the other Party.
- 29.1.2 All Notices required by this Agreement shall be sent by regular first class U.S. mail, registered or certified U.S. mail (postage paid return receipt requested), overnight courier delivery, or electronic mail. Such Notices will be effective upon receipt by the addressee, except that Notices transmitted by electronic mail shall be deemed to have been validly and effectively given on the day (if a Business Day and, if not, on the next following Business Day) on which it is transmitted if transmitted before 16:00 PPT,

and if transmitted after that time, on the following Business Day. If any Notice sent by regular first class U.S. mail, registered or certified U.S. mail postage paid return receipt requested, or overnight courier delivery is tendered to an addressee and the delivery thereof is refused by such addressee, then such Notice shall be deemed validly and effectively given upon such tender. All oral notifications required under this Agreement shall be made to the receiving Party's Contract Representative or Operating Representative (as applicable) and shall promptly be followed by Notice as provided in this Section 29.1.

29.1.3 Notices of Force Majeure or an Event of Default pursuant to Article 20 or Article 24, respectively, and Notices of a change to Exhibit 4 shall be sent either by registered or certified U.S. mail (postage paid return receipt requested), overnight courier delivery or electronic mail. If any such Notice is sent via electronic mail, then a copy of such Notice shall also be sent either by registered or certified U.S. mail (postage paid return receipt requested), or overnight courier delivery. Such Notices will be effective as provided in Section 29.1.2.

29.1.4 Any payments required to be made to a Party under this Agreement shall be made pursuant to the payment instructions in Exhibit 4, as such payment instructions may be amended by such Party from time to time by Notice to the other Party.

29.2 Merger. This Agreement contains the entire agreement and understanding between the Parties with respect to all of the subject matter contained herein, thereby merging and superseding all prior agreements and representations by the Parties with respect to such subject matter contained herein whether written or oral.

29.3 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

29.4 Rules of Construction; Interpretation. Unless otherwise required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) references to "Articles," "Sections," "Schedules," or "Exhibits" are to articles, sections, schedules, or exhibits hereof; (c) all references to a particular Person include a reference to such Person's permitted successors and assigns; (d) "herein," "hereof" and "hereunder" refer to this Agreement as a whole; (e) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles, consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) "including" (and the correlative terms "include," "includes" and "included") means "including, without limitation" or "including, but not limited to"; (h) all references to a particular Law means that Law as amended, supplemented or otherwise modified from time to time; (i) all references to energy or capacity are to be interpreted as utilizing alternating current, unless expressly stated otherwise; and (j) the word "or" is not necessarily exclusive. Reference to "days," "months," "quarters" and "years" shall be to calendar days, months, quarters and years, unless expressly stated otherwise herein. In the event an ambiguity or question of intent or interpretation arises with respect to this

Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of authorship of any of the provisions of this Agreement. Any reference to any Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

- 29.5 Headings and Titles. The headings and section titles in this Agreement are for convenience of the Parties only and shall not be used to construe this Agreement.
- 29.6 Discontinued or Modified Index. If any index publisher discontinues publishing or substantially modifies any index utilized herein, then the index used herein will be modified to the most appropriate available index, with appropriate adjustments to take into account any changes in the location of measurement.
- 29.7 Severability. If any term, provision or condition of this Agreement is held to be invalid, void or unenforceable by a Governmental Authority and such holding is subject to no further appeal or judicial review, then such invalid, void, or unenforceable term, provision or condition shall be deemed severed from this Agreement and all remaining terms, provisions and conditions of this Agreement shall continue in full force and effect. The Parties shall endeavor in good faith to replace such invalid, void or unenforceable terms, provisions or conditions with valid and enforceable provisions which achieve the purpose intended by the Parties to the greatest extent permitted by Law.
- 29.8 Waivers; Remedies Cumulative. No failure or delay on the part of a Party in exercising any of its rights under this Agreement or in insisting upon strict performance of provisions of this Agreement, no partial exercise by either Party of any of its rights under this Agreement, and no course of dealing, usage of trade or course of performance between the Parties shall constitute a waiver of the rights of either Party under this Agreement. Any waiver shall be effective only by a written instrument signed by the Party granting such waiver, and such shall not operate as a waiver of, or estoppel with respect to, any subsequent failure to comply therewith. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided by Law or in equity.
- 29.9 Amendments. Amendments or modifications to this Agreement must be in writing and executed by an authorized representative of each Party. Buyer may determine that submitting an amendment or modification to this Agreement to the PUCN and FERC, as applicable, for filing, acceptance or approval shall be a condition precedent to the effectiveness of any such amendment.
- 29.10 Time is of the Essence. Time is of the essence to this Agreement and in the performance of all of the covenants, agreements, obligations and conditions hereof.
- 29.11 Choice of Law. This Agreement and the rights and obligations of the Parties hereunder shall be construed and governed by the Laws of the State of Nevada, except for such Laws that would require the application of the Laws of another jurisdiction.

- 29.12 Further Assurances. The Parties agree to execute and deliver promptly, at the expense of the Party requesting such action, any and all other and further instruments, documents and information which a Party may request and which are reasonably necessary or appropriate to give full force and effect to the terms and intent of this Agreement. Without limiting the foregoing, whenever revised or updated exhibits are delivered or generated hereunder for attachment to this Agreement, the Parties will memorialize the same in a reasonable written instrument, to be executed and delivered by both Parties.
- 29.13 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder constitute a “forward contract” within the meaning of the United States Bankruptcy Code.
- 29.14 No Third-Party Beneficiaries. Nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder, and this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder.
- 29.15 Specific Performance. Buyer shall be entitled to seek and obtain a decree compelling specific performance or granting injunctive relief with respect to, and shall be entitled, to enjoin any actual or threatened breach of any material obligation of Supplier hereunder. The Parties agree that specific performance (including temporary and preliminary relief) and injunctive relief are proper in the event of any actual or threatened breach of any material obligation of Supplier hereunder, and that any liability limits contained herein shall not operate to limit the exercise of Buyer’s remedies in equity to cause Supplier to perform its obligations hereunder. Supplier agrees that it will not assert as a defense to Buyer’s action for specific performance of, or injunctive relief relating to, Buyer’s obligations hereunder that the amounts payable or paid by Supplier in respect of liquidated damages constitute an adequate remedy for the breach of such obligation, and Supplier hereby conclusively waives such defense. Supplier shall at all times during the Term, own, lease, control, hold in its own name or be signatory to (as the case may be) all assets relating to the Facility to the extent necessary to prevent a material adverse effect on Buyer’s right to specific performance or injunctive relief.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representative as of the Effective Date.

**BUYER:**

**NEVADA POWER COMPANY d/b/a NV  
ENERGY**

By: 

Name: Douglas A. Cannon  
Title: President

**SUPPLIER:**

**TECHREN SOLAR V, LLC**

Techren Solar, LLC

Techren Holdco, LLC  
a Delaware limited liability company  
Its: Manager

By: 174 Power Global Corporation,  
a Delaware corporation  
Its: Manager

By: 

Name: Henry Yun  
Title: President

## **EXHIBIT 1**

### **DESCRIPTION OF FACILITY**

1. Name of Generating Facility: Techren Solar V

(a) Location: El Dorado Valley, City of Boulder City, Clark County, NV, USA

(b) Delivery Point: 230kV Nevada Solar One (“NSO”) substation

2. Supplier: Techren Solar V, LLC

3. Parent: Majority (80%) indirectly owned by 174 Power Global Corporation

4. Operator: 174 Power Global Corporation

5. Equipment:

(a) Type of Generating Facility: Photovoltaic Solar

(b) Installed Nameplate Capacity:

(i) Total capacity: 52.6 MVA

(ii) Expected Nameplate Capacity Rating: 50.0 MW AC @ +/- 0.95, subject to the provisions of Section 3.4.5

(iii) Total gross output capacity: 50.7 MW

(iv) Total capacity net of Station Usage: 50.0 MW

(c) Additional Technology Specific Information, if any: None.

6. Operating Characteristics of Generating Facility:

(a) VAR, leading: 16.3M VAR

(b) VAR, lagging (-): 16.3 MVAR

(c) Controlled Ramp Rate (MW/minute): 25

(d) Minimum Operating Capacity (MW): 1.0

(e) Power Factor: +/- 0.95, subject to the provisions of Section 3.4.5

**EXHIBIT 2A**

**PRODUCT RATES**

**PRODUCT RATE**

The Product Rate shall be \$29.89 per MWh.



**EXHIBIT 2B****FORM OF MONTHLY ENERGY INVOICE****Supplier Letterhead****Facility:** \_\_\_\_\_**Date:** \_\_\_\_\_**Facility ID:** \_\_\_\_\_**Billing Period:** \_\_\_\_\_**Invoice Number:** \_\_\_\_\_**CURRENT MONTHLY BILLING DATA INPUT**

<b>Pricing</b>	<b>\$/MWh</b>
Product Rate	_____
Provisional Rate	_____
Test Energy Rate	_____

<b>Monthly Supply Amount (kWh)</b>	<b>On-Peak</b>
Supply Amount	_____

**Excused Product**

Planned Outages	_____
Force Majeure	_____
Emergencies	_____
Curtailed Product	_____
Economic Curtailed Product	_____
<b>Total Excused Product</b>	_____

<b>Delivered Amount (kWh)</b>	<b>On-Peak</b>	<b>Off-Peak</b>
Net Energy (excluding Excess Energy)	_____	_____
Excess Energy	_____	_____
<b>Total Delivered Amount</b>	_____	_____

**CURRENT MONTHLY INVOICE CALCULATION**

	<b>Net Energy</b>		<b>Rate/kWh</b>		<b>Amount</b>
a. Product <sup>1</sup>	_____	x	_____	=	\$ _____
b. Excess Energy	_____	x	_____	=	\$ _____
c. Provisional Energy	_____	x	_____	=	\$ _____
d. Test Energy	_____	x	_____	=	\$ _____
e. Shortfall/Replacement Cost (from page 2B-2)					\$ _____
<b>f. Total Product Payment (a+b+c+d-e+f)</b>					\$ _____
g. Adjustments (+/-)					\$ _____
<b>TOTAL AMOUNT DUE (f + g)</b>					\$ _____

**PAYMENT DUE DATE NO LATER THAN:** \_\_\_\_\_<sup>1</sup> Excluding Provisional Energy and Test Energy

## **EXHIBIT 2B**

### **FORM OF MONTHLY ENERGY INVOICE**

#### **REPLACEMENT COST CALCULATION – For Billing Period: September**

##### **Summer On-Peak**

a. Monthly On-Peak Supply Amounts \_\_\_\_\_ kWh  
b. Excused Product – On-Peak \_\_\_\_\_ kWh  
c. Difference (a – b) \_\_\_\_\_ kWh  
d. 90% of Difference (0.90 \* c) \_\_\_\_\_ kWh  
e. Delivered Amount \_\_\_\_\_ kWh

Shortfall (Y/N)? \_\_\_\_\_

f. Shortfall Amount (max d – e or zero) \_\_\_\_\_ kWh

##### **Replacement Cost Calculation**

g. Average On-Peak Mead \_\_\_\_\_ \$/MWh  
h. Summer On-Peak Product Rate \_\_\_\_\_ \$/MWh  
i. Difference (max g – h or zero) \_\_\_\_\_ \$/MWh

j. 10% of Product Rate (0.1 x i) \_\_\_\_\_ \$/MWh

k. Replacement Cost (max of f \* j or f \* i) \$ \_\_\_\_\_

#### **REPLACEMENT COST CALCULATION – For Billing Period: December**

##### **Non-Summer On-Peak**

l. Monthly On-Peak Supply Amounts \_\_\_\_\_ kWh  
m. Excused Product – On Peak \_\_\_\_\_ kWh  
n. Difference (l – m) \_\_\_\_\_ kWh  
o. 90% of Difference (0.90 \* n) \_\_\_\_\_ kWh

p. Delivered Amount \_\_\_\_\_ kWh

q. Shortfall (Y/N)? \_\_\_\_\_

r. Shortfall Amount (max o – p or zero) \_\_\_\_\_ kWh

##### **Replacement Cost Calculation**

s. Average On-Peak Mead \_\_\_\_\_ \$/MWh  
t. Non-Summer On-Peak Product Rate \_\_\_\_\_ \$/MWh  
u. Difference (max s – t or zero) \_\_\_\_\_ \$/MWh

v. Replacement Cost (r \* u) \$ \_\_\_\_\_

**EXHIBIT 2B**

## FORM OF MONTHLY ENERGY INVOICE DETAIL

[illegible]

**EXHIBIT 2C**

**FORM OF PC REPLACEMENT INVOICE**

**Buyer Letterhead**

Facility: \_\_\_\_\_  
Facility ID: \_\_\_\_\_

Date: \_\_\_\_\_  
Contract Year(s): \_\_\_\_\_  
Invoice Number: \_\_\_\_\_  
Payment Due Date: \_\_\_\_\_

**Contract Year Data**

**PCs**

a. Yearly PC Amount

\_\_\_\_\_

b. Delivered PCs

\_\_\_\_\_

PCs associated with Excused Product

\_\_\_\_\_

c. Planned Outage

\_\_\_\_\_

d. Force Majeure

\_\_\_\_\_

e. Emergencies

\_\_\_\_\_

f. Curtailed Product

\_\_\_\_\_

g. Economic Curtailed Product

\_\_\_\_\_

h. Excused Product (c + d + e + f + g)

\_\_\_\_\_

**i. PC Shortfall Amount (a – b – h)**

\_\_\_\_\_

=====

**PC REPLACEMENT CALCULATION**

j. PC Replacement Rate

\$ \_\_\_\_\_

**k. PC REPLACEMENT COSTS (i \* j)**

\$ \_\_\_\_\_

## **EXHIBIT 3A**

### **DESCRIPTION OF PROJECT SITE**

The description below is for the full 400 MW project site. Description for the 50 MW project site to be determined.

#### **LEGAL DESCRIPTION**

THOSE PORTIONS OF SECTION 34, AND SECTION 35, IN TOWNSHIP 23 SOUTH, RANGE 63 EAST, M.D.M. AND THOSE PORTIONS OF SECTION 3, SECTION 4, SECTION 8, SECTION 9, SECTION 16, SECTION 17, SECTION 18, SECTION 19 AND SECTION 20, IN TOWNSHIP 24 SOUTH, RANGE 63 EAST, M.D.M. IN THE CITY OF BOULDER CITY, COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE COMMON LINE BETWEEN SECTION 4 AND SECTION 9, FROM SAID POINT THE CORNER OF SECTION 3, SECTION 4, SECTION 9 AND SECTION 10 BEARS NORTH 89°35'24" EAST 1921.40 FEET; THENCE SOUTH 13°41'23" WEST 4803.38 FEET; THENCE SOUTH 25°31'23" WEST 4510.41 FEET; THENCE SOUTH 39°28'35" WEST 6812.08 FEET; THENCE NORTH 90°00'00" WEST 5358.62 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF A 200-FOOT WIDE RIGHT-OF-WAY FOR THE SOUTHERN CALIFORNIA EDISON ELDORADO NO.1 TRANSMISSION LINE, BUREAU OF LAND MANAGEMENT SERIAL NUMBER NVN-02795 ; THENCE NORTH 10°22'01" EAST 1831.37 FEET ALONG SAID RIGHT-OF-WAY TO THE POINT OF INTERSECTION WITH THE SOUTHEASTERLY LINE OF A BUREAU OF LAND MANAGEMENT 2000-FOOT WIDE UTILITY CORRIDOR N-2795 PER BLM ADMINISTRATIVE SURVEY DATED SEPTEMBER 16, 2013, SAID POINT MONUMENTED WITH A FOUND BUREAU OF LAND MANAGEMENT BRASS CAP DATED 2012; THENCE NORTH 39°28'35" EAST 29926.54 FEET ALONG A SAID SOUTHEASTERLY LINE OF THE 2000-FOOT WIDE UTILITY CORRIDOR TO THE POINT OF INTERSECTION WITH THE SOUTHWESTERLY LINE OF A 60-FOOT WIDE EXISTING ACCESS ROAD RIGHT-OF-WAY; THENCE SOUTH 71°39'56" EAST 406.87 FEET ALONG SAID SOUTHWESTERLY LINE AND RIGHT-OF-WAY TO THE NORTHEAST CORNER OF THE TECHREN LEASE AS PER MAP IN FILE 186, PAGE 1 OF SURVEYS, SAID POINT MONUMENTED WITH A FOUND ALUMINUM CAP STAMPED "PLS 7953 EG RADIG, INC", SAID POINT ALSO BEING ON THE NORTHWESTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 95; THENCE SOUTH 9°38'08" WEST 7369.77 FEET ALONG SAID RIGHT-OF-WAY; THENCE NORTH 50°31'25" WEST 2196.62 FEET; THENCE SOUTH 39°28'35" WEST 6359.45 FEET TO THE POINT OF BEGINNING.

CONTAINS 2333.41 ACRES

Prepared by:  
Richard A. Ariotti, Nevada P.L.S. No. 7953  
Acting as Agent for:

E.G. Radig, Inc.  
1577 Foothill Drive #1  
Boulder City, NV 89005  
Phone: (702) 293-3330  
Fax: (702) 293-6153



4-10-17

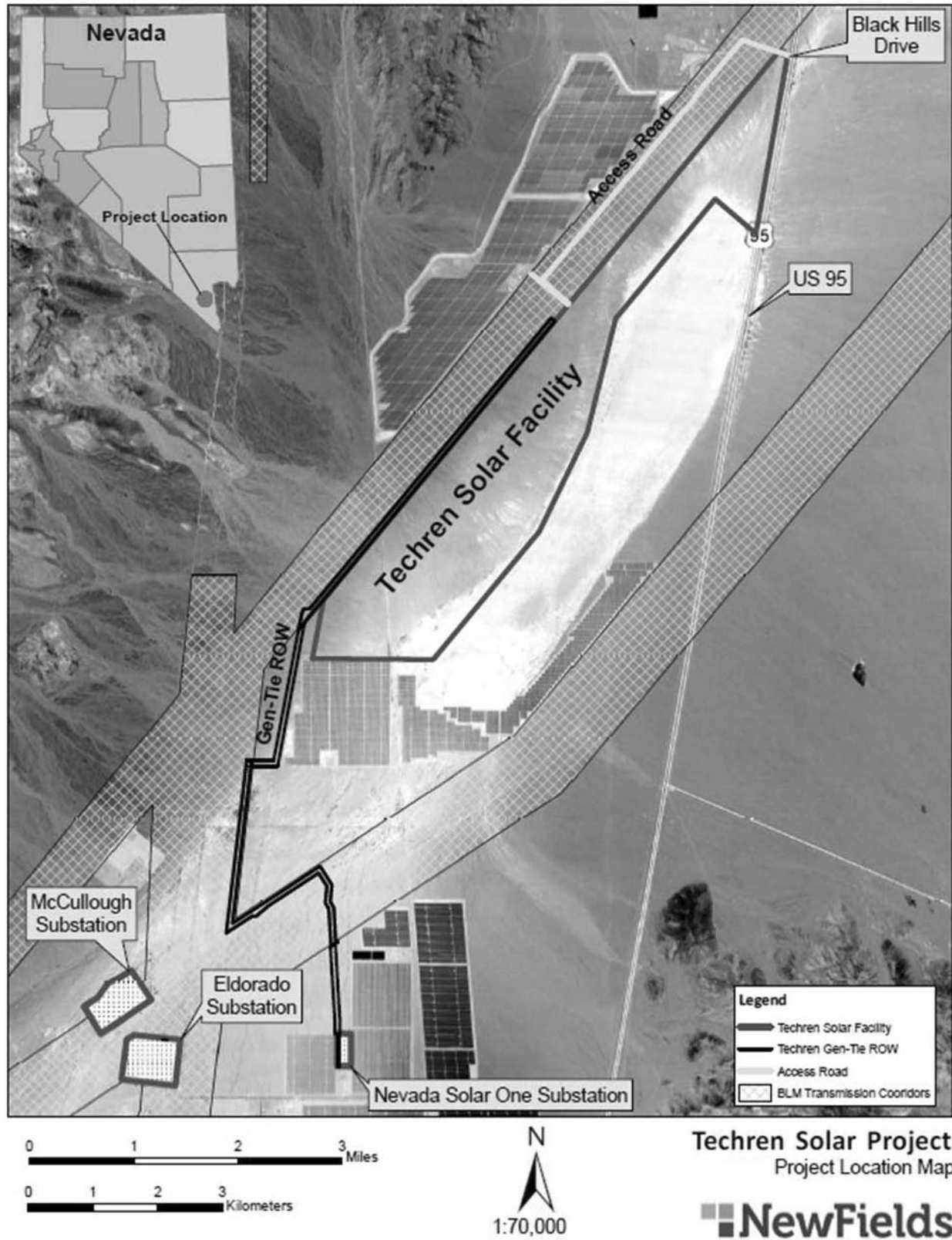
### **EXHIBIT 3B**

#### **MAP DEPICTING PROJECT SITE**

The map attached on the following page is for the full 400 MW project site. Specificity for the 50 MW project site to be determined by Supplier.

## EXHIBIT 3B

### MAP DEPICTING PROJECT SITE



## **EXHIBIT 4**

### **NOTICES, BILLING AND PAYMENT INSTRUCTIONS**

#### **SUPPLIER:**

**Techren Solar V LLC**

<b>Contact</b>	<b>Mailing Address</b>	<b>Phone</b>	<b>E-mail</b>
----------------	------------------------	--------------	---------------

#### **CONTRACT REPRESENTATIVE:**

Prior to Commercial Operation Date:

Larry Greene	174 Power Global, 300 Spectrum Center Drive, Suite 1020, Irvine, CA 92618	760-402-1231	Larry.Greene@174powerglobal.com
--------------	---	--------------	---------------------------------

From and after Commercial Operation Date:

DJ Kim	174 Power Global, 300 Spectrum Center Drive, Suite 1020, Irvine, CA 92618	949-748-5996, x310	DJ.Kim@174powerglobal.com
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#### **OPERATING REPRESENTATIVE:**

Ken Kostock	174 Power Global, 300 Spectrum Center Drive, Suite 1020, Irvine, CA 92618	562-756-3045	Ken.Kostok@174powerglobal.com
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#### **OPERATING NOTIFICATIONS:**

Prescheduling  
Real-Time  
Monthly Checkout

DJ Kim	174 Power Global, 300 Spectrum Center Drive, Suite 1020, Irvine, CA 92618	949-748-5996, x310	DJ.Kim@174powerglobal.com
--------	---	--------------------	---------------------------

#### **INVOICES:**

DJ Kim	174 Power Global, 300 Spectrum Center Drive, Suite 1020, Irvine, CA 92618	949-748-5996, x310	DJ.Kim@174powerglobal.com
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#### **PAYMENT INSTRUCTIONS**

##### **Payment by Wire Transfer:**

Bank Name	BBCN Bank
Bank Address	16 W 32 <sup>nd</sup> Street New York, NY 10001
Account Name	Techren Solar LLC
ABA	026013246
Account Number	6400110997
Reference	



## **EXHIBIT 4**

### **NOTICES, BILLING AND PAYMENT INSTRUCTIONS**

#### **BUYER: NV ENERGY**

Nevada Power Company d/b/a NV Energy

<b>Contact</b>	<b>Phone</b>	<b>E-mail</b>
<b>CONTRACT REPRESENTATIVE:</b>		
Manager, Energy Supply Contract Management 6226 W Sahara Ave, M/S 26A Las Vegas, NV 89146	702/402-5667	<a href="mailto:ContractManagement@nvenergy.com">ContractManagement@nvenergy.com</a>
<b><u>OPERATING REPRESENTATIVES</u></b>		
<b><u>Scheduling</u></b>		
- Portfolio Analytics-NPC (Normal Business Hours)	702/402-2882	<a href="mailto:PortfolioAnalytics@nvenergy.com">PortfolioAnalytics@nvenergy.com</a>
- Portfolio Analytics-SPPC (Normal Business Hours)	702/402-2884	<a href="mailto:PortfolioAnalytics@nvenergy.com">PortfolioAnalytics@nvenergy.com</a>
- Generation Dispatch (Control Area Operations)	702/402-7111	<a href="mailto:Sysopr@nvenergy.com">Sysopr@nvenergy.com</a>
- Daily Availability Notice-NPC (Spreadsheet)	702/402-2882	<a href="mailto:PortfolioAnalytics@nvenergy.com">PortfolioAnalytics@nvenergy.com</a>
- Daily Availability Notice-SPPC (Spreadsheet)	702/402-2884	<a href="mailto:PortfolioAnalytics@nvenergy.com">PortfolioAnalytics@nvenergy.com</a>
<b><u>Emergencies (including Force Majeure)</u></b>		
- Grid Reliability	775/834-4216	<a href="mailto:Grid_Reliability@nvenergy.com">Grid_Reliability@nvenergy.com</a>
- Portfolio Analytics	702/402-1954	<a href="mailto:PortfolioAnalytics@nvenergy.com">PortfolioAnalytics@nvenergy.com</a>
<b><u>Planned Outages-NPC</u></b>		
	702/402-6602	<a href="mailto:escoc@nvenergy.com">escoc@nvenergy.com</a>
<b><u>Planned Outages-SPPC</u></b>		
	775/834-4716	<a href="mailto:escoc@nvenergy.com">escoc@nvenergy.com</a>
<b><u>Metering-NPC</u></b>		
	702/402-6110	<a href="mailto:NPCMeterOps@nvenergy.com">NPCMeterOps@nvenergy.com</a>
<b><u>Metering-SPPC</u></b>		
	775/834-7156	<a href="mailto:Electric_Meter_Ops_North@nvenergy.com">Electric_Meter_Ops_North@nvenergy.com</a>
<b><u>INVOICES</u></b>		
Energy Supply Contract Management 6226 W Sahara Ave, M/S 26A Las Vegas, NV 89146	702/402-5667	<a href="mailto:ContractManagement@nvenergy.com">ContractManagement@nvenergy.com</a>
<b><u>CC all invoices to:</u></b>		
Fuel & Purchased Power Accounting 6100 Neil Road, M/S S2A20 Reno, NV 89511	775/834-6281	<a href="mailto:cmcelwee@nvenergy.com">cmcelwee@nvenergy.com</a>

#### **“EVENT OF DEFAULT”, “COMMERCIAL OPERATION DATE” AND “FORCE MAJEURE”**

**CC all notices to:**  
Office of General Counsel  
6226 W. Sahara Ave, M/S 3A  
Las Vegas, NV 89146

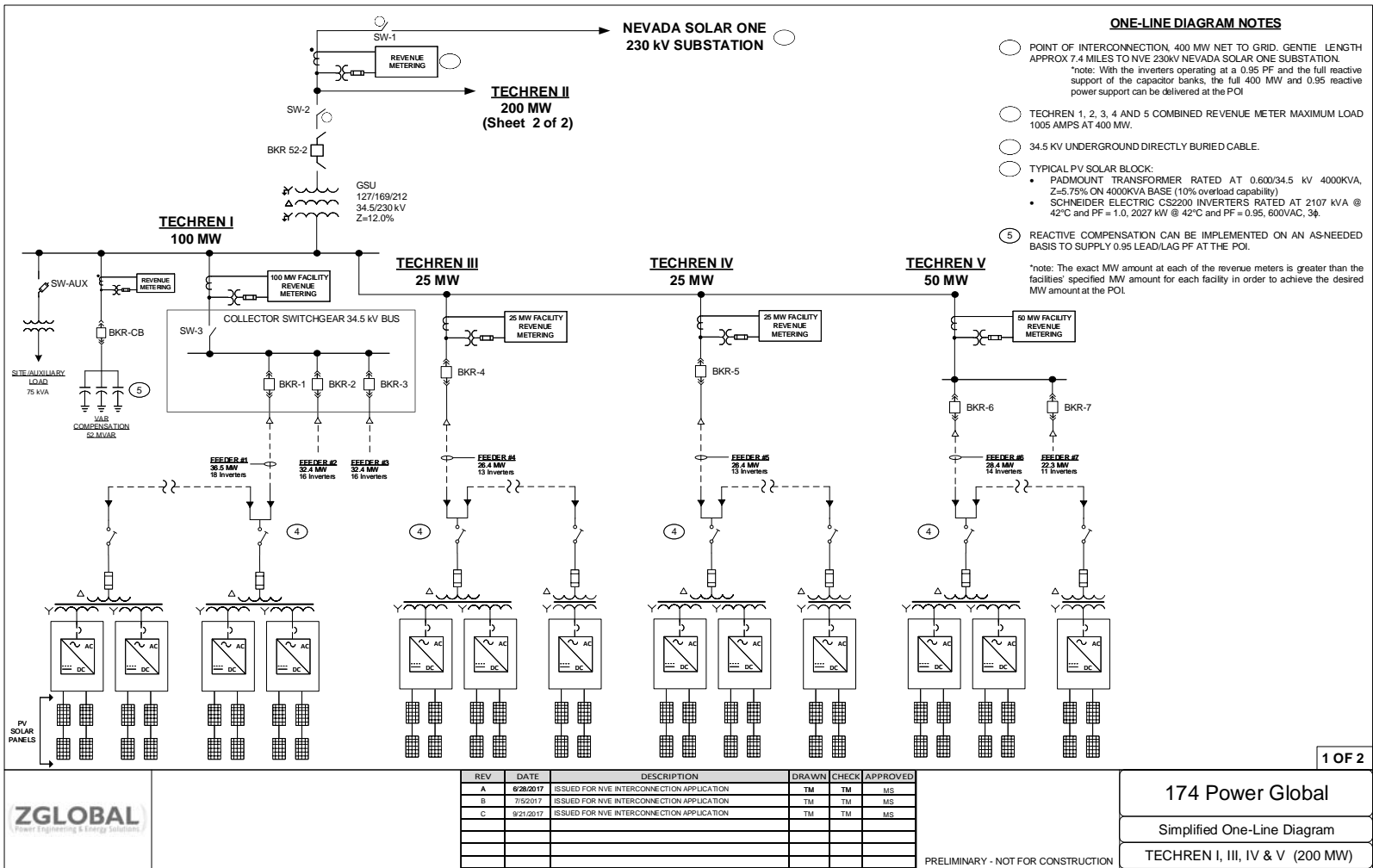
## **EXHIBIT 5**

### **ONE-LINE DIAGRAM OF FACILITY AND DELIVERY POINT**

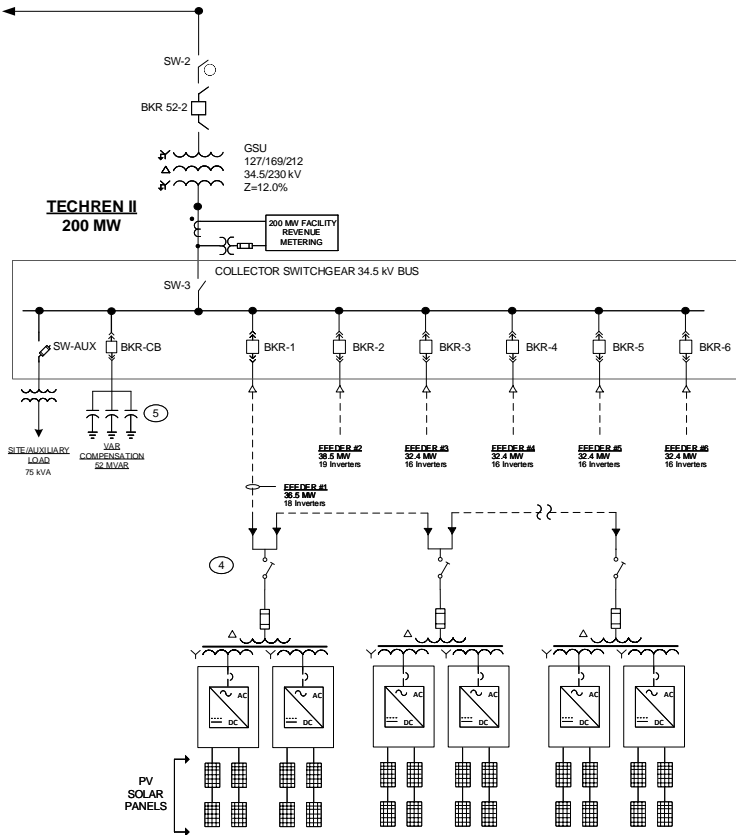
Attached is a one-line diagram of the Facility, which indicates the Delivery Point and the ownership and the location of Meters.<sup>2</sup>

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<sup>2</sup> NTD: Exhibit 5 to reflect Meters at the Delivery Point and at the Storage Facility Metering Point, as well as at such other points as may be necessary to facilitate calculation of payments under this Agreement.



TECHREN I, III, IV, & V  
200 MW  
(Sheet 1 of 2)



#### ONE-LINE DIAGRAM NOTES

- ① NOT APPLICABLE.
- ② NOT APPLICABLE.
- ③ 34.5 KV UNDERGROUND DIRECTLY BURIED CABLE.
- ④ TYPICAL PV SOLAR BLOCK:
  - PADMOUNT TRANSFORMER RATED AT 0.600/34.5 kV 4000KVA, Z=5.75% ON 4000KVA BASE (10% overload capability)
  - SCHNEIDER ELECTRIC CS2200 INVERTERS RATED AT 2107 kVA @ 42°C and PF = 1.0, 2027 kW @ 42°C and PF = 0.95, 600VAC, 3φ.
- REACTIVE COMPENSATION CAN BE IMPLEMENTED ON AN AS-NEEDED BASIS TO SUPPLY 0.95 LEAD/LAG PF AT THE POI.

\*note: The exact MW amount at each of the revenue meters is greater than the facilities' specified MW amount for each facility in order to achieve the desired MW amount at the POI.

2 OF 2

REV	DATE	DESCRIPTION	DRAWN	CHECK	APPROVED
A	6/28/2017	ISSUED FOR NVE INTERCONNECTION APPLICATION	TM	TM	MS
B	7/5/2017	ISSUED FOR NVE INTERCONNECTION APPLICATION	TM	TM	MS
C	9/21/2017	ISSUED FOR NVE INTERCONNECTION APPLICATION	TM	TM	MS

PRELIMINARY - NOT FOR CONSTRUCTION

174 Power Global

Simplified One-Line Diagram

TECHREN II (200 MW)

## **EXHIBIT 6**

### **PROJECT MILESTONE SCHEDULE**

1. All time periods are in months after the PUCN Approval Date (designated as “AA” below). Any other timing is as otherwise described in specific items below. Buyer will update this Exhibit 6 with actual dates after the PUCN Approval is received.

2. All milestones may be completed earlier than stated times, at the sole option of Supplier.

- A) Project Milestone: Supplier shall obtain all Required Facility Documents to construct the Facility.

Completion Date: Fifteen (15) months AA.

Documentation: Supplier shall provide Buyer with an officer’s certificate from an authorized representative of Supplier certifying that the Required Facility Documents to construct the Facility as listed in Exhibit 12 have been obtained, together with the metering system design for the Facility (submitted for Buyer’s approval in accordance with Section 7.1) and a completed version of Exhibit 14.

- B) Project Milestone: Supplier’s major equipment shall be delivered to the Project Site

Completion Date: Eighteen (18) months AA.

Documentation: Supplier shall provide Buyer with documentation that the major equipment (including step-up and medium voltage transformers [and inverters]) has been delivered to the Project Site.

- C) Project Milestone: Supplier shall obtain the Required Facility Documents to operate (but not achieve Commercial Operation) the Facility, including registration with PC Administrator.

Completion Date: Twenty (20) months AA.

Documentation: Supplier shall provide Buyer with an officer’s certificate from an authorized representative of Supplier certifying that Required Facility Documents to operate (but not achieve Commercial Operation) the Facility as listed in Exhibit 12 have been obtained, together with reasonable documentation evidencing registration with PC Administrator.

- D) Project Milestone: The Facility achieves the Operation Date.

Completion Date: Twenty-one (21) months AA.

Documentation: Buyer’s Meters shall record Energy being delivered from the Generating Facility to Buyer and Supplier provides written notice to Buyer that the Facility satisfies the definition of Operation Date.

### **CRITICAL PROJECT MILESTONES**

## **EXHIBIT 6**

### **PROJECT MILESTONE SCHEDULE**

- E) Project Milestone: Supplier shall demonstrate to Buyer that it has complete financing for construction of the Facility.

Completion Date: Fifteen (15) months AA.

Documentation: Supplier shall provide Buyer with an officer's certificate from an authorized Representative of Supplier certifying that debt and equity financing arrangements have been executed for funding of 100% of the construction financing of the Facility.

- F) Project Milestone: Notice to Proceed has been issued to the Construction Contractor under the Construction Contract and construction of the Facility has commenced.

Completion Date: Fifteen (15) months AA.

Documentation: Supplier shall provide Buyer a copy of the executed Notice to Proceed acknowledged by the Construction Contractor and documentation from qualified professionals which indicates that physical work has begun at the Project Site regarding the construction of the Facility, as well as an ALTA Survey for the Project Site.

- G) Project Milestone: The Facility achieves the Commercial Operation Date.

Completion Date: The later of the 1<sup>st</sup> day of the month following twenty-four (24) months AA and December 31, 2020 ("Commercial Operation Deadline").

Documentation: Supplier provides certifications required by Section 8.3.2 to Buyer.

## **EXHIBIT 7**

### **PERFORMANCE TESTS**

1. Performance tests required by the Construction Contract.
2. Such other tests as may be required by Law or by Buyer to document resource supply.

**EXHIBIT 8**

**FORM OF AVAILABILITY NOTICE**

Unit Name	Date	Measure	HE 01	HE 02	HE 03	HE 04	HE 05	HE 06	HE 07	HE 08	HE 09	HE 10	HE 11	HE 12	HE 13	HE 14	HE 15	HE 16	HE 17	HE 18	HE 19	HE 20	HE 21	HE 22	HE 23	HE 24
	Day 1	BaseMW																								
	Day 2	BaseMW																								
	Day 3	BaseMW																								
	Day 1	Max Capability																								
	Day 2	Max Capability																								
	Day 3	Max Capability																								
	Day 1	Min Capability																								
	Day 2	Min Capability																								
	Day 3	Min Capability																								
	Day 1	Min Capability																								
	Day 2	Min Capability																								
	Day 3	Min Capability																								

Note: Form of Availability Notice to be provided by Buyer to Supplier in Excel format. The format of the form may not be changed, except by Buyer.

Date For Notice:

\_\_\_\_\_

Supplier:

\_\_\_\_\_

Name of Suppliers Representative:

\_\_\_\_\_



## **EXHIBIT 8**

### **FORM OF AVAILABILITY NOTICE**

Buyer: Nevada Power Company

Contact Info: Supplier Address here

City, State, Zip here

123-456-7890

Hour	Net Availability From Plant MWh	Total Derating MWh	Plant Total MWh	Cause and Time of Derating
1:00	0	0	0	
2:00	0	0	0	
3:00	0	0	0	
4:00	0	0	0	
5:00	0	0	0	
6:00	0	0	0	
7:00	0	0	0	
8:00	0	0	0	
9:00	0	0	0	
10:00	0	0	0	
11:00	0	0	0	
12:00	0	0	0	
13:00	0	0	0	
14:00	0	0	0	
15:00	0	0	0	
16:00	0	0	0	
17:00	0	0	0	
18:00	0	0	0	
19:00	0	0	0	
20:00	0	0	0	
21:00	0	0	0	
22:00	0	0	0	
23:00	0	0	0	
0:00	0	0	0	
Total	0	0	0	

Note: Supplier to submit Form of Availability Notice in Excel format to Balancing Authority Area Operator as identified in Exhibit 4 Notices. Form requires 7 days of availability.

## **EXHIBIT 9**

### **BUYER'S REQUIRED REGULATORY APPROVALS**

1. PUCN Approval of this Agreement.
2. [Other Buyer Required Regulatory Approvals may be required on a case by case basis].

## **EXHIBIT 10**

### **SUPPLIER'S REQUIRED REGULATORY APPROVALS**

1. Renewable Energy System certification.
2. PUCN Approval of this Agreement.
3. Although obtaining EWG status is not a Supplier Required Regulatory Approval, if Supplier elects to obtain EWG status for the Facility, Supplier shall obtain: (a) a Notice of Self Certification as an EWG, or (b) an order from FERC granting the Facility EWG status.
4. Based on Supplier's status as a "public utility" under the Federal Power Act, FERC authorization under section 205 of the Federal Power Act to make sales of electric energy, capacity, and ancillary services from the Facility.

## **EXHIBIT 11**

### **TECHNICAL SPECIFICATIONS**

In accordance with Section 8.1, Supplier shall provide: (a) not later than Supplier's completion of the Project Milestone relating to obtaining Required Facility Documentation (Section 2(A) of Exhibit 6), a completed version of Exhibit 14; and (b) within thirty (30) Business Days after the Commercial Operation Date, a revised version of Exhibit 14 reflecting the Facility as built.

## **EXHIBIT 12**

### **REQUIRED FACILITY DOCUMENTS**

In accordance with Section 8.1, Supplier shall provide, not later than Supplier's completion of the Project Milestone relating to obtaining Required Facility Documentation (Section 2(a) of Exhibit 6), a completed version of Exhibit 11.1.

1. Bureau of Land Management, right of way grant issued pursuant to the Federal Land Policy Management Act and implementing regulations at 43 C.F.R. Part 2800, including environmental review under the National Environmental Policy Act.
2. U.S. Fish and Wildlife Service, Endangered Species Act, biological assessment, biological opinion and incidental take permit (ITP) for desert tortoise.
3. Clark County Multiple Species Habitat Conservation Plan (MSHCP), desert tortoise.
4. Public Utilities Commission of Nevada, Utilities Environmental Policy Act, order and permit to construct.
5. California Energy Commission, Renewable Portfolio Standard Pre-Certification and Certification, if applicable.
6. Western Renewable Energy Generation Information System (WREGIS), registrations, if applicable.
7. Nevada Department of Environmental Protection, Groundwater Discharge Permit.
8. Nevada Department of Environmental Protection, construction storm water general permit.
9. Clark County desert conservation, request for reserve disturbance.
10. State Historic Preservation Office, National Historic Preservation Act, Section 106 consultation and determination of no effect.
11. Clean Water Act, Section 404, jurisdictional determination and, if required, general permit/nationwide permit coverage.
12. Rivers and Harbors Act, Section 10, jurisdictional determination and, if applicable, general permit/nationwide permit coverage.
13. Clean Water Act, Section 401, state water quality certification, if required in connection with other permits.
14. City of Boulder, installation permit for fire detection and protection system and/or annual permit.
15. City of Boulder, transmission easement.
16. City of Boulder, Building Permit.
17. Nevada State Fire Marshall Hazardous Material Permit.
18. Nevada Department of Transportation, right of way occupancy permit.
19. Nevada Department of Wildlife, Special Purpose Permit (for scientific collection activities).
20. Nevada Department of Conservation and Natural Resources, Division of Water Resources, permit to drill groundwater well, if required.
21. Nevada Department of Environmental Protection, Air Quality Dust Control Permit.
22. City of Boulder, Grading Permit.
23. City of Boulder, on-site sanitary disposal permits.
24. City of Boulder, Department of Public Works and Development Services, approval.
25. Clark County and City of Boulder, crossing and/or encroachment permits.

## **EXHIBIT 12**

### **REQUIRED FACILITY DOCUMENTS**

26. Crossing consents or easements, Southwest Gas, Los Angeles Department of Water and Power, Western Area Power Administration, Valley Electric Association, SoCal Edison (and BLM consents if required).
27. U.S. Energy Information Administration, filing of Forms 860 and 923.
28. Federal Energy Regulatory Commission, certification of exempt wholesale generator status.
29. Public Utility Commission of Nevada, approval.
30. Conditionally Exempt Small Quantity Generator or Small Quantity Generator identification number, if required.
31. Project site lease option.
32. This Agreement.
33. Engineering, procurement and construction agreement.
34. Operating and maintenance agreement.
35. Shared Facilities Agreement, if applicable.
36. Interconnection agreement.
37. Nevada Division of Forestry, Critically Endangered Plant Species Incidental Take Permit (identified by Newfields in 2015 BLM Plan of Development Update, unclear whether still applicable).
38. Nevada Department of Transportation Right of Way Encroachment Permit
39. Nevada State Fire Marshall On-Site Fuel Storage Permit
40. Nevada State Fire Marshall, Hazardous Materials Roving Permit
41. Nevada Renewable Energy System certification
42. Utilities' permission to operate

**EXHIBIT 13****SUPPLY AMOUNT**

The Supply Amount(s) shall be the Energy amounts for each Delivery Hour that shall be delivered by Supplier to Buyer, pursuant to this Agreement, as specified by each value in the attached table below.

Hour Ending		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
0100	Off-Peak	-	-	-	-	-	-	-	-	-	-	-	-
0200		-	-	-	-	-	-	-	-	-	-	-	-
0300		-	-	-	-	-	-	-	-	-	-	-	-
0400		-	-	-	-	-	-	-	-	-	-	-	-
0500		-	-	-	-	-	0.1	-	-	-	-	-	-
0600		-	-	-	2.4	10.3	13.0	9.3	4.1	0.6	-	-	-
0700	On Peak	-	0.8	8.4	20.2	35.4	36.5	28.7	24.6	16.4	8.6	1.7	-
0800		8.6	15.6	32.8	42.7	46.0	43.8	39.4	40.3	38.9	30.8	18.5	8.2
0900		29.3	32.9	43.1	48.5	48.6	47.1	43.2	43.2	42.7	37.0	32.3	26.2
1000		33.7	36.0	43.3	48.8	49.1	48.4	44.7	44.0	43.6	37.4	32.6	28.0
1100		30.4	35.0	41.5	47.6	49.7	47.5	44.9	42.3	44.0	36.7	31.1	27.7
1200		28.4	33.1	41.1	45.7	48.1	46.4	42.7	41.1	43.2	36.3	29.8	25.8
1300		28.5	33.9	41.9	45.3	49.1	46.8	41.7	41.1	43.6	37.1	30.5	27.2
1400		28.1	34.5	43.2	44.7	48.3	48.1	41.7	40.8	41.1	38.4	32.5	29.2
1500		29.6	34.8	42.3	45.5	48.0	47.4	41.5	40.3	41.2	38.0	31.7	27.9
1600		20.2	30.4	39.3	41.2	43.9	42.6	39.9	38.1	38.9	27.1	15.1	11.6
1700		2.9	11.8	22.5	30.5	36.3	37.8	36.0	34.1	21.2	6.8	0.5	0.1
1800		-	0.1	3.1	8.1	15.6	20.7	19.1	11.8	2.6	-	-	-
1900		-	-	-	-	0.9	3.2	3.1	0.3	-	-	-	-
2000		-	-	-	-	-	-	-	-	-	-	-	-
2100		-	-	-	-	-	-	-	-	-	-	-	-
2200		-	-	-	-	-	-	-	-	-	-	-	-
2300	Off-Peak	-	-	-	-	-	-	-	-	-	-	-	-
2400		-	-	-	-	-	-	-	-	-	-	-	-
Daily Supply Amount (MWh)		239.7	298.9	402.5	471.2	529.3	529.4	475.9	446.1	418.0	334.2	256.3	211.9
Daily On-Peak Supply Amount (MWh)		239.7	298.9	402.5	468.8	519.0	516.3	466.6	442.0	417.4	334.2	256.3	211.9
Monthly Supply Amount (MWh)		7,430.7	8,369.2	12,477.5	14,136.0	16,408.3	15,882.0	14,752.9	13,829.1	12,540.0	10,360.2	7,689.0	6,568.9
Annual Supply Amount (MWh)		140,443.8											
Maximum Amount (MW)		50											

## **EXHIBIT 14**

### **DIAGRAM OF FACILITY**

In accordance with Section 8.1, Supplier shall provide: (a) not later than Supplier's completion of the Project Milestone relating to obtaining Required Facility Documentation (Section 2(a) of Exhibit 6), a completed version of Exhibit 14; and (b) within thirty (30) Business Days after the Commercial Operation Date, a revised version of Exhibit 14 reflecting the Facility as built.

The diagram of the Facility to be attached as Exhibit 14 will include a detailed layout of the Facility, including size, type, location and electrical infrastructure.



## **EXHIBIT 15**

### **OPERATIONS AND MAINTENANCE AGREEMENT; OPERATOR GOOD STANDING CERTIFICATE**

In accordance with Section 8.9, Supplier shall provide Exhibit 15 no later than ninety (90) days prior to the Commercial Operation Date.

**EXHIBIT 16**

**RESERVED**

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

**IRREVOCABLE STANDBY LETTER OF CREDIT**

[Name of Issuing Bank]  
[Address of Issuing Bank]  
[City, State of Issuing Bank]

Letter Of Credit No. [\_\_\_\_\_]   
Irrevocable Standby Letter Of Credit

Date of Issue: [\_\_\_\_\_] , 20\_\_

Stated Expiration Date: [\_\_\_\_\_]

Applicant:  
[Name and address]  
[\_\_\_\_\_]   
[\_\_\_\_\_]

Stated Amount: USD \$[\_\_\_\_\_]

Beneficiary:  
[Name and address]  
[\_\_\_\_\_]   
[\_\_\_\_\_]

Credit Available With: [\_\_\_\_\_]

## EXHIBIT 17

### FORM OF LETTER OF CREDIT

Ladies and Gentlemen:

At the request and for the account of [\_\_\_\_\_] (the “Applicant”), we hereby establish in favor of Nevada Power Company (“Beneficiary”) for the aggregate amount not to exceed [\_\_\_\_\_] million United States Dollars (\$[\_\_\_\_\_] ), in connection with the Long Term Renewable Power Purchase Agreement dated as of [\_\_\_\_\_] (as amended, restated, amended and restated or otherwise modified, the “Agreement”), by and between the Applicant and Beneficiary this Irrevocable Standby Letter of Credit no. [\_\_\_\_\_] (this “Letter of Credit”) expiring on [date not earlier than 364 days from issuance] (the “Stated Expiration Date”).

We irrevocably authorize you to draw on this Letter of Credit, in accordance with the terms and conditions hereinafter set forth, in any amount up to the full Available Amount (as defined below) available against presentation of a dated drawing request drawn on [***Name of Issuing Bank***] manually signed by a purported authorized representative of a Beneficiary completed in the form of Annex 1 hereto (a “Drawing Request”). Partial drawings and multiple drawings are allowed under this Letter of Credit. Each Drawing Request honored by us shall immediately reduce the amount available to be drawn hereunder by the amount of the payment made in satisfaction of such Drawing Request (each, an “Automatic Reduction”).

On any given date, the Stated Amount (as set forth on the first page of this Letter of Credit) minus any Automatic Reductions plus any amounts increased pursuant to the terms and conditions hereto shall be the aggregate amount available hereunder (the “Available Amount”).

Drawing Requests and all communications with respect to this Letter of Credit shall be in writing, addressed or presented in person to us at: [***Address of Issuing Bank***], Attn: [\_\_\_\_\_] , referencing this Letter of Credit No. [\_\_\_\_\_] . In addition, presentation of a Drawing Request may also be made by facsimile transmission to [***Fax number of Issuing Bank***], or such other facsimile number identified by us in a written notice to you. To the extent a Drawing Request is made by facsimile transmission, you must (i) provide telephone notification to us at [***Telephone number of Issuing Bank***] prior to or simultaneously with the sending of such facsimile transmission and (ii) send the original of such Drawing Request to us by overnight courier, at the same address provided above; provided, however, that our receipt of such telephone notice or original documents shall not be a condition to payment hereunder. Presentation of the original of this Letter of Credit shall only be required for any drawing of the entire Available Amount.

If a Drawing Request is presented in compliance with the terms of this Letter of Credit to us at such address or facsimile number by 11:00 a.m., New York City time, on any Business Day (as defined below), payment will be made not later than the close of business, New York City time, on such Business Day and if such Drawing Request is so presented to us after 11:00 a.m., New York City time, on any Business Day, payment will be made on the following Business Day not later than the close of business, New York City time on such following Business Day. Payment under this Letter of Credit shall be made in immediately available funds by wire transfer to such account as specified in the Drawing Request.

As used in this Letter of Credit, “Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized or required by Law to remain closed in the State of New York.

## **EXHIBIT 17**

### **FORM OF LETTER OF CREDIT**

This Letter of Credit shall expire on the earliest to occur of (1) our receipt of written confirmation from a Beneficiary authorizing us to cancel this Letter of Credit accompanied by the original of this Letter of Credit; (2) the close of business, New York time, on the date (the “Early Expiration Date”) specified in a notice of early expiration in the form of Annex 2 hereto sent by us to the Beneficiary and the Applicant by courier, mail delivery or delivery in person or facsimile transmission and stating that this Letter of Credit shall terminate on such date, which date shall be no less than thirty (30) days after the date of such notice, with the Beneficiary remaining authorized to draw on us prior to such Early Expiration Date in accordance with the terms hereof; or (3) the Stated Expiration Date. It is a condition of this letter of credit that it shall be deemed automatically extended without an amendment for periods of one (1) year each beginning on the present expiry date hereof and upon each anniversary of such date, unless at least thirty (30) days prior to any such expiry date we have sent you written notice (the “Notice of Non-Renewal”) by certified mail or overnight courier service that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored. To the extent a Notice of Non-Renewal has been provided to the Beneficiary and Applicant in accordance herewith, the Beneficiary are authorized to draw on us up to, in the aggregate, the full Available Amount of this Letter of Credit, by presentation to us, in the manner and at the address specified in the third preceding paragraph, of a Drawing Request completed in the form of Annex 1 hereto and sent and purportedly signed by a Beneficiary’s authorized representative.

This Letter of Credit is effective immediately.

In the event that a Drawing Request fails to comply with the terms of this Letter of Credit, we shall provide the Beneficiary prompt notice of same stating the reasons therefor and shall upon receipt of a Beneficiary’s instructions, hold any nonconforming Drawing Request and other documents at your disposal or return any non-conforming Drawing Request and other documents to the Beneficiary at the addresses set forth above by delivery in person or facsimile transmission. Upon being notified that the drawing was not effected in compliance with this Letter of Credit, a Beneficiary may attempt to correct such non-complying Drawing Request in accordance with the terms of this Letter of Credit.

This Letter of Credit sets forth in full the terms of our undertaking and this undertaking shall not in any way be modified, amended, limited or amplified by reference to any document, instrument or agreement referred to herein, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement except for Drawing Requests and certificates. The foregoing notwithstanding, this Letter of Credit is subject to the rules of the “International Standby Practices 1998, International Chamber of Commerce, Publication No. 590” published by the Institute of International Banking Law and Practice (“ISP 98”) and, as to matters not governed by ISP 98, shall be governed by and construed in accordance with the Laws of the State of New York.

This Letter of Credit is transferable, only in its entirety and not in part, upon presentation to us, at our presentation office specified herein, of a signed transfer certificate in the form of Annex 3 accompanied by this original Letter of Credit and all amendments, if any, in which a

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

Beneficiary irrevocably transfers to its successor or assign all of its rights hereunder, whereupon we will either issue a substitute letter of credit to such successor or assign or endorse such transfer on the reverse of this Letter of Credit. Transfers to designated foreign nationals are not permitted as being contrary to the U.S. Treasury Department or Foreign Assets Controls Regulations.

Any voluntary reduction hereunder shall be in the form of Annex 4 hereto.

All banking charges are for the account of the Applicant. All transfer fees are for the account of the Beneficiary.

All Drawing Requests under this Letter of Credit must bear the clause: "Drawn under [*Name of Issuing Bank*], Letter of Credit Number [\_\_\_\_\_] dated [\_\_\_\_\_]."

This Letter of Credit shall not be amended except with the written concurrence of [*Name of Issuing Bank*], the Applicant and the Beneficiary.

We hereby engage with you that a Drawing Request drawn strictly in compliance with the terms of this Letter of Credit and any amendments thereto shall be honored.

We irrevocably agree with you that any legal action or proceeding with respect to this Letter of Credit shall be brought in the courts of the State of New York in the County of New York or of the United States of America in the Southern District of New York. You and we irrevocably submit to the nonexclusive jurisdiction of such courts solely for the purposes of this Letter of Credit. You and we hereby waive to the fullest extent permitted by Law any objection either of us may now or hereafter have to the laying of venue in any such action or proceeding in any such court.

[*Name of Issuing Bank*]

Authorized signature

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

ANNEX 1

[Letterhead of a Beneficiary]

Drawn under [insert name of Issuing Bank],  
Letter of Credit Number [\_\_\_\_\_] dated [\_\_\_\_\_]

**DRAWING REQUEST**

[Date]

[name and address of Issuing Bank]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of a Beneficiary hereby draws on [insert name of Issuing Bank], Irrevocable Standby Letter of Credit No. [\_\_\_\_\_] (the “Letter of Credit”) dated [\_\_\_\_\_] issued by you in favor of us. Any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit.

In connection with this drawing, we hereby certify that:

A) This drawing in the amount of US\$\_\_\_\_\_ is being made pursuant to the Letter of Credit;

[Use one or more of the following forms of paragraph B, as applicable, and include in this Drawing Request]

B-1) Beneficiary is authorized to make a drawing under this Letter of Credit in accordance with the terms of the Agreement applicable to Beneficiary.

or

B-2) The Letter of Credit will expire within thirty (30) days of the date of this Drawing Request pursuant to a Notice of Non-Renewal and the Applicant has failed to provide a replacement letter of credit from an acceptable credit provider and satisfying the requirements of the Agreement applicable to Beneficiary;

or

B-3) [insert name of Issuing Bank] has delivered an Early Expiration Notice and such Early Expiration Notice has not been rescinded and the Applicant has not replaced the Letter of Credit;

; and

C) You are directed to make payment of the requested drawing to:

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

IN WITNESS WHEREOF, the undersigned has executed and delivered this request on  
this \_\_\_\_ day of \_\_\_\_\_.

[Beneficiary]

By: \_\_\_\_\_  
Name:  
Title:



**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

**ANNEX 2  
NOTICE OF EARLY EXPIRATION**

[Date]

[Beneficiary name and address]

Ladies and Gentlemen:

Reference is made to that Irrevocable Standby Letter of Credit No. [\_\_\_\_\_] (the “Letter of Credit”) dated [\_\_\_\_\_] issued by [Issuing Bank] in favor of [\_\_\_\_\_] (the “Beneficiary”). Any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit.

This constitutes our notice to you pursuant to the Letter of Credit that the Letter of Credit shall terminate on \_\_\_\_\_, \_\_\_\_ *[insert a date which is thirty (30) or more days after the date of this notice of early expiration]* (the “Early Expiration Date”).

Pursuant to the terms of the Letter of Credit, the Beneficiary is authorized to draw (pursuant to one or more drawings), prior to the Early Expiration Date, on the Letter of Credit in an aggregate amount that does not exceed the then Available Amount (as defined in the Letter of Credit).

IN WITNESS WHEREOF, the undersigned has executed and delivered this request on this \_\_\_\_ day of \_\_\_\_\_.

[ISSUING BANK]

By: \_\_\_\_\_

Name:

Title:

cc:

[Applicant name and address]

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

**ANNEX 3**

**REQUEST FOR TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY**

[Name of Issuing Bank],

Date: \_\_\_\_\_

[Address]

[City, State]

Attn: Trade Services Department

Re: [Name of Issuing Bank], Irrevocable Standby Letter of Credit No. [\_\_\_\_\_]

For value received, the undersigned beneficiary hereby irrevocably transfers to:

NAME OF TRANSFEREE

\_\_\_\_\_  
ADDRESS OF TRANSFEREE

\_\_\_\_\_  
CITY, STATE/COUNTRY ZIP

(hereinafter, the “transferee”) all rights of the undersigned beneficiary to draw under above letter of credit, in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary hereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such Letter of Credit and all amendments, if any, is returned herewith, and we ask you to endorse the transfer on the reverse thereof, and forward it directly to the transferee with your customary notice of transfer.

In payment of your transfer commission in amount equal to a minimum of \$[\_\_\_\_\_] and maximum of \$[\_\_\_\_\_].

**Select one of the following:**

\_\_\_\_ we enclose a cashier's/certified check

\_\_\_\_ we have wired funds to you through \_\_\_\_\_ bank

\_\_\_\_ we authorize you to debit our account # \_\_\_\_\_ with you, and in addition thereto, we agree to pay you on demand any expenses which may be incurred by you in connection with this transfer

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

We certify that this transfer request is not in violation of any federal or state laws and further confirm our understanding that the execution of this transfer request by you is subject to compliance with all legal requirements and related procedures implemented by your bank under applicable laws of the United States of America [and the jurisdiction of Issuing Bank].

Very truly yours,

[BENEFICIARY NAME]

\_\_\_\_\_  
Authorized Signature

The signature(s) of \_\_\_\_\_ with title(s) as stated conforms to those on file with us; are authorized for the execution of such instrument; and the beneficiary has been approved under our bank's Customer Identification Program. Further, pursuant to Section 326 of the USA Patriot Act and the applicable regulations promulgated thereunder, we represent and warrant that the undersigned bank: (i) is subject to a rule implementing the anti-money laundering compliance program requirements of 31 U.S.C. section 5318(h); (ii) is regulated by a Federal functional regulator [as such term is defined in 31 C.F.R. section 103.120(a)(2)]; and (iii) has a Customer Identification Program that fully complies with the requirements of the regulations.

\_\_\_\_\_  
(Signature of Authenticating Bank)

\_\_\_\_\_  
(Name of Bank)

\_\_\_\_\_  
(Printed Name/Title)

\_\_\_\_\_  
(Date)

IN WITNESS WHEREOF, the undersigned has executed and delivered this request on this \_\_\_\_ day of \_\_\_\_\_.

[Beneficiary name]

By: \_\_\_\_\_  
Name:  
Title:

cc:  
[insert name and address of Transferee]  
[insert name and address of Applicant]

**EXHIBIT 17**

**FORM OF LETTER OF CREDIT**

ANNEX 4  
VOLUNTARY REDUCTION REQUEST CERTIFICATE  
[Date]

[insert name of Issuing Bank]  
[insert address of Issuing Bank]

Ladies and Gentlemen:

Reference is made to that Irrevocable Standby Letter of Credit No. [\_\_\_\_\_] (the “Letter of Credit”) dated [\_\_\_\_\_] issued by you in favor of [\_\_\_\_\_] (the “Beneficiary”). Any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit.

The undersigned, a duly authorized representative of the Beneficiary, having been so directed by [\_\_\_\_\_] (the “Applicant”), hereby requests that the Stated Amount (as such term is defined in the Letter of Credit) of the Letter of Credit be reduced by U.S.\$[\_\_\_\_\_] to U.S.\$[\_\_\_\_\_].

We hereby certify that the undersigned is a duly authorized representative of the Beneficiary.

IN WITNESS WHEREOF, the undersigned has executed and delivered this request on this \_\_\_\_ day of \_\_\_\_\_.

[Beneficiary name]

By: \_\_\_\_\_  
Name:  
Title:

cc:

[Applicant name and address]

**EXHIBIT 18**

**YEARLY PC AMOUNT**

Yearly PC Amount	140,469 MWh
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## **EXHIBIT 19**

### **FORM OF LENDERS CONSENT**

This CONSENT AND AGREEMENT (this “Consent”), dated as of \_\_\_\_\_, 20\_\_\_\_, is entered into by and among Nevada Power Company, a Nevada corporation, d/b/a NV Energy, acting in its merchant function capacity (together with its permitted successors and assigns, “NVE”), \_\_\_\_\_, in its capacity as [**Administrative Agent**] for the Lenders referred to below (together with its successors, designees and assigns in such capacity, “Administrative Agent”), and \_\_\_\_\_, a \_\_\_\_\_ formed and existing under the Laws of the State of \_\_\_\_\_ (together with its permitted successors and assigns, “Borrower”). Unless otherwise defined, all capitalized terms have the meaning given in the Contract (as hereinafter defined).

WHEREAS, Borrower intends to develop, construct, install, test, own, operate and use an approximately \_\_\_\_ MW solar-powered electric generating facility located \_\_\_\_\_, known as the \_\_\_\_\_ (the “Project”).

WHEREAS, In order to partially finance the development, construction, installation, testing, operation and use of the Project, Borrower has entered into that certain [**Financing Agreement,**] dated as of \_\_\_\_\_ (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Financing Agreement”), among Borrower, the financial institutions from time to time parties thereto (collectively, the “Lenders”), and Administrative Agent for the Lenders, pursuant to which, among other things, Lenders have extended commitments to make loans and other financial accommodations to, and for the benefit of, Borrower.

[WHEREAS, Borrower anticipates that, prior to the completion of construction of the Project, it will seek an additional investor (the “Tax Investor”) to make an investment in Borrower to provide additional funds to finance the operation and use of the Project.]

WHEREAS, Buyer and Borrower have entered into that certain Power Purchase Agreement, dated as of \_\_\_\_\_ (collectively with all documents entered into in connection therewith that are listed on [Schedule A] attached hereto and incorporated herein by reference, as all are amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “PPA”).

WHEREAS, pursuant to a security agreement executed by Borrower and Administrative Agent for the Lenders (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Security Agreement”), Borrower has agreed, among other things, to assign, as collateral security for its obligations under the Financing Agreement and related documents (collectively, the “Financing Documents”), all of its right, title and interest in, to and under the PPA to Administrative Agent for the benefit of itself, the Lenders and each other entity or person providing collateral security under the Financing Documents.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

**FORM OF LENDERS CONSENT**

**SECTION 1. CONSENT TO ASSIGNMENT**

NVE acknowledges the collateral assignment by Borrower of, among other things all of its right, title and interest in, to and under the PPA to Administrative Agent for the benefit of itself, the Lenders and each other entity or person providing collateral security under the Financing Documents, consents to an assignment of the PPA pursuant thereto, and agrees with Administrative Agent as follows:

(A) Administrative Agent shall be entitled (but not obligated) to exercise all rights and to cure any defaults of Borrower under the PPA, subject to applicable notice and cure periods provided in the PPA. Upon receipt of notice from Administrative Agent, NVE agrees to accept such exercise and cure by Administrative Agent if timely made by Administrative Agent under the PPA and this Consent. Upon receipt of Administrative Agent's written instructions, NVE agrees to make directly to Administrative Agent all payments to be made by NVE to Borrower under the PPA from and after NVE's receipt of such instructions, and Borrower consents to any such action.

(B) NVE will not, without the prior written consent of Administrative Agent (such consent not to be unreasonably withheld), cancel or terminate the PPA, or consent to or accept any cancellation, termination or suspension thereof by Borrower, except as provided in the PPA and in accordance with subparagraph 1(C) hereof.

(C) NVE agrees to deliver duplicates or copies of all notices of default delivered by NVE under or pursuant to the PPA to Administrative Agent in accordance with the notice provisions of this Consent. NVE may deliver any such notices concurrently with delivery of the notice to Borrower under the PPA. Administrative Agent shall have: (a) the same period of time to cure the breach or default that Borrower is entitled to under the PPA if such default is the failure to pay amounts to NVE which are due and payable by Borrower under the PPA, except that if NVE does not deliver the default notice to Administrative Agent concurrently with delivery of the notice to Borrower under the PPA, then as to Administrative Agent, the applicable cure period under the PPA shall begin on the date on which the notice is given to Administrative Agent, or (b) the later of the applicable cure period under the PPA or thirty (30) days from the date notice of default or breach is delivered to Administrative Agent to cure such default if such breach or default cannot be cured by the payment of money to NVE, so long as Administrative Agent continues to perform any monetary obligations under the PPA and all other obligations under the PPA are performed by Borrower or Administrative Agent or its designees or assignees. If possession of the Project is necessary to cure such breach or default, and Administrative Agent or its designees or assignees declare Borrower in default and commence foreclosure proceedings, Administrative Agent or its designees or assignees will be allowed a reasonable period to complete such proceedings but not to exceed ninety (90) days. NVE consents to the transfer of Borrower's interest under the PPA to a Qualified Transferee upon enforcement of such security at a foreclosure sale by judicial or non-judicial foreclosure and sale or by a conveyance by Borrower in lieu of foreclosure and agrees that upon such foreclosure, sale or conveyance, NVE shall recognize such Qualified Transferee as the applicable party under the PPA (provided that such Qualified Transferee assumes the obligations of Borrower under the PPA). Qualified Transferee means a Person that is at least as financially and operationally qualified as Borrower and, at a minimum, has a tangible net worth of at least seven million five hundred thousand dollars (\$7,500,000) or provides adequate assurance in an amount and form reasonably acceptable to Buyer and has (or agrees to contract with an operator

**FORM OF LENDERS CONSENT**

who has) at least three (3) years of experience operating a generating plant of similar technology and similar size to the Project.

(D) Notwithstanding subparagraph 1(C) above, in the event that the PPA is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, or if the PPA is terminated for any reason other than a default which could have been but was not cured by Administrative Agent or its designees or assignees as provided in subparagraph 1(C) above, and if, within forty-five (45) days after such rejection or termination, the Lenders or their successors or assigns shall so request, to the extent permitted by applicable law, NVE will enter into a new contract with a Qualified Transferee. Such new contract shall be on the same terms and conditions as the original PPA for the remaining term of the original PPA before giving effect to such termination, provided, however that such terms shall be modified to the extent NVE reasonably determines such modifications are necessary to comply with any laws, rules or regulations applicable to Borrower, NVE or Lender, including any state, and federal constitutions, statutes, rules, regulations, published rates, and orders of governmental bodies and all judicial orders, judgments and decrees (hereinafter “Applicable Law”) in effect at such time. Lenders or Administrative Agent shall cure or cause the cure of any payment defaults then existing under the original PPA prior to NVE entering into a new contract.

(E) In the event Administrative Agent, the Lenders or their designees or assignees elect to perform Borrower’s obligations under the PPA as provided in subparagraph 1(C) above or enter into a new contract as provided in subparagraph 1(D) above, the recourse of NVE against Administrative Agent, Lenders or their designees and assignees shall be limited to such parties’ interests in the Project, the Development Security and Operating Security required under the PPA, and recourse against the assets of any party or entity that assumes the PPA or that enters into such new contract. Nothing herein abrogates, and any Qualifying Assignee shall be subject to, NVE’s rights under Article 6 of the PPA.

(F) In the event a Qualified Transferee succeeds to Borrower’s interest under the PPA, Administrative Agent, the Lenders or their designees or assignees shall cure any then-existing payment and performance defaults under the PPA, except any performance defaults of Borrower itself which by their nature are not capable of being cured and do not impair NVE’s rights under the PPA. Administrative Agent, the Lenders and their designees or assignees shall have the right to assign the PPA or the new contract entered into pursuant to subparagraph 1(d) above to any Qualified Transferee to whom Borrower’s interest in the Project is transferred, provided that such transferee assumes the obligations of Borrower under the PPA. Upon such assignment, Administrative Agent and the Lenders and their designees or assignees (including their agents and employees, but excluding Supplier) shall be released from any further liability thereunder accruing from and after the date of such assignment.

**SECTION 2. REPRESENTATIONS AND WARRANTIES**

NVE, acting in its merchant function capacity (and therefore specifically excluding the knowledge of NVE, acting in its transmission function capacity (“NVE Transmission”), as to any of the matters stated below, and without imputation to NVE of any knowledge whatsoever relating to the NVE Transmission, whether as a result of information publicly posted to the open access same-time information system or otherwise), hereby represents and warrants that as of the date of this Consent:



## **EXHIBIT 19**

### **FORM OF LENDERS CONSENT**

(A) It (i) is a corporation duly formed and validly existing under the laws of the state of its organization, (ii) is duly qualified, authorized to do business and in good standing in every jurisdiction necessary to perform its obligations under this Consent, and (iii) has all requisite corporate power and authority to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;

(B) the execution, delivery and performance of this Consent and the PPA have been duly authorized by all necessary corporate action on its part and do not require any approvals, material filings with, or consents of any entity or person which have not previously been obtained or made;

(C) each of this Consent and the PPA is in full force and effect;

(D) each of this Consent and the PPA has been duly executed and delivered on its behalf and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms;

(E) the execution, delivery and performance by it of this Consent and the PPA, and the consummation of the transactions contemplated hereby, will not result in any violation of, breach of or default under any term of (i) its formation or governance documents, or (ii) any material contract or material agreement to which it is a party or by which it or its property is bound, or of any material Requirements of Law presently in effect having applicability to it, the violation, breach or default of which could have a material adverse effect on its ability to perform its obligations under this Consent; and

(F) neither NVE nor, to NVE's actual knowledge, any other party to the PPA, is in default of any of its obligations thereunder.

### **SECTION 3. NOTICES**

All notices required or permitted hereunder shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or three (3) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to NVE:

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

Telephone No.: [\_\_\_\_\_]

Telecopy No.: [\_\_\_\_\_]

Attn: [\_\_\_\_\_]

## **EXHIBIT 19**

### **FORM OF LENDERS CONSENT**

If to Administrative Agent:

[\_\_\_\_\_]
[\_\_\_\_\_]
[\_\_\_\_\_]
Telephone No.: [\_\_\_\_\_]
Telecopy No.: [\_\_\_\_\_]
Attn: [\_\_\_\_\_]

If to Borrower:

[\_\_\_\_\_]
[\_\_\_\_\_]
[\_\_\_\_\_]
Telephone No.: [\_\_\_\_\_]
Telecopy No.: [\_\_\_\_\_]
Attn: [\_\_\_\_\_]

Any party shall have the right to change its address for notice hereunder to any other location within the United States by giving thirty (30) days written notice to the other parties in the manner set forth above. Further, the Tax Investor shall be entitled to receive notices from NVE by providing written notice to NVE of Tax Investor's address for notices. NVE's failure to provide any notice to the Tax Investor shall not be a breach of this Consent.

#### **SECTION 4. CONFIRMATION, TERMINATION, AMENDMENT AND GOVERNING LAW**

NVE agrees to confirm its continuing obligation hereunder in writing upon the reasonable request of (and at the expense of) Borrower, Administrative Agent, the Lenders or any of their respective successors, transferees or assigns. No termination, amendment, variation or waiver of any provisions of this Consent shall be effective unless in writing and executed by the parties hereto. This Consent shall be governed by the laws of the State of New York (without giving effect to the principles thereof relating to conflicts of law except Section 5-1401 and 5-1402 of the New York General Obligations Law).

#### **SECTION 5. COUNTERPARTS**

This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

#### **SECTION 6. SEVERABILITY**

In case any provision of this Consent, or the obligations of any of the parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other parties hereto, shall not in any way be affected or impaired thereby.

#### **SECTION 7. ACKNOWLEDGMENTS BY BORROWER.**

Borrower, by its execution hereof, acknowledges and agrees that notwithstanding any term to the contrary in the PPA, NVE may perform as set forth herein and that neither the execution of this Consent, the performance by NVE of any of the obligations of NVE hereunder, the exercise

**EXHIBIT 19**

**FORM OF LENDERS CONSENT**

of any of the rights of NVE hereunder, or the acceptance by NVE of performance of the PPA by any party other than Borrower shall (1) release Borrower from any obligation of Borrower under the PPA, (2) constitute a consent by NVE to, or impute knowledge to NVE of, any specific terms or conditions of the Financing Agreement, the Security Agreement or any of the other Financing Documents, or (3) constitute a waiver by NVE of any of its rights under the PPA. Borrower and Administrative Agent acknowledge hereby for the benefit of NVE that none of the Financing Agreement, the Security Agreement, the Financing Documents or any other documents executed in connection therewith alter, amend, modify or impair (or purport to alter, amend, modify or impair) any provisions of the PPA. Borrower shall have no rights against NVE on account of this Consent.

**SECTION 8. JURY TRIAL WAIVER**

THE PARTIES EACH HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

IN WITNESS WHEREOF, the parties by their officers duly authorized, have duly executed this Consent as of the date first set forth above.

Nevada Power Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_,  
as Administrative Agent for the Lenders

[Borrower]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT 20**

### **FORM OF GUARANTEE**

This GUARANTEE (this “Guarantee”), dated as of \_\_\_\_\_, 20\_\_, is issued by [\_\_\_\_\_] a [\_\_\_\_\_] organized and existing under the laws of [\_\_\_\_\_] (“Guarantor”) in favor of Nevada Power Company, a Nevada corporation doing business as NV Energy (“Company”).

Pursuant to that certain Long-Term Renewable Power Purchase Agreement, dated as of \_\_\_\_\_, 20\_\_ (as the same may be amended, modified or supplemented from time to time, the “Agreement”), by and between Company and [\_\_\_\_\_] a [\_\_\_\_\_] [\_\_\_\_\_] of which Guarantor is the [direct][indirect] parent (“Subsidiary”), and pursuant to which Guarantor will indirectly benefit from the terms and conditions thereof, and the performance by Subsidiary of its obligations thereunder, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby covenants, undertakes and agrees with Company as follows:

**Section 1. Definitions.** Capitalized terms used herein and not otherwise defined shall have their respective meanings as set forth in the Agreement.

**Section 2. Guarantee.**

(a) **Guarantee.** Guarantor hereby irrevocably and unconditionally guarantees to and for the benefit of Company, the full and prompt payment by Subsidiary of each and every obligation of Subsidiary arising under the Agreement up to the limitations set forth in the Agreement, including, without limitation, the payment when due of all indemnities, refunds and liquidated damages payable at any time under the Agreement (the “Guaranteed Obligations”). The Guaranteed Obligations shall further include, without limitation, (i) interest accruing as part of the Guaranteed Obligations according to the terms thereof following the commencement by or against the Subsidiary of any case or proceeding under any Applicable Law relating to bankruptcy, insolvency, reorganization, winding-up, liquidation, dissolution or composition or adjustment of debt and (ii) all reasonable costs and expenses (including reasonable attorneys’ fees), if any, incurred in successfully enforcing Company’s rights under this Guarantee. Guarantor further agrees that if Subsidiary shall fail to pay or perform in full when due all or any part of the Guaranteed Obligations, Guarantor will promptly pay (or promptly procure the payment of) the same in accordance with, and up to the limitations set forth in the Agreement.

(b) **Nature of Guarantee.** The Guarantee and the obligations of Guarantor hereunder shall continue to be effective or be automatically reinstated, as the case may be, even if at any time payment of any of the Guaranteed Obligations is rendered unenforceable or is rescinded or must otherwise be returned by Company upon the occurrence of any action or event including, without limitation, the bankruptcy, reorganization, winding-up, liquidation, dissolution or insolvency of the Subsidiary, Guarantor, any other Person or otherwise, all as though the payment had not been made.

(c) **Absolute Guarantee.** Guarantor agrees that its obligations under this Guarantee are irrevocable, absolute, independent, unconditional and continuing and shall not be affected by any circumstance that constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees, subject to the other terms and conditions hereof, as follows:

## **EXHIBIT 20**

### **FORM OF GUARANTEE**

(i) this Guarantee is a guarantee of payment when due and not of collectability;

(ii) Company may from time to time in accordance with the terms of the Agreement, without notice or demand and without affecting the validity or enforceability of this Guarantee or giving rise to any limitation, impairment or discharge of Guarantor's liability hereunder, (A) renew, extend, accelerate or otherwise change the time, place, manner or terms of payment or performance of the Guaranteed Obligations, (B) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment or performance of the same to the payment or performance of any other obligations, (C) request and accept other guaranties of or security for the Guaranteed Obligations and take and hold security for the payment or performance of this Guarantee or the Guaranteed Obligations, (D) release, exchange, compromise, subordinate or modify, with or without consideration, any security for payment or performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any person with respect to the Guaranteed Obligations, (E) enforce and apply any security now or hereafter held by or for the benefit of Company in respect of this Guarantee or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that Company may have against any such security, as Company in its discretion may determine consistent with the Agreement and any applicable security agreement, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or any other right or remedy of Guarantor against Subsidiary or any other guarantor of the Guaranteed Obligations or any other guarantee of or security for the Guaranteed Obligations, and (F) exercise any other rights available to Company under the Agreement, at law or in equity; and

(iii) this Guarantee and the obligations of Guarantor hereunder shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment in full of the Guaranteed Obligations and otherwise as set forth in this Guarantee), including, without limitation, the occurrence of any of the following, whether or not Guarantor shall have had notice or knowledge of any of them: (A) any failure to assert or enforce, or agreement not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, or the exercise or enforcement of, any claim or demand or any right, power or remedy with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guarantee of or security for the payment or performance of the Guaranteed Obligations; (B) any waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions of the Agreement or any agreement or instrument executed pursuant thereto or of any other guarantee or security for the Guaranteed Obligations; (C) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (D) the personal or corporate incapacity of any person; (E) any change in the financial condition, or the bankruptcy, administration, receivership or insolvency of Subsidiary or any other person, or any rejection, release, stay or discharge of Subsidiary's or any other person's obligations in connection with any bankruptcy, administration, receivership or similar proceeding or otherwise or any disallowance of all or any portion of any claim by Company, its successors or permitted assigns in connection with any such proceeding; (F) any change in the corporate existence of, or cessation of existence of, Guarantor or the Subsidiary (whether by way of merger, amalgamation, transfer, sale, lease or otherwise); (G) the failure to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, any person; (H) any substitution, modification, exchange, release, settlement or compromise of any

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security or collateral for or guaranty of any of the Guaranteed Obligations or failure to apply such security or collateral or failure to enforce such guaranty; (I) the existence of any claim, set-off, or other rights which Guarantor or any affiliate thereof may have at any time against Company or any affiliate thereof in connection with any matter unrelated to the Agreement; and (J) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.

(d) **Currency.** All payments made by Guarantor hereunder shall be made in U.S. dollars in immediately available funds.

(e) **Defenses.** Notwithstanding anything herein to the contrary, Guarantor specifically reserves to itself all rights, counterclaims and other defenses that the Subsidiary is or may be entitled to arising from or out of the Agreement, except for any defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of the Subsidiary, the lack of power or authority of the Subsidiary to enter into the Agreement and to perform its obligations thereunder, or the lack of validity or enforceability of the Subsidiary's obligations under the Agreement or any transaction thereunder.

**Section 3. Other Provisions of the Guarantee.**

(a) **Waivers by Guarantor.** Guarantor hereby waives for the benefit of Company, to the maximum extent permitted by Applicable Law:

- (i) notice of acceptance hereof;
- (ii) notice of any action taken or omitted to be taken by Company in reliance hereon;
- (iii) any right to require Company, as a condition of payment by Guarantor, to (A) proceed against or exhaust its remedies against Subsidiary or any person, including any other guarantor of the Guaranteed Obligations, or (B) proceed against or exhaust any security held from Subsidiary or any person, including any other guarantor of the Guaranteed Obligations;
- (iv) subject to Clause 2(e), any defense arising by reason of the incapacity, lack of authority or any disability of Subsidiary including, without limitation, any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Subsidiary from any cause other than payment in full of the Guaranteed Obligations or termination of this Guarantee in accordance with its terms;
- (v) any requirement that Company protect, secure, perfect or insure any security interest or lien or any property subject thereto;
- (vi) any requirement that Company be diligent or prompt in making demands hereunder or give notices of default under the Agreement, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, and any right to consent to any thereof; and
- (vii) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety, including promptness, diligence, notice of

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acceptance and notice of any default under the Agreement, notice of presentment, demand, protest, and notice of dishonor or nonpayment, notice of acceleration or other demand and any other notice with respect to this Guarantee.

(b) **Deferral of Subrogation.** Until such time as the Guaranteed Obligations have been paid or performed in full, notwithstanding any payment made by Guarantor hereunder or the receipt of any amounts by Company with respect to the Guaranteed Obligations, (i) Guarantor (on behalf of itself, its successors and assigns, including any surety) hereby expressly agrees not to exercise any right, nor assert the impairment of such rights, it may have to be subrogated to any of the rights of Company against Subsidiary or against any other collateral security held by Company for the payment or performance of the Guaranteed Obligations, (ii) Guarantor agrees that it will not seek any reimbursement from Company in respect of payments or performance made by Guarantor in connection with the Guaranteed Obligations, or amounts realized by Company in connection with the Guaranteed Obligations and (iii) Guarantor shall not claim or prove in a liquidation or other insolvency proceeding of the Subsidiary in competition with the Company. If any amount shall be paid to Guarantor on account of such subrogation rights at any time when all of the Guaranteed Obligations shall not have been paid in full or otherwise fully satisfied, such amount shall be held in trust by Guarantor for the benefit of Company and shall forthwith be paid to Company, to be credited and applied to the Guaranteed Obligations.

**Section 4. Representations and Warranties of Guarantor.** Guarantor hereby represents, warrants, and undertakes to Company as follows:

(a) Guarantor is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and has the corporate power, authority and legal right to own its property and assets and to transact the business in which it is engaged.

(b) Guarantor has full power, authority and legal right to execute and deliver this Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor, and to perform its obligations hereunder and thereunder.

(c) The execution, delivery and performance of this Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor have been duly authorized by all necessary company action on the part of Guarantor and do not contravene or conflict with Guarantor's memorandum and articles of association.

(d) This Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor have been duly executed and delivered by Guarantor and constitute the legal, valid and binding obligations of Guarantor, enforceable against it in accordance with their respective terms.

(e) Neither the execution and delivery of this Guarantee nor the performance of the terms and conditions hereof by Guarantor shall result in (i) a violation or breach of, or a default under, or a right to accelerate, terminate or amend, any contract, commitment or other obligation to which Guarantor is a party or is subject or by which any of its assets are bound, or (ii) a violation by Guarantor of any Applicable Law.

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(f) There are no actions, suits, investigations, proceedings, condemnations, or audits by or before any court or other governmental or regulatory authority or any arbitration proceeding pending or, to its actual knowledge after due inquiry, threatened against or affecting Guarantor, its properties, or its assets.

(g) All necessary action has been taken under Applicable Laws to authorize the execution, delivery and performance of this Guarantee. No governmental approvals or other consents, approvals, or notices of or to any person are required in connection with the execution, delivery, performance by Guarantor, or the validity or enforceability, of this Guarantee.

**Section 5. Notices.** All notices, demands, instructions, waivers, consents, or other communications required or permitted hereunder shall be in writing in the English language and shall be sent by personal delivery, courier, certified mail or facsimile, to the following addresses:

(a) If to Guarantor:

[\_\_\_\_\_]
[\_\_\_\_\_]
[\_\_\_\_\_]
[\_\_\_\_\_]
Attention: [\_\_\_\_\_]
Facsimile: [\_\_\_\_\_]

(b) If to Company:

Nevada Power Company
6226 W. Sahara Avenue
Las Vegas, Nevada 89146
Facsimile No.: 702-402-2455
Email: ContractManagement@nvenergy.com
Attn: [\_\_\_\_\_]

With a copy to (which shall not constitute notice):

Nevada Power Company
6226 W. Sahara Avenue
Las Vegas, Nevada 89146
Facsimile: (702) 402-2069
Attn: [\_\_\_\_\_]

The addresses and facsimile numbers of either party for notices given pursuant to this Guarantee may be changed by means of a written notice given to the other party at least three (3) Business Days (being a day on which clearing banks are generally open for business in the jurisdiction of the party to whom a notice is sent) prior to the effective date of such change. Any notice required or authorized to be given hereunder shall be in writing (unless otherwise provided) and shall be served (i) personally, (ii) by courier service or (iii) by facsimile transmission addressed to the relevant Person at the address stated below or at any other address notified by that Person as its address for service. Any notice so given personally shall be deemed to have been served on delivery, any notice so given by express courier service shall be deemed to have been served the



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next Business Day after the same shall have been delivered to the intended Person, and any notice so given by facsimile transmission shall be deemed to have been served on dispatch unless dispatched after the recipient's normal business hours on a Business Day or dispatched on any day other than a Business Day, in which case such notice shall be deemed to have been delivered on the next Business Day. As proof of such service it shall be sufficient to produce a receipt showing personal service, the receipt of a courier company showing the correct address of the addressee or an activity report of the sender's facsimile machine showing the correct facsimile number of the Person on whom notice is served and the correct number of pages transmitted.

**Section 6. Miscellaneous Provisions.**

(a) **Waiver; Remedies Cumulative.** No failure on the part of Company to exercise, and no delay on the part of Company in exercising, any right or remedy, in whole or in part hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by Company shall be effective unless it is in writing and such writing expressly states that it is intended to constitute such waiver. Any waiver given by Company of any right, power or remedy in any one instance shall be effective only in that specific instance and only for the purpose for which given, and will not be construed as a waiver of any right, power or remedy on any future occasion. The rights and remedies of Company herein provided are cumulative and not exclusive of any rights or remedies provided by Applicable Law.

(b) **Successors and Assigns.** This Guarantee shall be binding upon the successors of Guarantor and shall inure to the benefit of Company and its successors and permitted assigns. Guarantor shall not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of Company. Any purported assignment or delegation without such written consent shall be null and void. Company may assign its rights and obligations hereunder to any assignee of its rights under the Agreement permitted in accordance with the Agreement.

(c) **Amendment.** This Guarantee may not be modified, amended, terminated or revoked, in whole or in part, except by an agreement in writing signed by Company and Guarantor.

(d) **Termination, Limits and Release.** This Guarantee is irrevocable, unconditional and continuing in nature and is made with respect to all Guaranteed Obligations now existing or hereafter arising and shall remain in full force and effect until the earlier of (i) the time when in accordance with the terms of the Agreement all of the Guaranteed Obligations are fully satisfied and discharged, and (ii) then, and only then, this Guarantee shall automatically be released and shall be of no further force and effect; otherwise, it shall remain in full force and effect. Other than as set forth in the previous sentence, no release of this Guarantee shall be valid unless executed by Company and delivered to Guarantor. Except with respect to (x) claims made by, damages incurred by, or amounts payable to third parties pursuant to an indemnity given under the Agreement and (y) claims arising out of Subsidiary's fraud or willful misconduct, under no circumstances will Guarantor's aggregate liability hereunder exceed the amount of Operating Security required in the Agreement.

(e) **Law and Jurisdiction.**

(i) THIS GUARANTEE IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEVADA,

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### **FORM OF GUARANTEE**

WITHOUT REGARD FOR ANY PRINCIPLES OF CONFLICTS OF LAW THAT WOULD DIRECT OR PERMIT THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION.

(ii) GUARANTOR AND COMPANY IRREVOCABLY AGREE THAT THE STATE AND FEDERAL COURTS LOCATED IN WASHOE COUNTY, NEVADA, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY SUIT, ACTION OR PROCEEDING, AND TO SETTLE ANY DISPUTE, WHICH MAY ARISE OUT OF OR IN CONNECTION WITH THIS GUARANTEE, AND FOR SUCH PURPOSES HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF SUCH COURTS, AND GUARANTOR CONSENTS TO THE JURISDICTION OF, AND TO THE LAYING OF VENUE IN, SUCH COURTS FOR SUCH PURPOSES AND HEREBY WAIVES ANY DEFENSE BASED ON LACK OF VENUE OR PERSONAL JURISDICTION OR OF INCONVENIENT FORUM.

(f) **Survival.** All representations and warranties made in this Guarantee and by Guarantor in any other instrument, document, or agreement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Guarantee.

(g) **Severability.** Any provision of this Guarantee that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Where provisions of law or regulation resulting in such prohibition or unenforceability may be waived they are hereby waived by Guarantor and Company to the full extent permitted by law so that this Guarantee shall be deemed a valid binding agreement in each case enforceable in accordance with its terms.

(h) **Third Party Rights.** The terms and provisions of this Guarantee are intended solely for the benefit of Company and Guarantor and their respective successors and permitted assigns, and it is not the intention of Company or Guarantor to confer upon any other persons any rights by reason of this Guarantee.

(i) **No Set-off, Deduction or Withholding.** Guarantor hereby guarantees that payments hereunder shall be made without set-off or counterclaim and free and clear of and without deduction or withholding for any taxes; provided, that if the Guarantor shall be required under Applicable Law to deduct or withhold any taxes from such payments, then (i) the sum payable by Guarantor shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable pursuant to this sentence) the Company receives an amount equal to the sum it would have received had no such deduction or withholding been required, (ii) Guarantor shall make such deduction or withholding, and (iii) Guarantor shall timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with Applicable Law.

(j) **Waiver of Right to Trial by Jury.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF GUARANTOR AND COMPANY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTEE. EACH OF GUARANTOR AND COMPANY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE

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ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

(k) **Counterparts; Facsimile Signatures.** This Guarantee may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered by facsimile shall be deemed to be original signatures.

[Signature page follows.]

**EXHIBIT 20**

**FORM OF GUARANTEE**

IN WITNESS WHEREOF, Guarantor has duly executed this Guarantee on the day and year first before written.

**[GUARANTOR]**

---

Name:

Title:

Acknowledged and Accepted:

**NEVADA POWER COMPANY D/B/A NV  
ENERGY, A NEVADA CORPORATION**

---

Name:

Title:

**EXHIBIT 21**

**WORK SITE AGREEMENT**

**WORK SITE AGREEMENT  
TECHREN SOLAR V**

**1. INITIAL PROVISIONS**

- 1.1. This Work Site Agreement ("Agreement") is entered into by Techren Solar V, LLC ("Owner" or "EPC"), IBEW Local Unions 357 and 396 ("the Unions").
- 1.2. The NV Energy Techren Solar V Project (the "Project") will provide 50 MW<sub>AC</sub> as a **solar** renewable power plant located in Southern Nevada. This location is known as the "Project Site". The Project is owned by Techren Solar V, LLC. It is understood and agreed by and between the Parties to this Agreement that (i) the final plans for the Project may be subject to modifications and approval by those public agencies possessing lawful approval authority over the Project pursuant to the 2018 Renewable Energy Request for Proposals issued by NV Energy on January 5, 2018, (ii) this Agreement applies to the Project as it is finally approved by such entities and agencies, and (iii) this Agreement shall terminate if NV Energy cancels this Project in the event ballot Question 3 in the Nevada general election to be held on November 6, 2018 is approved by a majority of the Nevada voters. Once a final physical address is secured for this Project Site, they will be incorporated into this Agreement.
- 1.3. Owner is responsible for the construction of the Project.
- 1.4. As provided below, all persons or entities assigning, awarding or subcontracting Covered Work (as defined in Article 2), or authorizing another party to assign, award or subcontract Covered Work, or performing Covered Work (and all of whom are individually and collectively referred to as "Employer" or "Employers") will (except for the EPC) become subject to this Agreement by executing Attachment A (the "Agreement To Be Bound").
- 1.5. The Unions are labor organizations whose members are construction industry employees. The Unions are party to a multi-employer collective bargaining agreement ("Master Agreement") that covers the geographic area of the Project. Where the term Master Agreement is used, it means the existing Master Agreement in effect on the date hereof.
- 1.6. A large labor pool represented by the Unions will be required to execute the work involved in the Project. EPC and Employers wish, and it is the purpose of this Agreement to ensure, that a sufficient supply of skilled craft workers are available at the Project, that all construction work and related work performed by the members of the Unions on this Project proceed continuously, without interruption, in a safe and efficient manner, economically with due consideration for the protection of labor standards, wages and working conditions. The parties also expressly recognize that the Project may be located in extreme weather conditions subject to high or low temperatures. Employers will provide a safe work site and comply with all state and federal requirements related to protection from heat. The Unions will not seek to

restrict productivity based on these conditions. In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties to this Agreement agree to establish adequate and fair wage levels and working conditions.

- 1.7. A central purpose of the parties in executing this Agreement is to guarantee labor peace on the Project by minimizing the jobsite friction that could arise at a common-situs jobsite when union employees are required to work alongside non-union employees in those other crafts with which they generally work in close proximity performing work that is closely related and coordinated, and by ensuring there will be no disruption of the work should any non-union workers be present to perform work outside the scope of the Agreement. This Agreement accomplishes these objectives by requiring that all Covered Work be performed by workers who are members of the Unions. For work that falls outside the scope of this Agreement or that is excluded from Covered Work, the Primary Employer further protects itself from the potential effects of jobsite friction by prohibiting all strikes, picketing or other concerted activity for any reason whatsoever, including payment of liquidated damages for any violation of such prohibition.
- 1.8. In the interest of the future of the construction industry in the local area, of which the Unions are a vital part, and to maintain the most efficient and competitive posture possible, the Unions pledge to work and cooperate with EPC and the Employers to produce the most efficient utilization of labor and equipment in accordance with this Agreement. In particular, the Unions shall make all efforts to first source labor local to the Project Site and to minimize per diem expenses. In addition, the Unions shall not afford preferential status to other jobs in the jurisdiction; to the extent such preference will inhibit the availability of qualified workers for the Project.

## 2. SCOPE OF AGREEMENT

- 2.1. All work to construct Project covered by this Agreement is referred to as "Covered Work." This Agreement also covers work done in temporary yards or facilities adjacent to or near the Project that is otherwise Covered Work described below. The scope of Covered Work set forth in this Agreement for this Project shall not be considered precedential.
- 2.2. IBEW Inside Work Includes:
  - 2.2.1. This Agreement covers the following on-site electrical construction work within the scope of the Union's Master Agreement: handling and installation of photovoltaic panels, installation and connection of any electrical wires and cables, connections to power conversion stations, electrical fixtures, electrical appliances, electrical apparatus, electrical raceways or trays, electrical conduits, electrical instrumentation and controls. All of the foregoing work within the scope of this Agreement is referred to as "Covered Work."
  - 2.2.2. IBEW Inside Wire Covered Work also includes all work performed by

electrical craft labor that is part of startup and commissioning, including, but not limited to, loop checks and rework and modifications during start-up and commissioning. The Primary Employer, manufacturer's representatives, vendor's representatives, and plant operating personnel may supervise and direct employees performing startup and commissioning, including loop checks and rework and modifications during start-up and commissioning. This related craft work is typically performed as part of a joint effort with these representatives and personnel. After a system or subsystem becomes operational and upon acceptance by the Primary Employer, Covered Work on that system or subsystem is completed. However, rework and modifications normally provided as a function of the initial construction effort, and other related initial construction work normally performed by members of the Unions, will be performed by members of the Unions. Nothing set forth in this Section 2.1.2 shall be construed as prohibiting or limiting permanent operating personnel, who are not members of the Unions, from operating systems prior to Covered Work being completed, or industry standard work performed by a manufacturer or vendor or its representatives to satisfy its guarantee or warranty prior to startup of a piece of equipment.

- 2.3. IBEW Outside Line Work includes all construction of transmission and distribution lines, outside substations, switchyards, and sub-station or switchyard related ground grids. To the extent there is additional work needed by Employer on the Project that is outside of the above language, but covered within the scope of work for the IBEW Outside Line Construction Agreement, IBEW Local 396 and the Employer agree to meet and confer to determine if that work can be covered by IBEW Local 396.
- 2.4. Covered Work shall not include any work performed by federal, state, county, city or other governmental bodies and/or agencies or their contractors, or work performed by employees of NV Energy.
- 2.5. Purchase of any manufactured item produced in a genuine manufacturing facility for the supply of products is not Covered Work and shall not be considered subcontracting under Article 3 below. Any offsite fabrication, kitting, preparation or other assembly of components for the Project is Covered Work and shall be performed on site. For the convenience of the Employer, such work may be performed offsite if performed in accordance with the union standards for the applicable Union established by this Agreement. Covered Work does not include creating inverter skids, if they are created, built, or assembled in a genuine manufacturing facility.
- 2.6. The initial delivery of materials to the Project site, to a drop off location within the site, or to a temporary yard at/or area near the Project is not Covered Work. The loading, unloading and distributing of electrical materials within the site after the initial delivery are Covered Work.
- 2.7. This Agreement applies to employees performing Covered Work. It does not apply to supervisors not covered by a collective bargaining agreement, assistant supervisors,



technical or non-manual employees including, but not limited to executives, office and clerical personnel, drafters, engineers, timekeepers, messengers, or any other employees above the classification of general foreman who perform administrative/clerical functions.

2.8. Covered Work does not include operations or maintenance work.

### 3. SUBCONTRACTING

- 3.1. EPC and each Employer agree that they will contract for the assignment, awarding or subcontracting of Covered Work, or authorize another party to assign, award or subcontract Covered Work, only to a person, firm, corporation or other entity that, at the time the contract is executed, has become a party to this Agreement by executing the Agreement to Be Bound.
- 3.2. EPC and each Employer agree that they will subcontract Covered Work only to a person, firm, or corporation who is or becomes signatory to this Work Site Agreement and who is or becomes signatory to the Union's Master Agreement. The subcontractor agrees to become a signatory of the Master Agreement under this provision only for the life of the current Master Agreement. Any Employer performing Covered Work on the Project shall, as a condition to working on the Project, become signatory to and perform all work under the terms of this Agreement and the Master Agreement. Before being authorized to perform any Covered Work, Employers (other than Primary Employer) shall become a party to this Agreement by signing an Agreement To Be Bound, which is provided as Attachment A to this Agreement. Every Employer shall notify the Unions in writing within three business days after it has subcontracted work, and shall at the same time provide to the Unions a copy of an Agreement To Be Bound executed by the Employer.
- 3.3. Nothing in this Agreement shall in any manner whatsoever limit the rights of EPC, or any other Employer, to subcontract work or to select its contractors or subcontractors, provided, however, that all Employers, at all tiers, performing Covered Work shall be required to comply with the provisions of this Agreement. EPC and every other Employer shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the award of any construction contract or subcontract for Covered Work or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement and the Master Agreement. If any Employer fails to provide the Union with the Agreement To Be Bound executed by its subcontractor, that Employer shall be liable for any contributions to any trust funds that the subcontractor, or any subcontractor to that subcontractor, fails to make.

### 4. WAGES. BENEFITS. HOURS OF WORK. SHIFT WORK. HOLIDAYS

- 4.1. All employees covered by this Agreement (including foremen and general foremen if they are covered by a Master Agreement) shall be classified and paid wages, and contributions made on their behalf to multi-employer trust funds, all in accordance

with the appropriate Master Agreement.

- 4.2. The standard work day shall consist of eight (8) hours of work between 6:00 a.m. and 5:30 p.m. with one-half hour designated as an unpaid period for lunch. Breaks will be allowed in accordance with Federal/State Law. The standard work week shall be five (5) consecutive days starting on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.
- 4.3. It is recognized by the parties to this Agreement that the standard work week may not be desirable or cost effective for the Project, and other arrangements for hours of work may be considered. Such proposed modifications to the standard work week will be established with the consent of the Employer and the Union.
- 4.4. Shifts may be established when considered necessary by the Employer. Shift hours will be as follows: First shift will be eight (8) hours pay for eight (8) hours worked, plus one-half hour unpaid lunch period, Second shift will be eight (8) hours pay for eight (8) hours worked, plus the shift differential set forth in the Master Agreement.
- 4.5. A four (4) day ten (10) hour per day work week may be established. Forty (40) hours per week constitutes the work week Monday through Thursday. Hours beyond ten (10) will be paid at the double time rate. Overtime on Friday will be paid at time and one-half for the first eight (8) hours; hours beyond eight (8) will be paid at the rate established in the Master Agreement, not to exceed double time. There shall be no make-up days.
- 4.6. The Employer may establish two four (4) day ten (10) hour per day shifts at the straight time rate of pay Monday through Thursday. The first shift shall be ten (10) hours pay for ten (10) hours worked at the regular straight time hourly rate, exclusive of thirty (30) minute unpaid meal period. The second shift shall be ten (10) hours pay for ten (10) hours worked plus the shift differential set forth in the Master Agreement.
- 4.7. There will be no pyramiding of overtime rates.
- 4.8. Recognized holidays shall be as follows: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day. Under no circumstances shall any work be performed on Labor Day except in cases of emergency involving life or property. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate rate as provided in the Master Agreement not to exceed double the straight time rate of pay. Work on Labor Day requires the prior approval of the Business Manager of the applicable Union. The listed holidays may be modified by mutual agreement of the Primary Employer and the Unions.

- 4.9. Employees performing IBEW Covered Work dispatched off the Helper Book shall, at a minimum, receive wages and benefits as specified in Attachment C.

5. UNION RECOGNITION AND REFERRAL

- 5.1. The Employers recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for its construction craft employees performing Covered Work for the Project, and further recognize the traditional and customary craft jurisdiction of the Unions.
- 5.2. All employees performing Covered Work shall be or shall become and then remain members in good standing of the Union as a condition of employment on or before the eighth (8th) day of employment, or the eighth (8th) day following the execution of this Agreement, whichever is later.
- 5.3. The Unions shall be the source of all craft employees for Covered Work for the Project. Employers agree to be bound by the hiring and layoff practices of the Unions, including hiring of apprentices, and to utilize its registration facilities and referral systems. Notwithstanding this provision, EPC and the Employers shall have the right to determine the competency of all referrals; determine the number of employees required determine the selection of employees to be laid-off and reject any applicant referred by the Unions.
- 5.4. The Unions will exert their utmost efforts to recruit sufficient numbers of skilled and qualified craft employees to fulfill the requirements of each Employer. The Unions and the Employers agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, age, pregnancy, any genetic information or any other protected classification protected by law or regulation. Each Employer, EPC and the Unions agree that they will not require any employee or applicant to submit to genetic testing or non-job related medical inquiries.
- 5.5. NV Energy has always stressed the importance of local hiring on any construction project. Local hiring brings a sense of community to the initiative and supports the local economy in which it is doing business. In continuance of that initiative, the parties agree that hiring will be from the Unions' books for the geographic area.
- 5.6. In the event the referral facilities maintained by the Unions do not refer the employees as requested by the Employer within a forty eight (48) hour period after such requisition is made by the Employer (Saturdays, Sundays and Holidays excepted), the Employer may employ applicants from any source.
- 5.7. Employers may utilize the workmen dispatched from the Helper Books described in Attachment C. These workmen may be used for all work involving PV module installation and material/trash distribution/removal. Installation Crews shall be setup in teams of 1 Foreman, 3 Apprentices, and 3 Helpers. Material Distribution Crews shall have at least 1 (JW) foreman and any combination of Apprentices, Helpers, and

Material Expeditors not exceeding a crew size of 15 workmen. Once the modules are installed, any further work downstream of this identified work will be performed by either Apprentices or Journeymen as per the Master Agreement. In accordance with Section 4.28 of the Master Agreement, a foreman is required on any job with (3) or more workmen and may supervise up to (15) workmen including himself/herself.

5.7.1. If there are insufficient apprentices available, the EPC may utilize the workmen dispatched from the Helper Books with the consent of the Union.

## 6. STRIKES AND LOCKOUTS

- 6.1. During the term of this Agreement, the Union, agrees that it shall not (and that it shall not cause its agents, representatives and employees) to incite, encourage, condone or participate in any strike, walkout, slowdown, sit-down, stay in, boycott, sympathy strike, picketing or other work stoppage for any cause whatsoever with respect to this Project; and it is expressly agreed that any such action is in violation of this Agreement. In the event of a violation of this provision, any Employer shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the part of the Unions, and/or any of their agents, representatives or employees, in addition to the Liquidated Damages for violation of Section 1.7 and/or 6.1 of this Agreement.
- 6.2. Upon written notice of a violation to the Union and its' officers, and their agents, representatives, employees and persons acting in concert with it, the Union shall take immediate action and will use its best efforts to prevent, end or avert any such activity or the threat thereof by any of its officers, members, representatives or employees, either individually or collectively, including but not limited to, publicly disavowing any such action and ordering all such officers, representatives, employees or members who participate in such unauthorized activity to cease and desist from same immediately and to return to work and comply with its orders. Nothing in this Agreement shall be construed to limit or restrict the right of any of the parties to this Agreement to pursue fully any and all remedies available under law in the event of a violation of this Article 6.
- 6.3. The parties agree that to the extent the Master Agreement provisions of the Unions' current labor agreement apply to this Project, they shall continue to apply throughout the duration of this Project notwithstanding the expiration of that agreement for all affected Employers on this Project.
- 6.4. Neither EPC nor any other Employer shall incite, encourage or participate in any lockout or cause to be locked out any employee covered under the provisions of this Agreement. The term "lockout" does not refer to the discharge, termination or layoff of employees by any Employer for any reasons in the exercise of its rights as set forth in any provision of this Agreement, nor does "lockout" include a decision by EPC or any Employer to terminate or suspend work on the Project Site or any portion thereof for any reason other than a labor dispute.

- 6.5. Notwithstanding the provisions of Section 6.1, it is agreed that the Unions retain the right to withhold the services of its members from a particular Employer who fails to make timely payments to the Unions benefit plans, or fails to timely pay its weekly payroll, in accordance with the Master Agreement; provided, in the event the Unions or any of its members withholds their services from such Employer, EPC or the applicable Employer shall have the right to replace such Employer with any other Employer who executes the Agreement To Be Bound. The Unions shall not withhold the services of its members under this provision without first giving EPC and the individual Employer alleged to be delinquent in its payments at least five (5) business days' notice, in the case of payroll delinquencies, and ten (10) business days' notice, in the case of benefit fund delinquencies, and an opportunity to cure the delinquency by tendering payment to the relevant employees or trust funds.

## 7. GRIEVANCE PROCEDURE

- 7.1. It is mutually agreed that any question arising out of and during the term of this Agreement involving interpretation and application of this Agreement shall be considered a grievance. Any grievances involving interpretation and application of this Agreement will be governed by this Agreement's grievance procedure as set forth below. Any grievances involving interpretation and application of the Master Agreement will be governed by the Master Agreement's grievance procedure.
- 7.2. EPC and any Employer, as well as the Unions, may bring forth grievances under this Article.
- 7.3. A grievance shall be considered null and void if not brought to the attention of the Employer(s) within five (5) working days after the incident that initiated the alleged grievance occurred or was discovered, whichever is later. The term "working days" as used in this Article shall exclude Saturdays, Sundays or holidays regardless of whether any work is actually performed on such days.
- 7.4. Grievances shall be settled according to the following procedure, except that grievances that do not involve an individual grievant shall be discussed by EPC and the Union, and then, if not resolved within five (5) working days of written notice unless extended by mutual consent, commence at Step 4.
- 7.5. Step 1. The steward and the grievant shall attempt to resolve the grievance with the Employer's supervisor within five (5) working days after the grievance has been brought to the attention of the Employer.
- 7.6. Step 2. In the event the matter remains unresolved in Step 1 above after five (5) working days, within five (5) working days after notice to the Union, the alleged grievance, in writing, may then be referred to the Business Manager of the Union and the Labor Relations representative of the Employer for discussion and resolution. A copy of the written grievance shall also be mailed/e-mailed to EPC.
- 7.7. Step 3. In the event the matter remains unresolved in Step 2 above after five (5)

working days, within five (5) working days, the alleged grievance, in writing, may then be referred to the Business Manager of the Union and the Manager of Labor Relations of the Contractor or the Manager's designated representative and EPC as for discussion and resolution.

- 7.8. Step 4. If the grievance is not settled in Step 3 within five (5) working days, within five (5) days thereafter, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. The request for arbitration and/or the request for an extension of time must be in writing with a copy to EPC. Should the parties be unable to mutually agree on the selection of an arbitrator, selection for that given arbitration shall be made by seeking a list of seven (7) labor arbitrators with construction experience from the Federal Mediation and Conciliation Service and alternately striking names from the list of names on the list until the parties agree on an Arbitrator or until one name remains. The first party to strike a name from the list shall alternate between the party bringing forth the grievance and the party defending the grievance. EPC shall keep a record of the sequence and shall notify the parties to the grievance as to which party has the right to strike a name first.
- 7.9. The selected arbitrator ("Arbitrator") shall conduct a hearing at which the parties to the grievance shall be entitled to present testimonial and documentary evidence. Hearings will be transcribed by a certified court reporter. The parties shall be entitled to file written briefs after the close of the hearing and receipt of the transcript.
- 7.10. Upon expiration of the time for the parties to file briefs, the Arbitrator shall issue a written decision that will be served on all parties and on EPC. The Arbitrator shall have the authority to utilize any equitable or legal remedy to prevent and/or cure any breach or threatened breach of this Agreement. The Arbitrator's decision shall be final and binding as to all parties signatory to this Agreement. No arbitration decision or award under this Article may provide retroactive relief of any kind exceeding fifteen (15) calendar days prior to the date the grievance was first initiated at Step 1.
- 7.11. The cost of the Arbitrator and the court reporter, and any cost to pay for facilities for the hearing, shall be borne equally by the parties to the grievance. All other costs and expenses in connection with the grievance hearing shall be borne by the party who incurs them.
- 7.12. The Arbitrator's decision shall be confined to the issue(s) posed by the grievance and the Arbitrator shall not have the authority to modify, amend, alter, add to or subtract from any provision of this Agreement.
- 7.13. Any party to a grievance may invite EPC to participate in resolution of a grievance. EPC may, at its own initiative, participate in Steps 1 through 3 of the grievance procedure.
- 7.14. In determining whether the time limits of Steps 2 through 4 of the grievance procedure have been met, a written referral or request shall be considered timely if it

is personally delivered, sent by overnight mail or e-mailed within the five (5) working day period. Any of the time periods set forth in this Article may be extended in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, sent by overnight mail or e-mailed during the extended time period.

- 7.15. For purposes of e-mailed copies of grievances to EPC, they can be sent to the following e-mail address: Ken.Kostock@174powerglobal.com

## 8. MANAGEMENT RIGHTS

- 8.1. Except as expressly limited by the specific provisions of this Agreement, the Employers retain full and exclusive authority for the management of their Project operations including, but not limited to: the right to direct the work force, including determination as to the number to be hired and the qualifications therefore; the number assigned to any specific work, the promotion, transfer, layoff of employees; the discipline or discharge of employees; the type of equipment to be used, the assignment and schedule of work; the promulgation of reasonable Project work rules; safety rules, drug and alcohol policies pursuant to Section 10.9 and the requirement, timing and number of employees to be utilized for Covered Work. Except as provided in the Master Agreement, no rules, customs, or practices which limit or restrict productivity or efficiency of the individual, and/or joint working efforts with other employees shall be permitted or observed. The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically covered by this Agreement.
- 8.2. There shall be no limitations or restriction upon EPC's choice of materials, techniques, methods, technology or design, or, regardless of source (including but not limited to country source of origin) or location, upon the use and installation of equipment, machinery, package units, pre-cast, prefabricated, prefinished, or preassembled materials of any kind, tools, or other labor-saving devices. The Union agrees that such material and equipment is to be installed without incident.
- 8.3. In recognition of the dynamic nature of the PV solar industry, the parties agree that EPC may apply new technologies to the Project as they are developed, (including technological advances in the construction of PV solar plants) even if such application results in a reduction of the amount of labor on the Project.
- 8.4. All construction equipment assigned by an Employer to the Project shall be under the control of EPC. EPC shall have the right to determine how many pieces of construction equipment an individual shall operate.
- 8.5. EPC retains the right to deny access to the Project to any employee on the basis of violating EPC safety processes and procedures.

## 9. SUCCESSORSHIP AND SURVIVABILITY

- 9.1. The subcontracting obligations described in Article 3 are independent obligations of EPC which shall survive any full or partial termination of EPC's involvement in the Project for any reason, including, without limitation: (i) any full or partial termination or transfer of EPC's right to control and coordinate construction work on the Project (ii) any full or partial termination or transfer of a contract, if any, between EPC and any Owner for any Covered Work; (iii) the transfer of all or any portion of the Project or any interest in the Project by any Owner; or (iv) any other event that results in the replacement of EPC with another contractor.
- 9.2. The parties agree that: (i) if EPC's involvement in the Project is terminated and (ii) Covered Work is performed by a contractor or subcontractor that is not in compliance with the provisions of Article 3, then EPC shall pay liquidated damages, as set forth on Attachment B.
- 9.3. Upon execution and delivery of an agreement assuming all the obligations of this Agreement and determination by the Unions that the successor is financially responsible, EPC shall be released from liability for the payment of liquidated damages under this Article 9 and shall have no liability for any breach of this Agreement by a successor employer or contractor. A successor shall be considered financially responsible if the Unions, in the exercise of its' reasonable judgment, determine that the successor is financially capable of completing the Project and complying with the obligations and undertakings of EPC under this Agreement, including any obligation to pay liquidated damages under this Article 9.
- 9.4. This Article shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure.

## 10. GENERAL PROVISIONS

- 10.1. If any article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive legislative, judicial or administrative branch of the federal or state government, the Employers and the Union shall suspend the operation of such article or provisions during the period of its invalidity and shall substitute by mutual consent, in its place and stead, an article or provision which will satisfy the objections to its validity and which, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question.
- 10.2. If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.
- 10.3. Except as enumerated in this Agreement, all other terms and conditions of



employment described in the Master Agreements that are in effect shall apply.

- 10.4. The provisions of this Agreement shall take precedence over conflicting provisions of the Master Agreement of the Unions.
- 10.5. The parties agree that all covered employees will be required to be at his or her work station and ready to begin work at the designated starting times. The parties support a pay arrangement that provides for the covered employee to be at his or her work station and ready to work at the start of this shift without compensation for the time traveled to his or her workstation however the parties further agree that employees will be compensated at the appropriate hourly rate of pay for travel time back to their vehicles from the workstation.
- 10.6. Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.
- 10.7. Rights of Owner. Nothing in this Agreement shall be construed as limiting the Owner, in its sole discretion at any time to terminate, delay, cease, or suspend construction activities, in whole or part, on this Project and/or shut down the Project Site or any part thereof for reason other than a labor dispute without any liability whatsoever, except for liability incurred prior to such action.
- 10.8. This Agreement may be executed in counterparts.
- 10.9. The parties recognize that EPC strongly supports a drug free work environment on each of its projects. To that end, the parties agree that Owner's drug testing policies shall be applied to the Project by each Employer on the site. Specifically, that policy includes pre-employment drug testing prior to starting work on the site, random drug testing on the worksite once employed and drug testing following any industrial accident resulting in an injury or any damage to Employer or EPC property. Should EPC require a pre-employment drug test of the employee(s) of the signatory Employer as noted above, and the employee(s) (through the signatory Employer) will be paid (1) hour show up pay if he successfully passes the pre-employment drug test. Should an employee(s) initial test be deemed inconclusive and require further testing that employee(s) shall be paid (2) hour waiting time per day upon successfully passing the pre-employment drug testing. This pay provision shall only apply to pre-employment drug tests.
- 10.10. Zone Pay -- the parties reiterate their agreement that the provisions of the Inside Construction Master Agreement, Section 4.38 and 4.39 shall not apply throughout the term of the Project and that no zone pay shall be payable when workers are ordered to report directly to a jobsite. Any other references to Zone Pay in the Inside Construction Master Agreement shall not apply.
- 10.11. Any notices required under this Agreement shall be given as follows. Either party may notify the other in writing if its person designated to receive notice is changed.

To EPC:

Ken Kostok, Director of Operations and  
Management  
174 Power Global Corp.  
300 Irvine Spectrum Drive Suite 1020  
Irvine, CA 92618  
(562) 756-3045  
Ken.Kostok@174powerglobal.com

To the Unions:

Al D. Davis, Business Manager—  
Financial Secretary  
IBEW Local 357  
808 N. Lamb Blvd.  
Las Vegas, NV 89110  
Telephone: (702) 452-9357  
adavis@ibew357.org

With a copy to:

— — — — —, Renewable Energy  
& Origination  
NV Energy  
(702)  
| \_\_\_\_\_@nvenergy.com

Jesse Newman, Business Manager-  
Financial Secretary  
IBEW Local 396  
3520 Boulder HWY  
Las Vegas, NV 89121  
Telephone: (702) 457-3011  
jesse@ibew396.org

#### 11. TERM OF AGREEMENT

- 11.1. The term of this Agreement shall commence on the date an agreement is executed between EPC and Owner for the Project regarding this Project as identified in Section 1.2, and shall continue in effect until completion of all Covered Work pursuant to Article 2.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of April 27, 2018.

Techren Solar V, LLC

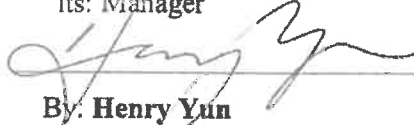
[IBEW LOCAL 357]


By: Techren Solar, LLC  
Its: Manager

By: Techren Solar Member, LLC  
Its: Manager

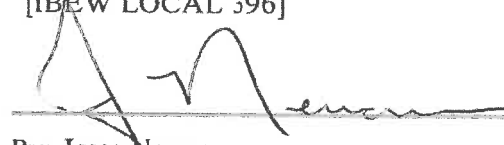
By: Techren Holdco, LLC  
Its: Manager

By: 174 Power Global Corporation  
Its: Manager

  
By: **Henry Yun**  
Its: President

  
By: Al D. Davis  
Its: Business Manager/ Financial  
Secretary

[IBEW LOCAL 396]

  
By: Jesse Newman  
Its: Business Manager/ Financial  
Secretary

**ATTACHMENT A**  
**AGREEMENT TO BE BOUND**  
**TECHREN SOLAR V**

The undersigned hereby certifies and agrees that:

1.) It is an Employer as that term is defined in Section 1.4 of the NV ENERGY TECHREN SOLAR V PROJECT Work Site Agreement ("Agreement") because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Sections 1.2 and Article 2 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2.) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.

3.) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorize the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.

4.) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5.) It will secure a duly executed Agreement To Be Bound, in form identical to this document, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: \_\_\_\_\_ Name of Employer \_\_\_\_\_

\_\_\_\_\_  
(Authorized Officer & Title)

\_\_\_\_\_  
(Address)

ATTACHMENT B  
SCHEDULE OF LIQUIDATED DAMAGES FOR BOTH PARTIES

WORK SITE AGREEMENT  
TECHREN SOLAR V

1. Strikes: In the event the Union violates the terms of Section 6.1 of the Work Site Agreement, including without limitation, by interfering with the Project or by supporting a strike at the work site, then the Union shall be jointly and severally liable for an amount equal to twenty thousand dollars (\$20,000) for each day in which the Union is in violation of the terms of Sections 1.5 and/or 6.1.
2. Failure of Successor to Assume. In the event EPC fails to cause its successor to assume the Work Site Agreement,

EPC shall pay an amount equal to the journeyman electrician's or journeyman lineman's total compensation, as applicable, for each hour that work was performed on the Project within the scope of this Agreement by employees of contractors or subcontractors who are not signatory to this Agreement as follows:

Fifty Percent (50%) per hour to the qualified pension plan and  
Fifty Percent (50%) per hour to the qualified health and welfare plan

of the Union(s) performed by the contractor(s) or subcontractor(s) not signatory to this Agreement. The parties agree that the Union shall enforce, collect and receive the liquidated damages described herein on behalf of its qualified pension plan and its qualified health and welfare plan. The qualified pension plans and the qualified health and welfare plans shall have no right to independently enforce the provisions of this Agreement.

3. The liability of the Owner, EPC, any Employer and/or the Union under this Agreement shall be several and not joint. Neither the Owner, nor any Contractor shall be liable for any violations of this Agreement by any other Contractor or party; and the Union shall not be liable for any violations of this Agreement by any other Union or party.
4. In no event shall Owner, EPC's or Unions' liability for violation of this Agreement exceed \$1,000,000 (one million dollars).

# ATTACHMENT C

## IBEW 357 NV Energy Techren SOLAR V Project Helper Rates

	Check	H&W	DFW	B-Plan	JATC	LMCC	NLMCC	NEBF3%	CAF 0.2%	Total
Helper										
9/1/17	\$21.00	\$5.45	\$0.06	\$1.00	\$0.66	\$0.30	\$0.01	\$0.63	\$0.04	\$29.15
1/1/19	\$21.60	\$5.45	\$0.06	\$1.00	\$0.66	\$0.30	\$0.01	\$0.65	\$0.04	\$29.77
1/1/20 **	\$21.60	\$5.45	\$0.06	\$1.00	\$0.66	\$0.30	\$0.01	\$0.65	\$0.04	TBD
1/1/21 **	\$21.60	\$5.45	\$0.06	\$1.00	\$0.66	\$0.30	\$0.01	\$0.65	\$0.04	TBD

\*\* Starting on each of 1/1/20 and 1/1/21, the Parties agree to increase the Wage rate from the rate of the previous contract year (which is \$21.60 in 2019) at the same percentage increase as the percentage increase for the Wage rate of the Union's lowest rate apprentice classification for the previous contract year, up to a cap of 3%.

Wages and Benefits are for workers dispatched from the Helper Books for the NV EnergyTechren Solar V Project.



# IBEW LOCAL

SERVING SOUTHERN NEVADA SINCE 1931

Al D. Davis  
*Business Manager / Financial Secretary*

Charles T. Stetson  
*President*

April 27, 2018

Attn: Ken Kostok, Director of Operations and Management  
Techren Solar V, LLC

Dear Mr. Kostok:

During the course of the negotiations leading to the Work Site Agreement for the NV Energy Techren Solar V Project the parties have both expressed their fervent desire to be as cost competitive on this project as possible and both parties have demonstrated their desires as they have bargained this Work Site Agreement.

With this continuing desire in mind; the parties agree that crews engaged in module interconnection, commonly referred to as "Plug and Play" may be staffed at a JW to Apprentice ratio of 1 JW to 3 Apprentices not excluding a crew size of 15 workmen.

Sincerely,

Al D. Davis  
Business Manager/Financial Secretary  
IBEW Local Union #357





# IBEW LOCAL

SERVING SOUTHERN NEVADA SINCE 1931

Al D. Davis  
*Business Manager / Financial Secretary*

Charles T. Stetson  
*President*

April 27, 2018

Attn: Ken Kostok, Director of Operations and Management  
Techren Solar V, LLC

Dear Mr. Kostok:

During the course of the negotiations leading to the Work Site Agreement for the NV Energy Techren Solar V Project the parties discussed at length the provisions of Section 5.7 of the WSA which deals with the manning of work crews for PV module installation and material distribution.

The parties have both expressed their fervent desire to be as cost competitive on this project as possible and both parties have demonstrated their desires as they have bargained this Work Site Agreement.

With this continuing desire in mind; the parties agree that, notwithstanding the provisions found in section 5.7 relative to handling and installation of PV modules at the work site, in case the Union cannot supply enough first or second year apprentices to fill the apprentice component those slots may be filled with workers dispatched off of the Helper Books.

Sincerely,

Al D. Davis  
Business Manager/Financial Secretary  
IBEW Local Union #357





**EXHIBIT 22**

**RESERVED**

**EXHIBIT 23**

**APPROVED VENDORS LIST**

[To be provided by Buyer]

**REN-6-TS5 (b)**

## Technical Appendix REN-6-TS5 (b)

Summary of Nevada Administrative Codes applicable to Techren Solar V.

NAC § 704.8885 (New renewable energy contracts: Review by Commission; criteria for approval) and NAC 704.8887 (New renewable energy contracts: Determination of whether price for electricity is reasonable) requires that the Company provide specific information regarding new renewable energy contracts for which it is seeking approval. For, Techren Solar this information is set forth below:

NAC § 704.8885(2)(a) requires the Commission to determine the reasonableness of the price of electricity based on the factors set forth in NAC 704.8887, detailed in pertinent part as follows:

NAC § 704.8887(1) instructs the utility to calculate the price for electricity acquired or saved pursuant to a new renewable energy contract or energy efficiency contract by calculating the levelized market price for the electricity.

*The LCOE for the contract is \$29.89/MWh, including network upgrade costs. The rate is for the purchase of energy and PCs at a blended rate.*

NAC § 704.8887(2)(a) requires the Commission to address whether the new renewable energy contract or energy efficiency contract comports with the utility provider's most recently approved plan to increase its supply of or decrease the demand for electricity.

*This project is being proposed as part of the utilities' triennial integrated resource plan to increase its supply of electricity. The contract will contribute towards fulfillment of the Nevada Power Renewable Portfolio Standard ("RPS") compliance.*

NAC § 704.8887(2)(b) addresses the reasonableness of any price indexing provisions set forth in the new renewable energy contract or energy efficiency contract.

*The price for renewable energy and PCs set forth in this contract is \$29.89/MWh with no escalation for the term of the contract.*

NAC § 704.8887(2)(c) address whether the new renewable energy systems will reduce environmental costs in this State as compared to competing facilities or energy systems that use fossil fuels.

*The technology that the Techren project utilizes creates zero air emissions. When compared to a modern gas-fired combined cycle unit, the emissions avoided are shown in the table below.*

## AVOIDED AIR EMISSIONS

AVOIDED AIR EMISSIONS <sup>1</sup>					
	S02	CO	VOC	NOX	PM
Project	ton/yr	ton/yr	ton/yr	ton/yr	ton/yr
Techren V	0.28	0.66	0.01	3.00	1.02

<sup>1</sup> Avoided Emissions derived from average heat rate for a state of the art combined cycle unit. This is a conservative assumption as avoided emissions are likely to be from higher heat rate market purchases or from older, less efficient units.

*The project uses de minimis amounts of water, creates no waste streams in its energy production, efficiently utilizes land for solar energy generation, and has minimal impacts on wildlife, including applicable tortoise protection measures.*

NAC § 704.8887(2)(d) addresses the net economic impact and all environmental benefits and environmental costs to this State in accordance with NAC 704.9005 to 704.9525, inclusive, and section 7 of this regulation (measurement and verification protocol for all energy efficiency measures).

*The net economic impact of the project includes:*

- *A temporary increase in workforce during the construction phase of the facility of an estimated 90 positions;*
- *A permanent long-term increase in the workforce for the operation and maintenance of the facility of an estimated 5 positions at an estimated average salary of \$54,517 annually, and a total payroll of \$7 million over 25 years; and,*
- *The environmental benefit will be a reduction in air emissions as shown in the table above.*

NAC § 704.8887(2)(e) addresses any economic benefits that might inure to any sector of the economy of this State.

*The economic benefits of the project include increased property tax in Boulder City and Clark County, and sales taxes from the purchase of local goods. Other benefits include an increase in short term construction employment and long term operations employment.*

NAC § 704.8887(2)(f) addresses the diversity of energy sources being used to generate electricity that is consumed in this State.

*Commission approval of the PPA will increase the diversity of energy sources used to generate electricity that is consumed in Nevada. Nevada Power's portfolio of renewable energy will increase with a commensurate decrease in its reliance on fossil fuel generation.*

NAC § 704.8887(2)(g) addresses the diversity of energy suppliers generating or selling electricity in this State.

*174 Power Global is a US-based company, headquartered in Irvine, CA. Its parent company, Hanwha Energy, is a vertically-integrated solar energy company involved in all aspects of the solar PV business, including the development, engineering, procurement, construction, financing, power plant ownership, operation and maintenance of utility-scale PV facilities in the US and abroad. Hanwha partners with local contractors for all construction projects, providing local employment and enhancing local workers' skills for the emerging green economy. The Techren V PPA project will be the fifth PPA between Techren and NV Energy.*

NAC § 704.8887(2)(h) addresses the value of any price hedging or energy price stability associated with the new renewable energy contract or energy efficiency contract.

*The agreement has a low starting price with no price escalation over the term of the contract. The price is therefore known through the term of the contract and is not subject to fuel risk. As a result of the exceptional pricing in this agreement, it represents one of the lowest LCOE values of any renewable agreement the Company has under contract.*

NAC § 704.8887(2)(i) addresses the date on which each renewable energy system is projected to begin commercial operation.

*The project's commercial operation date is estimated to be December 31, 2020.*

NAC § 704.8887(2)(j) addresses whether the utility provider has any flexibility concerning the quantity of electricity that the utility provider must acquire or save pursuant to the new renewable energy contract or energy efficiency contract.

*The agreement calls for Nevada Power to take all net energy, including any excess energy and PCs generated by the facility. Curtailment or re-dispatch of up to 100 percent of the expected output can be ordered by the transmission provider, electric system authority, or market operator. Nevada Power has no obligation to pay for such curtailed product or for generation in excess of the maximum amount. Excess energy is paid for at the lesser of: (i) fifty percent (50%) of the applicable product rate, or (ii) the Mead for each delivery hour.*

NAC § 704.8887(2)(k) addresses whether the new renewable energy contract or energy efficiency contract will result in any benefits to the transmission system of the utility provider.

*The System Impact Study and Facilities Study for this solar facility have been completed and the project has an executed Large Generator Interconnection Agreement (“LGIA”). The System Impact Study did not identify any negative impacts on Nevada Power’s transmission grid that could not be mitigated by the transmission system additions proposed in the study. The project generates electricity which will provide benefits to the transmission grid by providing real and reactive power at the point of interconnection. See Technical Appendix TRAN-7 for information on the LGIA.*

NAC § 704.8887(2)(l) addresses whether the electricity acquired or saved pursuant to the new renewable energy contract or energy efficiency contract is priced at or below the utility provider’s long-term avoided cost rate.

*When compared to the long-term avoided costs approved by the Commission in Docket No. 17-11004, the blended rate for energy and PCs is lower in all years than the long-term avoided costs over the life of the agreement.*

NAC § 704.8887(3) addresses the price of electricity acquired or saved in a renewable energy contract or energy efficiency contract for the solar energy requirement of its portfolio standard to be evaluated separately.

*The cost of power and PCs delivered from the project are competitive to both the prices Nevada Power pays for its current portfolio of renewable projects and the other compliant bids submitted in the 2018 Renewable RFP. In addition, the price received in this PPA represents one of the best prices that the Companies have ever received for a renewable energy agreement.*

NAC § 704.8885(2)(b) addresses the term of the contract.

*The term of the PPA is 25 years.*

NAC § 704.8885(2)(c) addresses the location of the portfolio [renewable] energy system or efficiency measure that is subject to the contract.

*The project is located in Boulder City, Nevada*

NAC § 704.8885(2)(d) addresses the use of natural resources by each renewable energy system that is subject to the contract.

*The project utilizes irradiance from the sun gathered by solar panels. No water is consumed during the operation of the project other than the occasional cleaning of the panels.*

NAC § 704.8885(2)(e) addresses the firmness of the electricity to be delivered and the delivery schedule.

*The project generates non-firm energy that will be delivered into the utility's grid which will be delivered through firm transmission pursuant to the designation of the facility as a network resource.*

NAC § 704.8885(2)(f) addresses the delivery point for the electricity.

*The generating facility will be interconnected to the existing Nevada Solar One 230 kV Substation. A one-line diagram depicting the interconnection can be found in Exhibit 5 of the PPA, Technical Appendix REN-6-TS5 (a).*

NAC § 704.8885(2)(g) addresses the characteristics of similar renewable energy systems.

*The characteristics of the project are similar to that of Nevada Power's other large scale PV systems, Boulder Solar I, Switch Station I, Switch Station II, Apex Solar, Mountain View Solar, Searchlight Solar, and Spectrum Solar. The plant design is proven technology that is in use worldwide.*

NAC § 704.8885(2)(h) addresses the requirements for ancillary services.

*Requirements for ancillary services are not affected by the PPA.*

NAC § 704.8885(2)(i) addresses the unit contingent provisions.

*The energy from the facility is contingent upon the availability of the unit. If the unit is not producing within the performance specifications of the PPA, then the energy will be replaced from other sources.*

NAC § 704.8885(2)(j) addresses the system peak capacity requirements of the utility provider.

*The power purchase agreement will provide benefits to the system peak capacity requirements of the Companies.*

NAC § 704.8885(2)(k) addresses the requirements for scheduling.

*All net energy from the facility will be delivered directly to the Company's electric grid. The facility will be considered a network resource within the Company's system and output produced by the facility will be used to meet the Company's native load.*



NAC § 704.8885(2)(l) addresses conditions and limitations on the transmission system.

*The System Impact Study for this project has been completed. This project is part of the Techren complex, and therefore requires no additional Network Upgrades at the Nevada Solar One Substation.*

NAC § 704.8885(2)(m) addresses project insurance.

*The PPA requires the supplier to provide workers compensation insurance of not less than \$1 million per occurrence, general liability of not less than \$5 million annual aggregate, and automobile liability insurance of at least \$2 million aggregate.*

NAC § 704.8885(2)(n) addresses the costs for procuring replacement power in the event of non-delivery.

*In the event the project does not meet certain performance requirements, the supplier is obligated to compensate Nevada Power for shortfalls in energy and PCs. Compensation for an energy shortfall is based upon the difference between the cost of replacement power, as specified in the PPA, and the PPA price. However, should the cost of replacement power be less than the contract price of power from supplier, the replacement cost will be \$0.00. Compensation for a PC shortfall is determined by Nevada Power exercising its reasonable discretion based on the estimated cost of purchasing PCs.*

NAC § 704.8885(2)(o) addresses information verifying that each renewable energy system transmits or distributes or will transmit or distribute the electricity that it generates in accordance with the requirements of NRS 704.7815, as amended.

*The generating facility uses renewable solar energy to generate electricity and transmits that energy to the Company. Therefore the generating facility comports with NRS 704.7815(1)(a) and 704.7815 (1)(b).*

NAC § 704.8885(2)(p) addresses the total number of renewable energy systems that the owner of the renewable energy system is or has been associated with as an owner or operator.

*174 Power Global and its parent company Hanwha Q Cells has a proven track record of developing, constructing and operating utility-scale solar power plants around the world. HQC USA and its affiliates have developed, constructed and placed into commercial operation over 20 wholesale projects, totaling over 520 MW, and 752 MW in construction or preparing for construction. The Hanwha Group has successfully developed, built, and/or operated over 800MW of solar PV projects globally.*

NAC § 704.8885(2)(q) addresses the points of interconnection with the electric system of the utility.

*The generating facility will be interconnected to the existing Nevada Solar One 230 kV Substation. A one-line diagram depicting the interconnection can be found in Exhibit 5 of the PPA, Technical Appendix REN-6-TS5 (a).*

NAC § 704.8885(2)(r) addresses the interconnection priority which has been established for the available transmission capacity of the utility provider for all proposed renewable energy systems that will interconnect and begin commercial operation within the three-year period immediately following the date on which the new renewable energy contract or energy efficiency contract is submitted for approval.

*Commission approval of the project will not affect any pending FERC interconnection priorities. Pursuant to the provisions of the Companies' FERC approved OATT, interconnection priority of a generator is determined based on the date the requesting customer submits a valid interconnection request.*

NAC § 704.8885(2)(s) addresses any requests for transmission service that have been filed with the utility provider.

*A Large Generator Interconnection Agreement between Nevada Power and Techren Solar, LLC was executed on May 20, 2016 with an in-service date of October 1, 2017.*

NAC § 704.8885(2)(t) addresses any evidence that an environmental assessment, an environmental impact statement or an environmental impact report is being completed or has been completed with regard to the renewable energy system, or any evidence that a contract has been executed with an environmental contractor who will prepare such an assessment, statement or report within the 3-year period immediately preceding the date on which the renewable energy system is projected to begin commercial operation.

*The Techren V Solar project as proposed by 174 Power Global is the fifth phase of the overall Techren Boulder City Solar Project facility located on land owned by the City of Boulder City. The gen-tie line from the solar facility to the point of interconnection is routed through a Bureau of Land Management (BLM) utility corridor. A Programmatic Environmental Assessment was completed in November 2012 for the Eldorado Valley Transmission & Utility Corridor, DOI-BLM-NV-S010-2012-0024. Specific to the Techren Solar project, an environmental assessment, DOI-BLM-NV-S010-2012-0146-EA was conducted for the gen-tie route for the project's right-of-way grant N-90395. Additionally, 174 Power Global amended their right-of-way grant to move their gen-tie route to interconnect at the NSO substation in 2017. At that time, a Determination of NEPA Adequacy, DOI-BLM-NV-S010-2017-0047-DNA was concluded by BLM and amended right-of-way grant N-90395/A was issued.*

NAC § 704.8885(2)(u) addresses permits required for the renewable energy systems within the 3-year period immediately preceding the date on which the renewable energy system is projected to begin commercial operation.

*Permits necessary for the construction and operation of the Techren project are listed in Exhibit 12 of the PPA, Technical Appendix – REN-6-TS5 (a).*

NAC § 704.8885(2)(v) addresses applications for development rights with the appropriate Federal agencies (including BLM), where the granting of such developmental rights is not contingent upon a competitive bidding process.

*Applications required from Federal agencies for the development of Techren Solar are listed in Exhibit 12 of the PPA, Technical Appendix – REN-6-TS5 (a).*

NAC § 704.8885(2)(w) addresses any evidence that establishes rights of ownership, possession or use concerning land or natural resources, including, without limitation, deeds, land patents, leases, contracts, licenses or permits concerning land, geothermal drilling rights or other rights to natural resources.

*Techren Solar has entered into a Lease Option Agreement with the City of Boulder City, dated November 25, 2014, as amended and restated, granting Techren Solar an exclusive option to lease the project site, approximately 2,333 contiguous acres. The Lease Agreement is a standard solar energy ground lease and allows for the development, construction, operation and maintenance, and decommissioning of one or more utility-scale solar projects for a period of up to fifty (50) years following the commercial operation of the first project phase. Techren Solar received a right-of-way grant from the BLM on July 18, 2017.*

NAC § 704.8885(2)(x) addresses whether the utility provider has any economical dispatch rights.

*The Company does not have economic dispatch rights, but curtailment or re-dispatch of up to 100 percent of the net energy can be ordered by the transmission provider, electric system authority, or market operator. The Company has no obligation to pay for such curtailed product or for generation in excess of the maximum amount.*

**REN-7**

**CONFIDENTIAL**  
**FILED UNDER SEAL**

**REN-8**

**CONFIDENTIAL**  
**FILED UNDER SEAL**

**REN-9**



**CONFIDENTIAL**  
**FILED UNDER SEAL**

**TRAN-1**

# Timing of New Transmission Sources for SPPC



March, 2018

## Executive Summary

This report analyzes the existing load forecasts as well as projected customer loads for NV Energy North along with existing generation and import capabilities in order to determine the breakpoint of NV Energy North's system. This breakpoint represents the point when the projected plus existing load exceeds current generation and import capabilities and the existing system can no longer sustain reliable service without the addition of new transmission or generation resources.

The load forecast from 2018 through 2034 shows a total load increase of 6.2% or 144 MW across the entire time period. This increases the projected peak load from 2,312 MW in 2018 to 2,421 MW in 2031. There has been a large amount of requested load service in the Tahoe-Reno Industrial Center (TRIC) area of up to 1,351 MW of which HVD agreements have been signed for 919 MW. Using the existing load forecast along with the projected load forecast for the TRIC area, the following represent when generation resources are required to be a must-run unit or when new transmission or generation resources are required.

With all existing generation resources available:

- By 2021, Tracy Unit 3 will be a required must run generator to avoid equipment thermal overload in the TRIC area or voltage violations in the Reno/TRIC area.
- By 2024, Clark Mountain 3 and 4 will be required must run generators to avoid equipment thermal overloads.
- By 2029, without any new transmission or generation resources, voltage in the Reno area will fall below acceptable criteria for normal conditions. For multiple N-1 contingencies, Path 16 (Humboldt – Idaho) will exceed its thermal limitations. System wide voltages will also fall below acceptable criteria.

With one Fort Churchill generator unavailable (at least one unit is required at present to maintain acceptable voltage in the Carson area):

- By 2027, without any new transmission or generation resources, voltage in the Carson area will fall below acceptable criteria for normal conditions.
- By 2028, for multiple N-1 contingencies, voltages in the Reno and Carson area will fall below acceptable criteria.
- By 2029, for multiple N-1 contingencies, voltages system wide will fall below acceptable criteria.

With North Valmy generation unavailable:

- By 2018, Tracy Unit 3, Clark Mountain 3 and Clark Mountain 4 will be required must run generators to eliminate low voltage issues in the Reno area.
- By 2020, without any new transmission or generation resources, voltages in the Carlin Trend area will be well below acceptable criteria for normal conditions.
- By 2021, import limits on Path 16 (Humboldt – Idaho) will be reached.

This document contains non-public transmission information subject to FERC Standards of Conduct. Accordingly, it must not be shared with marketing function employees and external stakeholders.

## Introduction

The purpose of this report is to identify when existing transmission and generation resources can no longer reliably serve new load projected for NV Energy North's service territory. For the basis of this study, system reliability can be based on thermal limitation of equipment, import limitations on interties or voltage support, stability and frequency response. This study assumes that all NV Energy owned generation assets are available for dispatch. This study also looks at the effect of retiring or selling of generation assets as a result of the Energy Choice Initiative.

The study indicates that new transmission or generation resources are required when the total system imports of a particular intertie exceeds its total import capabilities. Transmission or generation resources are also recommended as being required when multiple voltage or thermal limits are reached in a particular area. Low voltage or thermal limitations that can be mitigated through other projects do not trigger the necessity for new transmission or generation resources. This study will also identify the timing of when certain generation resources will be identified as a must run unit.

Without major transmission additions, there are increased regulatory and reliability risks with system operations. Generally, a major transmission line can take three to five years to permit and at least two years to construct. By identifying the timing of new transmission or generation resources, proper planning can occur to mitigate the risk to system reliability

## Modeling, Simulation and Methodology

### Modeling

NV Energy is a member of the Western Electric Coordinating Council ("WECC") and uses WECC Base-cases as well as a system master case to simulate various scenarios in the transmission system. WECC Base-cases are a representation of the entire western United States transmission system. Each base-case is created to represent a specific year and season. All planned system changes as well as forecasted loads are compiled for each individual scenario. Typically summer scenarios result in the most stress on the transmission system. The Master Case is maintained by NV Energy to represent the current system and is continuously updated as changes are made. NV Energy uses several software packages to simulate the transmission system but the most commonly used software is General Electric Positive Sequence Load Flow ("PSLF"). This software is used to study the system and identify reliability issues based on specific reliability criteria.

For the purposed of this study, the WECC summer peak case was used as the starting point for the model. Load forecasts and known projects were added to the case to best represent the system for each year's peak summer case starting with 2018.

This document contains non-public transmission information subject to FERC Standards of Conduct. Accordingly, it must not be shared with marketing function employees and external stakeholders.

Generation in NV Energy's Northern System contains 3,122 MW of nameplate generation. To reflect actual generation capabilities at summer peak, geothermal and solar generation were reduced to reflect actual generating capabilities during early evening hours. Solar generation was modeled at approximately 45% of nameplate capacity to reflect less direct sunlight at the time of summer peak. Geothermal generation was modelled approximately 70% of nameplate capacity to reflect geothermal generation at hotter temperatures. Traditional gas/coal generators were modelled near 95% of nameplate capacity.

#### Criteria

For transmission system planning purposes, analysis is performed based on the North American Electric Reliability Corporation (NERC) standard TPL-001-4. This standard requires NV Energy to run several different types of contingencies, classified as P0 to P7 events depending on the specific type of tripping being simulated such as single element tripping (N-1), breaker failures, bus faults, communication failures, and double contingencies. NERC TPL-001-4 provides classification and allowable performance criteria of all contingencies for transmission planning purposes in Table 1 of the standard.

With some caveats, NV Energy follows the WECC voltage criteria described below, per the TPL-001-WECC-CRT-3 Transmission System Planning Performance Criteria for plans on the Transmission Network.

**WR1. Each Transmission Planner and Planning Coordinator shall use the following default base planning criteria, unless otherwise specified in accordance with Requirements WR2 and WR3:**

- 1.1. Steady-state voltages at all applicable Bulk-Electric System (BES) buses shall stay within each of the following limits:**
  - 1.1.1. 95 percent to 105 percent of nominal for P0<sup>1</sup> event (system normal pre-contingency event powerflow);**
  - 1.1.2. 90 percent to 110 percent of nominal for P1-P7<sup>2</sup> events (post-contingency event powerflow).**
- 1.2. Post-Contingency steady-state voltage deviation at each applicable BES bus serving load shall not exceed 8% for P1 events.**

This document contains non-public transmission information subject to FERC Standards of Conduct. Accordingly, it must not be shared with marketing function employees and external stakeholders.

POST TRANSIENT VOLTAGE CRITERIA								
Base kV	PU Voltage Range (Min/Max)						$\Delta V$	
	P0		P1		P2-P7		P1	P2-P7
525	0.95	1.05	0.93	1.05	0.93	1.05	8%	N/A
345	0.95	1.05	0.9	1.05	0.9	1.05	8%	N/A
230	0.95	1.05	0.9	1.05	0.9	1.05	8%	N/A
138	0.95	1.05	0.9	1.05	0.9	1.05	8%	N/A
120	0.95	1.05	0.9	1.05	0.9	1.05	8%	N/A
69	0.95	1.05	0.9	1.05	0.85	1.05	10%	N/A
63	0.95	1.05	0.9	1.05	0.85	1.05	10%	N/A
57.5	0.95	1.05	0.9	1.05	0.85	1.05	10%	N/A
Applicable criteria less stringent than TPL-001-WECC-CRT-3.1								
Applicable criteria more stringent than TPL-001-WECC-CRT-3.1								
See Note 2 below								
Non- BES Voltages								

Figure 1. Voltage Criteria Table

#### Notes:

- Delta voltage criteria applies only to load buses.
- Certain 120kV system elements are rated at 110kV or 115kV. Specifically, there are buses in the Reno area which cannot operate higher than 121kV due to the breaker ratings. This applies to P0-P7 disturbance levels.

#### Methodology

The 2018 summer case was modelled assuming that all generation was available for dispatch. The case was modelled with both Fort Churchill units online, both North Valmy units online, and West Tracy and Pinion Pine generation units online. Tracy Unit 3 as well as Clark Mountain 3 and 4 were left off line to determine when those units would be determined as a must run unit. Two additional 2018 cases were also created to help determine the effects of retiring or selling of Fort Churchill or North Valmy generation. Based on the large amounts of projected load in the TRIC area, West Tracy and Pinion Pine generation are required to support the base load. The first case turned off one generator at Fort Churchill (note: at least one unit is required today to help support voltage in the Carson area), the second case turned off both North Valmy generators. Models for each year were created for each scenario using the load forecast and projected potential customer loading. Any known scheduled projects were added in the year of expected completion. Any recommended projects necessary to support load growth in the TRIC area were also added. Contingencies for each case were simulated based on the NERC Compliance TPL-001-4 Criteria.

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A generator was deemed as a must run unit when any identified system reliability issues that could not be mitigated operationally or with local transmission projects (such as the addition of capacitor banks to support local voltage or equipment upgrades) could be mitigated by turning on the generator. New transmission or generation resources were noted as being required, when after all generators were running, any identified system reliability issues could not be mitigated operationally or with local transmission projects, or when a particular intertie exceeds its total import capabilities.

### Load Forecast

The latest load forecast shows a 133 MW increase between 2018 and 2034 which was applied to case for each year. The load forecast for the TRIC area shows up to 1,350 MW of new load concentrated near Tracy generation. Of the 1,350 MW, 918 of those MW are from customer with signed HVD agreements.



	SPPC Native (1 in 10 Forecast) + Non-Native											
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2017	1728	1728	1653	1609	1728	2003	2260	2102	1887	1576	1737	1828
2018	1765	1774	1701	1658	1790	2052	2312	2150	1946	1643	1801	1893
2019	1833	1833	1761	1715	1850	2104	2344	2185	1982	1677	1824	1910
2020	1851	1841	1765	1729	1863	2122	2354	2197	1996	1694	1840	1927
2021	1867	1872	1782	1736	1879	2124	2379	2214	2015	1700	1853	1939
2022	1852	1856	1766	1718	1868	2115	2364	2197	2002	1688	1841	1926
2023	1856	1862	1772	1723	1863	2118	2331	2166	1988	1677	1837	1911
2024	1846	1854	1778	1713	1879	2144	2338	2182	2001	1686	1831	1927
2025	1878	1876	1783	1725	1889	2156	2351	2196	2022	1692	1841	1937
2026	1887	1885	1797	1773	1902	2172	2363	2208	2024	1696	1846	1943
2027	1896	1899	1815	1761	1911	2119	2377	2222	2039	1709	1851	1944
2028	1904	1895	1824	1769	1879	2186	2386	2230	2049	1722	1874	1950
2029	1891	1914	1826	1773	1919	2195	2399	2241	2058	1722	1878	1957
2030	1920	1916	1828	1778	1936	2218	2409	2251	2067	1736	1866	1961
2031	1920	1916	1825	1782	1939	2225	2421	2261	2078	1730	1868	1964
2032	1922	1906	1828	1811	1947	2242	2438	2278	2078	1739	1876	1970
2033	1923	1925	1839	1791	1962	2230	2450	2283	2092	1749	1877	1967
2034	1928	1930	1844	1799	1922	2245	2456	2290	2102	1756	1895	1970
2035	1913	1936	1847	1805	1963	2256	2472	2301	2112	1759	1899	1976
2036	1947	1929	1849	1811	1980	2281	2485	2316	2127	1767	1893	1989
2037	1946	1943	1850	1839	1985	2289	2497	2324	2125	1771	1897	1992
2038	1947	1952	1873	1834	2014	2256	2533	2356	2165	1802	1911	1990
2039	1954	1958	1879	1838	2027	2317	2547	2368	2174	1810	1917	1992
2040	1961	1953	1884	1846	2021	2333	2557	2377	2185	1812	1937	2000
2041	1978	1976	1894	1855	2039	2358	2570	2389	2197	1830	1932	2013
2042	1985	1983	1898	1865	2047	2369	2582	2402	2210	1831	1941	2026
2043	1992	1992	1904	1896	2057	2379	2596	2413	2207	1840	1953	2035
2044	1997	1990	1923	1880	2074	2376	2616	2428	2228	1854	1963	2039
2045	2010	2013	1932	1890	2035	2391	2623	2436	2240	1862	1986	2050
2046	1999	2024	1939	1899	2079	2402	2641	2449	2251	1866	1995	2062

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## Timing of new transmission sources

### Timing with all current generation available

The timing of additional resources assumes that major generation from West Tracy, Pinion Pine, Tracy Unit 3, Clark Mountain and North Valmy are available throughout the entirety of the study period. A majority of the timing for new transmission is based on the load forecast for the TRIC area. The 2018 case assumes that all generation is turned on with the exception of Tracy Unit 3 and Clark Mountain 3 and 4. Any local transmission project required to serve TRIC load or other known projects are assumed to have been in-service for the study year for which they have been recommended. The following table provides a summary for the timing of new transmission sources.

Year	Total Load (MW)	TRIC load (MW)	Total Gen	Total Import	Reliability Need	Corrective Action
2021	3104	773	2507	749	Equipment in the TRIC area exceeds thermal limitations Multiple 120 kV buses in the Reno / TRIC area fall below 90% of nominal for	Tracy unit 3 is a required must run.

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					various N-1 contingencies	
2024	3271	933	2493	950	Multiple equipment thermal overloads in Eastern Nevada and Reno Area	Clark Mountain 3 and 4 is a required must run, plus 345 kV line upgrades in Eastern Nevada
2029	3573	1174	2691	1051	Multiple 120 kV buses in Reno fall below 95% of nominal for normal conditions. System wide voltages fall below 90% of nominal for N-1 contingencies. Path 16 exceeds thermal limitations for multiple N-1 contingencies	New transmission sources required to help support new loads in the TRIC area.

Increased load in the TRIC area requires multiple 120 kV line rebuilds or new 120 kV lines along with a second 345/120 kV transformer at East Tracy. If the expected load forecasts for the TRIC area proceeds as expected a 345 kV line from West Tracy to a new proposed substation along with two 345/120 kV transformers is required to serve load in the area. This increase in new load along with load forecasts for the Reno and Carson load pockets places larger import values on the two North Valmy – East Tracy 345 kV line as well as Path 76 and Path 24. The loss of a line in Path 76 tends to overload Path 24. This can typically be mitigated through operation of the California substation Phase Shifter or by turning on additional generation in the Tracy area. When the total new load in the TRIC area reaches 773 MW or total system load reaches 3,104 MW (estimated year for this load forecast is 2021), Tracy Unit 3 will be a required must run generator to avoid thermal overload or low voltage issues for multiple N-1 contingencies in the Reno or TRIC area.

When new load in the TRIC area reaches 933 MW or total system load reaches 3,271 MW (estimated year for this load forecast is 2024), import on Path 16 has increased to offset Valmy generation being sent to the TRIC area. Loss of Path 76 begins increases the import on Path 16 which begins to overload multiple lines in Eastern Nevada as well as Reno 120 kV line near Path 24. Clark Mountain helps mitigate many of these overloads. Local projects may also be required

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to increase the line ratings of the 345 kV system in Eastern Nevada as well as 120 kV upgrades in the Reno area.

When new loads in the TRIC area reaches 1,174 MW or the total system load reaches 3,573 MW (estimated year for this load forecast is 2029), import levels on all paths begin to encroach on the import limits with a majority of the flow heading towards the Reno / TRIC load pocket. Many 120 kV busses in the Reno area are below the acceptable voltage range of 95% of nominal for a normal system configuration. Multiple N-1 contingencies cause the voltage to drop below 90% of nominal voltage. Additionally, many line are now loaded near their thermal capacity. Multiple N-1 contingencies cause thermal overloads all over the system. Using the projected load forecasts, by 2030 voltage in the Carson area will also begin to be below 95% of nominal for a normal configuration and by 2031 multiple buses across the entire Northern system will be below 95% of nominal for a normal configuration. New transmission or generation resources will be required in the TRIC area to mitigate the voltage and thermal overloads.

#### Timing with Fort Churchill generation unavailable

The sensitivity to the timing of new transmission resources was studied to determine the effects of the loss of Fort Churchill generation. With both Fort Churchill G1 and G2 off line, voltages in the Carson area fall below 95% of nominal for normal conditions, with multiple voltage issues for N-1 contingencies. At least one Fort Churchill unit must be running until new transmission can be brought into the area.

Year	Total Load (MW)	TRIC load (MW)	Total Gen	Total Import	Reliability Need	Corrective Action
2027	3457	1080	2562	1050	Multiple buses in the Carson area fall below 95% of nominal voltage for normal conditions	New transmission sources required to help support voltage issues in Carson, or both Fort Churchill units are required to be must run.
2028	3486	1100	2585	1050	Multiple voltage violations across Reno and Carson for N-1 contingencies	New transmission sources required to help support new loads in TRIC area.

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2029	3573	1174	2609	1150	Multiple buses system wide fall below 95% of nominal for normal conditions	
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The Carson City / South Lake Tahoe area is electrically bounded by the Fort Churchill substation to the east and #107 Mount Rose – Brunswick – Emerson, #108 East Tracy – Brunswick, and #189 Steamboat – Mark Twain 120 kV lines to the North. As loads increase, Fort Churchill becomes more important for the Carson City / South Lake Tahoe area for voltage support. Without one Fort Churchill generator, the 120 kV lines from the Reno area become more loaded as they help to support the load in the area. A majority of the 120 kV and 60 kV busses in the Carson area will be just above the nominal voltage of 95% for normal conditions.

When new load in the TRIC area reaches 1,080 MW or total system load reaches 3,457 MW (estimated year for this load forecast is 2027), multiple 120 kV and 60 kV busses in the Carson area will fall below the acceptable range of 95% of nominal voltage for normal conditions. New transmission or generation resources will be required at Fort Churchill to mitigate the voltage and thermal overloads or both Fort Churchill units will be required as must run generators.

When new load in the TRIC area reaches 1,100 MW or the total system load reaches 3,486 MW (estimated year for this load forecast is 2028), voltage in the Reno and the Carson area fall below 90% of nominal for N-1 conditions.

When new load in the TRIC area reaches 1,174 MW or the total system load reaches 3,573 MW (estimated year for this load forecast is 2029), voltage throughout the northern system will fall below the acceptable range of 95% of nominal voltage for normal conditions.

#### Timing with North Valmy generation unavailable

The sensitivity to the timing of new transmission resources was studied to determine the effects of the loss of North Valmy generation.

Year	Total Load (MW)	TRIC load (MW)	Total Gen	Total Import	Reliability Need	Corrective Action
2018	2477	165	2074	550	Low voltage in Reno Area.	Tracy Unit 3 and Clark Mountain 3 & 4 are required must run to eliminate

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						voltage issues in Reno area.
2020	2870	516	2107	900	Nominal voltage in Carlin Trend area is around 91% for normal conditions.	New transmission is required to help support loads and voltage in the Carlin Trend area
2021	3152	773	2084	1250	Import limits reached on Path 16. Nominal voltage in Carlin Trend area is below 90% for normal conditions.	

North Valmy provides baseload generations for the Carlin Trend or Reno area along with imports on Path 16 to help support load in the Carlin Trend area. As load in the TRIC area increases, Reno and TRIC load will become more dependent on generation from Valmy, which requires higher imports on Path 16 to help support load in the Carlin Trend area. Without generation support from Valmy, Path 16 is greatly relied upon to supply power to both the Carlin Trend and Reno/TRIC area.

When new load in the TRIC area reaches 165 MW or total system load reaches 2,477 MW (estimated year for this load forecast is 2018), Tracy Unit 3 as well as Clark Mountain 3 and 4 will be required must run generators. Without these units, voltage in the Reno/TRIC area will fall below the acceptable criteria of 95% of nominal voltage for normal conditions.

When new load in the TRIC area reaches 516 MW or the total system load reaches 2,870 MW (estimated year for this load forecast is 2020), heavy imports on Path 16 will cause the nominal voltage in the Carlin Trend area to fall to approximately 91% for normal conditions. New transmission or generation resources will be required in the Carlin Trend area to mitigate the voltage and thermal overloads.

When new load in the TRIC area reaches 773 MW or the total system load reaches 2,084 MW (estimated year for this load forecast is 2021), Path 16 will have reached its maximum import limit. Additionally, heavy imports on Path 16 will cause the nominal voltage in the Carlin Trend area to fall below 90% for normal conditions.

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## Summary

Recent substantial load requests in the TRIC area from customers will begin to require all generation be made available to support load in addition to heavy imports on all interties. Eventually, the existing system will no longer be able to support the increase in load.

Without new transmission infrastructure, the overall level of operational risk is increased during high import constrained scenarios. Under current circumstances, after the loss of a single element, system adjustments and generation re-dispatch can be performed to ensure the next worst contingency does not result in reliability problems. With generation maxed out and little room for system adjustments, the next major contingency has the potential to drop system load and or result in system instability. Both of these factors are unacceptable under NERC Compliance performance standards. Mitigation of this risk and ensuring compliance will require a combination of both major transmission initiatives and generation support within NV Energy North's system.

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**TRAN-2**



**AMENDED AND RESTATED  
STANDARD LARGE GENERATOR  
INTERCONNECTION AGREEMENT (LGIA)  
  
SERVICE AGREEMENT # 16-00053**

**Between**

**SIERRA PACIFIC POWER COMPANY d/b/a  
NV ENERGY**

**And**

**DODGE FLAT SOLAR, LLC**

Date: 1/24/2018

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## STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT

**THIS STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT** (“Agreement”) is made and entered into this 24th day of January, 2018, by and between Dodge Flat Solar, LLC, a Limited Liability Company organized and existing under the laws of the State/Commonwealth of Delaware (“Interconnection Customer” with a Large Generating Facility), and Sierra Pacific Power Company d/b/a NV Energy, a company organized and existing under the laws of the State/Commonwealth of the State of Nevada (“Transmission Provider and/or Transmission Owner”). Interconnection Customer and Transmission Provider each may be referred to as a “Party” or collectively as the “Parties.”

### Recitals

**WHEREAS**, Transmission Provider operates the Transmission System; and

**WHEREAS**, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this Agreement; and,

**WHEREAS**, Interconnection Customer and Transmission Provider have agreed to enter into this Agreement for the purpose of interconnecting the Large Generating Facility with the Transmission System;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this Standard Large Generator Interconnection Agreement, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used or the Open Access Transmission Tariff (Tariff).

### Article 1. Definitions

**Adverse System Impact** shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

**Affected System** shall mean an electric system other than the Transmission Provider’s Transmission System that may be affected by the proposed interconnection.

**Affected System Operator** shall mean the entity that operates an Affected System.

**Affiliate** shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

**Ancillary Services** shall mean those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider’s Transmission System in accordance with Good Utility Practice.



**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Applicable Reliability Council** shall mean the reliability council applicable to the Transmission System to which the Generating Facility is directly interconnected.

**Applicable Reliability Standards** shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Control Area of the Transmission System to which the Generating Facility is directly interconnected.

**Application Process** shall mean the activities required prior to the Interconnection Customer entering the Interconnection Queue, as further set forth in Section 3 of the Large Generator Interconnection Procedures.

**Base Case** shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by the Transmission Provider or Interconnection Customer.

**Breach** shall mean the failure of a Party to perform or observe any material term or condition of the Standard Large Generator Interconnection Agreement.

**Breaching Party** shall mean a Party that is in Breach of the Standard Large Generator Interconnection Agreement.

**Business Day** shall mean Monday through Friday, excluding Federal Holidays.

**Calendar Day** shall mean any day including Saturday, Sunday or a Federal Holiday.

**Clustering** shall mean the process whereby a group of Completed Interconnection Requests is studied together, instead of serially, for the purpose of conducting the Interconnection System Impact Study.

**Commercial Operation** shall mean the status of a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

**Commercial Operation Date** of a unit shall mean the date on which the Generating Facility commences Commercial Operation as agreed to by the Parties pursuant to Appendix E to the Standard Large Generator Interconnection Agreement.

**Completed Interconnection Request** shall mean an Interconnection Customer's request following the completion of the Application Process, to interconnect a new Generating Facility, increasing the capacity of, or making a Material Modification to the operating characteristics of an existing Generating Facility.

**Confidential Information** shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise.

**Control Area** shall mean an electrical system or systems bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the interconnection. A Control Area must be certified by the Applicable Reliability Council.

**Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of the Standard Large Generator Interconnection Agreement.

**Dispute Resolution** shall mean the procedure for resolution of a dispute between the Parties in which they will first attempt to resolve the dispute on an informal basis.

**Distribution System** shall mean the Transmission Provider's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which distribution systems operate differ among areas.

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the Transmission Provider's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the transmission service necessary to effect Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution Upgrades do not include Interconnection Facilities.

**Effective Date** shall mean the date on which the Standard Large Generator Interconnection Agreement becomes effective upon execution by the Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

**Emergency Condition** shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of a Transmission Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to Transmission Provider's Transmission System, Transmission Provider's Interconnection Facilities or the electric systems of others to which the Transmission Provider's Transmission System is directly connected; or (3) that, in the case of Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by the Standard Large Generator Interconnection Agreement to possess black start capability.

**Energy Resource Interconnection Service** shall mean an Interconnection Service that allows the Interconnection Customer to connect its Generating Facility to the Transmission Provider's Transmission System to be eligible to deliver the Generating Facility's electric output using the existing firm or nonfirm capacity of the Transmission Provider's Transmission System on an as available basis. Energy Resource Interconnection Service in and of itself does not convey transmission service.

**Engineering & Procurement (E&P) Agreement** shall mean an agreement that authorizes the Transmission Provider to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection in order to advance the implementation of the Completed Interconnection Request.

**Environmental Law** shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

**Federal Power Act** shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a *et seq.*

**FERC** shall mean the Federal Energy Regulatory Commission (Commission) or its successor.

**Force Majeure** shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

**Generating Facility** shall mean Interconnection Customer's device for the production of electricity identified in the Completed Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Generating Facility Capacity** shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Interconnection Customer, Transmission Provider, or any Affiliate thereof.

**Hazardous Substances** shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**Initial Synchronization Date** shall mean the date upon which the Generating Facility is initially synchronized and upon which Trial Operation begins.

**In-Service Date** shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Transmission Provider’s Interconnection Facilities to obtain back feed power.

**Interconnection Customer** shall mean any entity, including the Transmission Provider, Transmission Owner or any of the Affiliates or subsidiaries of either, that proposes to interconnect its Generating Facility with the Transmission Provider’s Transmission System.

**Interconnection Customer’s Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of the Standard Large Generator Interconnection Agreement, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider’s Transmission System. Interconnection Customer’s Interconnection Facilities are sole use facilities.

**Interconnection Facilities** shall mean the Transmission Provider’s Interconnection Facilities and the Interconnection Customer’s Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider’s Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Interconnection Facilities Study** shall mean a study conducted by the Transmission Provider or a third party consultant for the Interconnection Customer to determine a list of facilities (including Transmission Provider’s Interconnection Facilities and Network Upgrades as identified in the Interconnection System Impact Study), the cost of those facilities, and the time required to interconnect the Generating Facility with the Transmission Provider’s Transmission System. The scope of the study is defined in Section 8 of the Standard Large Generator Interconnection Procedures.

**Interconnection Facilities Study Agreement** shall mean the form of agreement contained in Appendix 4 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection Facilities Study.

**Interconnection Service** shall mean the service provided by the Transmission Provider associated with interconnecting the Interconnection Customer's Generating Facility to the Transmission Provider's Transmission System and enabling it to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of the Standard Large Generator Interconnection Agreement and, if applicable, the Transmission Provider's Tariff.

**Interconnection Study** shall mean any of the following studies: the Interconnection System Impact Study and the Interconnection Facilities Study described in the Standard Large Generator Interconnection Procedures.

**Interconnection System Impact Study** shall mean an engineering study that evaluates the impact of the proposed interconnection on the safety and reliability of Transmission Provider's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility were interconnected without project modifications or system modifications, focusing on the Adverse System Impacts identified in the Application Process, or to study potential impacts, including but not limited to those identified in the Scoping Meeting as described in the Standard Large Generator Interconnection Procedures.

**Interconnection System Impact Study Agreement** shall mean the form of agreement contained in Appendix 2 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection System Impact Study.

**IRS** shall mean the Internal Revenue Service.

**Joint Operating Committee** shall be a group made up of representatives from Interconnection Customers and the Transmission Provider to coordinate operating and technical considerations of Interconnection Service.

**Large Generating Facility** shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

**Loss** shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's performance, or non-performance of its obligations under the Standard Large Generator Interconnection Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnifying Party.

**Material Modification** shall mean those modifications that have a material impact on the: (1) cost or timing of any Application Request with a later Application Number or (2) cost or timing of any Completed Interconnection Request with a later queue priority date.

**Metering Equipment** shall mean all metering equipment installed or to be installed at the Generating Facility pursuant to the Standard Large Generator Interconnection Agreement at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

**NERC** shall mean the North American Electric Reliability Council or its successor organization.

**Network Resource** shall mean any designated generating resource owned, purchased, or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis.

**Network Resource Interconnection Service** shall mean an Interconnection Service that allows the Interconnection Customer to integrate its Large Generating Facility with the Transmission Provider's Transmission System (1) in a manner comparable to that in which the Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an RTO or ISO with market based congestion management, in the same manner as Network Resources. Network Resource Interconnection Service in and of itself does not convey transmission service.

**Network Upgrades** shall mean the additions, modifications, and upgrades to the Transmission Provider's Transmission System required at or beyond the point at which the Interconnection Facilities connect to the Transmission Provider's Transmission System to accommodate the interconnection of the Large Generating Facility to the Transmission Provider's Transmission System.

**Notice of Dispute** shall mean a written notice of a dispute or claim that arises out of or in connection with the Standard Large Generator Interconnection Agreement or its performance.

**Optional Interconnection Study** shall mean a sensitivity analysis based on assumptions specified by the Interconnection Customer in the Optional Interconnection Study Agreement.

**Optional Interconnection Study Agreement** shall mean the form of agreement contained in Appendix 5 of the Standard Large Generator Interconnection Procedures for conducting the Optional Interconnection Study.

**Party or Parties** shall mean Transmission Provider, Transmission Owner, Interconnection Customer or any combination of the above.

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to the Standard Large Generator Interconnection Agreement, where the Interconnection Customer's Interconnection Facilities connect to the Transmission Provider's Interconnection Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to the Standard Large Generator Interconnection Agreement, where the Interconnection Facilities connect to the Transmission Provider's Transmission System.

**Queue Position** shall mean the order of a valid Completed Interconnection Request, relative to all other pending valid Completed Interconnection Requests, that is established based upon successful completion of the Application Process, as determined by the Transmission Provider.

**Reasonable Efforts** shall mean, with respect to an action required to be attempted or taken by a Party under the Standard Large Generator Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Scoping Meeting** shall mean the meeting between representatives of the Interconnection Customer and Transmission Provider conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

**Shared Network Upgrades** shall mean a Network Upgrade listed in Appendix A of the Generator Interconnection Agreement that is needed for the interconnection of multiple Interconnection Customers' Generating Facilities where such Interconnection Customers share the cost.

**Site Control** shall mean documentation reasonably demonstrating: (1) ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing the Generating Facility; (2) an option to purchase or acquire a leasehold site for such purpose; or (3) an exclusivity or other business relationship between Interconnection Customer and the entity having the right to sell, lease or grant Interconnection Customer the right to possess or occupy a site for such purpose.

**Small Generating Facility** shall mean a Generating Facility that has a Generating Facility Capacity of no more than 20 MW.

**Stand Alone Network Upgrades** shall mean Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the Transmission System during their construction. Both the Transmission Provider and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to the Standard Large Generator Interconnection Agreement.

**Standard Large Generator Interconnection Agreement (LGIA)** shall mean the form of interconnection agreement applicable to a Completed Interconnection Request pertaining to a Large Generating Facility that is included in the Transmission Provider's Tariff.

**Standard Large Generator Interconnection Procedures (LGIP)** shall mean the interconnection procedures applicable to a Completed Interconnection Request pertaining to a Large Generating Facility that are included in the Transmission Provider's Tariff.

**System Protection Facilities** shall mean the equipment, including necessary protection signal communications equipment, required to protect (1) the Transmission Provider's Transmission System from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the Transmission Provider's Transmission System or on other delivery systems or other generating systems to which the Transmission Provider's Transmission System is directly connected.

**Tariff** shall mean the Transmission Provider's Tariff through which open access transmission service and Interconnection Service are offered, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Transmission Owner** shall mean an entity that owns, leases or otherwise possesses an interest in the portion of the Transmission System at the Point of Interconnection and may be a Party to the Standard Large Generator Interconnection Agreement to the extent necessary.

**Transmission Provider** shall mean the public utility (or its designated agent) that owns, controls, or operates transmission or distribution facilities used for the transmission of electricity in interstate commerce and provides transmission service under the Tariff. The term Transmission Provider should be read to include the Transmission Owner when the Transmission Owner is separate from the Transmission Provider.

**Transmission Provider's Interconnection Facilities** shall mean all facilities and equipment owned, controlled or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to the Standard Large Generator Interconnection Agreement, including any modifications, additions or upgrades to such facilities and equipment. Transmission Provider's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Transmission System** shall mean the facilities owned, controlled or operated by the Transmission Provider or Transmission Owner that are used to provide transmission service under the Tariff.

**Trial Operation** shall mean the period during which Interconnection Customer is engaged in on-site test operations and commissioning of the Generating Facility prior to Commercial Operation.

**Variable Energy Resource** shall mean a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

## **Article 2. Effective Date, Term, and Termination**

### **2.1 Effective Date.**

This LGIA shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. Transmission Provider shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.

### **2.2 Term of Agreement.**

Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of twenty (20) years from the Effective Date (Term to be specified in individual



agreements) and shall be automatically renewed for each successive one-year period thereafter.

## **2.3 Termination Procedures.**

### **2.3.1 Written Notice.**

This LGIA may be terminated by Interconnection Customer after giving Transmission Provider ninety (90) Calendar Days advance written notice, or by Transmission Provider notifying FERC after the Generating Facility permanently ceases Commercial Operation.

### **2.3.2 Default.**

Either Party may terminate this LGIA in accordance with Article 17.

### **2.3.3** Notwithstanding Articles 2.3.1 and 2.3.2, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA, which notice has been accepted for filing by FERC.

## **2.4 Termination Costs.**

If a Party elects to terminate this Agreement pursuant to Article 2.3 above, each Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) or charges assessed by the other Party, as of the date of the other Party's receipt of such notice of termination, that are the responsibility of the Terminating Party under this LGIA. In the event of termination by a Party, the Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this LGIA, unless otherwise ordered or approved by FERC:

### **2.4.1** With respect to any portion of Transmission Provider's Interconnection Facilities that have not yet been constructed or installed, Transmission Provider shall to the extent possible and with Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Interconnection Customer elects not to authorize such cancellation, Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and Transmission Provider shall deliver such material and equipment, and, if necessary, assign such contracts, to Interconnection Customer as soon as practicable, at Interconnection Customer's expense. To the extent that Interconnection Customer has already paid Transmission Provider for any or all such costs of materials or equipment not taken by Interconnection Customer, Transmission Provider shall promptly refund such amounts to Interconnection Customer, less any costs, including penalties incurred by Transmission Provider to cancel any pending orders of or return such materials, equipment, or contracts.

If an Interconnection Customer terminates this LGIA, it shall be responsible for all costs incurred in association with that Interconnection Customer's interconnection, including any cancellation costs relating to orders or contracts

for Interconnection Facilities and equipment, and other expenses including any Network Upgrades for which Transmission Provider has incurred expenses and has not been reimbursed by Interconnection Customer.

**2.4.2** Transmission Provider may, at its option, retain any portion of such materials, equipment, or facilities that Interconnection Customer chooses not to accept delivery of, in which case Transmission Provider shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

**2.4.3** With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

**2.5 Disconnection.**

Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.

**2.6 Survival.**

This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Party pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

## **Article 3. Regulatory Filings**

**3.1 Filing.**

Transmission Provider shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority, if required. Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If Interconnection Customer has executed this LGIA, or any amendment thereto, Interconnection Customer shall reasonably cooperate with Transmission Provider with respect to such filing and to provide any information reasonably requested by Transmission Provider needed to comply with applicable regulatory requirements.

## **Article 4. Scope of Service**

**4.1 Interconnection Product Options.**

Interconnection Customer has selected the following (checked) type of Interconnection Service:

#### **4.1.1 Energy Resource Interconnection Service**

**4.1.1.1 The Product.** Energy Resource Interconnection Service allows Interconnection Customer to connect the Large Generating Facility to the Transmission System and be eligible to deliver the Large Generating Facility's output using the existing firm or non-firm capacity of the Transmission System on an "as available" basis. To the extent Interconnection Customer wants to receive Energy Resource Interconnection Service, Transmission Provider shall construct facilities identified in Appendix A to this LGIA.

**4.1.1.2 Transmission Delivery Service Implications.** Under Energy Resource Interconnection Service, Interconnection Customer will be eligible to inject power from the Large Generating Facility into and deliver power across the interconnecting Transmission Provider's Transmission System on an "as available" basis up to the amount of MWs identified in the applicable stability and steady state studies to the extent the upgrades initially required to qualify for Energy Resource Interconnection Service have been constructed. Where eligible to do so (e.g., PJM, ISO-NE, NYISO), Interconnection Customer may place a bid to sell into the market up to the maximum identified Large Generating Facility output, subject to any conditions specified in the interconnection service approval, and the Large Generating Facility will be dispatched to the extent Interconnection Customer's bid clears. In all other instances, no transmission delivery service from the Large Generating Facility is assured, but Interconnection Customer may obtain Point-to-Point Transmission Service, Network Integration Transmission Service, or be used for secondary network transmission service, pursuant to Transmission Provider's Tariff, up to the maximum output identified in the stability and steady state studies. In those instances, in order for Interconnection Customer to obtain the right to deliver or inject energy beyond the Large Generating Facility Point of Interconnection or to improve its ability to do so, transmission delivery service must be obtained pursuant to the provisions of Transmission Provider's Tariff. The Interconnection Customer's ability to inject its Large Generating Facility output beyond the Point of Interconnection, therefore, will depend on the existing capacity of Transmission Provider's Transmission System at such time as a transmission service request is made that would accommodate such delivery. The provision of firm Point-to-Point Transmission Service or Network Integration Transmission Service may require the construction of additional Network Upgrades.

#### **✓4.1.2 Network Resource Interconnection Service.**

**4.1.2.1 The Product.** Transmission Provider must conduct the necessary studies and construct the Network Upgrades needed to integrate the Large Generating Facility (1) in a manner comparable to that in which

Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an ISO or RTO with market based congestion management, in the same manner as all Network Resources. To the extent Interconnection Customer wants to receive Network Resource Interconnection Service, Transmission Provider shall construct the facilities identified in Appendix A to this LGIA.

**4.1.2.2 Transmission Delivery Service Implications.** Network Resource Interconnection Service allows Interconnection Customer's Large Generating Facility to be designated by any Network Customer under the Tariff on Transmission Provider's Transmission System as a Network Resource, up to the Large Generating Facility's full output, on the same basis as existing Network Resources interconnected to Transmission Provider's Transmission System, and to be studied as a Network Resource on the assumption that such a designation will occur. Although Network Resource Interconnection Service does not convey a reservation of transmission service, any Network Customer under the Tariff can utilize its network service under the Tariff to obtain delivery of energy from the interconnected Interconnection Customer's Large Generating Facility in the same manner as it accesses Network Resources. A Large Generating Facility receiving Network Resource Interconnection Service may also be used to provide Ancillary Services after technical studies and/or periodic analyses are performed with respect to the Large Generating Facility's ability to provide any applicable Ancillary Services, provided that such studies and analyses have been or would be required in connection with the provision of such Ancillary Services by any existing Network Resource. However, if an Interconnection Customer's Large Generating Facility has not been designated as a Network Resource by any load, it cannot be required to provide Ancillary Services except to the extent such requirements extend to all generating facilities that are similarly situated. The provision of Network Integration Transmission Service or firm Point-to-Point Transmission Service may require additional studies and the construction of additional upgrades. Because such studies and upgrades would be associated with a request for delivery service under the Tariff, cost responsibility for the studies and upgrades would be in accordance with FERC's policy for pricing transmission delivery services.

Network Resource Interconnection Service does not necessarily provide Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on Transmission Provider's Transmission System without incurring congestion costs. In the event of transmission constraints on Transmission Provider's Transmission System, Interconnection Customer's Large Generating Facility shall be subject to the

applicable congestion management procedures in Transmission Provider's Transmission System in the same manner as Network Resources.

There is no requirement either at the time of study or interconnection, or at any point in the future, that Interconnection Customer's Large Generating Facility be designated as a Network Resource by a Network Service Customer under the Tariff or that Interconnection Customer identify a specific buyer (or sink). To the extent a Network Customer does designate the Large Generating Facility as a Network Resource, it must do so pursuant to Transmission Provider's Tariff.

Once an Interconnection Customer satisfies the requirements for obtaining Network Resource Interconnection Service, any future transmission service request for delivery from the Large Generating Facility within Transmission Provider's Transmission System of any amount of capacity and/or energy, up to the amount initially studied, will not require that any additional studies be performed or that any further upgrades associated with such Large Generating Facility be undertaken, regardless of whether or not such Large Generating Facility is ever designated by a Network Customer as a Network Resource and regardless of changes in ownership of the Large Generating Facility. However, the reduction or elimination of congestion or redispatch costs may require additional studies and the construction of additional upgrades.

To the extent Interconnection Customer enters into an arrangement for long term transmission service for deliveries from the Large Generating Facility outside Transmission Provider's Transmission System, such request may require additional studies and upgrades in order for Transmission Provider to grant such request.

#### **4.1.3 Interim Interconnection Service.**

**4.1.3.1 The Product.** As described in Article 4, provision of Interconnection Service under this LGIA requires the construction of the Network Upgrades identified in Appendix A. However, in order to make the most efficient use of the transmission system and available generation before the aforementioned Network Upgrades are constructed, the Transmission Provider will use Reasonable Efforts to grant Interconnection Service under this LGIA on an interim basis under the following circumstances and subject to the following conditions ("Interim Interconnection Service"). Interconnection Customer understands and acknowledges that it has no right to Interim Interconnection Service and that any Interim Interconnection Service granted in this section is limited pursuant to the terms of this section.

**4.1.3.2 Process for Requesting Interim Interconnection Service.** No later than 180 Calendar days of Interconnection Customer's anticipated testing date for the generating facility that is the subject of this LGIA, where the aforementioned Network Upgrades are not expected to have been completed by that time, Interconnection Customer may submit a written request to the Transmission Provider for Interim Interconnection Service. The Interconnection Customer must be in good standing under this LGIA to request Interim Interconnection Service.

**4.1.3.3 Transmission Provider's Evaluation of Request for Interim Interconnection Service.** After a valid request for Interim Interconnection Service has been received, the Interconnection Customer will be provided a study agreement obligating the Interconnection Customer to pay the costs of the Interim Interconnection Service System Impact Study. The Interim Interconnection System Impact Study to be conducted by Transmission Provider has the same scope as the current LGIP System Impact Study. The Interim Interconnection System Impact Study will model only those projects that are planned to be in service on the effective date of the requested Interim Interconnection Service and any use of Interim Interconnection Service by a higher-queued interconnection customer. Once completed, the study will identify if the Interim Interconnection Service can be provided to the Interconnection Customer with the transmission system as currently configured. No additional facilities will be constructed to accommodate Interim Interconnection Service. Once the Transmission Provider determines that Interim Interconnection Service can be accommodated for all or part of the Interconnection Customer's anticipated output, the Interconnection Customer will then be limited to the output level contained in the Transmission Provider's response to the request for Interim Interconnection Service.

Regardless of when Interim Interconnection Service is requested, the Transmission Provider will have 60 days to conduct the Interim Interconnection Service System Impact Study. No formal report will be produced, but the Transmission Provider will provide a written response detailing whether, and to what extent, Interim Interconnection Service can be provided under this LGIA. The Interim Interconnection Service is governed by this LGIA.

**4.1.3.4 Competing Requests for Interim Interconnection Service.** To the extent Transmission Provider receives multiple requests for Interim Interconnection Service from Interconnection Customer and other interconnection customers that cannot be simultaneously accommodated, available Interim Interconnection Service will be given to the interconnection customer with the higher generation

interconnection queue position, even if the competing requests come from projects that were studied in the same cluster.

- 4.1.3.5 No Transmission Service.** The Transmission Providers' provision of Interim Interconnection Service under this LGIA does not constitute a request for, nor the provision of, any transmission delivery service under Transmission Provider's Tariff, and does not convey any right to deliver electricity to any specific customer or Point of Delivery.

**4.2 Provision of Service.**

Transmission Provider shall provide Interconnection Service for the Large Generating Facility at the Point of Interconnection.

**4.3 Performance Standards.**

Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. If such Party is a Transmission Provider or Transmission Owner, then that Party shall amend the LGIA and submit the amendment to FERC for approval.

**4.4 No Transmission Delivery Service.**

The execution of this LGIA does not constitute a request for, nor the provision of, any transmission delivery service under Transmission Provider's Tariff, and does not convey any right to deliver electricity to any specific customer or Point of Delivery.

**4.5 Interconnection Customer Provided Services.**

The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

## **Article 5. Interconnection Facilities Engineering, Procurement, and Construction**

**5.1 Options.**

Unless otherwise mutually agreed to between the Parties, Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either Standard Option or Alternate Option set forth below for completion of Transmission Provider's Interconnection Facilities and Network Upgrades as set forth in Appendix A, Interconnection Facilities and Network Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones.

**✓5.1.1 Standard Option.**

Transmission Provider shall design, procure, and construct Transmission Provider's Interconnection Facilities and Network Upgrades, using Reasonable Efforts to complete Transmission Provider's Interconnection Facilities and

Network Upgrades by the dates set forth in Appendix B, Milestones. Transmission Provider shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event Transmission Provider reasonably expects that it will not be able to complete Transmission Provider's Interconnection Facilities and Network Upgrades by the specified dates, Transmission Provider shall promptly provide written notice to Interconnection Customer and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

#### **5.1.2 Alternate Option.**

If the dates designated by Interconnection Customer are acceptable to Transmission Provider, Transmission Provider shall so notify Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities by the designated dates.

If Transmission Provider subsequently fails to complete Transmission Provider's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; Transmission Provider shall pay Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by Interconnection Customer shall be extended day for day for each day that the applicable RTO or ISO refuses to grant clearances to install equipment.

#### **5.1.3 Option to Build.**

If the dates designated by Interconnection Customer are not acceptable to Transmission Provider, Transmission Provider shall so notify Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades on the dates specified in Article 5.1.2. Transmission Provider and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A. Except for Stand Alone Network Upgrades, Interconnection Customer shall have no right to construct Network Upgrades under this option.

#### **5.1.4 Negotiated Option.**

If Interconnection Customer elects not to exercise its option under Article 5.1.3, Option to Build, Interconnection Customer shall so notify Transmission



Provider within thirty (30) Calendar Days, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades by Interconnection Customer) pursuant to which Transmission Provider is responsible for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Network Upgrades. If the Parties are unable to reach agreement on such terms and conditions, Transmission Provider shall assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Network Upgrades pursuant to 5.1.1, Standard Option.

## **5.2 General Conditions Applicable to Option to Build.**

If Interconnection Customer assumes responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades,

- (1) Interconnection Customer shall engineer, procure equipment, and construct Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by Transmission Provider;
- (2) Interconnection Customer's engineering, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law and Applicable Reliability Standards to which Transmission Provider would be subject in the engineering, procurement or construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;
- (3) Transmission Provider shall review and approve the engineering design, equipment acceptance tests, and the construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;
- (4) Prior to commencement of construction, Interconnection Customer shall provide to Transmission Provider a schedule for construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from Transmission Provider;
- (5) At any time during construction, Transmission Provider shall have the right to gain unrestricted access to Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;
- (6) At any time during construction, should any phase of the engineering, equipment procurement, or construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by Transmission Provider, Interconnection Customer shall be obligated to remedy deficiencies in that portion of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;

- (7) Interconnection Customer shall indemnify Transmission Provider for claims arising from Interconnection Customer's construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;
- (8) Interconnection Customer shall transfer control of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades to Transmission Provider;
- (9) Unless Parties otherwise agree, Interconnection Customer shall transfer ownership of Transmission Provider's Interconnection Facilities and Stand-Alone Network Upgrades to Transmission Provider;
- (10) Transmission Provider shall approve and accept for operation and maintenance Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and
- (11) Interconnection Customer shall deliver to Transmission Provider "as-built" drawings, information, and any other documents that are reasonably required by Transmission Provider to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by Transmission Provider.

### **5.3 Liquidated Damages.**

The actual damages to Interconnection Customer, in the event Transmission Provider's Interconnection Facilities or Network Upgrades are not completed by the dates designated by Interconnection Customer and accepted by Transmission Provider pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by Transmission Provider to Interconnection Customer in the event that Transmission Provider does not complete any portion of Transmission Provider's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to  $\frac{1}{2}$  of 1 percent per day of the actual cost of Transmission Provider's Interconnection Facilities and Network Upgrades, in the aggregate, for which Transmission Provider has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of Transmission Provider's Interconnection Facilities and Network Upgrades for which Transmission Provider has assumed responsibility to design, procure, and construct. The foregoing payments will be made by Transmission Provider to Interconnection Customer as just compensation for the damages caused to Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Transmission Provider's failure to meet its schedule.

No liquidated damages shall be paid to Interconnection Customer if: (1) Interconnection Customer is not ready to commence use of Transmission Provider's Interconnection Facilities or Network Upgrades to take the delivery of power for the Large Generating Facility's Trial Operation or to export power from the Large Generating Facility on the specified dates, unless Interconnection Customer would have been able to commence use of Transmission Provider's Interconnection Facilities or Network Upgrades to take the delivery of power for Large Generating Facility's Trial Operation or to export power from the Large Generating Facility, but for Transmission Provider's delay; (2) Transmission Provider's failure to meet the specified dates is the result of the action or inaction of Interconnection Customer or any other Interconnection Customer who has entered into an LGIA with Transmission Provider or any cause beyond Transmission Provider's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

#### **5.4 Power System Stabilizers.**

The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with the guidelines and procedures established by the Applicable Reliability Council. Transmission Provider reserves the right to reasonably establish minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, Interconnection Customer shall immediately notify Transmission Provider's system operator, or its designated representative. The requirements of this paragraph shall not apply to wind generators.

#### **5.5 Equipment Procurement.**

If responsibility for construction of Transmission Provider's Interconnection Facilities or Network Upgrades is to be borne by Transmission Provider, then Transmission Provider shall commence design of Transmission Provider's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

- 5.5.1** Transmission Provider has completed the Facilities Study pursuant to the Facilities Study Agreement;
- 5.5.2** Transmission Provider has received written authorization to proceed with design and procurement from Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.5.3** Interconnection Customer has provided security to Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

#### **5.6 Construction Commencement.**

Transmission Provider shall commence construction of Transmission Provider's Interconnection Facilities and Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:

- 5.6.1** Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
- 5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of Transmission Provider's Interconnection Facilities and Network Upgrades;
- 5.6.3** Transmission Provider has received written authorization to proceed with construction from Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.6.4** Interconnection Customer has provided security to Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

**5.7 Work Progress.**

The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Either Party may, at any time, request a progress report from the other Party. If, at any time, Interconnection Customer determines that the completion of Transmission Provider's Interconnection Facilities will not be required until after the specified In-Service Date, Interconnection Customer will provide written notice to Transmission Provider of such later date upon which the completion of Transmission Provider's Interconnection Facilities will be required.

**5.8 Information Exchange.**

As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Parties' Interconnection Facilities and compatibility of the Interconnection Facilities with Transmission Provider's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

**5.9 Limited Operation.**

If any of Transmission Provider's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Large Generating Facility, Transmission Provider shall, upon the request and at the expense of Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Large Generating Facility and Interconnection Customer's Interconnection Facilities may operate prior to the completion of Transmission Provider's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. Transmission Provider shall permit Interconnection Customer to operate the Large Generating Facility and Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.

**5.10 Interconnection Customer's Interconnection Facilities ("ICIF").**

Interconnection Customer shall, at its expense, design, procure, construct, own and install the ICIF, as set forth in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

**5.10.1 Interconnection Customer's Interconnection Facility Specifications.**

Interconnection Customer shall submit initial specifications for the ICIF, including System Protection Facilities, to Transmission Provider at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. Transmission Provider shall review such specifications to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of Transmission Provider and comment on such specifications within thirty (30) Calendar Days of Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

**5.10.2 Transmission Provider's Review.**

Transmission Provider's review of Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the ICIF. Interconnection Customer shall make such changes to the ICIF as may reasonably be required by Transmission Provider, in accordance with Good Utility Practice, to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of Transmission Provider.

**5.10.3 ICIF Construction.**

The ICIF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Interconnection Customer shall deliver to Transmission Provider "as-built" drawings, information and documents for the ICIF, such as: a one-line diagram, a site plan showing the Large Generating Facility and the ICIF, plan and elevation drawings showing the layout of the ICIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the ICIF, and the impedances (determined by factory tests) for the associated step-up transformers and the Large Generating Facility. The Interconnection Customer shall provide Transmission Provider specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable.

**5.11 Transmission Provider's Interconnection Facilities Construction.**

Transmission Provider's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Transmission Provider shall deliver to Interconnection Customer the following "as-built" drawings, information and documents for Transmission Provider's Interconnection Facilities [include appropriate drawings and

relay diagrams]. Transmission Provider will obtain control of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities.

#### **5.12 Access Rights.**

Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

#### **5.13 Lands of Other Property Owners.**

If any part of Transmission Provider or Transmission Owner's Interconnection Facilities and/or Network Upgrades is to be installed on property owned by persons other than Interconnection Customer or Transmission Provider or Transmission Owner, Transmission Provider or Transmission Owner shall at Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove Transmission Provider or Transmission Owner's Interconnection Facilities and/or Network Upgrades upon such property.

#### **5.14 Permits.**

Transmission Provider or Transmission Owner and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, Transmission Provider or Transmission Owner shall provide permitting assistance to Interconnection Customer comparable to that provided to Transmission Provider's own, or an Affiliate's generation.

#### **5.15 Early Construction of Base Case Facilities.**

Interconnection Customer may request Transmission Provider to construct, and Transmission Provider shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Transmission System which are included in the Base Case of the Facilities Study for Interconnection Customer, and which also are required to be constructed for another Interconnection Customer, but

where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.

#### **5.16 Suspension.**

Interconnection Customer reserves the right, upon written notice to Transmission Provider, to suspend at any time all work by Transmission Provider associated with the construction and installation of Transmission Provider's Interconnection Facilities and/or Network Upgrades required under this LGIA with the condition that Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and Transmission Provider's safety and reliability criteria. In such event, Interconnection Customer shall be responsible for all reasonable and necessary costs which Transmission Provider (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Transmission Provider cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Transmission Provider shall obtain Interconnection Customer's authorization to do so. Transmission Provider shall invoice Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work by Transmission Provider required under this LGIA pursuant to this Article 5.16, and has not requested Transmission Provider to recommence the work required under this LGIA on or before the expiration of three (3) years following commencement of such suspension, this LGIA shall be deemed terminated. The three-year period shall begin on the date the suspension is requested, or the date of the written notice to Transmission Provider, if no effective date is specified.

#### **5.17 Taxes.**

##### **5.17.1 Interconnection Customer Payments Not Taxable.**

The Parties intend that all payments or property transfers made by Interconnection Customer to Transmission Provider for the installation of Transmission Provider's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

##### **5.17.2 Representations and Covenants.**

In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to Transmission Provider for Transmission Provider's Interconnection Facilities will be capitalized by Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years,

and (iii) any portion of Transmission Provider's Interconnection Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At Transmission Provider's request, Interconnection Customer shall provide Transmission Provider with a report from an independent engineer confirming its representation in clause (iii), above. Transmission Provider represents and covenants that the cost of Transmission Provider's Interconnection Facilities paid for by Interconnection Customer will have no net effect on the base upon which rates are determined.

### **5.17.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Transmission Provider.**

Notwithstanding Article 5.17.1, Interconnection Customer shall protect, indemnify and hold harmless Transmission Provider from the cost consequences of any current tax liability imposed against Transmission Provider as the result of payments or property transfers made by Interconnection Customer to Transmission Provider under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Transmission Provider.

Transmission Provider shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Interconnection Customer under this LGIA unless (i) Transmission Provider has determined, in good faith, that the payments or property transfers made by Interconnection Customer to Transmission Provider should be reported as income subject to taxation or (ii) any Governmental Authority directs Transmission Provider to report payments or property as income subject to taxation; provided, however, that Transmission Provider may require Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to Transmission Provider (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. Interconnection Customer shall reimburse Transmission Provider for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Transmission Provider of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by Transmission Provider upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.



**5.17.4 Tax Gross-Up Amount.**

Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Interconnection Customer will pay Transmission Provider, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Transmission Provider ("Current Taxes") on the excess of (a) the gross income realized by Transmission Provider as a result of payments or property transfers made by Interconnection Customer to Transmission Provider under this LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Transmission Provider to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Transmission Provider's composite federal and state tax rates at the time the payments or property transfers are received and Transmission Provider will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Transmission Provider's anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Provider's current weighted average cost of capital. Thus, the formula for calculating Interconnection Customer's liability to Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows:  $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$ . Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

**5.17.5 Private Letter Ruling or Change or Clarification of Law.**

At Interconnection Customer's request and expense, Transmission Provider shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Interconnection Customer to Transmission Provider under this LGIA are subject to federal income taxation. Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Interconnection Customer's knowledge. Transmission Provider and Interconnection Customer shall cooperate in good faith with respect to the submission of such request.

Transmission Provider shall keep Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Interconnection Customer to participate in all discussions

with the IRS regarding such request for a private letter ruling. Transmission Provider shall allow Interconnection Customer to attend all meetings with IRS officials about the request and shall permit Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

#### **5.17.6 Subsequent Taxable Events.**

If, within 10 years from the date on which the relevant Transmission Provider's Interconnection Facilities are placed in service, (i) Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and Transmission Provider retains ownership of the Interconnection Facilities and Network Upgrades, Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on Transmission Provider, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

#### **5.17.7 Contests.**

In the event any Governmental Authority determines that Transmission Provider's receipt of payments or property constitutes income that is subject to taxation, Transmission Provider shall notify Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Interconnection Customer and at Interconnection Customer's sole expense, Transmission Provider may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Interconnection Customer's written request and sole expense, Transmission Provider may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. Transmission Provider reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Provider shall keep Interconnection Customer informed, shall consider in good faith suggestions from Interconnection Customer about the conduct of the contest, and shall reasonably permit Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

Interconnection Customer shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. At any time during the contest, Transmission Provider may agree to a settlement either with Interconnection Customer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Provider, but reasonably acceptable to Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from

nationally-recognized tax counsel selected under the terms of the preceding sentence. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. Any settlement without Interconnection Customer's consent or such written advice will relieve Interconnection Customer from any obligation to indemnify Transmission Provider for the tax at issue in the contest.

#### **5.17.8 Refund.**

In the event that (a) a private letter ruling is issued to Transmission Provider which holds that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Provider under the terms of this LGIA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Transmission Provider in good faith that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Provider under the terms of this LGIA is not taxable to Transmission Provider, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Interconnection Customer to Transmission Provider are not subject to federal income tax, or (d) if Transmission Provider receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Interconnection Customer to Transmission Provider pursuant to this LGIA, Transmission Provider shall promptly refund to Interconnection Customer the following:

- (i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,
- (ii) interest on any amounts paid by Interconnection Customer to Transmission Provider for such taxes which Transmission Provider did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 CFR §35.19a(a)(2)(iii) from the date payment was made by Interconnection Customer to the date Transmission Provider refunds such payment to Interconnection Customer, and
- (iii) with respect to any such taxes paid by Transmission Provider, any refund or credit Transmission Provider receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Transmission Provider for such overpayment of taxes (including any reduction in interest otherwise payable by Transmission Provider to any Governmental Authority resulting from an offset or credit); provided, however, that Transmission Provider will remit such amount promptly to Interconnection Customer only after and to the extent that Transmission Provider has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to Transmission Provider's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

**5.17.9 Taxes Other Than Income Taxes.**

Upon the timely request by Interconnection Customer, and at Interconnection Customer's sole expense, Transmission Provider may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Transmission Provider for which Interconnection Customer may be required to reimburse Transmission Provider under the terms of this LGIA. Interconnection Customer shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Interconnection Customer and Transmission Provider shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Interconnection Customer to Transmission Provider for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Transmission Provider.

**5.17.10 Transmission Owners Who Are Not Transmission Providers.**

If Transmission Provider is not the same entity as the Transmission Owner, then (i) all references in this Article 5.17 to Transmission Provider shall be deemed also to refer to and to include the Transmission Owner, as appropriate, and (ii) this LGIA shall not become effective until such Transmission Owner shall have agreed in writing to assume all of the duties and obligations of Transmission Provider under this Article 5.17 of this LGIA.

**5.18 Tax Status.**

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this LGIA is intended to adversely affect any Transmission Provider's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

**5.19 Modification.**

**5.19.1 General.**

Either Party may undertake modifications to its facilities. If a Party plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party shall provide to the other Party sufficient information regarding such modification so that the other Party may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include

information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Interconnection Customer to submit a Completed Interconnection Request, Transmission Provider shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the Transmission System, Transmission Provider's Interconnection Facilities or Network Upgrades necessitated by such Interconnection Customer modification and a good faith estimate of the costs thereof.

#### **5.19.2 Standards.**

Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA, Applicable Reliability Standards and Good Utility Practice.

#### **5.19.3 Modification Costs.**

Interconnection Customer shall not be directly assigned for the costs of any additions, modifications, or replacements that Transmission Provider makes to Transmission Provider's Interconnection Facilities or the Transmission System to facilitate the interconnection of a third party to Transmission Provider's Interconnection Facilities or the Transmission System, or to provide transmission service to a third party under Transmission Provider's Tariff. Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to Interconnection Customer's Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Customer's Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

## **Article 6. Testing and Inspection**

### **6.1 Pre-Commercial Operation Date Testing and Modifications.**

Prior to the Commercial Operation Date, Transmission Provider shall test Transmission Provider's Interconnection Facilities and Network Upgrades and Interconnection Customer shall test the Large Generating Facility and Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. Interconnection Customer shall bear the cost of all such testing and modifications. Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.

**6.2 Post-Commercial Operation Date Testing and Modifications.**

Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.

**6.3 Right to Observe Testing.**

Each Party shall notify the other Party in advance of its performance of tests of its Interconnection Facilities. The other Party has the right, at its own expense, to observe such testing.

**6.4 Right to Inspect.**

Each Party shall have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

**Article 7. Metering****7.1 General.**

Each Party shall comply with the Applicable Reliability Council requirements. Unless otherwise agreed by the Parties, Transmission Provider shall install Metering Equipment at the Point of Interconnection prior to any operation of the Large Generating Facility and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large Generating Facility shall be measured at or, at Transmission Provider's option, compensated to, the Point of Interconnection. Transmission Provider shall provide metering quantities, in analog and/or digital form, to Interconnection Customer upon request. Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

**7.2 Check Meters.**

Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check Transmission Provider's meters. Such check meters shall be for check purposes

only and shall not be used for the measurement of power flows for purposes of this LGIA, except as provided in Article 7.4 below. The check meters shall be subject at all reasonable times to inspection and examination by Transmission Provider or its designee. The installation, operation and maintenance thereof shall be performed entirely by Interconnection Customer in accordance with Good Utility Practice.

**7.3 Standards.**

Transmission Provider shall install, calibrate, and test revenue quality Metering Equipment in accordance with applicable ANSI standards.

**7.4 Testing of Metering Equipment.**

Transmission Provider shall inspect and test all Transmission Provider-owned Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by Interconnection Customer, Transmission Provider shall, at Interconnection Customer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Transmission Provider shall give reasonable notice of the time when any inspection or test shall take place, and Interconnection Customer may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Interconnection Customer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Transmission Provider's failure to maintain, then Transmission Provider shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Transmission Provider shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Interconnection Customer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment.

**7.5 Metering Data.**

At Interconnection Customer's expense, the metered data shall be telemetered to one or more locations designated by Transmission Provider and one or more locations designated by Interconnection Customer. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Large Generating Facility to the Point of Interconnection.

## **Article 8. Communications**

**8.1 Interconnection Customer Obligations.**

Interconnection Customer shall maintain satisfactory operating communications with Transmission Provider's Transmission System dispatcher or representative designated by Transmission Provider. Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone

system. Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to Transmission Provider as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by Transmission Provider. Any required maintenance of such communications equipment shall be performed by Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

## **8.2 Remote Terminal Unit.**

Prior to the Initial Synchronization Date of the Large Generating Facility, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Interconnection Customer, or by Transmission Provider at Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by Transmission Provider. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Transmission Provider.

Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

## **8.3 No Annexation.**

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

## **8.4 Provision of Data from a Variable Energy Resource**

The Interconnection Customer whose Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the Transmission Provider to the extent necessary for the Transmission Provider's development and deployment of power production forecasts for that class of Variable Energy Resources. The Interconnection Customer with a Variable Energy Resource having wind as the energy source, at a minimum, will be required to provide the Transmission Provider with site-specific meteorological data including: temperature, wind speed, wind direction, and atmospheric pressure. The Interconnection Customer with a Variable Energy Resource having solar as the energy source, at a minimum, will be required to provide the Transmission Provider with site-specific meteorological data including: temperature, atmospheric pressure, and irradiance. The Transmission Provider and Interconnection Customer whose Generating Facility is a Variable Energy Resource shall mutually agree to any additional meteorological data that are required for the development and deployment of a power production forecast. The



Interconnection Customer whose Generating Facility is a Variable Energy Resource also shall submit data to the Transmission Provider regarding all forced outages to the extent necessary for the Transmission Provider's development and deployment of power production forecasts for that class of Variable Energy Resources. The exact specifications of the meteorological and forced outage data to be provided by the Interconnection Customer to the Transmission Provider, including the frequency and timing of data submittals, shall be made taking into account the size and configuration of the Variable Energy Resource, its characteristics, location, and its importance in maintaining generation resource adequacy and transmission system reliability in its area. All requirements for meteorological and forced outage data must be commensurate with the power production forecasting employed by the Transmission Provider. Such requirements for meteorological and forced outage data are set forth in Appendix C, Interconnection Details, of this LGIA, as they may change from time to time.

## **Article 9. Operations**

### **9.1 General.**

Each Party shall comply with the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

### **9.2 Control Area Notification.**

At least three months before Initial Synchronization Date, Interconnection Customer shall notify Transmission Provider in writing of the Control Area in which the Large Generating

Facility will be located. If Interconnection Customer elects to locate the Large Generating Facility in a Control Area other than the Control Area in which the Large Generating Facility is physically located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Control Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Control Area.

### **9.3 Transmission Provider Obligations.**

Transmission Provider shall cause the Transmission System and Transmission Provider's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. Transmission Provider may provide operating instructions to Interconnection Customer consistent with this LGIA and Transmission Provider's operating protocols and procedures as they may change from time to time. Transmission Provider will consider changes to its operating protocols and procedures proposed by Interconnection Customer.

**9.4 Interconnection Customer Obligations.**

Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. Interconnection Customer shall operate the Large Generating Facility and Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Control Area of which it is part, as such requirements are set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. Either Party may request that the other Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA.

**9.5 Start-Up and Synchronization.**

Consistent with the Parties' mutually acceptable procedures, Interconnection Customer is responsible for the proper synchronization of the Large Generating Facility to Transmission Provider's Transmission System.

**9.6 Reactive Power.****9.6.1 Power Factor Design Criteria.**

Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless Transmission Provider has established different requirements that apply to all generators in the Control Area on a comparable basis. The requirements of this paragraph shall not apply to wind generators.

**9.6.2 Voltage Schedules.**

Once Interconnection Customer has synchronized the Large Generating Facility with the Transmission System, Transmission Provider shall require Interconnection Customer to operate the Large Generating Facility to produce or absorb reactive power within the design limitations of the Large Generating Facility set forth in Article 9.6.1 (Power Factor Design Criteria). Transmission Provider's voltage schedules shall treat all sources of reactive power in the Control Area in an equitable and not unduly discriminatory manner. Transmission Provider shall exercise Reasonable Efforts to provide Interconnection Customer with such schedules at least one (1) day in advance, and may make changes to such schedules as necessary to maintain the reliability of the Transmission System. Interconnection Customer shall operate the Large Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within the design limitations of the Large Generating Facility set forth in Article 9.6.1 (Power Factor Design Criteria). If Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the System Operator.

**9.6.2.1 Governors and Regulators.** Whenever the Large Generating Facility is operated in parallel with the Transmission System and the speed governors (if installed on the generating unit pursuant to

Good Utility Practice) and voltage regulators are capable of operation, Interconnection Customer shall operate the Large Generating Facility with its speed governors and voltage regulators in automatic operation. If the Large Generating Facility's speed governors and voltage regulators are not capable of such automatic operation, Interconnection Customer shall immediately notify Transmission Provider's system operator, or its designated representative, and ensure that such Large Generating Facility's reactive power production or absorption (measured in MVARs) are within the design capability of the Large Generating Facility's generating unit(s) and steady state stability limits. Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the Transmission System or trip any generating unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Control Area on a comparable basis.

### **9.6.3 Payment for Reactive Power.**

Transmission Provider is required to pay Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from the Large Generating Facility when Transmission Provider requests Interconnection Customer to operate its Large Generating Facility outside the range specified in Article 9.6.1, provided that if Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the Parties have otherwise agreed.

## **9.7 Outages and Interruptions.**

### **9.7.1 Outages.**

**9.7.1.1 Outage Authority and Coordination.** Each Party may in accordance with Good Utility Practice in coordination with the other Party remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use

Reasonable Efforts to schedule such removal on a date and time mutually acceptable to the Parties. In all circumstances, any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

**9.7.1.2 Outage Schedules.** Transmission Provider shall post scheduled outages of its transmission facilities on the OASIS. Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to Transmission Provider for a minimum of a rolling twenty-four month period. Interconnection Customer shall update its planned maintenance schedules as necessary. Transmission Provider may request Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the Transmission System; provided, however, adequacy of generation supply shall not be a criterion in determining Transmission System reliability. Transmission Provider shall compensate Interconnection Customer for any additional direct costs that Interconnection Customer incurs as a result of having to reschedule maintenance, including any additional overtime, breaking of maintenance contracts or other costs above and beyond the cost Interconnection Customer would have incurred absent Transmission Provider's request to reschedule maintenance. Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, Interconnection Customer had modified its schedule of maintenance activities.

**9.7.1.3 Outage Restoration.** If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects the other Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Party, to the extent such information is known, information on the nature of the Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage.

**9.7.2 Interruption of Service.**

If required by Good Utility Practice to do so, Transmission Provider may require Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect Transmission Provider's ability to perform such activities as are necessary to safely and reliably operate and maintain the Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

**9.7.2.1** The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

- 9.7.2.2** Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the Transmission System;
- 9.7.2.3** When the interruption or reduction must be made under circumstances which do not allow for advance notice, Transmission Provider shall notify Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;
- 9.7.2.4** Except during the existence of an Emergency Condition, when the interruption or reduction can be scheduled without advance notice, Transmission Provider shall notify Interconnection Customer in advance regarding the timing of such scheduling and further notify Interconnection Customer of the expected duration. Transmission Provider shall coordinate with Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to Interconnection Customer and Transmission Provider;
- 9.7.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, and the Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

**9.7.3 Under-Frequency and Over Frequency Conditions.**

The Transmission System is designed to automatically activate a load-shed program as required by the Applicable Reliability Council in the event of an under-frequency system disturbance. Interconnection Customer shall implement under-frequency and over-frequency relay set points for the Large Generating Facility as required by the Applicable Reliability Council to ensure “ride through” capability of the Transmission System. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with Transmission Provider in accordance with Good Utility Practice. The term “ride through” as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the Transmission System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.

**9.7.4 System Protection and Other Control Requirements.**

- 9.7.4.1 System Protection Facilities.** Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or Interconnection Customer’s Interconnection Facilities.

Transmission Provider shall install at Interconnection Customer's expense any System Protection Facilities that may be required on Transmission Provider's Interconnection Facilities or the Transmission System as a result of the interconnection of the Large Generating Facility and Interconnection Customer's Interconnection Facilities.

**9.7.4.2** Each Party's protection facilities shall be designed and coordinated with other systems in accordance with Good Utility Practice.

**9.7.4.3** Each Party shall be responsible for protection of its facilities consistent with Good Utility Practice.

**9.7.4.4** Each Party's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of Interconnection Customer's units.

**9.7.4.5** Each Party will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice.

**9.7.4.6** Prior to the In-Service Date, and again prior to the Commercial Operation Date, each Party or its agent shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

#### **9.7.5 Requirements for Protection.**

In compliance with Good Utility Practice, Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Transmission System not otherwise isolated by Transmission Provider's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Transmission System. Such protective equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Large Generating Facility and the Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. Interconnection Customer shall be responsible for protection of the Large Generating Facility and Interconnection Customer's other equipment from such conditions as negative sequence

currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and Interconnection Customer's other equipment if conditions on the Transmission System could adversely affect the Large Generating Facility.

#### **9.7.6 Power Quality.**

Neither Party's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

### **9.8 Switching and Tagging Rules.**

Each Party shall provide the other Party a copy of its switching and tagging rules that are applicable to the other Party's activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

### **9.9 Use of Interconnection Facilities by Third Parties.**

#### **9.9.1 Purpose of Interconnection Facilities.**

Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Transmission System and shall be used for no other purpose.

#### **9.9.2 Third Party Users.**

If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use Transmission Provider's Interconnection Facilities, or any part thereof, Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between Interconnection Customer and any third party users based upon the pro rata use of the Interconnection and any third party users based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

**9.10 Disturbance Analysis Data Exchange.**

The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or Transmission Provider's Transmission System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

**Article 10. Maintenance****10.1 Transmission Provider Obligations.**

Transmission Provider shall maintain the Transmission System and Transmission Provider's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

**10.2 Interconnection Customer Obligations.**

Interconnection Customer shall maintain the Large Generating Facility and Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

**10.3 Coordination.**

The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.

**10.4 Secondary Systems.**

Each Party shall cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Party. Each Party shall provide advance notice to the other Party before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

**10.5 Operating and Maintenance Expenses.**

Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of Transmission Provider's Interconnection Facilities.



## **Article 11. Performance Obligation**

### **11.1 Interconnection Customer Interconnection Facilities.**

Interconnection Customer shall design, procure, construct, install, own and/or control Interconnection Customer Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at its sole expense.

### **11.2 Transmission Provider's Interconnection Facilities.**

Transmission Provider or Transmission Owner shall design, procure, construct, install, own and/or control the Transmission Provider's Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at the sole expense of the Interconnection Customer.

### **11.3 Network Upgrades and Distribution Upgrades.**

Transmission Provider or Transmission Owner shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Unless Transmission Provider or Transmission Owner elects to fund the capital for the Network Upgrades, they shall be solely funded by Interconnection Customer.

### **11.4 Transmission Credits.**

#### **11.4.1 Repayment of Amounts Advanced for Network Upgrades.**

Interconnection Customer shall be entitled to a cash repayment, equal to the total amount paid to Transmission Provider and Affected System Operator, if any, for the Network Upgrades, including any tax gross-up or other tax-related payments associated with Network Upgrades, and not refunded to Interconnection Customer pursuant to Article 5.17.8 or otherwise, to be paid to Interconnection Customer on a dollar-for-dollar basis for the non-usage sensitive portion of transmission charges, as payments are made under Transmission Provider's Tariff and Affected System's Tariff for transmission services with respect to the Large Generating Facility. Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment pursuant to this subparagraph. Interconnection Customer may assign such repayment rights to any person.

Notwithstanding the foregoing, Interconnection Customer, Transmission Provider, and Affected System Operator may adopt any alternative payment schedule that is mutually agreeable so long as Transmission Provider and Affected System Operator take one of the following actions no later than five years from the Commercial Operation Date: (1) return to Interconnection Customer any amounts advanced for Network Upgrades not previously repaid, or (2) declare in writing that Transmission Provider or Affected System Operator will continue to provide payments to Interconnection Customer on a

dollar-for-dollar basis for the non-usage sensitive portion of transmission charges, or develop an alternative schedule that is mutually agreeable and provides for the return of all amounts advanced for Network Upgrades not previously repaid; however, full reimbursement shall not extend beyond twenty (20) years from the Commercial Operation Date. If the Large Generating Facility fails to achieve commercial operation, but it or another Generating Facility is later constructed and makes use of the Network Upgrades, Transmission Provider and Affected System Operator shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the Generating Facility, if different, is responsible for identifying the entity to which reimbursement must be made.

#### **11.4.2 Special Provisions for Affected Systems.**

Unless Transmission Provider provides, under the LGIA, for the repayment of amounts advanced to Affected System Operator for Network Upgrades, Interconnection Customer and Affected System Operator shall enter into an agreement that provides for such repayment. The agreement shall specify the terms governing payments to be made by Interconnection Customer to the Affected System Operator as well as the repayment by the Affected System Operator.

- 11.4.3** Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that Interconnection Customer, shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the Large Generating Facility.

#### **11.5 Provision of Security.**

At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of a discrete portion of a Transmission Provider's Interconnection Facilities, Network Upgrades, or Distribution Upgrades, Interconnection Customer shall provide Transmission Provider, at Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Provider and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, procuring and installing the applicable portion of Transmission Provider's Interconnection Facilities, Network Upgrades, or Distribution Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Provider for these purposes.

In addition:

- 11.5.1** The guarantee must be made by an entity that meets the creditworthiness requirements of Transmission Provider, and contain terms and conditions that guarantee payment of any amount that may be due from Interconnection Customer, up to an agreed-to maximum amount.
- 11.5.2** The letter of credit must be issued by a financial institution reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.
- 11.5.3** The surety bond must be issued by an insurer reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.

## **11.6 Interconnection Customer Compensation.**

If Transmission Provider requests or directs Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power), or 13.5.1 of this LGIA, Transmission Provider shall compensate Interconnection Customer in accordance with Interconnection Customer's applicable rate schedule then in effect unless the provision of such service(s) is subject to an RTO or ISO FERC-approved rate schedule.

Interconnection Customer shall serve Transmission Provider or RTO or ISO with any filing of a proposed rate schedule at the time of such filing with FERC. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb any Reactive Power under this LGIA, Transmission Provider agrees to compensate Interconnection Customer in such amount as would have been due Interconnection Customer had the rate schedule been in effect at the time service commenced; provided, however, that such rate schedule must be filed at FERC or other appropriate Governmental Authority within sixty (60) Calendar Days of the commencement of service.

### **11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition.**

Transmission Provider or RTO or ISO shall compensate Interconnection Customer for its provision of real and reactive power and other Emergency Condition services that Interconnection Customer provides to support the Transmission System during an Emergency Condition in accordance with Article 11.6.

## **Article 12. Invoice**

### **12.1 General.**

Each Party shall submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

**12.2 Final Invoice.**

Within six months after completion of the construction of Transmission Provider's Interconnection Facilities and the Network Upgrades, Transmission Provider shall provide an invoice of the final cost of the construction of Transmission Provider's Interconnection Facilities and the Network Upgrades and shall set forth such costs in sufficient detail to enable Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Transmission Provider shall refund to Interconnection Customer any amount by which the actual payment by Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

**12.3 Payment.**

Invoices shall be rendered to the paying Party at the address specified in Appendix F. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices by either Party will not constitute a waiver of any rights or claims either Party may have under this LGIA.

**12.4 Disputes.**

In the event of a billing dispute between Transmission Provider and Interconnection Customer, Transmission Provider shall continue to provide Interconnection Service under this LGIA as long as Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet these two requirements for continuation of service, then Transmission Provider may provide notice to Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's regulations at 18 CFR § 35.19a(a)(2)(iii).

**Article 13. Emergencies****13.1 Definition.**

"Emergency Condition" shall mean a condition or situation: (i) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (ii) that, in the case of Transmission Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the Transmission System, Transmission Provider's Interconnection Facilities or the Transmission Systems of others to which the Transmission System is directly connected; or (iii) that, in the case of Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Large Generating Facility or Interconnection Customer's Interconnection Facilities' System restoration and black start shall be considered Emergency Conditions;

provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

### **13.2 Obligations.**

Each Party shall comply with the Emergency Condition procedures of the applicable ISO/RTO, NERC, the Applicable Reliability Council, Applicable Laws and Regulations, and any emergency procedures agreed to by the Joint Operating Committee.

### **13.3 Notice.**

Transmission Provider shall notify Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects Transmission Provider's Interconnection Facilities or the Transmission System that may reasonably be expected to affect Interconnection Customer's operation of the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Interconnection Customer shall notify Transmission Provider promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the Transmission System or Transmission Provider's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of Interconnection Customer's or Transmission Provider's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

### **13.4 Immediate Action.**

Unless, in Interconnection Customer's reasonable judgment, immediate action is required, Interconnection Customer shall obtain the consent of Transmission Provider, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or Interconnection Customer's Interconnection Facilities in response to an Emergency Condition either declared by Transmission Provider or otherwise regarding the Transmission System.

### **13.5 Transmission Provider Authority.**

#### **13.5.1 General.**

Transmission Provider may take whatever actions or inactions with regard to the Transmission System or Transmission Provider's Interconnection Facilities it deems necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Transmission System or Transmission Provider's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.

Transmission Provider shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Transmission Provider may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing Interconnection Customer to shut-down, start-up, increase or decrease the real or

reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing Interconnection Customer to assist with blackstart (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and Interconnection Customer's Interconnection Facilities.

Interconnection Customer shall comply with all of Transmission Provider's operating instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

#### **13.5.2 Reduction and Disconnection.**

Transmission Provider may reduce Interconnection Service or disconnect the Large Generating Facility or Interconnection Customer's Interconnection Facilities, when such, reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of Transmission Provider pursuant to Transmission Provider's Tariff. When Transmission Provider can schedule the reduction or disconnection in advance, Transmission Provider shall notify Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. Transmission Provider shall coordinate with Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to Interconnection Customer and Transmission Provider. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

#### **13.6 Interconnection Customer Authority.**

Consistent with Good Utility Practice and the LGIA and the LGIP, Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Transmission System and Transmission Provider's Interconnection Facilities. Transmission Provider shall use Reasonable Efforts to assist Interconnection Customer in such actions.

#### **13.7 Limited Liability.**

Except as otherwise provided in Article 11.6.1 of this LGIA, neither Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

## **Article 14. Regulatory Requirements and Governing Law**

### **14.1 Regulatory Requirements.**

Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act, the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978.

### **14.2 Governing Law.**

**14.2.1** The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.

**14.2.2** This LGIA is subject to all Applicable Laws and Regulations.

**14.2.3** Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

## **Article 15. Notices.**

### **15.1 General.**

Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party in writing to the other shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings.

Either Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change.

### **15.2 Billings and Payments.**

Billings and payments shall be sent to the addresses set out in Appendix F.

### **15.3 Alternative Forms of Notice.**

Any notice or request required or permitted to be given by a Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F.

**15.4 Operations and Maintenance Notice.**

Each Party shall notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

**Article 16. Force Majeure****16.1 Force Majeure.**

**16.1.1** Economic hardship is not considered a Force Majeure event.

**16.1.2** Neither Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

**Article 17. Default****17.1 Default****17.1.1 General.**

No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act of omission of the other Party. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party. Except as provided in Article 17.1.2, the breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

**17.1.2 Right to Terminate.**

If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, the non-breaching Party shall have the right to declare a Default and terminate this LGIA by written



notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this LGIA, to recover from the breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this LGIA.

## **Article 18. Indemnity, Consequential Damages and Insurance**

### **18.1 Indemnity.**

The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inactions of its obligations under this LGIA on behalf of the Indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

#### **18.1.1 Indemnified Person.**

If an Indemnified Person is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

#### **18.1.2 Indemnifying Party.**

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this Article 18, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

#### **18.1.3 Indemnity Procedures.**

Promptly after receipt by an Indemnified Person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Person shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the Indemnifying Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the Indemnifying Party, the Indemnified Person shall have the right

to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses.

The Indemnified Person shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be reasonably withheld, conditioned or delayed.

## **18.2 Consequential Damages.**

Other than the Liquidated Damages heretofore described, in no event shall either Party be liable under any provision of this LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

## **18.3 Insurance.**

Each party shall, at its own expense, maintain in force throughout the period of this LGIA, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state where the Point of Interconnection is located:

**18.3.1** Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the state in which the Point of Interconnection is located.

**18.3.2** Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of

One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

- 18.3.3** Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- 18.3.4** Excess Public Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.
- 18.3.5** The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group and provide thirty (30) Calendar Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.
- 18.3.6** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.
- 18.3.7** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 18.3.8** The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this LGIA.

- 18.3.9** Within ten (10) days following execution of this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.
- 18.3.10** Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade or better by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this article, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.
- 18.3.11** The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this LGIA.

## **Article 19. Assignment**

### **19.1 Assignment.**

This LGIA may be assigned by either Party only with the written consent of the other; provided that either Party may assign this LGIA without the consent of the other Party to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that Interconnection Customer shall have the right to assign this LGIA, without the consent of Transmission Provider, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that Interconnection Customer will promptly notify Transmission Provider of any such assignment. Any financing arrangement entered into by Interconnection Customer pursuant to this article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify Transmission Provider of the date and particulars of any such exercise of assignment right(s), including providing the Transmission Provider with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

## **Article 20. Severability**

### **20.1 Severability.**

If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if Interconnection Customer (or any third party, but only if such third party is not acting at the direction of Transmission Provider) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

## **Article 21. Comparability**

### **21.1 Comparability.**

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

## **Article 22. Confidentiality**

### **22.1 Confidentiality.**

Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by either Party, the other Party shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

Transmission Provider may perform study work using WECC data (power flow, stability, and disturbance monitoring data) for nonmembers provided that the WECC data are not provided to the nonmember. Under such arrangements the nonmembers are permitted to look at the data in the Transmission Provider's office to gain an understanding of the study results, but are not permitted to have the data or a copy of the data. Interconnection Customer must also sign the WECC Nonmember Confidentiality Agreement in accordance with regional Reliability Council policies.

**22.1.1 Term.**

During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

**22.1.2 Scope.**

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of the LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this LGIA.

Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

**22.1.3 Release of Confidential Information.**

Neither Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by the Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be or considering providing financing to or equity participation with Interconnection Customer, or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions.

Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

**22.1.4 Rights.**

Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by either Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

**22.1.5 No Warranties.**

By providing Confidential Information, neither Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, neither Party obligates itself to provide any particular information or Confidential Information to the other Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

**22.1.6 Standard of Care.**

Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this LGIA or its regulatory requirements.

**22.1.7 Order of Disclosure.**

If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

**22.1.8 Termination of Agreement.**

Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

**22.1.9 Remedies.**

The Parties agree that monetary damages would be inadequate to compensate a Party for the other Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are

necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

**22.1.10 Disclosure to FERC, its Staff, or a State.**

Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 CFR section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 CFR section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Party to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Party to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time either of the Parties may respond before such information would be made public, pursuant to 18 CFR section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

**22.1.11** Subject to the exception in Article 22.1.10, any information that a Party claims is competitively sensitive, commercial or financial information under this LGIA (“Confidential Information”) shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party’s Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.



## **Article 23. Environmental Releases**

### **23.1 Environmental Releases.**

Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

## **Article 24. Information Requirements**

### **24.1 Information Acquisition.**

Transmission Provider and Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.

### **24.2 Information Submission by Transmission Provider.**

The initial information submission by Transmission Provider shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include Transmission System information necessary to allow Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Parties. On a monthly basis Transmission Provider shall provide Interconnection Customer a status report on the construction and installation of Transmission Provider's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

### **24.3 Updated Information Submission by Interconnection Customer.**

The updated information submission by Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Interconnection Customer shall submit a completed copy of the Large Generating Facility data requirements contained in Appendix 1 to the LGIP. It shall also include any additional information provided to Transmission Provider for the Facilities Study. Information in this submission shall be the most current Large Generating Facility design or expected performance data. Information submitted for stability models shall be compatible with Transmission Provider standard models. If there is no compatible model, Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If Interconnection Customer's data is materially different from what was originally provided to Transmission Provider pursuant to the Interconnection Study Agreement between Transmission Provider and Interconnection Customer, then Transmission

Provider will conduct appropriate studies to determine the impact on Transmission Provider Transmission System based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed.

#### **24.4 Information Supplementation.**

Prior to the Operation Date, the Parties shall supplement their information submissions described above in this Article 24 with any and all “as-built” Large Generating Facility information or “as-tested” performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit “step voltage” test on the Large Generating Facility to verify proper operation of the Large Generating Facility’s automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent change in Large Generating Facility terminal voltage initiated by a change in the voltage regulators reference voltage. Interconnection Customer shall provide validated test recordings showing the responses of Large Generating Facility terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Large Generating Facility’s terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Large Generating Facility terminal or field voltages is provided. Large Generating Facility testing shall be conducted and results provided to Transmission Provider for each individual generating unit in a station.

Subsequent to the Operation Date, Interconnection Customer shall provide Transmission Provider any information changes due to equipment replacement, repair, or adjustment. Transmission Provider shall provide Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Transmission Provider-owned substation that may affect Interconnection Customer’s Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

### **Article 25. Information Access and Audit Rights**

#### **25.1 Information Access.**

Each Party (the “disclosing Party”) shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA.

**25.2 Reporting of Non-Force Majeure Events.**

Each Party (the “notifying Party”) shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.

**25.3 Audit Rights.**

Subject to the requirements of confidentiality under Article 22 of this LGIA, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party’s accounts and records pertaining to either Party’s performance or either Party’s satisfaction of obligations under this LGIA. Such audit rights shall include audits of the other Party’s costs, calculation of invoiced amounts, Transmission Provider’s efforts to allocate responsibility for the provision of reactive support to the Transmission System, Transmission Provider’s efforts to allocate responsibility for interruption or reduction of generation on the Transmission System, and each Party’s actions in an Emergency Condition. Any audit authorized by this article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each Party’s performance and satisfaction of obligations under this LGIA. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

**25.4 Audit Rights Periods.****25.4.1 Audit Rights Period for Construction-Related Accounts and Records.**

Accounts and records related to the design, engineering, procurement, and construction of Transmission Provider’s Interconnection Facilities and Network Upgrades shall be subject to audit for a period of twenty-four months following Transmission Provider’s issuance of a final invoice in accordance with Article 12.2.

**25.4.2 Audit Rights Period for All Other Accounts and Records.**

Accounts and records related to either Party’s performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party’s receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought.

**25.5 Audit Results.**

If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

## **Article 26. Subcontractors**

### **26.1 General.**

Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

### **26.2 Responsibility of Principal.**

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall Transmission Provider be liable for the actions or inactions of Interconnection Customer or its subcontractors with respect to obligations of Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

### **26.3 No Limitation by Insurance.**

The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

## **Article 27. Disputes**

### **27.1 Submission.**

In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute").

Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.

### **27.2 External Arbitration Procedures.**

Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to

chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

**27.3 Arbitration Decisions.**

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

**27.4 Costs.**

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**Article 28. Representations, Warranties, and Covenants**

**28.1 General.**

Each Party makes the following representations, warranties and covenants:

**28.1.1 Good Standing.**

Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.

**28.1.2 Authority.**

Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

**28.1.3 No Conflict.**

The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

**28.1.4 Consent and Approval.**

Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

**Article 29. Joint Operating Committee****29.1 Joint Operating Committee.**

Except in the case of ISOs and RTOs, Transmission Provider shall constitute a Joint Operating Committee to coordinate operating and technical considerations of Interconnection Service. At least six (6) months prior to the expected Initial Synchronization Date, Interconnection Customer and Transmission Provider shall each appoint one representative and one alternate to the Joint Operating Committee. Each Interconnection Customer shall notify Transmission Provider of its appointment in writing. Such appointments may be changed at any time by similar notice. The Joint Operating Committee shall meet as necessary, but not less than once each calendar year, to carry out the duties set forth herein. The Joint Operating Committee shall hold a meeting at the request of either Party, at a time and place agreed upon by the representatives. The Joint Operating Committee shall perform all of its duties consistent with the provisions of this LGIA. Each Party shall cooperate in providing to the Joint Operating Committee all information required in the performance of the Joint Operating Committee's duties. All decisions and agreements, if any, made by the Joint Operating Committee, shall be evidenced in writing. The duties of the Joint Operating Committee shall include the following:

**29.1.1** Establish data requirements and operating record requirements.

- 29.1.2** Review the requirements, standards, and procedures for data acquisition equipment, protective equipment, and any other equipment or software.
- 29.1.3** Annually review the one (1) year forecast of maintenance and planned outage schedules of Transmission Provider's and Interconnection Customer's facilities at the Point of Interconnection.
- 29.1.4** Coordinate the scheduling of maintenance and planned outages on the Interconnection Facilities, the Large Generating Facility and other facilities that impact the normal operation of the interconnection of the Large Generating Facility to the Transmission System.
- 29.1.5** Ensure that information is being provided by each Party regarding equipment availability.
- 29.1.6** Perform such other duties as may be conferred upon it by mutual agreement of the Parties.

## **Article 30. Miscellaneous**

### **30.1 Binding Effect.**

This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

### **30.2 Conflicts.**

In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.

### **30.3 Rules of Interpretation.**

This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the LGIP or such Appendix to the LGIP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8)

relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”.

**30.4 Entire Agreement.**

This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party’s compliance with its obligations under this LGIA.

**30.5 No Third Party Beneficiaries.**

This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

**30.6 Waiver.**

The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by Interconnection Customer shall not constitute a waiver of Interconnection Customer’s legal rights to obtain an interconnection from Transmission Provider. Any waiver of this LGIA shall, if requested, be provided in writing.

**30.7 Headings.**

The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.

**30.8 Multiple Counterparts.**

This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

**30.9 Amendment.**

The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by the Parties.

**30.10 Modification by the Parties.**

The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.



**30.11 Reservation of Rights.**

Transmission Provider shall have the right to make a unilateral filing with FERC to modify this LGIA with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

**30.12 No Partnership.**

This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

**IN WITNESS WHEREOF**, the Parties have executed this LGIA in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

**Sierra Pacific Power Company d/b/a NV Energy**

DocuSigned by:  
By: Shahzad Latief  
7CE3BF9CB7E64C6...

Title: Vice President, Transmission

Date: 1/24/2018

**Dodge Flat Solar, LLC**

DocuSigned by:  
By: [Signature]  
D2E1FF32F6F74C0...

Title: Vice President

Date: 1/24/2018

## **LGIA Appendix A: Interconnection Facilities, Network Upgrades and Distribution Upgrades**

**Dodge Flat Solar, LLC. – Company GU – Dodge Flat Solar and Energy Storage**

**Type of Interconnection Service:** Network Resource Interconnection Service

**Generating Facility Capacity:** 200 MW net at the Point of Interconnection

**Total Generating Facility Nameplate Rating:** 220.8 MVA total from one hundred and eight (108) 2.0 MVA GE LV5-1540-SLR Photovoltaic Inverters and ninety-six (96) 2.2 MVA Parker battery banks

**Point of Interconnection:**

The Point of Interconnection will be the point where the Dodge Flat generator lead-line meets the Transmission Provider's proposed Olinghouse 345 kV switching station on the Valmy – East Tracy #1 345 kV line. See Appendix C.

**Point of Change of Ownership:**

The Point of Change of Ownership will be the point where the Interconnection Customer's 345 kV generator lead line terminates on the Transmission Provider-owned termination structure located adjacent to the Olinghouse 345 kV switching station. See Appendix C.

**Nominal Delivery Voltage:** 345 kV

**Metering Voltage:** 345 kV

## 1. Interconnection Facilities

### (a) Interconnection Customer's Interconnection Facilities: -

#### 1) **Interconnection Customer Generation Facility Requirements, Facility to Include:**

- a. Adequate electrical protection of the generation facility;
- b. One hundred and eight (108) 2.0 MVA/4.0 MW GE LV5-1540-SLR Photovoltaic Inverters and ninety-six (96) 2.2 MVA/2.2 MW Parker 890 GT-B PCS for a total of 200 MW net generation delivered to the Point of Interconnection;
- c. One (1) 345/34.5 kV 215 MVA Generation Step-Up Transformer (GSU); and
- d. One (1) 345 kV breaker at the Dodge Flat Substation, located on the high side of the main GSU transformer. See Appendix C.

#### 2) **Interconnection Customer Generator Lead Line Requirements, Lead Line to Include:**

- a. Approximately two hundred and fifty (250) feet of 2-795 Aluminum Conductor Steel Reinforced (ACSR) (per phase) from the Dodge Flat 345 kV Substation to the 345 kV termination structure. The termination structure's preliminary location is:
  - i. 39.6734556°, -119.370561°
- b. Overhead lead line to be designed with static wire(s) and adequate overvoltage protection from lightning surges;
- c. Lead-line and structures to be built in accordance with Good Utility Practices; and
- d. Fiber Optic Cable as described by the interconnection communications requirements.

#### 3) **Interconnection Customer Generating Facility Protection Requirements:**

- a. Interconnection Customer will install generator facility and 345 kV generator lead line protection relays at the Interconnection Customer's site.
  - i. Lead line protection relays must be compatible with the SEL 421 and SEL-311-L line protection relays that the Transmission Provider will install at the Olinghouse Switching Station;
  - ii. Line protection will be a communication aided scheme utilizing two (2) geographically diverse digital high speed protection communication paths between the Olinghouse 345 kV switching station and the Dodge Flat substation. Each path will be capable of providing at least two (2) high-speed protection communications circuits.
- b. The Interconnection Customer must submit the protection and communications plan to the Transmission Provider for review and concurrence prior to procurement and construction; and
- c. The Interconnection Customer must install a breaker failure scheme for the high-side breaker that will key a direct trip signal to the Transmission Provider's Olinghouse switching station.

#### 4) **Interconnection Customer's Communication Requirements:**

- a. Interconnection Customer will install two (2) geographically diverse high-speed communications paths for protection purposes.
  - i. Communications Path 1 will consist of Fiber Optic Cable capable of providing at least two (2) communications circuits for high speed protection communications installed on the generator lead-line.

- a) Fiber communications will facilitate communications between the Interconnection Customer's protection relays at the Dodge Flat Substation and the Transmission Provider's protection relays at Olinghouse Substation.
- b) The Interconnection Customer will install the fiber optic cable from the Dodge Flat Substation to the Point of Change of Ownership termination structure outside of Olinghouse switching station;
- c) The Interconnection Customer will leave sufficient fiber optic cable remaining at the Point of Change of Ownership termination structure to allow for the fiber to be installed from the Point of Change of Ownership to the Olinghouse Switching Station control room. The Transmission Provider will install the remaining fiber optic cable from the Point of Change of Ownership to the Olinghouse Switching Station control enclosure.
- b. Communications Path 2 will consist of the installation of a separate communications path, geographically diverse from Communications Path 1, and capable of providing two (2) communications circuits for high-speed protection communications between the Dodge Flat Substation and Olinghouse switching station.
  - i. The design of this path will be coordinated and mutually accepted between the Transmission Provider and Interconnection Customer *prior* to construction.
- c. Interconnection Customer will provide and deliver a T-1 service along with any T-1 circuit isolation gear required by the local T-1 provider;
  - i. The T-1 line will originate at the Transmission Provider's telecommunications equipment location at the Interconnection Customer's facility and terminate at a place to be specified by the Transmission Provider;
  - ii. The dedicated T-1 leased telecommunications line must be provided by the customer for the Transmission Provider's Telephony, SCADA, Metering and Protection requirements and use;
- d. Interconnection Customer will provide a ring down phone and/or 24-hour contact for Transmission Provider Energy System Control Center (ESCC);
- e. Interconnection Customer will provide one dial up telephone line continuously capable of a 9600 baud rate minimum at any given time for the new 345 kV meter that will be located at the Dodge Flat Substation as indicated in Appendix C;
  - i. Note: If the ring down phone and metering telecommunication circuits are via copper circuits and connecting to Transmission Provider telecom equipment, then Ground Protection Rise isolation is required and is the responsibility of Interconnection Customer, per applicable industry standards.
- f. Interconnection Customer will provide a temperature-controlled space located in the control room at the Interconnection Customer's Generating Facility;
  - i. The area will include two (2) 8-foot tall 26-inch wide racks or cabinets for the Transmission Provider's communications and protection equipment to be installed at the Interconnection Customer's plant. A minimum working space of three feet is required to be provided on front and back of these racks. Provisions for the following must be made:
    - a) Interconnection Customer will provide two (2) Direct Current (DC) load centers dedicated to Transmission Provider's communication equipment at a

- minimum of 20 Amperes each. The DC voltage will be identified during the coordination meetings between Interconnection Customer and Transmission Provider. These load centers are to provide both primary and back-up power sources for the Transmission Provider's equipment; and
- b) Conduit and/or cable trays to provide connectivity from the Transmission Provider's rack space area to Interconnection Customer's main telecommunications board.
- g. Interconnection Customer will provide a 125 volt DC Battery backup with a minimum of twelve hour support; and
- h. Detailed Communications and Protection Requirements are outlined in Appendix C.

**5) Interconnection Customer's Generating Facility Metering Requirements:**

- a. The 345 kV meter will be located on the high-side of the Interconnection Customer's transformer at the Dodge Flat Substation;
- b. Interconnection Customer will transport and install the 345 kV metering instrument transformers (CT's and PT's) provided by the Transmission Provider, connect the primary leads, and run the secondary leads to the metering structure;
- c. Interconnection Customer will design, purchase and install a Transmission Provider approved structure for mounting the Transmission Provider's metering units, meter class instrument transformers (PTs and CTs) in a Transmission Provider approved location. The meter structure with the installed metering instruments must be designed to meet the Transmission Provider's safety clearances, standard design requirements, and accessibility to the Transmission Provider's meter personnel. Drawings, design calculations, and equipment shall be reviewed and approved by the Transmission Provider prior to procurement and installation;
  - i. Separate communications and power cabling is required through separate conduits.
  - ii. Provide appropriately sized junction/pullbox at the meter structure and install one and a half inch diameter conduits for termination of CT/PT wirings. Install 1-3" diameter conduit from the junction/pullbox to meter enclosure at NVE room. Cables and wirings for metering shall be provided and pulled by the Interconnection Customer per Transmission Provider's sizing and specification.
- d. Interconnection Customer will provide a dedicated 125 V DC circuit and phone line to the meter; and
- e. Spare Instrument Transformers:
  - i. Spare instrument transformers may be procured by the Transmission Provider to provide back-up metering capability at the Interconnection Customer's expense.
  - ii. The Interconnection Customer has elected to **not** purchase spare instrument transformers and accepts the associated risk.
  - iii. The associated risk of not purchasing spare instrument transformers in the event of instrument transformer failure includes prolonged outages (approximately 6 months) and additional costs for expedited ordering and shipping.

**6) Interconnection Customer's Permitting and Private Land Requirements:**

- a. Interconnection Customer is expected to submit all relevant Federal, State, County and local land use permitting and Right-Of-Way applications to the Transmission Provider for review and concurrence **prior** to submittal to the applicable agency.
  - i. Interconnection Customer accepts that failure to secure Transmission Provider's concurrence prior to submittal of permitting or Right-of-Way applications to the respective agency can result in the Transmission Provider requiring the Interconnection Customer to resubmit or amend permitting documentation to meet Transmission Provider's satisfaction which may delay the project In-Service schedule significantly.
  - ii. The Transmission Provider's concurrence shall not be unreasonably withheld, conditioned, or delayed.
- b. Subsequent to receiving Transmission Provider's concurrence, the Interconnection Customer will acquire all relevant Federal, State, County, and Local land use and environmental permits and authorizations, and acquire all private land rights and/or easements, required in order to build, operate, and maintain the Generating Facility, Interconnection Customer Interconnection Facilities, Transmission Provider's Interconnection Facilities, and Network Upgrades including (possibly including, but not limited to):
  - i. All related plant facilities including fencing, grading and access roads;
  - ii. All permits and private lands required to interconnect the Interconnection Customer's generator to the Transmission Provider Interconnection Facilities at the Point of Change of Ownership;
  - iii. All authorizations and/or assignments related to Interconnection Customer's rights under Interconnection Customer's Federal Right of Way (ROW) Grant and private land rights (as applicable) which authorizes Transmission Provider to install or otherwise take necessary action to interconnect Transmission Provider's Interconnection Facilities associated with this project.
  - iv. All Federal Aviation Administration (as applicable) determination of no hazard or other applicable FAA approvals, as required;
  - v. All Federal agency, State agency, Tribal, Lands, roadway, and environmental permits and approvals (as applicable);
  - vi. All dust control permits (as applicable);
  - vii. All storm water permits (as applicable);
  - viii. All Special Use Permits, applicable Variances, and other similar permits (as applicable);
  - ix. All reclamation activities completed and accepted by appropriate agencies (as applicable); and
  - x. Any other land rights reasonably deemed necessary by Transmission Provider to perform its obligations under this Agreement, with such land rights being granted on a form reasonably acceptable to Transmission Provider;
  - xi. All private land rights acquisitions and/or easements and Federal authorizations including the Standard Form-299 (SF-299) (as applicable). The private land rights acquisitions and/or easements and Federal authorizations including the SF-299 applications will include, among other things:
    - a) Transmission Provider's 345 kV line fold into the proposed Olinghouse switching station;

- b) Transmission Provider's proposed 345 kV Olinghouse switching station;
- c) Transmission Provider's switch and dead-end structure. The final location of the dead-end structure must be approved by Transmission Provider's generation engineering and property services along with any other necessary Transmission Provider department(s);
- d) Access roads to Olinghouse switching station, switch and dead end structure. The access roads must be adequate, all-weather, and a minimum 20 feet in width or an approved width by Transmission Provider;
- e) Approximately two hundred and fifty (250) feet of generator lead-line (with OPGW or equivalent) from the Dodge Flat Substation to the Olinghouse 345 kV switching station; and
- f) All access roads to Dodge Flat 345 kV Substation.
- xii. Final Plan of Development, SF299, and land acquisition documents including but not limited to parcel maps, boundary line adjustments, legal descriptions, easements, appraisals, title reports, and other exhibits to be reviewed and approved by Transmission Provider *prior* to submittal to the BLM or third-party landowners; and
- c. Interconnection Customer will acquire the Utility Environmental Protection Act (UEPA) permit for all the facilities required for the Interconnection inclusive of the following:
  - i. Interconnection Customer Interconnection Facilities;
  - ii. Transmission Provider Interconnection Facilities; and
  - iii. Network Upgrades.
    - a) Interconnection Customer must coordinate with the Transmission Provider for the UEPA requirements for the Transmission Provider Interconnection Facilities and Network Upgrades;
    - b) The Transmission Provider will provide to the Interconnection Customer a detailed description of the facilities required inclusive of scope, costs and schedule, per the milestones in Appendix B;
    - c) The Interconnection Customer will include the description provided by the Transmission Provider in the UEPA submittal; and prior to construction, the Interconnection Customer will transfer the UEPA Permit to Construct for the Transmission Provider Interconnection Facilities and the Network Upgrades to the Transmission Provider.
- d. Transmission Provider shall cooperate with Interconnection Customer's efforts to obtain relevant permits.
- e. Once the project is built and operational, the Interconnection Customer will support Transmission Provider, to the extent necessary, in obtaining all documentation related to the assignment of the necessary rights under BLM ROW Grant obtained by the Interconnection Customer. The assignment of the necessary rights under Interconnection Customer's BLM ROW Grant will include the area impacted by the Transmission Provider's Interconnection Facilities associated with this project; an application will be submitted once the Transmission Provider is satisfied that all environmental and other stipulations have been met (i.e., work areas have been adequately restored, plants have been salvaged appropriately, Section 7 form completed and submitted back to the BLM post –construction etc.)

- i. The Interconnection Customer will finalize and execute the BLM Right of Way application and assignment document within 60 days of the energization of the Transmission Provider Interconnection Facilities;
- ii. The Interconnection Customer will support the Transmission Provider, to the extent necessary, in obtaining all documentation related to the assignment of the necessary rights under BLM ROW Grant obtained by the Interconnection Customer once the project construction is complete;
- iii. The assignment of the necessary rights under Interconnection Customer's BLM ROW Grant will include the area impacted by Transmission Provider's Interconnection Facilities and Network Upgrades associated with this project. See Appendix C.
- f. The Interconnection Customer and the Transmission Provider will execute an Access to Equipment Agreement to secure Transmission Provider's access to communications and metering equipment located at the Interconnection Customer Generating Facility sites. The Transmission Provider will record the Access to Equipment Agreement with the Washoe County Recorder.
- g. The Interconnection Customer will provide 24 hour access to all of Transmission Provider's facilities without limitations, upon reasonable notice from Transmission Provider and subject to Interconnection Customer's safety and other applicable procedures.

**(b) Transmission Provider's Interconnection Facilities:**

**1) 345 kV Substation Entrance, termination structure and switch:**

- a. Transmission Provider will design, procure and install a 345 kV transmission getaway from Olinghouse Substation,
- b. Transmission Provider will design, procure and construct the 345 kV structure(s) required to install 2-795 ACSR (per phase) from the Olinghouse switching station to the termination structure;
- c. Transmission Provider will design, procure and construct the termination structure consisting of a 345 kV dead end structure;
- d. Transmission Provider will install new 345 kV switch adjacent to Olinghouse switching station including fencing.

**2) Telecommunications at the Dodge Flat Site:**

- a. Transmission Provider will purchase and install one (1) Remote Terminal Unit and necessary communications equipment for the required SCADA from the new Dodge Flat Generating Facility;
- b. Transmission Provider will purchase and install a multiplexer on the T-1 line for the Dodge Flat Generating Facility;
- c. Transmission Provider will purchase and install miscellaneous communication cables and link equipment as required;
- d. Transmission Provider will review, coordinate with and provide acceptance for the Interconnection Customer's engineered 345 kV lead line protection; and
- e. Transmission Provider will install Interconnection Customer's remaining fiber optic cable from the Point of Change of Ownership to the Olinghouse Switching Station.



**3) Metering at the Dodge Flat Site:**

- a. Transmission Provider will purchase metering class current transformers and potential transformers (CT's and PT's) and provide them to the Interconnection Customer at the Transmission Provider's warehouse for transport and installation; and
- b. Transmission Provider will purchase and install a metering enclosure with one (1) ION revenue quality meter at Interconnection Customer's Generating Facility compensated to the Point of Interconnection.

**4) Lands Interface and Access to Equipment Agreement:**

- a. Transmission Provider will review Interconnection Customer's plant site permitting documents and provide support in relation to Transmission Provider's facilities at the plant site.
- b. Transmission Provider will draft and execute an Access to Equipment Agreement with the Interconnection Customer.
- c. Transmission Provider will support the Interconnection Customer's efforts in acquiring land rights for the 345 kV switch structure and dead-end structure located adjacent to the new Olinghouse 345 kV Substation.

**2. Network Upgrades (NU):****(a) Stand Alone Network Upgrades: None****(b) Individual Network Upgrades:****1) Olinghouse 345 kV Substation:**

- a. Transmission Provider will design, procure, and construct a new three-breaker 345 kV switching station in a ring configuration adjacent to the existing Valmy-Tracy 345 kV Line #1. The switching station will include:
  - i. Three (3) 345 kV breakers and associated bus work;
  - ii. Adequate reactive support (35 MVAR switchable reactor);
  - iii. New control enclosure;
  - iv. Appropriate grading, fencing, and drainage; and
  - v. Access roads sufficient to provide 24 hour access all year long
    - a) Roads may be built in cooperation with Interconnection Customer's access roads with approval by the Transmission Provider
- b. The preliminary location for "Olinghouse switching station" is:
  - i. 39.672975°, -119.3700611°
  - ii. The actual switching station location will be determined by the Transmission Provider prior to Interconnection Customer's initiation of permitting, design, and construction.

**2) Valmy - Tracy #1 345 kV Line Fold:**

- a. The Transmission Provider will construct four (4) 3-pole dead ends to fold the Valmy-Tracy 345 kV Line #1 into the proposed Olinghouse Switching Station.

**3) Communications at Olinghouse Substation**

- a. The Transmission Provider will design, procure and install a RTU and necessary communications equipment at Olinghouse switching station;

- b. The Transmission Provider will design, procure and install two (2) geographically diverse high-speed communication paths between the Olinghouse switching station and the Transmission Provider's high-speed telecommunications network.

**4) Lands and Right-of-Way Permitting Review**

- a. Transmission Provider will review Interconnection Customer's permitting and private land acquisition documents and provide support towards the Interconnection Customer's efforts to acquire adequate permitting, land acquisitions, and easements for Transmission Provider's facilities.

**5) Environmental Permitting Review**

- a. Transmission Provider will review Interconnection Customer's environmental permitting documents and provide support towards the Interconnection Customer's efforts to acquire adequate environmental permitting for Transmission Provider's facilities.

**(c) Shared Network Upgrades: None**

**(d) Distribution Upgrades: None**

**3. Affected System Upgrades:**

- (a) Affected System Upgrades – The following Affected System Upgrades have been determined to be needed in order to mitigate disturbances on and maintain the reliability of Affected Systems directly or indirectly interconnected to Transmission System.

- 1) None

**4. Ownership:**

- (a) Upon completion of construction, the Parties shall have ownership of the facilities as follows:

- 1) Interconnection Customer's Interconnection Facilities shall be owned by the Interconnection Customer;
- 2) Transmission Provider's Interconnection Facilities shall be owned by the Transmission Provider;
- 3) Stand Alone Network Upgrades shall be owned by the Transmission Provider;
- 4) Network Upgrades shall be owned by the Transmission Provider; and
- 5) Distribution Upgrades shall be owned by the Transmission Provider.

**5. Operation and Maintenance Responsibilities:**

- (a) Upon completion of construction, the Parties shall have responsibilities for operation and maintenance of the Interconnection Facilities, Network Upgrades and Distribution Upgrades as follows:

- 1) Interconnection Customer's Interconnection Facilities shall be operated and maintained by the Interconnection Customer;
- 2) Transmission Provider's Interconnection Facilities shall be operated and maintained by the Transmission Provider and paid for by the Interconnection Customer;
- 3) Stand Alone Network Upgrades shall be operated and maintained by the Transmission Provider;

- 4) Network Upgrades shall be operated and maintained by the Transmission Provider; and
  - 5) Distribution Upgrades shall be operated and maintained by the Transmission Provider.
- (b) The Interconnection Customer shall be responsible for the payment of the actual costs incurred by the Transmission Provider for operation and maintenance of the Transmission Provider's Interconnection Facilities consistent with Article 10.5 of this Agreement.

**7. Cost Estimate & Responsibilities:****(a) Interconnection Customer's Interconnection Facilities: Interconnection Customer.****(b) Transmission Provider's Interconnection Facilities:****1) \$ 840,000 - Interconnection Customer funded, Transmission Provider owned.**

<b>Project Component</b>	<b>Scope Description</b>	<b>\$ M</b>
Transmission Lines	New Point of Change of Ownership dead end structure	0.275
Transmission Substation	345 kV Switch and Fencing	0.200
Communications and Protection	Customer site RTU, communications and protection coordination	0.235
Metering	345 kV Metering	0.115
Lands, Right-of-Way, and Environmental Review	Customer site lands and Right-of-Way review and Access to Equipment Agreement	0.015
<b>TOTAL</b>		<b>0.840</b>

**All Costs will be trued to actual after the completion of the Project and all costs have been recorded, consistent with Article 12.2 of this LGIA and these estimates do not include any tax gross-up.**

**(c) Individual Network Upgrades (NU):****1) \$ 12,565,000 - Interconnection Customer shall provide security/collateral pursuant to Article 11 of the LGIA and Attachment L of the Open Access Transmission Tariff.**

<b>Project Component</b>	<b>Scope Description</b>	<b>\$ M</b>
Transmission Substation	New 345 kV three breaker Switching Station	10.800
Transmission Lines	345 kV Line Fold into the Olinghouse switching station	0.900
Communications and Protection	Olinghouse switching station RTU and two new geographically diverse high-speed communications paths to Olinghouse switching station	0.760
Lands, Right-of-Way, and Environmental Review	Lands and Right-Of-Way review	0.025
Lands, Right-of-Way, and Environmental Review	Environmental Review	0.080
<b>TOTAL</b>		<b>12.565</b>

**(d) Shared Network Upgrades: None****(e) Distribution Upgrades: None**

**All Costs will be trued to actual after the completion of the Project and all costs have been recorded. These estimates do not include any tax gross-up.**

**8. Appendix G: Interconnection Requirements for a Wind Generating Plant****(a) The Parties agree that Appendix G is not applicable.**

## LGIA Appendix B: Milestones

Interconnection Customer's Project Milestones		Date
<u>1</u>	Interconnection Customer to provide \$ 100,000 Cash for TPIF Preliminary Project Management	Within 10 business days of execution
<u>2</u>	Interconnection Customer to provide Transmission Provider with certification of all insurance pursuant to Article 18.3.9 of the LGIA	Within 10 business days of execution
<u>3</u>	Pursuant to Section 11.3 of the LGIP the Interconnection Customer shall provide either (a) reasonable evidence that continued Site Control or (b) posting of \$250,000 non-refundable additional security which shall be applied toward future construction costs	within 15 Business Days of execution of this LGIA
<u>4</u>	Interconnection Customer to provide Transmission Provider with drafts of all right-of-way and permitting applications for Transmission Provider equipment	Complete - 2/1/2017
<u>5</u>	Interconnection Customer to initiate application for Telecommunications Service	In Progress - 2/3/2017
<u>6</u>	Interconnection Customer to provide Transmission Provider with confirmation to proceed on Project Engineering and Design	Complete – 2/1/2017
<u>7</u>	Interconnection Customer to provide \$ 100,000 Cash for TPIF project engineering and design	Complete – 5/22/2017
<u>8</u>	Interconnection Customer to provide an irrevocable Letter of Credit in the amount of \$1,000,000 for NU project engineering and design	Complete – 5/23/2017
<u>9</u>	Interconnection Customer to contact Transmission Provider to schedule Project Initiation and Confirmation Mtg.	Complete – 2/1/2017
<u>10</u>	Interconnection Customer to provide Control Room Preliminary Dimension Design to Transmission Provider	Complete – 6/15/2017
<u>11</u>	Interconnection Customer to provide Transformer (GSU) specification data to Transmission Provider	Complete – 6/15/2017
<u>12</u>	Interconnection Customer to contact Transmission Provider to schedule regular project meetings	11/30/2017
<u>13</u>	Interconnection Customer to provide completed documentation (e.g. signed Right of Entries) to Transmission Provider allowing for site access, survey, and study work	12/15/2017
<u>14</u>	Interconnection Customer to provide Transmission Provider with confirmation to proceed on Equipment Procurement	6/1/2018
<u>15</u>	Interconnection Customer to provide \$ 100,000 Cash for TPIF equipment procurement	6/1/2018
<u>16</u>	Interconnection Customer to increase the irrevocable Letter of Credit by \$ 2,500,000 to a total amount of \$ 3,500,000 for NU equipment procurement	6/1/2018
<u>17</u>	Interconnection Customer to arrange meeting between Transmission Provider, Interconnection Customer and third parties to coordinate construction within third parties ROW	10/12/2018

Agreed to by:

For the Transmission Provider

DocuSigned by:  
*Shahzad Latief*  
7CE3BF9CB7E64C6... Date 1/24/2018

For the Interconnection Customer

DocuSigned by:  
*AS*  
D2E1FF32F6F74C0... Date 1/24/2018

<b><u>Interconnection Customer's Project Milestones</u></b>		<b><u>Date</u></b>
<b><u>18</u></b>	Interconnection Customer to contact Transmission Provider to schedule initial coordination meeting for protection, system control, telecommunications, and metering to discuss Telemetry Points Worksheet	10/12/2018
<b><u>19</u></b>	Interconnection Customer to provide documentation/verification and executed easements to Transmission Provider for all access roads	10/12/2018
<b><u>20</u></b>	Interconnection Customer to complete assignment of ROW Grant or acquisition of private land rights and easements for Transmission Provider Facilities to Transmission Provider	10/12/2018
<b><u>21</u></b>	Interconnection Customer to provide Transmission Provider with copies of completed permits from all required federal, state, county & local entities including, but not limited to, Right-of-Way Grant (BLM), final UEPA (PUCN), Special Use Permits, Grading Permits, Building Permits, etc.	10/12/2018
<b><u>22</u></b>	Interconnection Customer to provide copies of the final environmental documents (i.e., EA, Cat Ex, POD, Restoration Plan) including any company-specify Interconnection Customer environmental compliance policies and the final BLM grants.	10/12/2018
<b><u>23</u></b>	Interconnection Customer to provide BLM issued Notice to Proceed (NTP) to Transmission Provider	10/12/2018
<b><u>24</u></b>	Interconnection Customer to provide signed Grant of Easement, Access Agreement, and other required documents to Transmission Provider	10/12/2018
<b><u>25</u></b>	Interconnection Customer to provide \$ 540,000 Cash for TPIF Project construction	11/15/2018
<b><u>26</u></b>	Interconnection Customer to increase the irrevocable Letter of Credit by \$ 9,046,000 to a total amount of \$ 12,565,000 for NU project construction	11/15/2018
<b><u>27</u></b>	Interconnection Customer to provide Transmission Provider with confirmation to proceed on project construction	11/15/2018
<b><u>28</u></b>	Interconnection Customer to complete access roads to Olinghouse Substation and accepted by Transmission Provider	1/1/2019
<b><u>29</u></b>	Interconnection Customer to provide completed Energy Imbalance Market Resource Data Template with attachments	5/29/2019
<b><u>30</u></b>	Interconnection Customer to provide One-line with Protection Scheme Descriptions and Relay Settings to Transmission Provider	6/1/2019
<b><u>31</u></b>	Interconnection Customer to provide full access to Dodge Flat Substation including subgrade complete and accepted by Transmission Provider	10/13/2019
<b><u>32</u></b>	Interconnection Customer to provide 24 hour access number to Transmission Provider or ring down line from Generator Control Room ESCC	1/1/2020
<b><u>33</u></b>	Interconnection Customer to Provide T-1 line from Generator Control Room ESCC	1/1/2020
<b><u>34</u></b>	Interconnection Customer to provide Transformer (GSU) testing data to Transmission Provider	1/1/2020
<b><u>35</u></b>	Interconnection Customer to complete all installations of conduits with pull strings and make available for Transmission Provider use	1/1/2020
<b><u>36</u></b>	Interconnection Customer to provide DC load centers dedicated for Transmission Provider communications equipment and RTU	1/1/2020

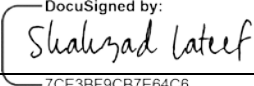
Agreed to by:

For the Transmission Provider Shahzad Lateef Date 1/24/2018  
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For the Interconnection Customer [Signature] Date 1/24/2018  
DocuSigned by: D2E1FF32F6F74C0...

<b><u>Interconnection Customer's Project Milestones</u></b>		<b>Date</b>
<b><u>37</u></b>	Interconnection Customer to complete Control Room construction with cable trays and conduits and provide full access to Transmission Provider	1/1/2020
<b><u>38</u></b>	Interconnection Customer to Provide dial up line to meter	1/1/2020
<b><u>39</u></b>	Interconnection Customer to complete installation of Generator Facility protection relays	1/1/2020
<b><u>40</u></b>	Interconnection Customer to complete installation of Meter Structure including PT/CT installation	1/1/2020
<b><u>41</u></b>	Interconnection Customer to provide 125 Volt DC power to meter socket	1/1/2020
<b><u>42</u></b>	Interconnection Customer to complete Interconnection Customer Interconnection Facilities including the installation of 345 kV breaker, GSU transformer and generator lead line.	1/1/2020
<b><u>43</u></b>	Interconnection Customer to provide either: (1) documentation showing how the Interconnection Customer will meet the IRS Notice 88-129 and 2001-82 "Safe Harbor" provision or (2) Cash to the Transmission Provider for CIAC tax gross up for the Transmission Provider Interconnection Facilities at the applicable rate	2/1/2020
<b><u>44</u></b>	Interconnection Customer to initiate application for Standby Service	2/1/2020
<b><u>45</u></b>	Interconnection Customer to provide Transmission Provider operation plan for generator start up	2/28/2020
<b><u>46</u></b>	Interconnection Customer to execute Standby Service Agreement	3/1/2020
<b><u>47</u></b>	Interconnection Customer to perform Facility Trip Testing - Provide notice to Transmission Provider	3/1/2020
<b><u>48</u></b>	Interconnection Customer to complete Section 7 form and submit to BLM for "Transmission Provider Interconnection Facilities" - provide Transmission Provider copy of submittal for review	3/1/2020
<b><u>49</u></b>	Pre-energization Meeting with Interconnection Customer and Transmission Provider to discuss draft Operating Procedures provided by Transmission Provider	3/15/2020
<b><u>50</u></b>	Interconnection Customer to return signed final Operating Procedures provided by Transmission Provider	3/20/2020
<b><u>51</u></b>	Interconnection Customer to acknowledge in writing that all plant systems are adequately protected and have been tested prior to energization	3/30/2020
<b><u>52</u></b>	<b>In-Service Date</b>	<b>4/1/2020</b>
<b><u>53</u></b>	Interconnection Customer to complete Neighboring Entity Coordination Attestation	4/15/2020
<b><u>54</u></b>	Generator Testing Start Date - Provide notice to Transmission Provider	4/15/2020
<b><u>55</u></b>	<b>Commercial Operation Date - Provide notice to Transmission Provider</b>	<b>5/1/2020</b>
<b><u>56</u></b>	Interconnection Customer to execute an Access to Equipment Easement Agreement to the Transmission Provider for the Transmission Provider's Interconnection Facilities at the Interconnection's Customer's Plant Site.	5/1/2020
<b><u>57</u></b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2021

Agreed to by:


For the Transmission Provider  Date 1/24/2018  
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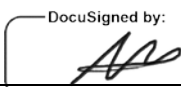
For the Interconnection Customer  Date 1/24/2018  
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<b>Interconnection Customer's Project Milestones</b>		<b>Date</b>
<b>58</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2022
<b>59</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2023
<b>60</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2024
<b>61</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2025
<b>62</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2026
<b>63</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2027
<b>64</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2028
<b>65</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2029
<b>66</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	5/1/2030

<b>Transmission Provider Milestones</b>		<b>Date</b>
<b>1</b>	Transmission Provider Interconnection Facilities Completed Provided that all necessary approvals by Governmental Authorities are received, Interconnection Customer's required facilities are constructed, tested and ready for service per Interconnection Customer milestones above, and the Interconnection Customer has provided required securities and notices to the Transmission Provider per Interconnection Customer milestones above.	<b>4/1/2020</b>
<b>2</b>	Transmission Provider Interconnection Facilities Completed for COD Provided that all necessary approvals by Governmental Authorities are received, Interconnection Customer's required facilities are constructed, tested and ready for service per Interconnection Customer milestones above, and the Interconnection Customer has provided required securities and notices to the Transmission Provider per Interconnection Customer milestones above.	<b>5/1/2020</b>

Agreed to by:

For the Transmission Provider  Date 1/24/2018  
DocuSigned by: 7CE3BF9CB7E64C6...

For the Interconnection Customer  Date 1/24/2018  
DocuSigned by: D2E1FF32F6F74C0...



## **LGIA Appendix C: Interconnection Details**

**Dodge Flat Solar, LLC. – Company GU – Dodge Flat Solar and Energy Storage**

**Type of Interconnection Service:** Network Resource Interconnection Service

**Generating Facility Capacity:** 200 MW net at the Point of Interconnection

**Total Generating Facility Nameplate Rating:** 220.8 MVA total from one hundred and eight (108) 2.0 MVA GE LV5-1540-SLR Photovoltaic Inverters and ninety-six (96) 2.2 MVA Parker battery banks

**Point of Interconnection:**

The Point of Interconnection will be the point where the Dodge Flat generator lead-line meets the Transmission Provider's proposed Olinghouse 345 kV switching station on the Valmy – East Tracy #1 345 kV line. See Appendix C.

**Point of Change of Ownership:**

The Point of Change of Ownership will be the point where the Interconnection Customer's 345 kV generator lead line terminates on the Transmission Provider-owned termination structure located adjacent to the Olinghouse 345 kV switching station. See Appendix C.

**Nominal Delivery Voltage:** 345 kV

**Metering Voltage:** 345 kV

**Generating Facility Communications and Protection Requirements:**

1. Communications Requirements—Generating Facility Telemetry:
  - a. Generating Facility telemetry outputs:
    - i. Generator Plant total MW, MVAR, 3-phase amps, 3-phase volts (L-G referred to L-L) and accumulated MW-hr in and out. Fiber will be required if the distance between the meter and the Transmission Provider’s RTU exceeds 1500 feet.
  - b. Hard-wired open/closed indication for transformer circuit breaker/circuit switcher to Transmission Provider’s ESCC;
  - c. Plant transformer protection lockout status (one for each transformer);
  - d. Condition signal indicating percentage of plant output availability to ESCC Control Room on a continuous basis;
  - e. Interconnection Customer to provide SCADA capability to transmit real-time data output from the weather measurement equipment of the solar PV plant (Global and Point of Array diffuse Solar Radiance, Ambient Temperature and Wind Speed). Data collection shall be provided by customer from each individual (if more than one) weather station totalized such that there is one indication per point. Customer shall provide data using Transmission Provider accepted protocol or hardwired directly to Transmission Provider’s RTU;
  - f. Interconnection Customer shall provide forecasted hourly solar plant energy production data consistent with WECC-defined operational planning requirements and Energy Imbalance Market<sup>1</sup> requirements, (up to a 1-week forecast) including updates to all forecast hourly output values no less frequently than once per calendar day. Such forecasts shall be based on numerical weather prediction (NWP) models. Interconnection Customer shall provide data using Transmission Provider accepted protocol directly to Transmission Provider.
  - g. Interconnection Customer shall provide any environmental data that may impact the percentage of the Generating Facility output availability (i.e. low temperature, high wind and/or trip settings);
  - h. Tripped/Reset indication of all GSU lockouts
  - i. Tripped/Reset indication of all line protection lockouts – totalized such that there is one indication per GSU;
  - j. Load Tap Changer (LTC) indication tap position and manual on/off indication (if GSUs are equipped with LTC); and
  - k. Note—RTU at plant to which output will be delivered is to be designated as the master RTU. The Interconnection Customer will supply an interface that will allow the Transmission Provider’s RTU to be the master (polling) device.
2. Generating Facility control points – Transmission Provider will require the following control points:
  - a. Trip control of transformer main 345 kV breaker (hard wired)

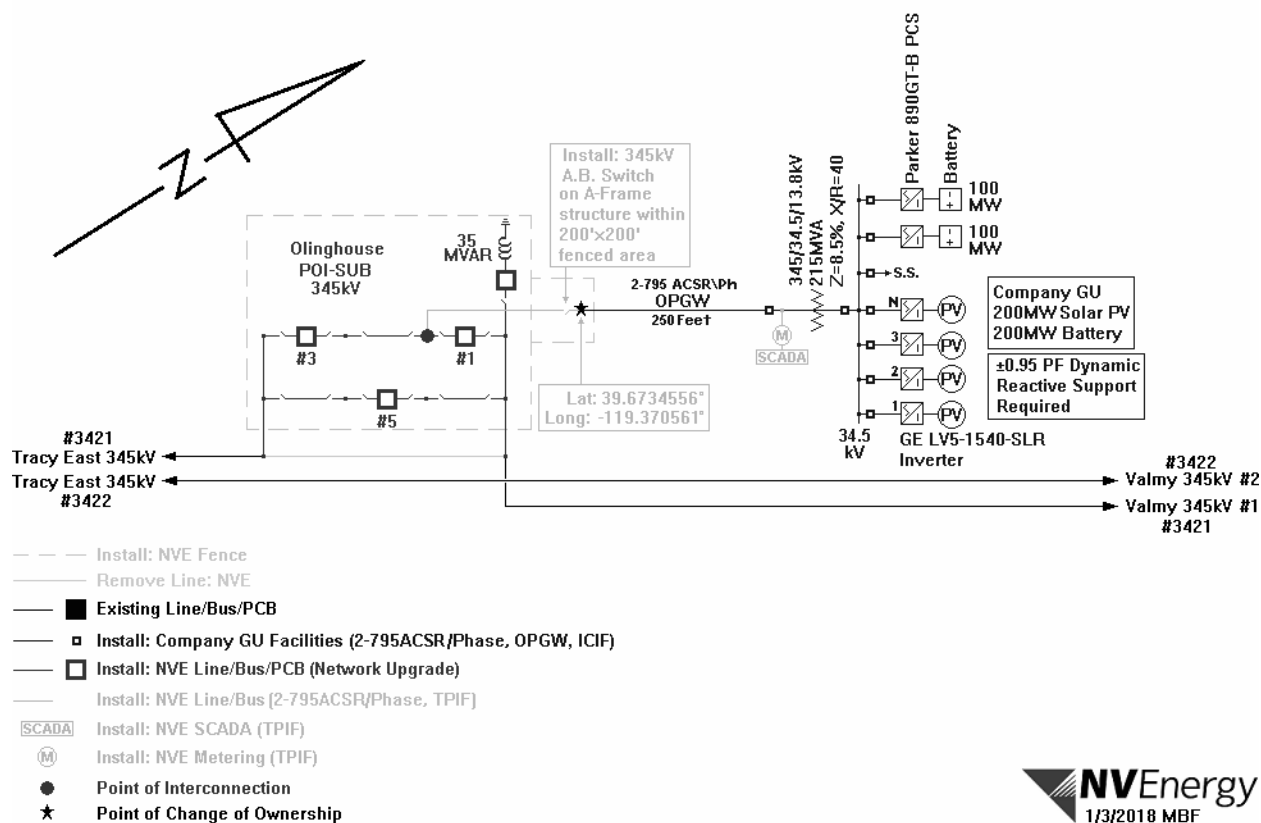
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<sup>1</sup> As defined in Section I.1.13D “Energy Imbalance Market (EIM)” of the Sierra Pacific Power Company Open Access Transmission Tariff.

3. Checklist of items that must be completed prior to proceeding with any start up and synchronization for Interconnection Customer's plant:
- a. Review by Transmission Provider of Interconnection Customer's protection settings for coordination purposes;
  - b. Interconnection Customer must perform both calibration and functional trip tests of its System Protection Facilities and report results back to Transmission Provider;
  - c. Complete communications required;
  - d. SCADA indications at plant substation operational with full Transmission Provider ESCC access;
  - e. Adequate voice communication at Interconnection Customer's substation (cell or land line at sub);
  - f. Transmission Provider to trip test Interconnection Customer's main interrupting device(s) from the RTU control point;
  - g. Interconnection Customer to acknowledge in writing that all plant systems are adequately protected and have been tested; and
  - h. Interconnection Customer and Transmission Provider to have start up and in service process meetings one (1) week prior to start-up and in service event.

## LGIA Appendix C: One-Line Diagram

### Company GU Interconnection Valmy-Tracy 345kV Line #1



## **LGIA Appendix D: Security Arrangements Details**

Infrastructure security of Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day Transmission System reliability and operational security. FERC will expect all Transmission Providers, market participants, and Interconnection Customers interconnected to the Transmission System to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

## **LGIA Appendix E: Commercial Operation Date**

This Appendix E is a part of the LGIA between Transmission Provider and Interconnection Customer.

**[Date]**

**[Transmission Provider Address]**

Re: \_\_\_\_\_ Large Generating Facility

Dear \_\_\_\_\_:

On **[Date]** **[Interconnection Customer]** has completed Trial Operation of Unit No. .  
This letter confirms that **[Interconnection Customer]** commenced Commercial Operation of Unit  
No. \_\_\_\_\_ at the Large Generating Facility, effective as of **[Date plus one day]**.

Thank you.

**[Signature]**

**[Interconnection Customer Representative]**

## **LGIA Appendix F: Addresses for Delivery of Notices and Billings**

### **Notices:**

Unless otherwise provided in this Agreement, any written notice demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

#### **Transmission Provider**

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Director, Transmission Policy, Contracts and Business Services  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 775-834-5861 Fax: 775-834-3047  
E-Mail: TransmissionPolicy@nvenergy.com

#### **Interconnection Customer**

Interconnection Customer: Dodge Flat Solar, LLC  
Attention: Business Manager  
Address: 700 Universe Blvd.  
City: Juno Beach State: FL Zip: 33408  
Phone: 561-691-2925 Fax: 561-304-5840  
E-Mail: Jennifer.Chaney@nee.com

### **Billings and Payments:**

Billings and payments shall be sent to the addresses set out below:

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Director, Transmission Policy, Contracts and Business Services  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 775-834-5861 Fax: 775-834-3047  
E-Mail: TransmissionPolicy@nvenergy.com

#### **Interconnection Customer**

Interconnection Customer: Dodge Flat Solar, LLC  
Attention: Business Manager  
Address: 700 Universe Blvd  
City: Juno Beach State: FL Zip: 33408  
Phone: 561-691-2925 Fax: 561-304-5840  
E-Mail: Jennifer.Chaney@nee.com

**Alternative Forms of Delivery of Notices (telephone, facsimile or email):**

Any notice or request required or permitted to be given by either party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

**Transmission Provider:**

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Project Manager  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 775-834-4802 Fax: 775-834-3047  
E-Mail: TransmissionPolicy@nvenergy.com

**Interconnection Customer**

Interconnection Customer: Dodge Flat Solar, LLC  
Attention: Director Business Management  
Address: 700 Universe Blvd  
City: Juno Beach State: FL Zip: 33408  
Phone: 561-691-2925 Fax: 561-304-5840  
E-Mail: Jennifer.Chaney@nee.com

**Designated Operating Executive:**

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

**Transmission Provider:**

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Director, T&D System Operations  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 702-402-6601 Fax: 702-402-6631  
E-Mail: ESCCOperations@nvenergy.com

**Interconnection Customer**

Interconnection Customer: Dodge Flat Solar, LLC  
Attention: Director Business Management  
Address: 700 Universe Blvd  
City: Juno Beach State: FL Zip: 33408  
Phone: 561-691-2925 Fax: 561-304-5840  
E-Mail: Jennifer.Chaney@nee.com

**Changes to the Notice Information**

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.



## **LGIA Appendix G: Interconnection Requirements For A Wind Generating Plant**

Appendix G sets forth requirements and provisions specific to a wind generating plant. All other requirements of this LGIA continue to apply to wind generating plant interconnections.

### **A. Technical Standards Applicable to a Wind Generating Plant**

#### **i. Low Voltage Ride-Through (LVRT) Capability**

A wind generating plant shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the standard below. The LVRT standard provides for a transition period standard and a post-transition period standard.

#### **Transition Period LVRT Standard**

The transition period standard applies to wind generating plants subject to FERC Order 661 that have either: (i) interconnection agreements signed and filed with the Commission, filed with the Commission in unexecuted form, or filed with the Commission as non-conforming agreements between January 1, 2006 and December 31, 2006, with a scheduled in-service date no later than December 31, 2007, or (ii) wind generating turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for delivery through 2007.

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the transmission provider. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15 p.u., as measured at the high side of the wind generating plant step-up transformer (*i.e.* the transformer that steps the voltage up to the transmission interconnection voltage or “GSU”), after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system.
2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU or to faults that would result in a voltage lower than 0.15 per unit on the high side of the GSU serving the facility.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (*e.g.*, Static VAR

Compensator, etc.) within the wind generating plant or by a combination of generator performance and additional equipment.

5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

### **Post-transition Period LVRT Standard**

All wind generating plants subject to FERC Order No. 661 and not covered by the transition period described above must meet the following requirements:

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the transmission provider. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system. A wind generating plant shall remain interconnected during such a fault on the transmission system for a voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.
2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator) within the wind generating plant or by a combination of generator performance and additional equipment.
5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

**ii. Power Factor Design Criteria (Reactive Power)**

A wind generating plant shall maintain a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this LGIA, if the Transmission Provider's System Impact Study shows that such a requirement is necessary to ensure safety or reliability. The power factor range standard can be met by using, for example, power electronics designed to supply this level of reactive capability 606 (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors if agreed to by the Transmission Provider, or a combination of the two. The Interconnection Customer shall not disable power factor equipment while the wind plant is in operation. Wind plants shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the System Impact Study shows this to be required for system safety or reliability.

**iii. Supervisory Control and Data Acquisition (SCADA) Capability**

The wind plant shall provide SCADA capability to transmit data and receive instructions from the Transmission Provider to protect system reliability. The Transmission Provider and the wind plant Interconnection Customer shall determine what SCADA information is essential for the proposed wind plant, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability in its area.

**TRAN-3**

**FINAL INTERCONNECTION FACILITIES STUDY**  
**Company HM**  
**Ft Sage 345 kV Interconnection**

Report Prepared By



**February 2018**

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**Company HM  
Ft Sage 345 kV Interconnection  
January 2018**

**1. PURPOSE:**

The purpose of this report is to present a summary of the costs and construction timing for the facilities required to interconnect Company HM. This Facilities Study<sup>1</sup> addresses the interconnection requirements for Company HM to connect to the Transmission Provider's transmission system pursuant to the Open Access Transmission Tariff ("OATT") request for interconnection dated March 30, 2017 for Network Resource Interconnection Service ("NRIS"). The NV Energy ("NVE") name for this interconnection is the Company HM – Ft Sage 345 kV Interconnection.

<b>GENERAL INFORMATION</b>			
NVE Project Name:	Company HM – Ft Sage 345 kV Interconnection	Queue Position:	Company HM
Max Gross Output: (Nameplate)	50 x 2.2 MVA = 110 MVA total	POI:	Ft Sage 345 kV
Max Net Output: (Generating Facility Capacity)	100 MW at the POI	Alternative POI:	None
Resource:	Photovoltaic	ERIS:	No
Location:	Washoe County, Nevada	NRIS:	Yes
Requested In-Service:	8-1-2020	Queue Date:	3-30-2017

See Appendices A and B, respectively, for a one-line representation of the proposed interconnection and a geographic map of the general project location.

This study provides no guarantee of transmission service nor does it reserve a spot in the transmission queue for this project. A Transmission Service Request ("TSR") or a request to be designated as a Network Resource would need to be submitted by the Interconnection Customer (or someone on its behalf) and accepted by the Transmission Provider in order for a request to reserve transmission capacity to be valid. TSRs are accepted on a first come first serve basis. Additional costs (study work, facilities, etc.) for such TSR and subsequent Transmission Service Agreement ("TSA") would be required pursuant to the OATT.

The results and requirements of this Facilities Study supersede those of any previous Interconnection Feasibility and System Impact Studies.

<sup>1</sup> Capitalized terms such as this, and those listed in Appendix A have the meaning ascribed to them in the Open Access Transmission Tariff.

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## 2. **RESULTS:**

This study presents the details and costs of each of the major pieces of the project. The substation one-line diagram is shown in Appendix A. Please refer to this diagram throughout the following discussion. Work required for the requested interconnection includes the following:

### **Generating Facility Assumptions<sup>2</sup>:**

1. Interconnection Customer will install fifty (50) 2.2 MVA GE 1500 Solar Photovoltaic Inverters for a total of 100 MW net generation delivered to the Point of Interconnection;
2. Interconnection Customer will install one (1) 345/34.5 kV 115 MVA Generation Step-Up Transformer (GSU) at the plant site; and
3. Interconnection Customer will install one (1) 345 kV high-side plant breaker;
4. Interconnection Customer to install 0.25 miles of 1-795 ACSR per phase generator lead line between Ft. Sage 345 kV Substation and Company HM's project substation.

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<sup>2</sup>The Transmission Provider uses the data provided by the Interconnection Customer for this and previous studies. If any of the Generating Facility Assumptions are no longer valid, the Interconnection Customer needs to submit its modifications to the Transmission Provider in accordance with Section 5.4 of the Large Generator Interconnection Procedures.



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**Requirements to Interconnect:**

1. Interconnection Customer's Transmission Lead Line
  - a. The Interconnection Customer will design, permit, purchase and construct approximately 0.25 miles of 345 kV transmission lead line modeled at 1-795 ACSR per phase between the Company HM's substation to the proposed Point of Change of Ownership dead end structure. Transmission Line must include:
    - i. Fiber Optic Cable.
    - ii. Static wire(s) and adequate overvoltage protection.
2. Point of Change of Ownership and Ft Sage Substation Entrance
  - a. The Transmission Provider will design, procure and install a 345 kV dead end structure for the landing of the Interconnection Customer's lead line. There will be a visual disconnect switch between the customer's lead line termination at the Point of Change of Ownership structure and the Transmission Provider's line to the Ft. Sage 345 kV Substation.
    - i. The preliminary location identified for the dead end structure is:  
40° 4'34.42", -119°58'32.72"
    - ii. The actual dead-end structure location will be determined by the Transmission Provider prior to Interconnection Customer's initiation of permitting, design, and construction.
  - b. Transmission Provider will design and construct the switch structure and transmission line between the Point of Interconnection terminal at Ft Sage 345 kV Substation and the dead end structure.
3. Point of Interconnection – Ft Sage Substation
  - a. Transmission Provider will design, procure, and construct a new 345 kV terminal at the Ft Sage 345 kV Substation. The new terminal work will include:
    - i. One (1) 345 kV breaker, associated bus work, disconnect switches, CCVT's, arresters and protection facilities;
    - ii. The terminal position at the Ft Sage Substation will be a radial connection.
4. Communications
  - a. The Interconnection Customer is responsible to make arrangements for connectivity with the local telecommunications company for a T-1 line or equivalent solely for NV Energy use for Communications, SCADA, and real time metering.
  - b. The Interconnection Customer will install two geographically diverse communication paths between the Interconnection Customer's substation and the Transmission Provider's facilities to be used for communication aided protection as follows:

- 
- i. Two (2) high speed digital circuits with IEEE C37.94 compliant interfaces; or
  - ii. One (1) high speed digital circuit with IEEE C37.94 compliant interfaces and one (1) direct optical fiber connection.

Examples of high speed communications media include:

- i. The fiber optic cable installed on or below the Interconnection Customer's Lead line as a requirement of requirement 1 above; and
  - ii. Microwave radio system(s)
- c. The Transmission Provider will install a Remote Terminal Unit (RTU) and associated telecommunications equipment at the Interconnection Customer's plant site.
  - d. The Transmission Provider will design, procure and install a RTU and necessary communications equipment at Ft. Sage 345 kV Substation.

#### 5. Protection

- a. The Interconnection Customer will be responsible to protect the Generating Facility and 345 kV lead line. The 345 kV line protection relays must be redundant and compatible with the SEL-421 primary distance and SEL-311L backup differential relays that the Transmission Provider will install at Ft Sage 345 kV Substation.
- b. The Interconnection Customer must submit a protection and communications plan for the interconnection to the Transmission Provider for review and approval; and
- c. The Transmission Provider will design, procure and install necessary primary and back-up relays and associated equipment at Ft Sage 345 kV Substation.

#### 6. Metering

- a. The Transmission Provider will install high side 345 kV metering for this interconnection.
- b. The Transmission Provider will procure and install one meter at the Interconnection Customer's site compensated to the Point of Interconnection. The Transmission Provider will install the meter using the Interconnection Customer installed meter structure.
  - i. The actual meter location must be accepted by Transmission Provider prior to the initiation of design and construction.
  - ii. The Interconnection Customer will wire the primary side for the meter.
  - iii. The Transmission Provider will run and land the secondary lines from the instrument transformers to the meter.
- c. The Transmission Provider will procure the 345 kV instrument transformers ("CTs and PTs"). NV Energy's warehouse will receive the

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instrument transformers and the Interconnection Customer will pick up the instrument transformers from NV Energy's warehouse. The Interconnection Customer will install the 345 kV instrument transformers at the generator site.

- d. The Interconnection Customer requested that the Transmission Provider procure spare metering instrument transformers for this project. The Transmission Provider will procure the spare metering instrument transformers and the Interconnection Customer will pick up the spare metering instrument transformers and store them.
- e. NOTE: The Transmission Provider does not stock spare metering instrument transformers. If the metering instrument transformers fail, the plant will be taken out of service until which point new units can be procured by the Transmission Provider and installed by the Interconnection Customer. Alternatively, the Interconnection Customer may request that the Transmission Provider procure spare instrument transformers at the Interconnection Customer's expense to be stored at the Interconnection Customer's site for the purposes of replacing instrument transformers in the event of failure.

7. Right-of-Way, Jurisdictional and Environmental Permitting

- a. Interconnection Customer must obtain all necessary rights-of-way and permits from all federal, state, local and/or private land owners and jurisdictions for all Interconnection Facilities, Network Upgrades and/or Distribution Upgrades needed to accommodate this interconnection including, but not limited to:
  - iii. All related facilities at Company HM's plant site;
  - iv. All installations required to interconnect Interconnection Customer's generator lead line to the Transmission Provider Interconnection Facilities;
  - v. The dead-end structure, isolation switch, and substation entrance fence outside of Ft. Sage 345 kV Substation;
  - vi. The proposed additions to Ft. Sage 345 kV Substation; and
  - vii. All access Roads to all Transmission Provider Interconnection Facilities, and Network Upgrades.
- b. The potential permits for which the Interconnection Customer may be required to secure include, but are not limited to:
  - a. Environmental Impact Statement/Environmental Assessment
  - b. Utility Environmental Protection Act Permit
  - c. Army Corps of Engineers Water Permit
  - d. Special Use Permit
  - e. Air, water, grading and/or dust permits

- 
- c. The Transmission Provider will provide specifications needed for right-of-way and permitting applications to the Interconnection Customer for all Transmission Provider Interconnection facilities; and
  - d. The Interconnection Customer will provide all right-of-way and permitting applications to the Transmission Provider for review and comment prior to submittal to the appropriate agencies.
8. Affected Systems:
- a. Resolution of any issues identified by Affected Systems prior to energization of the interconnection is required.
  - b. BPA is an affected system and recommends the Company HM interconnection be designed to accommodate the implementation of a Remedial Action Scheme (RAS) in the future.

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**General Requirements for All Interconnections:**

1. Intermittent Resource Requirement
  - a. NV Energy has limited capability to follow fluctuations in intermittent resource output. This study does not address the operational need to balance intermittent resources. Arrangements to balance the output of the intermittent resource through contracts with generators or loads, addition of storage devices, or off system dynamic schedules are beyond the scope of this study. Satisfactory agreements for balancing must be in place prior to energization of the interconnection.
2. Good Utility Practice
  - a. The generator interconnection must satisfy Good Utility Practice and meet all applicable industry and North American Electric Reliability Corporation ("NERC") - Western Electricity Coordinating Council ("WECC") planning and operating standards, criteria, and guidelines (as they may be updated or superseded) including:
    - i. NERC Transmission System Planning Performance Requirements (TPL Standards)
    - ii. WECC System Performance Criteria (TPL/WECC CRT Criterion)
    - iii. NERC Generator Frequency and Voltage Protective Relay Settings (PRC-024-2)
    - iv. WECC Power System Stabilizer Policy
    - v. WECC Generating Unit Model Validation Policy
    - vi. WECC Automatic Voltage Regulators VAR-002
    - vii. WECC System Operating Limits TOP-007
    - viii. WECC Procedures for Regional Planning Project Review and Rating Transmission Facilities
  - b. The generator interconnection must meet all applicable NV Energy planning, design, and operating requirements including NV Energy's Reliability Criteria for Transmission System Planning.
  - c. The Interconnection Customer is responsible to sync with the Transmission Provider's phasing.
  - d. Interconnection Customer will provide power system stabilizer per Western Electricity Coordinating Council ("WECC") requirements.
  - e. Communications, SCADA, and real time metering are required for all generation interconnections. NV Energy owned communications, SCADA, and metering equipment installed at facilities owned by the Interconnection Customer must have adequate overvoltage protection provided by the Interconnection Customer.
3. Interconnection Customer Interconnection Facilities ("ICIF")

- 
- a. The Interconnection Customer is responsible for all of its facilities up to the Point of Change in Ownership, including construction of the Generating Facility and the generator lead line. Interconnection Customer shall also be responsible for owning, maintaining, operating and inspecting its own facilities.
  - b. The Interconnection Customer is responsible for the electrical protection of its facilities, including the Interconnection Customer's generating and transmission facilities. The Interconnection Customer's generating facility step-up transformer must have an appropriate interrupting device installed on the high side of the step-up transformer.
4. Multiple Phases or Generators on a Single Lead Line
- a. Generator interconnections that propose having more than one generator interconnected to a single Interconnection Customer owned lead line are required to have a single common coupling meter to measure the combined power output of all generators. Measurement of the combined power output is required to accurately determine the net power delivered to the Point of Interconnection including compensation of the transmission line losses. The Transmission Provider will not provide the metering or accounting for distinguishing the power generation of different generating facilities behind a common coupling meter.
  - b. Generator interconnections that propose having more than one generator interconnected to a single Interconnection Customer owned lead line are required to be constructed using two-terminal lines; one terminal being owned by the Interconnection Customer and the other being owned and operated by the Transmission Provider.
5. Reactive Capability
- a. Generator Reactive Capability: Reactive power output from the generation facility shall be under the direction of NV Energy system operation. Generation from this facility shall be capable of producing reactive power (VARs) in a range of at least 0.95 leading power factor to 0.95 lagging power factor measured at the high side of the Generator Substation.
  - b. Continuously controlled reactive power capability, via thyristor or similar static switching means for periods up to 1 second qualifies for dynamic reactive power capability as part of the reactive resources required. Fast mechanically switched reactive power capability does not qualify for continuous reactive power as part of the required reactive resources.
6. NV Energy Site Selection
- a. Site selection for NV Energy owned substations and facilities, whether on private or public land, must be coordinated with and approved by NV

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Energy. This coordination is critical to ensure that the site location meets NV Energy's needs for size, access, communication paths, stable soils, terrain, drainage, and other technical considerations. Failure to do so may cause significant delays in the permitting process.

- b. Geotechnical investigations may identify issues that require project scope changes, location changes and/or additional equipment to be installed. These issues will be resolved in accordance with the responsibilities outlined in the interconnection agreement.

7. Maintaining System Reliability

- a. NV Energy may reduce, curtail, or disconnect the generating facility as a result of system reliability conditions in accordance with the OATT.

### 3. COST ESTIMATES

<b>Scope Description</b>	<b>Network Upgrades \$M</b>	<b>TPIF \$M</b>	<b>Total Estimate \$M</b>
<b>Communications</b>			
Company HM Site Communications		\$ 0.340	\$ 0.340
Ft. Sage 345 kV Communications	\$ 0.075		\$ 0.075
<b>Lands</b>			
Lands Review and Support		\$ 0.015	\$ 0.015
<b>Environmental</b>			
Environmental Review and Support		\$ 0.070	\$ 0.070
<b>Transmission Lines</b>			
345 kV Substation Entrance		\$ 0.570	\$ 0.570
<b>Substation</b>			
Ft. Sage 345 kV Terminal Addition	\$ 2.305		\$ 2.305
System Protection Facilities		\$ 0.295	\$ 0.295
345 kV High Side Metering		\$ 0.135	\$ 0.135
345 kV Spare Combo Unit		\$ 0.075	\$ 0.075
	<b>\$ 2.380</b>	<b>\$ 1.500</b>	<b>\$ 3.880</b>

The cost estimates include both Transmission Provider's Interconnection Facilities ("TPIF") and Network Upgrades ("NU"). The cost responsibility for all facilities will be pursuant to the provisions of the OATT. The Interconnection Customer is responsible for all of the TPIF costs. The Transmission Provider is responsible for the costs associated with NU pursuant to the OATT; however such costs will be securitized by the Interconnection Customer as provided under the provisions of the OATT. Interconnection Customer's Interconnection Facilities ("ICIF") are the sole responsibility of the Interconnection Customer.

The objectives of this study are to present the approximate costs and construction schedule for the proposed interconnection. The estimated total cost of the Transmission Provider Interconnection Facilities is \$1,500,000. In addition, the Interconnection Customer will be required to provide security in the amount of \$2,380,000 for the Network Upgrades, per the Tariff and NVE posted business practices. The cost estimates provided are +/- 20%. The cost estimates are in 2018 dollars and do not include any tax gross-up. All costs will be trued up to actual costs when the project is completed.

A gross up on Contributions in Aid of Construction (CIAC) will be assessed unless the CIAC or the transfer of the intertie meets the safe harbor requirements of IRS Notice 2016-36.



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The CIAC gross up is not included in the above estimates. It will be computed based on the rate in effect on the day of collection of said gross up under the applicable agreement. CIAC will also be secured at the time the facilities costs are secured as provided under Attachment L of the OATT.

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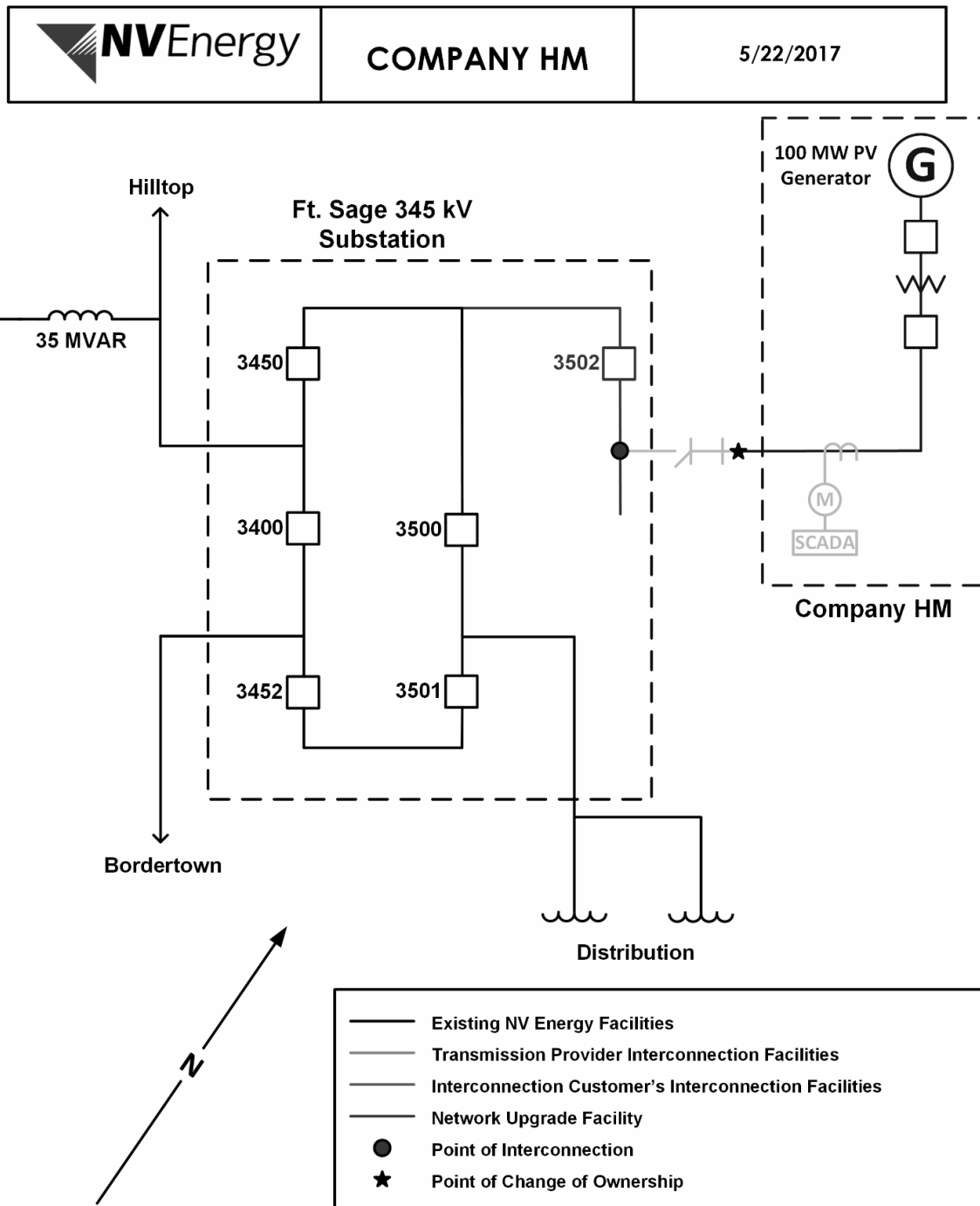
#### 4. TIME TO CONSTRUCT

The construction schedule is highly dependent on the permitting process required, equipment procurement timelines, and outage scheduling. Environmental Assessments can require 18 months to three years to file and complete prior to beginning construction. An Environmental Impact Statement, if required, can take from three to five years to complete depending on the complexity of the project. Project design, equipment procurement, and construction will usually require eighteen months to two years once the permits are secured. Construction requiring transmission outages may be restricted during certain times to accommodate periods of peak transmission usage.

NV Energy does not anticipate that an Environmental Assessment or an Environmental Impact Statement will need to be procured in order to construct the NV Energy owned upgrades identified in this Interconnection Study.

NV Energy has completed a preliminary schedule based on having a signed contract and funding no later than March, 2018, NV Energy could potentially meet an August, 2020 in-service date.

**APPENDIX A**  
**One-Line Diagram**



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**APPENDIX B**  
**GEOGRAPHIC MAP**



**TRAN-4**

**STANDARD LARGE GENERATOR  
INTERCONNECTION AGREEMENT (LGIA)**

**SERVICE AGREEMENT # 16-00054**

**Between**

**SIERRA PACIFIC POWER COMPANY d/b/a  
NV ENERGY**

**And**

**BATTLE MOUNTAIN SP, LLC**

Date: 9/20/2017

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# STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT

**THIS STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, by and between Battle Mountain SP LLC., a company organized and existing under the laws of the State/Commonwealth of Delaware (“Interconnection Customer” with a Large Generating Facility), and Sierra Pacific Power Company d/b/a NV Energy, a company organized and existing under the laws of the State/Commonwealth of the State of Nevada (“Transmission Provider and/or Transmission Owner”). Interconnection Customer and Transmission Provider each may be referred to as a “Party” or collectively as the “Parties.”

## Recitals

**WHEREAS**, Transmission Provider operates the Transmission System; and

**WHEREAS**, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this Agreement; and,

**WHEREAS**, Interconnection Customer and Transmission Provider have agreed to enter into this Agreement for the purpose of interconnecting the Large Generating Facility with the Transmission System;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this Standard Large Generator Interconnection Agreement, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used or the Open Access Transmission Tariff (Tariff).

## Article 1. Definitions

**Adverse System Impact** shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

**Affected System** shall mean an electric system other than the Transmission Provider’s Transmission System that may be affected by the proposed interconnection.

**Affected System Operator** shall mean the entity that operates an Affected System.

**Affiliate** shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

**Ancillary Services** shall mean those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Applicable Reliability Council** shall mean the reliability council applicable to the Transmission System to which the Generating Facility is directly interconnected.

**Applicable Reliability Standards** shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Control Area of the Transmission System to which the Generating Facility is directly interconnected.

**Application Process** shall mean the activities required prior to the Interconnection Customer entering the Interconnection Queue, a further set forth in Section 3 of the Large Generator Interconnection Procedures.

**Base Case** shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by the Transmission Provider or Interconnection Customer.

**Breach** shall mean the failure of a Party to perform or observe any material term or condition of the Standard Large Generator Interconnection Agreement.

**Breaching Party** shall mean a Party that is in Breach of the Standard Large Generator Interconnection Agreement.

**Business Day** shall mean Monday through Friday, excluding Federal Holidays.

**Calendar Day** shall mean any day including Saturday, Sunday or a Federal Holiday.

**Clustering** shall mean the process whereby a group of Completed Interconnection Requests is studied together, instead of serially, for the purpose of conducting the Interconnection System Impact Study.

**Commercial Operation** shall mean the status of a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

**Commercial Operation Date** of a unit shall mean the date on which the Generating Facility commences Commercial Operation as agreed to by the Parties pursuant to Appendix E to the Standard Large Generator Interconnection Agreement.

**Completed Interconnection Request** shall mean an Interconnection Customer's request following the completion of the Application Process, to interconnect a new Generating Facility, increasing the capacity of, or making a Material Modification to the operating characteristics of an existing Generating Facility.

**Confidential Information** shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise.

**Control Area** shall mean an electrical system or systems bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the interconnection. A Control Area must be certified by the Applicable Reliability Council.

**Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of the Standard Large Generator Interconnection Agreement.

**Dispute Resolution** shall mean the procedure for resolution of a dispute between the Parties in which they will first attempt to resolve the dispute on an informal basis.

**Distribution System** shall mean the Transmission Provider's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which distribution systems operate differ among areas.

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the Transmission Provider's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the transmission service necessary to effect Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution Upgrades do not include Interconnection Facilities.

**Effective Date** shall mean the date on which the Standard Large Generator Interconnection Agreement becomes effective upon execution by the Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

**Emergency Condition** shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of a Transmission Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to Transmission Provider's Transmission System, Transmission Provider's Interconnection Facilities or the electric systems of others to which the Transmission Provider's Transmission System is directly connected; or (3) that, in the case of Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by the Standard Large Generator Interconnection Agreement to possess black start capability.

**Energy Resource Interconnection Service** shall mean an Interconnection Service that allows the Interconnection Customer to connect its Generating Facility to the Transmission Provider's Transmission System to be eligible to deliver the Generating Facility's electric output using the existing firm or nonfirm capacity of the Transmission Provider's Transmission System on an as available basis. Energy Resource Interconnection Service in and of itself does not convey transmission service.

**Engineering & Procurement (E&P) Agreement** shall mean an agreement that authorizes the Transmission Provider to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection in order to advance the implementation of the Completed Interconnection Request.

**Environmental Law** shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

**Federal Power Act** shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a *et seq.*

**FERC** shall mean the Federal Energy Regulatory Commission (Commission) or its successor.

**Force Majeure** shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

**Generating Facility** shall mean Interconnection Customer's device for the production of electricity identified in the Completed Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Generating Facility Capacity** shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.



**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Interconnection Customer, Transmission Provider, or any Affiliate thereof.

**Hazardous Substances** shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**Initial Synchronization Date** shall mean the date upon which the Generating Facility is initially synchronized and upon which Trial Operation begins.

**In-Service Date** shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Transmission Provider’s Interconnection Facilities to obtain back feed power.

**Interconnection Customer** shall mean any entity, including the Transmission Provider, Transmission Owner or any of the Affiliates or subsidiaries of either, that proposes to interconnect its Generating Facility with the Transmission Provider’s Transmission System.

**Interconnection Customer’s Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of the Standard Large Generator Interconnection Agreement, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider’s Transmission System. Interconnection Customer’s Interconnection Facilities are sole use facilities.

**Interconnection Facilities** shall mean the Transmission Provider's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Interconnection Facilities Study** shall mean a study conducted by the Transmission Provider or a third party consultant for the Interconnection Customer to determine a list of facilities (including Transmission Provider's Interconnection Facilities and Network Upgrades as identified in the Interconnection System Impact Study), the cost of those facilities, and the time required to interconnect the Generating Facility with the Transmission Provider's Transmission System. The scope of the study is defined in Section 8 of the Standard Large Generator Interconnection Procedures.

**Interconnection Facilities Study Agreement** shall mean the form of agreement contained in Appendix 4 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection Facilities Study.

**Interconnection Service** shall mean the service provided by the Transmission Provider associated with interconnecting the Interconnection Customer's Generating Facility to the Transmission Provider's Transmission System and enabling it to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of the Standard Large Generator Interconnection Agreement and, if applicable, the Transmission Provider's Tariff.

**Interconnection Study** shall mean any of the following studies: the Interconnection System Impact Study and the Interconnection Facilities Study described in the Standard Large Generator Interconnection Procedures.

**Interconnection System Impact Study** shall mean an engineering study that evaluates the impact of the proposed interconnection on the safety and reliability of Transmission Provider's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility were interconnected without project modifications or system modifications, focusing on the Adverse System Impacts identified in the Application Process, or to study potential impacts, including but not limited to those identified in the Scoping Meeting as described in the Standard Large Generator Interconnection Procedures.

**Interconnection System Impact Study Agreement** shall mean the form of agreement contained in Appendix 2 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection System Impact Study.

**IRS** shall mean the Internal Revenue Service.

**Joint Operating Committee** shall be a group made up of representatives from Interconnection Customers and the Transmission Provider to coordinate operating and technical considerations of Interconnection Service.

**Large Generating Facility** shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

**Loss** shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's performance, or non-performance of its obligations under the Standard Large Generator Interconnection Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnifying Party.

**Material Modification** shall mean those modifications that have a material impact on the: (1) cost or timing of any Application Request with a later Application Number or (2) cost or timing of any Completed Interconnection Request with a later queue priority date.

**Metering Equipment** shall mean all metering equipment installed or to be installed at the Generating Facility pursuant to the Standard Large Generator Interconnection Agreement at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

**NERC** shall mean the North American Electric Reliability Council or its successor organization.

**Network Resource** shall mean any designated generating resource owned, purchased, or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis.

**Network Resource Interconnection Service** shall mean an Interconnection Service that allows the Interconnection Customer to integrate its Large Generating Facility with the Transmission Provider's Transmission System (1) in a manner comparable to that in which the Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an RTO or ISO with market based congestion management, in the same manner as Network Resources. Network Resource Interconnection Service in and of itself does not convey transmission service.

**Network Upgrades** shall mean the additions, modifications, and upgrades to the Transmission Provider's Transmission System required at or beyond the point at which the Interconnection Facilities connect to the Transmission Provider's Transmission System to accommodate the interconnection of the Large Generating Facility to the Transmission Provider's Transmission System.

**Notice of Dispute** shall mean a written notice of a dispute or claim that arises out of or in connection with the Standard Large Generator Interconnection Agreement or its performance.

**Optional Interconnection Study** shall mean a sensitivity analysis based on assumptions specified by the Interconnection Customer in the Optional Interconnection Study Agreement.

**Optional Interconnection Study Agreement** shall mean the form of agreement contained in Appendix 5 of the Standard Large Generator Interconnection Procedures for conducting the Optional Interconnection Study.

**Party or Parties** shall mean Transmission Provider, Transmission Owner, Interconnection Customer or any combination of the above.

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to the Standard Large Generator Interconnection Agreement, where the Interconnection Customer's Interconnection Facilities connect to the Transmission Provider's Interconnection Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to the Standard Large Generator Interconnection Agreement, where the Interconnection Facilities connect to the Transmission Provider's Transmission System.

**Queue Position** shall mean the order of a valid Completed Interconnection Request, relative to all other pending valid Completed Interconnection Requests, that is established based upon successful completion of the Application Process, as determined by the Transmission Provider.

**Reasonable Efforts** shall mean, with respect to an action required to be attempted or taken by a Party under the Standard Large Generator Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Scoping Meeting** shall mean the meeting between representatives of the Interconnection Customer and Transmission Provider conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

**Shared Network Upgrades** shall mean a Network Upgrade listed in Appendix A of the Generator Interconnection Agreement that is needed for the interconnection of multiple Interconnection Customers' Generating Facilities where such Interconnection Customers share the cost.

**Site Control** shall mean documentation reasonably demonstrating: (1) ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing the Generating Facility; (2) an option to purchase or acquire a leasehold site for such purpose; or (3) an exclusivity or other business relationship between Interconnection Customer and the entity having the right to sell, lease or grant Interconnection Customer the right to possess or occupy a site for such purpose.

**Small Generating Facility** shall mean a Generating Facility that has a Generating Facility Capacity of no more than 20 MW.

**Stand Alone Network Upgrades** shall mean Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the Transmission System during their construction. Both the Transmission Provider and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to the Standard Large Generator Interconnection Agreement.

**Standard Large Generator Interconnection Agreement (LGIA)** shall mean the form of interconnection agreement applicable to a Completed Interconnection Request pertaining to a Large Generating Facility that is included in the Transmission Provider's Tariff.

**Standard Large Generator Interconnection Procedures (LGIP)** shall mean the interconnection procedures applicable to a Completed Interconnection Request pertaining to a Large Generating Facility that are included in the Transmission Provider's Tariff.

**System Protection Facilities** shall mean the equipment, including necessary protection signal communications equipment, required to protect (1) the Transmission Provider's Transmission System from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the Transmission Provider's Transmission System or on other delivery systems or other generating systems to which the Transmission Provider's Transmission System is directly connected.

**Tariff** shall mean the Transmission Provider's Tariff through which open access transmission service and Interconnection Service are offered, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Transmission Owner** shall mean an entity that owns, leases or otherwise possesses an interest in the portion of the Transmission System at the Point of Interconnection and may be a Party to the Standard Large Generator Interconnection Agreement to the extent necessary.

**Transmission Provider** shall mean the public utility (or its designated agent) that owns, controls, or operates transmission or distribution facilities used for the transmission of electricity in interstate commerce and provides transmission service under the Tariff. The term Transmission Provider should be read to include the Transmission Owner when the Transmission Owner is separate from the Transmission Provider.

**Transmission Provider's Interconnection Facilities** shall mean all facilities and equipment owned, controlled or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to the Standard Large Generator Interconnection Agreement, including any modifications, additions or upgrades to such facilities and equipment. Transmission Provider's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Transmission System** shall mean the facilities owned, controlled or operated by the Transmission Provider or Transmission Owner that are used to provide transmission service under the Tariff.

**Trial Operation** shall mean the period during which Interconnection Customer is engaged in on-site test operations and commissioning of the Generating Facility prior to Commercial Operation.

**Variable Energy Resource** shall mean a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

## **Article 2. Effective Date, Term, and Termination**

### **2.1 Effective Date.**

This LGIA shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC.

Transmission Provider shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.

### **2.2 Term of Agreement.**

Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of twenty (20) years from the Effective Date (Term to be specified in individual agreements) and shall be automatically renewed for each successive one-year period thereafter.

### **2.3 Termination Procedures.**

#### **2.3.1 Written Notice.**

This LGIA may be terminated by Interconnection Customer after giving Transmission Provider ninety (90) Calendar Days advance written notice, or by Transmission Provider notifying FERC after the Generating Facility permanently ceases Commercial Operation.

#### **2.3.2 Default.**

Either Party may terminate this LGIA in accordance with Article 17.

**2.3.3** Notwithstanding Articles 2.3.1 and 2.3.2, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA, which notice has been accepted for filing by FERC.

### **2.4 Termination Costs.**

If a Party elects to terminate this Agreement pursuant to Article 2.3 above, each Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) or charges assessed by the other Party, as of the date of the other Party's receipt of such notice of termination, that are the responsibility of the Terminating Party under this LGIA. In the event of termination by a Party, the Parties shall use commercially Reasonable Efforts to mitigate the costs,

damages and charges arising as a consequence of termination. Upon termination of this LGIA, unless otherwise ordered or approved by FERC:

**2.4.1** With respect to any portion of Transmission Provider's Interconnection Facilities that have not yet been constructed or installed, Transmission Provider shall to the extent possible and with Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Interconnection Customer elects not to authorize such cancellation, Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and Transmission Provider shall deliver such material and equipment, and, if necessary, assign such contracts, to Interconnection Customer as soon as practicable, at Interconnection Customer's expense. To the extent that Interconnection Customer has already paid Transmission Provider for any or all such costs of materials or equipment not taken by Interconnection Customer, Transmission Provider shall promptly refund such amounts to Interconnection Customer, less any costs, including penalties incurred by Transmission Provider to cancel any pending orders of or return such materials, equipment, or contracts.

If an Interconnection Customer terminates this LGIA, it shall be responsible for all costs incurred in association with that Interconnection Customer's interconnection, including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment, and other expenses including any Network Upgrades for which Transmission Provider has incurred expenses and has not been reimbursed by Interconnection Customer.

**2.4.2** Transmission Provider may, at its option, retain any portion of such materials, equipment, or facilities that Interconnection Customer chooses not to accept delivery of, in which case Transmission Provider shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

**2.4.3** With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

**2.5 Disconnection.**

Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.

**2.6 Survival.**

This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and

payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Party pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

### **Article 3. Regulatory Filings**

#### **3.1 Filing.**

Transmission Provider shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority, if required. Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If Interconnection Customer has executed this LGIA, or any amendment thereto, Interconnection Customer shall reasonably cooperate with Transmission Provider with respect to such filing and to provide any information reasonably requested by Transmission Provider needed to comply with applicable regulatory requirements.

### **Article 4. Scope of Service**

#### **4.1 Interconnection Product Options.**

Interconnection Customer has selected the following (checked) type of Interconnection Service:

##### **4.1.1 Energy Resource Interconnection Service**

**4.1.1.1 The Product.** Energy Resource Interconnection Service allows Interconnection Customer to connect the Large Generating Facility to the Transmission System and be eligible to deliver the Large Generating Facility's output using the existing firm or non-firm capacity of the Transmission System on an "as available" basis. To the extent Interconnection Customer wants to receive Energy Resource Interconnection Service, Transmission Provider shall construct facilities identified in Appendix A to this LGIA.

**4.1.1.2 Transmission Delivery Service Implications.** Under Energy Resource Interconnection Service, Interconnection Customer will be eligible to inject power from the Large Generating Facility into and deliver power across the interconnecting Transmission Provider's Transmission System on an "as available" basis up to the amount of MWs identified in the applicable stability and steady state studies to the extent the upgrades initially required to qualify for Energy Resource Interconnection Service have been constructed. Where eligible to do so (e.g., PJM, ISO-NE, NYISO), Interconnection Customer may place a bid to sell into the market up to the maximum identified Large Generating Facility output, subject to any conditions specified in the interconnection service approval, and the Large



Generating Facility will be dispatched to the extent Interconnection Customer's bid clears. In all other instances, no transmission delivery service from the Large Generating Facility is assured, but Interconnection Customer may obtain Point-to-Point Transmission Service, Network Integration Transmission Service, or be used for secondary network transmission service, pursuant to Transmission Provider's Tariff, up to the maximum output identified in the stability and steady state studies. In those instances, in order for Interconnection Customer to obtain the right to deliver or inject energy beyond the Large Generating Facility Point of Interconnection or to improve its ability to do so, transmission delivery service must be obtained pursuant to the provisions of Transmission Provider's Tariff. The Interconnection Customer's ability to inject its Large Generating Facility output beyond the Point of Interconnection, therefore, will depend on the existing capacity of Transmission Provider's Transmission System at such time as a transmission service request is made that would accommodate such delivery. The provision of firm Point-to-Point Transmission Service or Network Integration Transmission Service may require the construction of additional Network Upgrades.

✓**4.1.2 Network Resource Interconnection Service.**

**4.1.2.1 The Product.** Transmission Provider must conduct the necessary studies and construct the Network Upgrades needed to integrate the Large Generating Facility (1) in a manner comparable to that in which Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an ISO or RTO with market based congestion management, in the same manner as all Network Resources. To the extent Interconnection Customer wants to receive Network Resource Interconnection Service, Transmission Provider shall construct the facilities identified in Appendix A to this LGIA.

**4.1.2.2 Transmission Delivery Service Implications.** Network Resource Interconnection Service allows Interconnection Customer's Large Generating Facility to be designated by any Network Customer under the Tariff on Transmission Provider's Transmission System as a Network Resource, up to the Large Generating Facility's full output, on the same basis as existing Network Resources interconnected to Transmission Provider's Transmission System, and to be studied as a Network Resource on the assumption that such a designation will occur. Although Network Resource Interconnection Service does not convey a reservation of transmission service, any Network Customer under the Tariff can utilize its network service under the Tariff to obtain delivery of energy from the interconnected Interconnection Customer's Large Generating Facility in the same manner as it accesses Network Resources. A Large Generating Facility receiving

Network Resource Interconnection Service may also be used to provide Ancillary Services after technical studies and/or periodic analyses are performed with respect to the Large Generating Facility's ability to provide any applicable Ancillary Services, provided that such studies and analyses have been or would be required in connection with the provision of such Ancillary Services by any existing Network Resource. However, if an Interconnection Customer's Large Generating Facility has not been designated as a Network Resource by any load, it cannot be required to provide Ancillary Services except to the extent such requirements extend to all generating facilities that are similarly situated. The provision of Network Integration Transmission Service or firm Point-to-Point Transmission Service may require additional studies and the construction of additional upgrades. Because such studies and upgrades would be associated with a request for delivery service under the Tariff, cost responsibility for the studies and upgrades would be in accordance with FERC's policy for pricing transmission delivery services.

Network Resource Interconnection Service does not necessarily provide Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on Transmission Provider's Transmission System without incurring congestion costs. In the event of transmission constraints on Transmission Provider's Transmission System, Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in Transmission Provider's Transmission System in the same manner as Network Resources.

There is no requirement either at the time of study or interconnection, or at any point in the future, that Interconnection Customer's Large Generating Facility be designated as a Network Resource by a Network Service Customer under the Tariff or that Interconnection Customer identify a specific buyer (or sink). To the extent a Network Customer does designate the Large Generating Facility as a Network Resource, it must do so pursuant to Transmission Provider's Tariff.

Once an Interconnection Customer satisfies the requirements for obtaining Network Resource Interconnection Service, any future transmission service request for delivery from the Large Generating Facility within Transmission Provider's Transmission System of any amount of capacity and/or energy, up to the amount initially studied, will not require that any additional studies be performed or that any further upgrades associated with such Large Generating Facility be undertaken, regardless of whether or not such Large Generating

Facility is ever designated by a Network Customer as a Network Resource and regardless of changes in ownership of the Large Generating Facility. However, the reduction or elimination of congestion or redispatch costs may require additional studies and the construction of additional upgrades.

To the extent Interconnection Customer enters into an arrangement for long term transmission service for deliveries from the Large Generating Facility outside Transmission Provider's Transmission System, such request may require additional studies and upgrades in order for Transmission Provider to grant such request.

#### **4.1.3 Interim Interconnection Service.**

- 4.1.3.1 The Product.** As described in Article 4, provision of Interconnection Service under this LGIA requires the construction of the Network Upgrades identified in Appendix A. However, in order to make the most efficient use of the transmission system and available generation before the aforementioned Network Upgrades are constructed, the Transmission Provider will use Reasonable Efforts to grant Interconnection Service under this LGIA on an interim basis under the following circumstances and subject to the following conditions ("Interim Interconnection Service"). Interconnection Customer understands and acknowledges that it has no right to Interim Interconnection Service and that any Interim Interconnection Service granted in this section is limited pursuant to the terms of this section.
- 4.1.3.2 Process for Requesting Interim Interconnection Service.** No later than 180 Calendar days of Interconnection Customer's anticipated testing date for the generating facility that is the subject of this LGIA, where the aforementioned Network Upgrades are not expected to have been completed by that time, Interconnection Customer may submit a written request to the Transmission Provider for Interim Interconnection Service. The Interconnection Customer must be in good standing under this LGIA to request Interim Interconnection Service.
- 4.1.3.3 Transmission Provider's Evaluation of Request for Interim Interconnection Service.** After a valid request for Interim Interconnection Service has been received, the Interconnection Customer will be provided a study agreement obligating the Interconnection Customer to pay the costs of the Interim Interconnection Service System Impact Study. The Interim Interconnection System Impact Study to be conducted by Transmission Provider has the same scope as the current LGIP System Impact Study. The Interim Interconnection System Impact Study will model only those projects that are planned to be in

service on the effective date of the requested Interim Interconnection Service and any use of Interim Interconnection Service by a higher-queued interconnection customer. Once completed, the study will identify if the Interim Interconnection Service can be provided to the Interconnection Customer with the transmission system as currently configured. No additional facilities will be constructed to accommodate Interim Interconnection Service. Once the Transmission Provider determines that Interim Interconnection Service can be accommodated for all or part of the Interconnection Customer's anticipated output, the Interconnection Customer will then be limited to the output level contained in the Transmission Provider's response to the request for Interim Interconnection Service.

Regardless of when Interim Interconnection Service is requested, the Transmission Provider will have 60 days to conduct the Interim Interconnection Service System Impact Study. No formal report will be produced, but the Transmission Provider will provide a written response detailing whether, and to what extent, Interim Interconnection Service can be provided under this LGIA. The Interim Interconnection Service is governed by this LGIA.

**4.1.3.4 Competing Requests for Interim Interconnection Service.** To the extent Transmission Provider receives multiple requests for Interim Interconnection Service from Interconnection Customer and other interconnection customers that cannot be simultaneously accommodated, available Interim Interconnection Service will be given to the interconnection customer with the higher generation interconnection queue position, even if the competing requests come from projects that were studied in the same cluster.

**4.1.3.5 No Transmission Service.** The Transmission Providers' provision of Interim Interconnection Service under this LGIA does not constitute a request for, nor the provision of, any transmission delivery service under Transmission Provider's Tariff, and does not convey any right to deliver electricity to any specific customer or Point of Delivery.

**4.2 Provision of Service.**

Transmission Provider shall provide Interconnection Service for the Large Generating Facility at the Point of Interconnection.

**4.3 Performance Standards.**

Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this

LGIA for its compliance therewith. If such Party is a Transmission Provider or Transmission Owner, then that Party shall amend the LGIA and submit the amendment to FERC for approval.

**4.4 No Transmission Delivery Service.**

The execution of this LGIA does not constitute a request for, nor the provision of, any transmission delivery service under Transmission Provider's Tariff, and does not convey any right to deliver electricity to any specific customer or Point of Delivery.

**4.5 Interconnection Customer Provided Services.**

The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

**Article 5. Interconnection Facilities Engineering, Procurement, and Construction**

**5.1 Options.**

Unless otherwise mutually agreed to between the Parties, Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either Standard Option or Alternate Option set forth below for completion of Transmission Provider's Interconnection Facilities and Network Upgrades as set forth in Appendix A, Interconnection Facilities and Network Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones.

**✓5.1.1 Standard Option.**

Transmission Provider shall design, procure, and construct Transmission Provider's Interconnection Facilities and Network Upgrades, using Reasonable Efforts to complete Transmission Provider's Interconnection Facilities and Network Upgrades by the dates set forth in Appendix B, Milestones.

Transmission Provider shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event Transmission Provider reasonably expects that it will not be able to complete Transmission Provider's Interconnection Facilities and Network Upgrades by the specified dates, Transmission Provider shall promptly provide written notice to Interconnection Customer and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

**5.1.2 Alternate Option.**

If the dates designated by Interconnection Customer are acceptable to Transmission Provider, Transmission Provider shall so notify Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities by the designated dates.

If Transmission Provider subsequently fails to complete Transmission Provider's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; Transmission Provider shall pay Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by Interconnection Customer shall be extended day for day for each day that the applicable RTO or ISO refuses to grant clearances to install equipment.

#### **5.1.3 Option to Build.**

If the dates designated by Interconnection Customer are not acceptable to Transmission Provider, Transmission Provider shall so notify Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades on the dates specified in Article 5.1.2. Transmission Provider and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A. Except for Stand Alone Network Upgrades, Interconnection Customer shall have no right to construct Network Upgrades under this option.

#### **5.1.4 Negotiated Option.**

If Interconnection Customer elects not to exercise its option under Article 5.1.3, Option to Build, Interconnection Customer shall so notify Transmission Provider within thirty (30) Calendar Days, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades by Interconnection Customer) pursuant to which Transmission Provider is responsible for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Network Upgrades. If the Parties are unable to reach agreement on such terms and conditions, Transmission Provider shall assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Network Upgrades pursuant to 5.1.1, Standard Option.

#### **5.2 General Conditions Applicable to Option to Build.**

If Interconnection Customer assumes responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades,

- (1) Interconnection Customer shall engineer, procure equipment, and construct Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by Transmission Provider;
- (2) Interconnection Customer's engineering, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law and Applicable Reliability Standards to which Transmission Provider would be subject in the engineering, procurement or construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;
- (3) Transmission Provider shall review and approve the engineering design, equipment acceptance tests, and the construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;
- (4) Prior to commencement of construction, Interconnection Customer shall provide to Transmission Provider a schedule for construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from Transmission Provider;
- (5) At any time during construction, Transmission Provider shall have the right to gain unrestricted access to Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;
- (6) At any time during construction, should any phase of the engineering, equipment procurement, or construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by Transmission Provider, Interconnection Customer shall be obligated to remedy deficiencies in that portion of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;
- (7) Interconnection Customer shall indemnify Transmission Provider for claims arising from Interconnection Customer's construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;
- (8) Interconnection Customer shall transfer control of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades to Transmission Provider;
- (9) Unless Parties otherwise agree, Interconnection Customer shall transfer ownership of Transmission Provider's Interconnection Facilities and Stand-Alone Network Upgrades to Transmission Provider;
- (10) Transmission Provider shall approve and accept for operation and maintenance Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

- (11) Interconnection Customer shall deliver to Transmission Provider “as-built” drawings, information, and any other documents that are reasonably required by Transmission Provider to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by Transmission Provider.

### **5.3 Liquidated Damages.**

The actual damages to Interconnection Customer, in the event Transmission Provider’s Interconnection Facilities or Network Upgrades are not completed by the dates designated by Interconnection Customer and accepted by Transmission Provider pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer’s fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by Transmission Provider to Interconnection Customer in the event that Transmission Provider does not complete any portion of Transmission Provider’s Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to  $\frac{1}{2}$  of 1 percent per day of the actual cost of Transmission Provider’s Interconnection Facilities and Network Upgrades, in the aggregate, for which Transmission Provider has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of Transmission Provider’s Interconnection Facilities and Network Upgrades for which Transmission Provider has assumed responsibility to design, procure, and construct. The foregoing payments will be made by Transmission Provider to Interconnection Customer as just compensation for the damages caused to Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Transmission Provider’s failure to meet its schedule.

No liquidated damages shall be paid to Interconnection Customer if: (1) Interconnection Customer is not ready to commence use of Transmission Provider’s Interconnection Facilities or Network Upgrades to take the delivery of power for the Large Generating Facility’s Trial Operation or to export power from the Large Generating Facility on the specified dates, unless Interconnection Customer would have been able to commence use of Transmission Provider’s Interconnection Facilities or Network Upgrades to take the delivery of power for Large Generating Facility’s Trial Operation or to export power from the Large Generating Facility, but for Transmission Provider’s delay; (2) Transmission Provider’s failure to meet the specified dates is the result of the action or inaction of Interconnection Customer or any other Interconnection Customer who has entered into an LGIA with Transmission Provider or any cause beyond Transmission Provider’s reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of Transmission Provider’s Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.



**5.4 Power System Stabilizers.**

The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with the guidelines and procedures established by the Applicable Reliability Council. Transmission Provider reserves the right to reasonably establish minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, Interconnection Customer shall immediately notify Transmission Provider's system operator, or its designated representative. The requirements of this paragraph shall not apply to wind generators.

**5.5 Equipment Procurement.**

If responsibility for construction of Transmission Provider's Interconnection Facilities or Network Upgrades is to be borne by Transmission Provider, then Transmission Provider shall commence design of Transmission Provider's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

- 5.5.1** Transmission Provider has completed the Facilities Study pursuant to the Facilities Study Agreement;
- 5.5.2** Transmission Provider has received written authorization to proceed with design and procurement from Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.5.3** Interconnection Customer has provided security to Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

**5.6 Construction Commencement.**

Transmission Provider shall commence construction of Transmission Provider's Interconnection Facilities and Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:

- 5.6.1** Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
- 5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of Transmission Provider's Interconnection Facilities and Network Upgrades;
- 5.6.3** Transmission Provider has received written authorization to proceed with construction from Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.6.4** Interconnection Customer has provided security to Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

**5.7 Work Progress.**

The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Either Party may, at any time, request a progress report from the other Party. If, at any time, Interconnection Customer determines that the completion of Transmission Provider's Interconnection Facilities will not be required until after the specified In-Service Date, Interconnection Customer will provide written notice to Transmission Provider of such later date upon which the completion of Transmission Provider's Interconnection Facilities will be required.

**5.8 Information Exchange.**

As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Parties' Interconnection Facilities and compatibility of the Interconnection Facilities with Transmission Provider's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

**5.9 Limited Operation.**

If any of Transmission Provider's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Large Generating Facility, Transmission Provider shall, upon the request and at the expense of Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Large Generating Facility and Interconnection Customer's Interconnection Facilities may operate prior to the completion of Transmission Provider's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. Transmission Provider shall permit Interconnection Customer to operate the Large Generating Facility and Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.

**5.10 Interconnection Customer's Interconnection Facilities ("ICIF").**

Interconnection Customer shall, at its expense, design, procure, construct, own and install the ICIF, as set forth in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

**5.10.1 Interconnection Customer's Interconnection Facility Specifications.**

Interconnection Customer shall submit initial specifications for the ICIF, including System Protection Facilities, to Transmission Provider at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. Transmission Provider shall review such specifications to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of Transmission Provider and comment on such specifications within thirty (30) Calendar Days of Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

**5.10.2 Transmission Provider's Review.**

Transmission Provider's review of Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the ICIF. Interconnection Customer shall make such changes to the ICIF as may reasonably be required by Transmission Provider, in accordance with Good Utility Practice, to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of Transmission Provider.

**5.10.3 ICIF Construction.**

The ICIF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Interconnection Customer shall deliver to Transmission Provider "as-built" drawings, information and documents for the ICIF, such as: a one-line diagram, a site plan showing the Large Generating Facility and the ICIF, plan and elevation drawings showing the layout of the ICIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the ICIF, and the impedances (determined by factory tests) for the associated step-up transformers and the Large Generating Facility. The Interconnection Customer shall provide Transmission Provider specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable.

**5.11 Transmission Provider's Interconnection Facilities Construction.**

Transmission Provider's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Transmission Provider shall deliver to Interconnection Customer the following "as-built" drawings, information and documents for Transmission Provider's Interconnection Facilities [include appropriate drawings and relay diagrams]. Transmission Provider will obtain control of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities.

**5.12 Access Rights.**

Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or

witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

**5.13 Lands of Other Property Owners.**

If any part of Transmission Provider or Transmission Owner's Interconnection Facilities and/or Network Upgrades is to be installed on property owned by persons other than Interconnection Customer or Transmission Provider or Transmission Owner, Transmission Provider or Transmission Owner shall at Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove Transmission Provider or Transmission Owner's Interconnection Facilities and/or Network Upgrades upon such property.

**5.14 Permits.**

Transmission Provider or Transmission Owner and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, Transmission Provider or Transmission Owner shall provide permitting assistance to Interconnection Customer comparable to that provided to Transmission Provider's own, or an Affiliate's generation.

**5.15 Early Construction of Base Case Facilities.**

Interconnection Customer may request Transmission Provider to construct, and Transmission Provider shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Transmission System which are included in the Base Case of the Facilities Study for Interconnection Customer, and which also are required to be constructed for another Interconnection Customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.

**5.16 Suspension.**

Interconnection Customer reserves the right, upon written notice to Transmission Provider, to suspend at any time all work by Transmission Provider associated with the construction and installation of Transmission Provider's Interconnection Facilities and/or Network Upgrades required under this LGIA with the condition that Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and Transmission Provider's safety and reliability criteria. In such event,

Interconnection Customer shall be responsible for all reasonable and necessary costs which Transmission Provider (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Transmission Provider cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Transmission Provider shall obtain Interconnection Customer's authorization to do so. Transmission Provider shall invoice Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work by Transmission Provider required under this LGIA pursuant to this Article 5.16, and has not requested Transmission Provider to recommence the work required under this LGIA on or before the expiration of three (3) years following commencement of such suspension, this LGIA shall be deemed terminated. The three-year period shall begin on the date the suspension is requested, or the date of the written notice to Transmission Provider, if no effective date is specified.

## **5.17 Taxes.**

### **5.17.1 Interconnection Customer Payments Not Taxable.**

The Parties intend that all payments or property transfers made by Interconnection Customer to Transmission Provider for the installation of Transmission Provider's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

### **5.17.2 Representations and Covenants.**

In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to Transmission Provider for Transmission Provider's Interconnection Facilities will be capitalized by Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of Transmission Provider's Interconnection Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At Transmission Provider's request, Interconnection Customer shall provide Transmission Provider with a report from an independent engineer confirming its representation in clause (iii), above. Transmission Provider represents and covenants that the cost of Transmission Provider's Interconnection Facilities paid for by Interconnection Customer will have no net effect on the base upon which rates are determined.

**5.17.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Transmission Provider.**

Notwithstanding Article 5.17.1, Interconnection Customer shall protect, indemnify and hold harmless Transmission Provider from the cost consequences of any current tax liability imposed against Transmission Provider as the result of payments or property transfers made by Interconnection Customer to Transmission Provider under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Transmission Provider.

Transmission Provider shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Interconnection Customer under this LGIA unless (i) Transmission Provider has determined, in good faith, that the payments or property transfers made by Interconnection Customer to Transmission Provider should be reported as income subject to taxation or (ii) any Governmental Authority directs Transmission Provider to report payments or property as income subject to taxation; provided, however, that Transmission Provider may require Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to Transmission Provider (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. Interconnection Customer shall reimburse Transmission Provider for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Transmission Provider of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by Transmission Provider upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

**5.17.4 Tax Gross-Up Amount.**

Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Interconnection Customer will pay Transmission Provider, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Transmission Provider

(“Current Taxes”) on the excess of (a) the gross income realized by Transmission Provider as a result of payments or property transfers made by Interconnection Customer to Transmission Provider under this LGIA (without regard to any payments under this Article 5.17) (the “Gross Income Amount”) over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the “Present Value Depreciation Amount”), plus (2) an additional amount sufficient to permit Transmission Provider to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Transmission Provider’s composite federal and state tax rates at the time the payments or property transfers are received and Transmission Provider will be treated as being subject to tax at the highest marginal rates in effect at that time (the “Current Tax Rate”), and (ii) the Present Value Depreciation Amount shall be computed by discounting Transmission Provider’s anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Provider’s current weighted average cost of capital. Thus, the formula for calculating Interconnection Customer’s liability to Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows:  $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$ . Interconnection Customer’s estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

#### **5.17.5 Private Letter Ruling or Change or Clarification of Law.**

At Interconnection Customer’s request and expense, Transmission Provider shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Interconnection Customer to Transmission Provider under this LGIA are subject to federal income taxation. Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Interconnection Customer’s knowledge. Transmission Provider and Interconnection Customer shall cooperate in good faith with respect to the submission of such request.

Transmission Provider shall keep Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. Transmission Provider shall allow Interconnection Customer to attend all meetings with IRS officials about the request and shall permit Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

**5.17.6 Subsequent Taxable Events.**

If, within 10 years from the date on which the relevant Transmission Provider's Interconnection Facilities are placed in service, (i) Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and Transmission Provider retains ownership of the Interconnection Facilities and Network Upgrades, Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on Transmission Provider, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

**5.17.7 Contests.**

In the event any Governmental Authority determines that Transmission Provider's receipt of payments or property constitutes income that is subject to taxation, Transmission Provider shall notify Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Interconnection Customer and at Interconnection Customer's sole expense, Transmission Provider may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Interconnection Customer's written request and sole expense, Transmission Provider may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. Transmission Provider reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Provider shall keep Interconnection Customer informed, shall consider in good faith suggestions from Interconnection Customer about the conduct of the contest, and shall reasonably permit Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

Interconnection Customer shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. At any time during the contest, Transmission Provider may agree to a settlement either with Interconnection Customer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Provider, but reasonably acceptable to Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding sentence. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. Any settlement without Interconnection Customer's consent or such written advice



will relieve Interconnection Customer from any obligation to indemnify Transmission Provider for the tax at issue in the contest.

#### **5.17.8 Refund.**

In the event that (a) a private letter ruling is issued to Transmission Provider which holds that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Provider under the terms of this LGIA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Transmission Provider in good faith that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Provider under the terms of this LGIA is not taxable to Transmission Provider, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Interconnection Customer to Transmission Provider are not subject to federal income tax, or (d) if Transmission Provider receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Interconnection Customer to Transmission Provider pursuant to this LGIA, Transmission Provider shall promptly refund to Interconnection Customer the following:

- (i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,
- (ii) interest on any amounts paid by Interconnection Customer to Transmission Provider for such taxes which Transmission Provider did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 CFR §35.19a(a)(2)(iii) from the date payment was made by Interconnection Customer to the date Transmission Provider refunds such payment to Interconnection Customer, and
- (iii) with respect to any such taxes paid by Transmission Provider, any refund or credit Transmission Provider receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Transmission Provider for such overpayment of taxes (including any reduction in interest otherwise payable by Transmission Provider to any Governmental Authority resulting from an offset or credit); provided, however, that Transmission Provider will remit such amount promptly to Interconnection Customer only after and to the extent that Transmission Provider has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to Transmission Provider's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection

Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

**5.17.9 Taxes Other Than Income Taxes.**

Upon the timely request by Interconnection Customer, and at Interconnection Customer's sole expense, Transmission Provider may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Transmission Provider for which Interconnection Customer may be required to reimburse Transmission Provider under the terms of this LGIA. Interconnection Customer shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Interconnection Customer and Transmission Provider shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Interconnection Customer to Transmission Provider for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Transmission Provider.

**5.17.10 Transmission Owners Who Are Not Transmission Providers.**

If Transmission Provider is not the same entity as the Transmission Owner, then (i) all references in this Article 5.17 to Transmission Provider shall be deemed also to refer to and to include the Transmission Owner, as appropriate, and (ii) this LGIA shall not become effective until such Transmission Owner shall have agreed in writing to assume all of the duties and obligations of Transmission Provider under this Article 5.17 of this LGIA.

**5.18 Tax Status.**

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this LGIA is intended to adversely affect any Transmission Provider's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

**5.19 Modification.**

**5.19.1 General.**

Either Party may undertake modifications to its facilities. If a Party plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party shall provide to the other Party sufficient information regarding such modification so that the other Party may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such

modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Interconnection Customer to submit a Completed Interconnection Request, Transmission Provider shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the Transmission System, Transmission Provider's Interconnection Facilities or Network Upgrades necessitated by such Interconnection Customer modification and a good faith estimate of the costs thereof.

#### **5.19.2 Standards.**

Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA, Applicable Reliability Standards and Good Utility Practice.

#### **5.19.3 Modification Costs.**

Interconnection Customer shall not be directly assigned for the costs of any additions, modifications, or replacements that Transmission Provider makes to Transmission Provider's Interconnection Facilities or the Transmission System to facilitate the interconnection of a third party to Transmission Provider's Interconnection Facilities or the Transmission System, or to provide transmission service to a third party under Transmission Provider's Tariff. Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to Interconnection Customer's Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Customer's Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

## **Article 6. Testing and Inspection**

### **6.1 Pre-Commercial Operation Date Testing and Modifications.**

Prior to the Commercial Operation Date, Transmission Provider shall test Transmission Provider's Interconnection Facilities and Network Upgrades and Interconnection Customer shall test the Large Generating Facility and Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. Interconnection Customer shall bear the cost of all such testing and modifications. Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.

**6.2 Post-Commercial Operation Date Testing and Modifications.**

Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.

**6.3 Right to Observe Testing.**

Each Party shall notify the other Party in advance of its performance of tests of its Interconnection Facilities. The other Party has the right, at its own expense, to observe such testing.

**6.4 Right to Inspect.**

Each Party shall have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

**Article 7. Metering****7.1 General.**

Each Party shall comply with the Applicable Reliability Council requirements. Unless otherwise agreed by the Parties, Transmission Provider shall install Metering Equipment at the Point of Interconnection prior to any operation of the Large Generating Facility and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large Generating Facility shall be measured at or, at Transmission Provider's option, compensated to, the Point of Interconnection. Transmission Provider shall provide metering quantities, in analog and/or digital form, to Interconnection Customer upon request. Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

**7.2 Check Meters.**

Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to

check Transmission Provider's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this LGIA, except as provided in Article 7.4 below. The check meters shall be subject at all reasonable times to inspection and examination by Transmission Provider or its designee. The installation, operation and maintenance thereof shall be performed entirely by Interconnection Customer in accordance with Good Utility Practice.

**7.3 Standards.**

Transmission Provider shall install, calibrate, and test revenue quality Metering Equipment in accordance with applicable ANSI standards.

**7.4 Testing of Metering Equipment.**

Transmission Provider shall inspect and test all Transmission Provider-owned Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by Interconnection Customer, Transmission Provider shall, at Interconnection Customer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Transmission Provider shall give reasonable notice of the time when any inspection or test shall take place, and Interconnection Customer may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Interconnection Customer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Transmission Provider's failure to maintain, then Transmission Provider shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Transmission Provider shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Interconnection Customer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment.

**7.5 Metering Data.**

At Interconnection Customer's expense, the metered data shall be telemetered to one or more locations designated by Transmission Provider and one or more locations designated by Interconnection Customer. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Large Generating Facility to the Point of Interconnection.

## **Article 8. Communications**

**8.1 Interconnection Customer Obligations.**

Interconnection Customer shall maintain satisfactory operating communications with Transmission Provider's Transmission System dispatcher or representative designated by Transmission Provider. Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility

control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to Transmission Provider as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by Transmission Provider. Any required maintenance of such communications equipment shall be performed by Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

## **8.2 Remote Terminal Unit.**

Prior to the Initial Synchronization Date of the Large Generating Facility, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Interconnection Customer, or by Transmission Provider at Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by Transmission Provider. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Transmission Provider.

Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

## **8.3 No Annexation.**

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

## **8.4 Provision of Data from a Variable Energy Resource**

The Interconnection Customer whose Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the Transmission Provider to the extent necessary for the Transmission Provider's development and deployment of power production forecasts for that class of Variable Energy Resources. The Interconnection Customer with a Variable Energy Resource having wind as the energy source, at a minimum, will be required to provide the Transmission Provider with site-specific meteorological data including: temperature, wind speed, wind direction, and atmospheric pressure. The Interconnection Customer with a Variable Energy Resource having solar as the energy source, at a minimum, will be required to provide the Transmission Provider with site-specific meteorological data including: temperature, atmospheric pressure, and irradiance. The Transmission Provider and

Interconnection Customer whose Generating Facility is a Variable Energy Resource shall mutually agree to any additional meteorological data that are required for the development and deployment of a power production forecast. The Interconnection Customer whose Generating Facility is a Variable Energy Resource also shall submit data to the Transmission Provider regarding all forced outages to the extent necessary for the Transmission Provider's development and deployment of power production forecasts for that class of Variable Energy Resources. The exact specifications of the meteorological and forced outage data to be provided by the Interconnection Customer to the Transmission Provider, including the frequency and timing of data submittals, shall be made taking into account the size and configuration of the Variable Energy Resource, its characteristics, location, and its importance in maintaining generation resource adequacy and transmission system reliability in its area. All requirements for meteorological and forced outage data must be commensurate with the power production forecasting employed by the Transmission Provider. Such requirements for meteorological and forced outage data are set forth in Appendix C, Interconnection Details, of this LGIA, as they may change from time to time.

## **Article 9. Operations**

### **9.1 General.**

Each Party shall comply with the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

### **9.2 Control Area Notification.**

At least three months before Initial Synchronization Date, Interconnection Customer shall notify Transmission Provider in writing of the Control Area in which the Large Generating

Facility will be located. If Interconnection Customer elects to locate the Large Generating Facility in a Control Area other than the Control Area in which the Large Generating Facility is physically located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Control Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Control Area.

### **9.3 Transmission Provider Obligations.**

Transmission Provider shall cause the Transmission System and Transmission Provider's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. Transmission Provider may provide operating instructions to Interconnection Customer consistent with this LGIA and Transmission

Provider's operating protocols and procedures as they may change from time to time. Transmission Provider will consider changes to its operating protocols and procedures proposed by Interconnection Customer.

**9.4 Interconnection Customer Obligations.**

Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. Interconnection Customer shall operate the Large Generating Facility and Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Control Area of which it is part, as such requirements are set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. Either Party may request that the other Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA.

**9.5 Start-Up and Synchronization.**

Consistent with the Parties' mutually acceptable procedures, Interconnection Customer is responsible for the proper synchronization of the Large Generating Facility to Transmission Provider's Transmission System.

**9.6 Reactive Power.**

**9.6.1 Power Factor Design Criteria.**

Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless Transmission Provider has established different requirements that apply to all generators in the Control Area on a comparable basis. The requirements of this paragraph shall not apply to wind generators.

**9.6.2 Voltage Schedules.**

Once Interconnection Customer has synchronized the Large Generating Facility with the Transmission System, Transmission Provider shall require Interconnection Customer to operate the Large Generating Facility to produce or absorb reactive power within the design limitations of the Large Generating Facility set forth in Article 9.6.1 (Power Factor Design Criteria). Transmission Provider's voltage schedules shall treat all sources of reactive power in the Control Area in an equitable and not unduly discriminatory manner. Transmission Provider shall exercise Reasonable Efforts to provide Interconnection Customer with such schedules at least one (1) day in advance, and may make changes to such schedules as necessary to maintain the reliability of the Transmission System. Interconnection Customer shall operate the Large Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within the design limitations of the Large Generating Facility set forth in Article 9.6.1 (Power Factor Design Criteria). If



Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the System Operator.

**9.6.2.1 Governors and Regulators.** Whenever the Large Generating Facility is operated in parallel with the Transmission System and the speed governors (if installed on the generating unit pursuant to Good Utility Practice) and voltage regulators are capable of operation, Interconnection Customer shall operate the Large Generating Facility with its speed governors and voltage regulators in automatic operation. If the Large Generating Facility's speed governors and voltage regulators are not capable of such automatic operation, Interconnection Customer shall immediately notify Transmission Provider's system operator, or its designated representative, and ensure that such Large Generating Facility's reactive power production or absorption (measured in MVARs) are within the design capability of the Large Generating Facility's generating unit(s) and steady state stability limits. Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the Transmission System or trip any generating unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Control Area on a comparable basis.

**9.6.3 Payment for Reactive Power.**

Transmission Provider is required to pay Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from the Large Generating Facility when Transmission Provider requests Interconnection Customer to operate its Large Generating Facility outside the range specified in Article 9.6.1, provided that if Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the Parties have otherwise agreed.

**9.7 Outages and Interruptions.**

**9.7.1 Outages.**

**9.7.1.1 Outage Authority and Coordination.** Each Party may in accordance with Good Utility Practice in coordination with the other Party remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use

Reasonable Efforts to schedule such removal on a date and time mutually acceptable to the Parties. In all circumstances, any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

**9.7.1.2 Outage Schedules.** Transmission Provider shall post scheduled outages of its transmission facilities on the OASIS. Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to Transmission Provider for a minimum of a rolling twenty-four month period. Interconnection Customer shall update its planned maintenance schedules as necessary. Transmission Provider may request Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the Transmission System; provided, however, adequacy of generation supply shall not be a criterion in determining Transmission System reliability. Transmission Provider shall compensate Interconnection Customer for any additional direct costs that Interconnection Customer incurs as a result of having to reschedule maintenance, including any additional overtime, breaking of maintenance contracts or other costs above and beyond the cost Interconnection Customer would have incurred absent Transmission Provider's request to reschedule maintenance. Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, Interconnection Customer had modified its schedule of maintenance activities.

**9.7.1.3 Outage Restoration.** If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects the other Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Party, to the extent such information is known, information on the nature of the Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage.

**9.7.2 Interruption of Service.**

If required by Good Utility Practice to do so, Transmission Provider may require Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect Transmission Provider's ability to perform such activities as are necessary to safely and reliably operate and

maintain the Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

- 9.7.2.1** The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;
- 9.7.2.2** Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the Transmission System;
- 9.7.2.3** When the interruption or reduction must be made under circumstances which do not allow for advance notice, Transmission Provider shall notify Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;
- 9.7.2.4** Except during the existence of an Emergency Condition, when the interruption or reduction can be scheduled without advance notice, Transmission Provider shall notify Interconnection Customer in advance regarding the timing of such scheduling and further notify Interconnection Customer of the expected duration. Transmission Provider shall coordinate with Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to Interconnection Customer and Transmission Provider;
- 9.7.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, and the Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

**9.7.3 Under-Frequency and Over Frequency Conditions.**

The Transmission System is designed to automatically activate a load-shed program as required by the Applicable Reliability Council in the event of an under-frequency system disturbance. Interconnection Customer shall implement under-frequency and over-frequency relay set points for the Large Generating Facility as required by the Applicable Reliability Council to ensure “ride through” capability of the Transmission System. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with Transmission Provider in accordance with Good Utility Practice. The term “ride through” as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the Transmission System during system

disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.

**9.7.4 System Protection and Other Control Requirements.**

- 9.7.4.1 System Protection Facilities.** Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Transmission Provider shall install at Interconnection Customer's expense any System Protection Facilities that may be required on Transmission Provider's Interconnection Facilities or the Transmission System as a result of the interconnection of the Large Generating Facility and Interconnection Customer's Interconnection Facilities.
- 9.7.4.2** Each Party's protection facilities shall be designed and coordinated with other systems in accordance with Good Utility Practice.
- 9.7.4.3** Each Party shall be responsible for protection of its facilities consistent with Good Utility Practice.
- 9.7.4.4** Each Party's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of Interconnection Customer's units.
- 9.7.4.5** Each Party will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice.
- 9.7.4.6** Prior to the In-Service Date, and again prior to the Commercial Operation Date, each Party or its agent shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

**9.7.5 Requirements for Protection.**

In compliance with Good Utility Practice, Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Transmission System not otherwise isolated by Transmission Provider's equipment, such that the removal of the fault

contribution shall be coordinated with the protective requirements of the Transmission System. Such protective equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Large Generating Facility and the Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. Interconnection Customer shall be responsible for protection of the Large Generating Facility and Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and Interconnection Customer's other equipment if conditions on the Transmission System could adversely affect the Large Generating Facility.

#### **9.7.6 Power Quality.**

Neither Party's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

#### **9.8 Switching and Tagging Rules.**

Each Party shall provide the other Party a copy of its switching and tagging rules that are applicable to the other Party's activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

#### **9.9 Use of Interconnection Facilities by Third Parties.**

##### **9.9.1 Purpose of Interconnection Facilities.**

Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Transmission System and shall be used for no other purpose.

##### **9.9.2 Third Party Users.**

If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use Transmission Provider's Interconnection Facilities, or any part thereof, Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon

methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between Interconnection Customer and any third party users based upon the pro rata use of the Interconnection and any third party users based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

**9.10 Disturbance Analysis Data Exchange.**

The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or Transmission Provider's Transmission System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

**Article 10. Maintenance**

**10.1 Transmission Provider Obligations.**

Transmission Provider shall maintain the Transmission System and Transmission Provider's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

**10.2 Interconnection Customer Obligations.**

Interconnection Customer shall maintain the Large Generating Facility and Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

**10.3 Coordination.**

The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.

**10.4 Secondary Systems.**

Each Party shall cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Party. Each Party shall provide advance notice to the other Party before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

**10.5 Operating and Maintenance Expenses.**

Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of Transmission Provider's Interconnection Facilities.

**Article 11. Performance Obligation****11.1 Interconnection Customer Interconnection Facilities.**

Interconnection Customer shall design, procure, construct, install, own and/or control Interconnection Customer Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at its sole expense.

**11.2 Transmission Provider's Interconnection Facilities.**

Transmission Provider or Transmission Owner shall design, procure, construct, install, own and/or control the Transmission Provider's Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at the sole expense of the Interconnection Customer.

**11.3 Network Upgrades and Distribution Upgrades.**

Transmission Provider or Transmission Owner shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Unless Transmission Provider or Transmission Owner elects to fund the capital for the Network Upgrades, they shall be solely funded by Interconnection Customer.

**11.4 Transmission Credits.****11.4.1 Repayment of Amounts Advanced for Network Upgrades.**

Interconnection Customer shall be entitled to a cash repayment, equal to the total amount paid to Transmission Provider and Affected System Operator, if any, for the Network Upgrades, including any tax gross-up or other tax-related payments associated with Network Upgrades, and not refunded to Interconnection Customer pursuant to Article 5.17.8 or otherwise, to be paid to Interconnection Customer on a dollar-for-dollar basis for the non-usage sensitive portion of transmission charges, as payments are made under Transmission Provider's Tariff and Affected System's Tariff for transmission services with respect to the Large Generating Facility. Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network

Upgrades through the date on which the Interconnection Customer receives a repayment of such payment pursuant to this subparagraph. Interconnection Customer may assign such repayment rights to any person.

Notwithstanding the foregoing, Interconnection Customer, Transmission Provider, and Affected System Operator may adopt any alternative payment schedule that is mutually agreeable so long as Transmission Provider and Affected System Operator take one of the following actions no later than five years from the Commercial Operation Date: (1) return to Interconnection Customer any amounts advanced for Network Upgrades not previously repaid, or (2) declare in writing that Transmission Provider or Affected System Operator will continue to provide payments to Interconnection Customer on a dollar-for-dollar basis for the non-usage sensitive portion of transmission charges, or develop an alternative schedule that is mutually agreeable and provides for the return of all amounts advanced for Network Upgrades not previously repaid; however, full reimbursement shall not extend beyond twenty (20) years from the Commercial Operation Date. If the Large Generating Facility fails to achieve commercial operation, but it or another Generating Facility is later constructed and makes use of the Network Upgrades, Transmission Provider and Affected System Operator shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the Generating Facility, if different, is responsible for identifying the entity to which reimbursement must be made.

#### **11.4.2 Special Provisions for Affected Systems.**

Unless Transmission Provider provides, under the LGIA, for the repayment of amounts advanced to Affected System Operator for Network Upgrades, Interconnection Customer and Affected System Operator shall enter into an agreement that provides for such repayment. The agreement shall specify the terms governing payments to be made by Interconnection Customer to the Affected System Operator as well as the repayment by the Affected System Operator.

- 11.4.3** Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that Interconnection Customer, shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the Large Generating Facility.



**11.5 Provision of Security.**

At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of a discrete portion of a Transmission Provider's Interconnection Facilities, Network Upgrades, or Distribution Upgrades, Interconnection Customer shall provide Transmission Provider, at Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Provider and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, procuring and installing the applicable portion of Transmission Provider's Interconnection Facilities, Network Upgrades, or Distribution Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Provider for these purposes.

In addition:

- 11.5.1** The guarantee must be made by an entity that meets the creditworthiness requirements of Transmission Provider, and contain terms and conditions that guarantee payment of any amount that may be due from Interconnection Customer, up to an agreed-to maximum amount.
- 11.5.2** The letter of credit must be issued by a financial institution reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.
- 11.5.3** The surety bond must be issued by an insurer reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.

**11.6 Interconnection Customer Compensation.**

If Transmission Provider requests or directs Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power), or 13.5.1 of this LGIA, Transmission Provider shall compensate Interconnection Customer in accordance with Interconnection Customer's applicable rate schedule then in effect unless the provision of such service(s) is subject to an RTO or ISO FERC-approved rate schedule. Interconnection Customer shall serve Transmission Provider or RTO or ISO with any filing of a proposed rate schedule at the time of such filing with FERC. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb any Reactive Power under this LGIA, Transmission Provider agrees to compensate Interconnection Customer in such amount as would have been due Interconnection Customer had the rate schedule been in effect at the time service commenced; provided, however, that such rate schedule must be filed at FERC or other appropriate Governmental Authority within sixty (60) Calendar Days of the commencement of service.

**11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition.**

Transmission Provider or RTO or ISO shall compensate Interconnection Customer for its provision of real and reactive power and other Emergency

Condition services that Interconnection Customer provides to support the Transmission System during an Emergency Condition in accordance with Article 11.6.

## **Article 12. Invoice**

### **12.1 General.**

Each Party shall submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

### **12.2 Final Invoice.**

Within six months after completion of the construction of Transmission Provider's Interconnection Facilities and the Network Upgrades, Transmission Provider shall provide an invoice of the final cost of the construction of Transmission Provider's Interconnection Facilities and the Network Upgrades and shall set forth such costs in sufficient detail to enable Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Transmission Provider shall refund to Interconnection Customer any amount by which the actual payment by Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

### **12.3 Payment.**

Invoices shall be rendered to the paying Party at the address specified in Appendix F. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices by either Party will not constitute a waiver of any rights or claims either Party may have under this LGIA.

### **12.4 Disputes.**

In the event of a billing dispute between Transmission Provider and Interconnection Customer, Transmission Provider shall continue to provide Interconnection Service under this LGIA as long as Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet these two requirements for continuation of service, then Transmission Provider may provide notice to Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with

interest calculated in accord with the methodology set forth in FERC's regulations at 18 CFR § 35.19a(a)(2)(iii).

## **Article 13. Emergencies**

### **13.1 Definition.**

"Emergency Condition" shall mean a condition or situation: (i) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (ii) that, in the case of Transmission Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the Transmission System, Transmission Provider's Interconnection Facilities or the Transmission Systems of others to which the Transmission System is directly connected; or (iii) that, in the case of Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Large Generating Facility or Interconnection Customer's Interconnection Facilities' System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

### **13.2 Obligations.**

Each Party shall comply with the Emergency Condition procedures of the applicable ISO/RTO, NERC, the Applicable Reliability Council, Applicable Laws and Regulations, and any emergency procedures agreed to by the Joint Operating Committee.

### **13.3 Notice.**

Transmission Provider shall notify Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects Transmission Provider's Interconnection Facilities or the Transmission System that may reasonably be expected to affect Interconnection Customer's operation of the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Interconnection Customer shall notify Transmission Provider promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the Transmission System or Transmission Provider's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of Interconnection Customer's or Transmission Provider's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

### **13.4 Immediate Action.**

Unless, in Interconnection Customer's reasonable judgment, immediate action is required, Interconnection Customer shall obtain the consent of Transmission Provider, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or Interconnection Customer's

Interconnection Facilities in response to an Emergency Condition either declared by Transmission Provider or otherwise regarding the Transmission System.

### **13.5 Transmission Provider Authority.**

#### **13.5.1 General.**

Transmission Provider may take whatever actions or inactions with regard to the Transmission System or Transmission Provider's Interconnection Facilities it deems necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Transmission System or Transmission Provider's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.

Transmission Provider shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Transmission Provider may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing Interconnection Customer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing Interconnection Customer to assist with blackstart (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and Interconnection Customer's Interconnection Facilities.

Interconnection Customer shall comply with all of Transmission Provider's operating instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

#### **13.5.2 Reduction and Disconnection.**

Transmission Provider may reduce Interconnection Service or disconnect the Large Generating Facility or Interconnection Customer's Interconnection Facilities, when such, reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of Transmission Provider pursuant to Transmission Provider's Tariff. When Transmission Provider can schedule the reduction or disconnection in advance, Transmission Provider shall notify Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. Transmission Provider shall coordinate with Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to Interconnection Customer and Transmission Provider. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the

Interconnection Facilities, and the Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

**13.6 Interconnection Customer Authority.**

Consistent with Good Utility Practice and the LGIA and the LGIP, Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Transmission System and Transmission Provider's Interconnection Facilities. Transmission Provider shall use Reasonable Efforts to assist Interconnection Customer in such actions.

**13.7 Limited Liability.**

Except as otherwise provided in Article 11.6.1 of this LGIA, neither Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

**Article 14. Regulatory Requirements and Governing Law**

**14.1 Regulatory Requirements.**

Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act, the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978.

**14.2 Governing Law.**

**14.2.1** The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.

**14.2.2** This LGIA is subject to all Applicable Laws and Regulations.

**14.2.3** Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

## **Article 15. Notices.**

### **15.1 General.**

Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party in writing to the other shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings.

Either Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change.

### **15.2 Billings and Payments.**

Billings and payments shall be sent to the addresses set out in Appendix F.

### **15.3 Alternative Forms of Notice.**

Any notice or request required or permitted to be given by a Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F.

### **15.4 Operations and Maintenance Notice.**

Each Party shall notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

## **Article 16. Force Majeure**

### **16.1 Force Majeure.**

**16.1.1** Economic hardship is not considered a Force Majeure event.

**16.1.2** Neither Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be

required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

## **Article 17. Default**

### **17.1 Default**

#### **17.1.1 General.**

No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act of omission of the other Party. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party. Except as provided in Article 17.1.2, the breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

#### **17.1.2 Right to Terminate.**

If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, the non-breaching Party shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this LGIA, to recover from the breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this LGIA.

## **Article 18. Indemnity, Consequential Damages and Insurance**

### **18.1 Indemnity.**

The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inactions of its obligations under this LGIA on behalf of the Indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

#### **18.1.1 Indemnified Person.**

If an Indemnified Person is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying

Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**18.1.2 Indemnifying Party.**

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this Article 18, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

**18.1.3 Indemnity Procedures.**

Promptly after receipt by an Indemnified Person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Person shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the Indemnifying Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the Indemnifying Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses.

The Indemnified Person shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be reasonably withheld, conditioned or delayed.



**18.2 Consequential Damages.**

Other than the Liquidated Damages heretofore described, in no event shall either Party be liable under any provision of this LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

**18.3 Insurance.**

Each party shall, at its own expense, maintain in force throughout the period of this LGIA, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state where the Point of Interconnection is located:

- 18.3.1** Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the state in which the Point of Interconnection is located.
- 18.3.2** Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 18.3.3** Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- 18.3.4** Excess Public Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.
- 18.3.5** The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as

additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group and provide thirty (30) Calendar Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

- 18.3.6** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.
- 18.3.7** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 18.3.8** The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this LGIA.
- 18.3.9** Within ten (10) days following execution of this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.
- 18.3.10** Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade or better by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this article, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

- 18.3.11** The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this LGIA.

## **Article 19. Assignment**

### **19.1 Assignment.**

This LGIA may be assigned by either Party only with the written consent of the other; provided that either Party may assign this LGIA without the consent of the other Party to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that Interconnection Customer shall have the right to assign this LGIA, without the consent of Transmission Provider, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that Interconnection Customer will promptly notify Transmission Provider of any such assignment. Any financing arrangement entered into by Interconnection Customer pursuant to this article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify Transmission Provider of the date and particulars of any such exercise of assignment right(s), including providing the Transmission Provider with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

## **Article 20. Severability**

### **20.1 Severability.**

If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if Interconnection Customer (or any third party, but only if such third party is not acting at the direction of Transmission Provider) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

## **Article 21. Comparability**

### **21.1 Comparability.**

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

## **Article 22. Confidentiality**

### **22.1 Confidentiality.**

Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by either Party, the other Party shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

Transmission Provider may perform study work using WECC data (power flow, stability, and disturbance monitoring data) for nonmembers provided that the WECC data are not provided to the nonmember. Under such arrangements the nonmembers are permitted to look at the data in the Transmission Provider's office to gain an understanding of the study results, but are not permitted to have the data or a copy of the data. Interconnection Customer must also sign the WECC Nonmember Confidentiality Agreement in accordance with regional Reliability Council policies.

#### **22.1.1 Term.**

During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

#### **22.1.2 Scope.**

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of the LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any

legal proceeding establishing rights and obligations under this LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

**22.1.3 Release of Confidential Information.**

Neither Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by the Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be or considering providing financing to or equity participation with Interconnection Customer, or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

**22.1.4 Rights.**

Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by either Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

**22.1.5 No Warranties.**

By providing Confidential Information, neither Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, neither Party obligates itself to provide any particular information or Confidential Information to the other Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

**22.1.6 Standard of Care.**

Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this LGIA or its regulatory requirements.

**22.1.7 Order of Disclosure.**

If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or

waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

#### **22.1.8 Termination of Agreement.**

Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

#### **22.1.9 Remedies.**

The Parties agree that monetary damages would be inadequate to compensate a Party for the other Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

#### **22.1.10 Disclosure to FERC, its Staff, or a State.**

Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 CFR section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 CFR section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Party to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Party to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time either of the Parties may respond before such information would be made

public, pursuant to 18 CFR section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

**22.1.11** Subject to the exception in Article 22.1.10, any information that a Party claims is competitively sensitive, commercial or financial information under this LGIA (“Confidential Information”) shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party’s Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

## **Article 23. Environmental Releases**

### **23.1 Environmental Releases.**

Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

## **Article 24. Information Requirements**

### **24.1 Information Acquisition.**

Transmission Provider and Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.

**24.2 Information Submission by Transmission Provider.**

The initial information submission by Transmission Provider shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include Transmission System information necessary to allow Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Parties. On a monthly basis Transmission Provider shall provide Interconnection Customer a status report on the construction and installation of Transmission Provider's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

**24.3 Updated Information Submission by Interconnection Customer.**

The updated information submission by Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Interconnection Customer shall submit a completed copy of the Large Generating Facility data requirements contained in Appendix 1 to the LGIP. It shall also include any additional information provided to Transmission Provider for the Facilities Study. Information in this submission shall be the most current Large Generating Facility design or expected performance data. Information submitted for stability models shall be compatible with Transmission Provider standard models. If there is no compatible model, Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If Interconnection Customer's data is materially different from what was originally provided to Transmission Provider pursuant to the Interconnection Study Agreement between Transmission Provider and Interconnection Customer, then Transmission Provider will conduct appropriate studies to determine the impact on Transmission Provider Transmission System based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed.

**24.4 Information Supplementation.**

Prior to the Operation Date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Large Generating Facility information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit "step voltage" test on the Large Generating Facility to verify proper operation of the Large Generating Facility's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent change in Large Generating Facility terminal voltage initiated by a change in the voltage regulators reference voltage. Interconnection Customer shall



provide validated test recordings showing the responses of Large Generating Facility terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Large Generating Facility's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Large Generating Facility terminal or field voltages is provided. Large Generating Facility testing shall be conducted and results provided to Transmission Provider for each individual generating unit in a station.

Subsequent to the Operation Date, Interconnection Customer shall provide Transmission Provider any information changes due to equipment replacement, repair, or adjustment. Transmission Provider shall provide Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Transmission Provider-owned substation that may affect Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

## **Article 25. Information Access and Audit Rights**

### **25.1 Information Access.**

Each Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA.

### **25.2 Reporting of Non-Force Majeure Events.**

Each Party (the "notifying Party") shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.

### **25.3 Audit Rights.**

Subject to the requirements of confidentiality under Article 22 of this LGIA, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either Party's performance or either Party's satisfaction of obligations under this LGIA. Such audit rights shall include audits of the other Party's costs, calculation of invoiced amounts, Transmission Provider's efforts to allocate responsibility for the provision of reactive support to the Transmission System, Transmission Provider's efforts to allocate responsibility for interruption or reduction of generation on the

Transmission System, and each Party's actions in an Emergency Condition. Any audit authorized by this article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each Party's performance and satisfaction of obligations under this LGIA. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

## **25.4 Audit Rights Periods.**

### **25.4.1 Audit Rights Period for Construction-Related Accounts and Records.**

Accounts and records related to the design, engineering, procurement, and construction of Transmission Provider's Interconnection Facilities and Network Upgrades shall be subject to audit for a period of twenty-four months following Transmission Provider's issuance of a final invoice in accordance with Article 12.2.

### **25.4.2 Audit Rights Period for All Other Accounts and Records.**

Accounts and records related to either Party's performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought.

## **25.5 Audit Results.**

If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

## **Article 26. Subcontractors**

### **26.1 General.**

Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

### **26.2 Responsibility of Principal.**

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall Transmission Provider be liable for the actions or inactions of Interconnection Customer or its subcontractors with respect to obligations of Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall

be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

**26.3 No Limitation by Insurance.**

The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

**Article 27. Disputes**

**27.1 Submission.**

In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute").

Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.

**27.2 External Arbitration Procedures.**

Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

**27.3 Arbitration Decisions.**

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be

final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

**27.4 Costs.**

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**Article 28. Representations, Warranties, and Covenants**

**28.1 General.**

Each Party makes the following representations, warranties and covenants:

**28.1.1 Good Standing.**

Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.

**28.1.2 Authority.**

Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

**28.1.3 No Conflict.**

The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

**28.1.4 Consent and Approval.**

Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

**Article 29. Joint Operating Committee****29.1 Joint Operating Committee.**

Except in the case of ISOs and RTOs, Transmission Provider shall constitute a Joint Operating Committee to coordinate operating and technical considerations of Interconnection Service. At least six (6) months prior to the expected Initial Synchronization Date, Interconnection Customer and Transmission Provider shall each appoint one representative and one alternate to the Joint Operating Committee. Each Interconnection Customer shall notify Transmission Provider of its appointment in writing. Such appointments may be changed at any time by similar notice. The Joint Operating Committee shall meet as necessary, but not less than once each calendar year, to carry out the duties set forth herein. The Joint Operating Committee shall hold a meeting at the request of either Party, at a time and place agreed upon by the representatives. The Joint Operating Committee shall perform all of its duties consistent with the provisions of this LGIA. Each Party shall cooperate in providing to the Joint Operating Committee all information required in the performance of the Joint Operating Committee's duties. All decisions and agreements, if any, made by the Joint Operating Committee, shall be evidenced in writing. The duties of the Joint Operating Committee shall include the following:

- 29.1.1** Establish data requirements and operating record requirements.
- 29.1.2** Review the requirements, standards, and procedures for data acquisition equipment, protective equipment, and any other equipment or software.
- 29.1.3** Annually review the one (1) year forecast of maintenance and planned outage schedules of Transmission Provider's and Interconnection Customer's facilities at the Point of Interconnection.
- 29.1.4** Coordinate the scheduling of maintenance and planned outages on the Interconnection Facilities, the Large Generating Facility and other facilities that impact the normal operation of the interconnection of the Large Generating Facility to the Transmission System.
- 29.1.5** Ensure that information is being provided by each Party regarding equipment availability.
- 29.1.6** Perform such other duties as may be conferred upon it by mutual agreement of the Parties.

## **Article 30. Miscellaneous**

### **30.1 Binding Effect.**

This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

### **30.2 Conflicts.**

In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.

### **30.3 Rules of Interpretation.**

This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the LGIP or such Appendix to the LGIP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

### **30.4 Entire Agreement.**

This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this LGIA.

### **30.5 No Third Party Beneficiaries.**

This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

**30.6 Waiver.**

The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by Interconnection Customer shall not constitute a waiver of Interconnection Customer's legal rights to obtain an interconnection from Transmission Provider. Any waiver of this LGIA shall, if requested, be provided in writing.

**30.7 Headings.**

The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.

**30.8 Multiple Counterparts.**

This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

**30.9 Amendment.**

The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by the Parties.

**30.10 Modification by the Parties.**

The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

**30.11 Reservation of Rights.**

Transmission Provider shall have the right to make a unilateral filing with FERC to modify this LGIA with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

**30.12 No Partnership.**

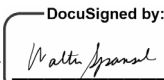
This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right,

power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.



**IN WITNESS WHEREOF**, the Parties have executed this LGIA in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

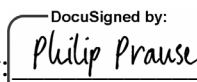
**Sierra Pacific Power Company d/b/a NV Energy**

By:  6903BABC3E894A4...

Title: Vice President, Transmission Officer

Date: 9/20/2017

**Battle Mountain SP, LLC**

By:  1D281B44F16044A...

Title: Director Project Development

Date: 20.09.2017

## **LGIA Appendix A: Interconnection Facilities, Network Upgrades and Distribution Upgrades**

**BATTLE MOUNTAIN SP, LLC. – Company GV**

**Type of Interconnection Service:** Network Resource Interconnection Service

**Generating Facility Capacity:** 101 MW net at the Point of Interconnection

**Total Generating Facility Nameplate Rating:** 114.4 MVA gross from fifty-two (52) 2.2 MVA SMA Sunny Central 2200-US inverters

**Point of Interconnection:**

The Point of Interconnection will be the point where the Interconnection Customer's 120 kV generator lead line from the Battle Mountain SP Substation meets the proposed Izzenhood 120 kV switching station on the Transmission Provider's 120 kV Battle Mountain – Valmy #120 line. See Appendix C.

**Point of Change of Ownership:**

The Point of Change of Ownership will be the point where the Interconnection Customer's 120 kV generator lead line terminates on the Transmission Provider-owned termination structure located adjacent to the Izzenhood 120 kV switching station. See Appendix C.

**Nominal Delivery Voltage:** 120 kV

**Metering Voltage:** 120 kV

## 1. Interconnection Facilities

### (a) Interconnection Customer's Interconnection Facilities: -

#### 1) Interconnection Customer Generation Facility Requirements, Facility to Include:

- a. Adequate electrical protection of the Generating Facility;
- b. Fifty-two (52) 2.2 MVA SMA Sunny Central 2200-US inverters;
- c. One (1) 120/34.5 kV 125 MVA generator step-up transformer (GSU), located at the Interconnection Customer's Battle Mountain SP Substation; and
- d. One (1) 120 kV breaker at the Battle Mountain SP Substation, located on the high side of the main GSU transformer. See Appendix C;

#### 2) Interconnection Customer Generator Lead Line Requirements, Lead Line to Include:

- a. Approximately 1,500 feet of 1-795 Aluminum Conductor Steel Reinforced (ACSR) (per phase) from the Battle Mountain SP 120/34.5 kV Substation to the 120 kV termination structure. The termination structure's preliminary location is:
  - i. 40.712768°, -117.071264°
- b. Overhead lead line to be designed with static wire(s) and adequate overvoltage protection from lightning surges;
- c. Lead-line and structures to be built in accordance with Good Utility Practices; and
- d. Fiber Optic Cable as described by the interconnection communications requirements.

#### 3) Interconnection Customer Generating Facility Protection Requirements:

- a. Interconnection Customer will install generator facility and 120 kV generator lead line protection relays at the Interconnection Customer's site.
  - i. Lead line protection relays must be compatible with the SEL 421 and SEL-311-L line protection relays that the Transmission Provider will install at the Izzenhood Switching Station;
  - ii. Line protection will be a communication aided scheme utilizing two (2) digital high speed protection communication circuits between the Izzenhood 120 kV substation and the Battle Mountain SP substation.
- b. The Interconnection Customer must submit the protection and communications plan to the Transmission Provider for review and concurrence prior to construction; and
- c. The Interconnection Customer must install a breaker failure scheme for the high-side breaker that will key a direct trip signal to the Transmission Provider's Izzenhood switching station.

#### 4) Interconnection Customer's Communication Requirements:

- a. Interconnection Customer will install Fiber Optic Cable capable of providing at least two (2) communications circuits for high-speed protection communications on the generator lead-line.
  - i. Fiber communications will facilitate communications between the Interconnection Customer's protection relays at Battle Mountain SP Substation and the Transmission Provider's protection relays at Izzenhood switching station;

- ii. The Interconnection Customer will install the fiber optic cable from the Battle Mountain SP site to the Point of Change of Ownership termination structure outside of the Izzenhood switching station.
  - iii. The Interconnection Customer will leave sufficient fiber optic cable remaining at the Point of Change of Ownership termination structure to allow for the fiber to be installed from the Point of Change of Ownership to the Izzenhood Switching Station control room. The Transmission Provider will install the remaining fiber optic cable from the Point of Change of Ownership to the Izzenhood Switching Station control enclosure.
- b. Interconnection Customer will provide and deliver a T-1 service along with any T-1 circuit isolation gear required by the local T-1 provider;
  - i. The T-1 line will originate at the Transmission Provider's telecommunications equipment location at the Interconnection Customer's facility and terminate at a place to be specified by the Transmission Provider;
  - ii. The dedicated T-1 leased telecommunications line must be provided by the customer for the Transmission Provider's Telephony, SCADA, Metering and Protection requirements and use;
- c. Interconnection Customer will provide a ring down phone and/or 24-hour contact for Transmission Provider Energy System Control Center (ESCC);
- d. Interconnection Customer will provide one dial up telephone line continuously capable of a 9600 baud rate minimum at any given time for the new 120 kV meter that will be located at the Battle Mountain Substation as indicated in Appendix C;
  - i. Note: If the ring down phone and metering telecommunication circuits are via copper circuits and connecting to Transmission Provider telecom equipment, then Ground Protection Rise isolation is required and is the responsibility of Interconnection Customer, per applicable industry standards.
- e. Interconnection Customer will provide a temperature-controlled space located in the control room at the Interconnection Customer's Generating Facility;
  - i. The area will include two (2) 8-foot tall 26-inch wide racks or cabinets for the Transmission Provider's communications and protection equipment to be installed at the Interconnection Customer's plant. A minimum working space of three feet is required to be provided on front and back of these racks. Provisions for the following must be made:
    - a) Interconnection Customer will provide two (2) Direct Current (DC) load centers dedicated to Transmission Provider's communication equipment at a minimum of 20 Amperes each. The DC voltage will be identified during the coordination meetings between Interconnection Customer and Transmission Provider. These load centers are to provide both primary and back-up power sources for the Transmission Provider's equipment; and
    - b) Conduit and/or cable trays to provide connectivity from the Transmission Provider's rack space area to Interconnection Customer's main telecommunications board.
- f. Interconnection Customer will provide a 125 volt DC Battery backup with a minimum of twelve hour support; and
- g. Detailed Communications and Protection Requirements are outlined in Appendix C.

**5) Interconnection Customer's Generating Facility Metering Requirements:**

- a. The 120 kV meter will be located on the high-side of the Interconnection Customer's transformer at the Interconnection Customer's Substation;
- b. Interconnection Customer will transport and install the 120 kV metering instrument transformers (CT's and PT's) provided by the Transmission Provider, connect the primary leads, and run the secondary leads to the metering structure;
- c. Interconnection Customer will design, purchase and install a Transmission Provider approved structure for mounting the Transmission Provider's metering units, meter class instrument transformers (PTs and CTs) in a Transmission Provider approved location. The meter structure with the installed metering instruments must be designed to meet the Transmission Provider's safety clearances, standard design requirements, and accessibility to the Transmission Provider's meter personnel. Drawings, design calculations, and equipment shall be reviewed and approved by the Transmission Provider prior to installation;
  - i. Separate communications and power cabling is required through separate conduits.
  - ii. Provide appropriately sized junction/pullbox at the meter structure and install one and a half inch diameter conduits for termination of CT/PT wirings. Install 1-3" diameter conduit from the junction/pullbox to meter enclosure at NVE room. Cables and wirings for metering shall be provided and pulled by the Interconnection Customer per Transmission Provider's sizing and specification.
- d. Interconnection Customer will provide a dedicated 125 V DC circuit and phone line to the meter; and
- e. Spare Instrument Transformers:
  - i. Spare instrument transformers may be procured by the Transmission Provider to provide back-up metering capability at the Interconnection Customer's expense.
  - ii. The Interconnection Customer has elected **not** to purchase spare instrument transformers and accepts the associated risk.
  - iii. The associated risk of not purchasing spare instrument transformers in the event of instrument transformer failure includes prolonged outages (approximately 6 months) and additional costs for expedited ordering and shipping.

**6) Interconnection Customer's Permitting Requirements:**

- a. Interconnection Customer to submit draft copies of all relevant Federal, State, County and local land use permitting and Right-Of-Way applications to the Transmission Provider for review and concurrence **prior** to submittal to the applicable agency.
  - i. Failure to secure Transmission Provider's concurrence prior to submittal of permitting or Right-of-Way applications to the respective agency can result in requiring the Interconnection Customer to resubmit or amend permitting documentation to meet Transmission Provider's satisfaction which may delay the project In-Service schedule significantly.
  - ii. The Transmission Provider's concurrence shall not be unreasonably withheld, conditioned, or delayed.
- b. Subsequent to receiving Transmission Provider's concurrence, the Interconnection Customer will acquire all Federal, State, County, and Local land use and environmental permits and authorizations required in order to build, operate, and

- maintain the Generating Facility, Interconnection Customer Interconnection Facilities, Transmission Provider's Interconnection Facilities, and Distribution Upgrades including (but not limited to):
- i. All related plant facilities including fencing, grading and access roads;
  - ii. All permits required to interconnect the Interconnection Customer's generator lead-line to the Transmission Provider Interconnection Facilities at the Point of Change of Ownership;
  - iii. All authorizations and/or assignments related to Interconnection Customer's rights under Interconnection Customer's Federal Right of Way (ROW) Grant which authorizes Transmission Provider to install or otherwise take necessary action to interconnect Transmission Provider's Interconnection Facilities associated with this project.
  - iv. All Federal Aviation Administration determination of no hazard or other applicable FAA approvals, as required;
  - v. All State Lands, roadway, and environmental permits
  - vi. All dust control permits;
  - vii. All storm water permits;
  - viii. All Special Use Permits, applicable Variances, and other similar permits;
  - ix. All reclamation activities completed and accepted by appropriate agencies;
  - x. Any other land rights as deemed necessary by Transmission Provider to perform its obligations under this Agreement, with such land rights being granted on a form reasonably acceptable to Transmission Provider;
- c. Interconnection Customer shall obtain all private land rights required for interconnection project.
- i. Interconnection Customer shall secure Fee Title in the name of the Transmission Provider for substation and other interconnection facilities as deemed necessary.
  - ii. Interconnection Customer shall secure permanent access rights to said substation and interconnection facilities by Fee Title or easement in the name of the Transmission Provider as deemed necessary.
- d. All Federal authorizations including the Standard Form-299 (SF-299) application. The SF-299 application will include, among other things:
- a) All access roads to the 120 kV Line Fold, Izzenhood 120 kV switching station, and Battle Mountain SP 120 kV Substation;
  - b) Access roads must be an all-weather, adequate access road, minimum 20 feet in width or an approved width by Transmission Provider; and
  - c) All required BLM authorizations to accommodate the 120 kV line fold.
  - d) Final Plan of Development and SF299 to be reviewed and approved by Transmission Provider *prior to* submittal to BLM; and
- e. Interconnection Customer will acquire the Utility Environmental Protection Act (UEPA) permit for all the facilities required for the Interconnection inclusive of the following:
- i. Interconnection Customer Interconnection Facilities;
  - ii. Transmission Provider Interconnection Facilities; and
  - iii. Distribution Upgrades.

- a) Interconnection Customer must coordinate with the Transmission Provider for the UEPA requirements for the Transmission Provider Interconnection Facilities and Distribution Upgrades;
- b) The Transmission Provider will provide to the Interconnection Customer a detailed description of the facilities required inclusive of scope, costs and schedule, per the milestones in Appendix B;
- c) The Interconnection Customer will include the description provided by the Transmission Provider in the UEPA submittal; and prior to construction, the Interconnection Customer will transfer the UEPA Permit to Construct for the Transmission Provider Interconnection Facilities and the Distribution Upgrades to the Transmission Provider.
- f. Transmission Provider shall cooperate with Interconnection Customer's efforts to obtain relevant permits.
- g. Once the project is built and operational, the Interconnection Customer will support Transmission Provider, to the extent necessary, in obtaining all documentation related to the assignment of the necessary rights under BLM ROW Grant obtained by the Interconnection Customer. The assignment of the necessary rights under Interconnection Customer's BLM ROW Grant will include the area impacted by the Transmission Provider's Interconnection Facilities associated with this project; an application will be submitted once the Transmission Provider is satisfied that all environmental and other stipulations have been met (i.e., work areas have been adequately restored, plants have been salvaged appropriately, Section 7 form completed and submitted back to the BLM post –construction etc.)
  - i. The Interconnection Customer will finalize and execute the BLM Right of Way application and assignment document within 60 days of the energization of the Transmission Provider Interconnection Facilities;
  - ii. The Interconnection Customer will support the Transmission Provider, to the extent necessary, in obtaining all documentation related to the assignment of the necessary rights under BLM ROW Grant obtained by the Interconnection Customer once the project construction is complete;
  - iii. The assignment of the necessary rights under Interconnection Customer's BLM ROW Grant will include the area impacted by Transmission Provider's Interconnection Facilities and Network Upgrades associated with this project. See Appendix C.
- h. The Interconnection Customer and the Transmission Provider will execute an Access to Equipment Agreement to secure Transmission Provider's access to communications and metering equipment located at the Interconnection Customer Generating Facility sites. The Transmission Provider will record the Access to Equipment Agreement with the Lander County Recorder.
- i. The Interconnection Customer will provide 24 hour access to all of Transmission Provider's facilities without limitations, upon reasonable notice from Transmission Provider and subject to Interconnection Customer's safety and other applicable procedures.

**(b) Transmission Provider's Interconnection Facilities:**

**1) 120 kV Substation Entrance, termination structure and switch:**

- a. Transmission Provider will design, procure and install a 120 kV transmission getaway from Izzenhood Substation;
- b. Transmission Provider will design, procure and construct three new 120 kV structures: a dead-end single pole structure, a 120 kV switch structure, and a dead end single pole structure with locations for the Interconnection Customer to connect to the structure. The structures will allow for the installation of 1-795 ACSR (per phase) from the getaway to the termination structure outside the Izzenhood 120 kV Substation area.

**2) Telecommunications at the Battle Mountain SP Site:**

- c. Transmission Provider will purchase and install one (1) Remote Terminal Unit (RTU) and necessary communications equipment for the required SCADA from the new Battle Mountain SP Generating Facility;
- d. Transmission Provider will purchase and install a multiplexer on the T-1 line for the Battle Mountain SP Generating Facility;
- e. Transmission Provider will purchase and install miscellaneous communication cables and link equipment as required;
- f. Transmission Provider will install Interconnection Customer's remaining fiber optic cable from the Point of Change of Ownership to the Izzenhood Switching Station; and
- g. Transmission Provider will review, coordinate with and provide acceptance for the Interconnection Customer's engineered 120 kV lead line protection.

**3) Metering at the Battle Mountain SP Site:**

- h. Transmission Provider will purchase metering class current transformers and potential transformers (CT's and PT's) and provide them to the Interconnection Customer at the Transmission Provider's warehouse for transportation and installation; and
- i. Transmission Provider will purchase and install a metering enclosure with one (1) ION revenue quality meter at the Interconnection Customer's Generating Facility compensated to the Point of Interconnection.

**4) Lands Interface and Access to Equipment Agreement:**

- j. Transmission Provider will review Interconnection Customer's plant site permitting documents and provide support in relation to Transmission Provider's facilities at the plant site.
- k. Transmission Provider will draft and execute an Access to Equipment Agreement with the Interconnection Customer.

**2. Network Upgrades (NU):**

**(a) Stand Alone Network Upgrades:**

**1) None**

**(b) Individual Network Upgrades:**

**1) None**



**(c) Shared Network Upgrades:****1) None****(d) Distribution Upgrades:****1) Izzenhood 120 kV Switching Station:**

- i. Transmission Provider will design, procure, and construct a new three (3) breaker 120 kV switching station in a ring configuration adjacent to the existing Valmy – Battle Mountain 120 kV Line. The switching station will include:
  - i. Three (3) 120 kV breakers and associated bus work;
  - ii. New control enclosure;
  - iii. Appropriate grading, fencing, and drainage; and
  - iv. Access roads sufficient to provide 24 hour access all year long
    - a) Roads may be built in cooperation with Interconnection Customer's access roads with approval by the Transmission Provider
  - v. The preliminary location for "Izzenhood Switching Station" is:
    - a) 40.712790°, -117.066274°
    - b) The actual switching station location will be determined by the Transmission Provider prior to Interconnection Customer's initiation of permitting, design, and construction.

**2) Electromechanical Relay Replacements**

- a. The Transmission Provider will change settings on the existing electromechanical relays at Battle Mountain 120 kV Substation with SEL digital relays.
- b. The Transmission Provider will replace the existing electromechanical relays at Valmy 120 kV Substation with SEL digital relays.

**3) 120 kV Battle Mountain-Valmy Line Fold:**

- a. The Transmission Provider will construct an eight (8) pole 120 kV line fold of the Valmy – Battle Mountain 120 kV Line into the proposed Izzenhood switching station.

**4) Communications at Izzenhood Substation**

- a. The Transmission Provider will design, procure and install a Remote Terminal Unit (RTU) and all necessary communications equipment at Izzenhood Switching Station.
- b. Transmission Provider to install SCADA required for protection equipment and connection to fiber optic cable at Izzenhood 120 kV switching station.

**5) Lands and Right of Way Permitting Review**

- a. Transmission Provider will review Interconnection Customer's permitting and Right-of-Way documents and provide support towards the Interconnection Customer's efforts to acquire adequate permitting and Right-of-Way for Transmission Provider's facilities.

**6) Environmental Permitting Review**

- a. Transmission Provider will review Interconnection Customer's environmental permitting documents and provide support towards the Interconnection Customer's efforts to acquire adequate environmental permitting for Transmission Provider's facilities.

### **3. Affected System Upgrades:**

- (a) Affected System Upgrades – The following Affected System Upgrades have been determined to be needed in order to mitigate disturbances on and maintain the reliability of Affected Systems directly or indirectly interconnected to Transmission System.

- 1) None

### **4. Ownership:**

- (a) Upon completion of construction, the Parties shall have ownership of the facilities as follows:

- 1) Interconnection Customer's Interconnection Facilities shall be owned by the Interconnection Customer;
- 2) Transmission Provider's Interconnection Facilities shall be owned by the Transmission Provider;
- 3) Stand Alone Network Upgrades shall be owned by the Transmission Provider;
- 4) Network Upgrades shall be owned by the Transmission Provider; and
- 5) Distribution Upgrades shall be owned by the Transmission Provider.

### **5. Operation and Maintenance Responsibilities:**

- (a) Upon completion of construction, the Parties shall have responsibilities for operation and maintenance of the Interconnection Facilities, Network Upgrades and Distribution Upgrades as follows:

- 1) Interconnection Customer's Interconnection Facilities shall be operated and maintained by the Interconnection Customer;
- 2) Transmission Provider's Interconnection Facilities shall be operated and maintained by the Transmission Provider and paid for by the Interconnection Customer;
- 3) Stand Alone Network Upgrades shall be operated and maintained by the Transmission Provider;
- 4) Network Upgrades shall be operated and maintained by the Transmission Provider; and
- 5) Distribution Upgrades shall be operated and maintained by the Transmission Provider.

- (b) The Interconnection Customer shall be responsible for the payment of the actual costs incurred by the Transmission Provider for operation and maintenance of the Transmission Provider's Interconnection Facilities consistent with Article 10.5 of this Agreement.

**6. Cost Estimate & Responsibilities:****(a) Interconnection Customer's Interconnection Facilities: Interconnection Customer.****(b) Transmission Provider's Interconnection Facilities:****1) \$ 385,000 - Interconnection Customer funded, Transmission Provider owned.**

<b>Project Component</b>	<b>Scope Description</b>	<b>TPIF \$M</b>
Transmission Lines	120 kV Getaway, Switch, and Dead-End	0.140
Communications and Protection	Install RTU at customer site, communications and protection coordination	0.115
Metering	120 kV Metering	0.115
Lands and Right-of-Way	Customer site Lands and Right-of-Way review and Access to Equipment Agreement	0.015
<b>TOTAL</b>		<b>0.385</b>

**All Costs will be trued to actual after the completion of the Project and all costs have been recorded, consistent with Article 12.2 of this LGIA and these estimates do not include any tax gross-up.**

**(c) Individual Network Upgrades (NU):**

**1) \$ 0 - Interconnection Customer shall provide security/collateral pursuant to Article 11 of the LGIA and Attachment L of the Open Access Transmission Tariff.**

**(d) Shared Network Upgrades:**

**1) \$ 0 - Interconnection Customer shall provide security/collateral pursuant to Article 11 of the LGIA and Attachment L of the Open Access Transmission Tariff.**

**All Costs will be trued to actual after the completion of the Project and all costs have been recorded. These estimates do not include any tax gross-up.**

**(e) Distribution Upgrades:**

**2) \$ 6,625,000 - Interconnection Customer funded, Transmission Provider owned.**

<b>Project Component</b>	<b>Scope Description</b>	<b>DU \$M</b>
Transmission Substation	New Three Breaker 120 kV Izzenhood switching station	5.000
Transmission Substation	Change existing settings on relays at Battle Mountain 120 kV Substation	0.030
Transmission Substation	Relay Replacement at Valmy 120 kV Substation	0.500
Transmission Lines	Battle Mountain-Valmy 120 kV Line Fold into Izzenhood switching station	0.215
Communications and Protection	Install RTU and communications at Izzenhood switching station	0.750
Lands and Right-of-Way	Lands and Right-of-Way Permitting Review	0.025
Environmental	Environmental Permitting Review	0.105
<b>TOTAL</b>		<b>6.625</b>

**All Costs will be trued to actual after the completion of the Project and all costs have been recorded. These estimates do not include any tax gross-up.**

**7. Appendix G: Interconnection Requirements for a Wind Generating Plant**

**(a)** The Parties agree that Appendix G is not applicable.

## LGIA Appendix B: Milestones

<b>Interconnection Customer's Project Milestones</b>		
<u>1</u>	Interconnection Customer to provide \$ 100,000 Cash for TPIF Preliminary Project Management	upon execution
<u>2</u>	Interconnection Customer to provide Transmission Provider with certification of all insurance pursuant to Article 18.3.9 of the LGIA	Within 10 business days of execution
<u>3</u>	Pursuant to Section 11.3 of the LGIP the Interconnection Customer shall provide either (a) reasonable evidence that continued Site Control or (b) posting of \$250,000 non-refundable additional security which shall be applied toward future construction costs	within 15 Business Days of execution of this LGIA
<u>4</u>	Interconnection Customer to provide Transmission Provider with drafts of all right-of-way and permitting applications for Transmission Provider equipment	Complete 12/15/16
<u>5</u>	Interconnection Customer to contact Transmission Provider to schedule regular project meetings	Complete 2/15/17
<u>6</u>	Interconnection Customer to initiate application for Telecommunications Service	Complete 2/7/17
<u>7</u>	Interconnection Customer to provide Transmission Provider with confirmation to proceed on Project Engineering and Design	Complete 3/2/17
<u>8</u>	Interconnection Customer to submit all required permit applications and/or amendments to permit applications for Transmission Provider equipment	Complete 4/3/17
<u>9a</u>	Interconnection Customer to provide \$ 100,000 Cash for DU project engineering and design	Complete 4/3/17
<u>9b</u>	Interconnection Customer to provide \$ 400,000 Cash for DU project engineering and design	Complete 4/28/17
<u>10</u>	Interconnection Customer to contact Transmission Provider to schedule Project Initiation and Confirmation Mtg.	Complete 2/15/17
<u>11</u>	Interconnection Customer to provide \$ 125,000 Cash for TPIF project engineering and design	Complete 2/15/17
<u>12</u>	Interconnection Customer to provide completed documentation (e.g. signed Right of Entries) to Transmission Provider allowing for site access, survey, and study work	Complete 6/30/17
<u>13</u>	Interconnection Customer to provide Transmission Provider with confirmation to proceed on Equipment Procurement	09/01/17
<u>14</u>	Interconnection Customer to provide Transmission Provider with input and approval on access road route	10/01/17
<u>15</u>	Interconnection Customer to provide fault current distribution data to the Transmission Provider for the Transmission Provider's design of the Izzenhood Substation	10/01/17
<u>16</u>	Interconnection Customer to provide \$ 1,500,000 Cash for DU equipment procurement	10/01/17
<u>17</u>	Interconnection Customer to provide final easement documents for the Izzenhood Substation, line fold, and access roads	10/15/17
<u>18</u>	Interconnection Customer to arrange meeting between Transmission Provider, Interconnection Customer and third parties to coordinate construction within third parties ROW	10/30/17
<u>19</u>	Interconnection Customer to provide Transmission Provider with approval for surface water flows from Izzenhood Switching Station through Interconnection Customer's property	11/01/17
<u>20</u>	Interconnection Customer to provide BLM issued Notice to Proceed (NTP) to Transmission Provider	11/15/17
<u>21</u>	Interconnection Customer to provide copy of the final environmental documents (i.e., EA, Cat Ex, POD, Restoration Plan) including any company-specify Interconnection Customer environmental compliance policies and the final BLM grants.	11/15/17

Agreed to by:

For the Transmission Provider

DocuSigned by:

*Natlie J. Jansal*

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Date 9/20/2017

For the Interconnection Customer

DocuSigned by:

*Philip Prause*

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Date 20.09.2017

<u>22</u>	Interconnection Customer to provide Transmission Provider with copies of completed permits from all required federal, state, county & local entities including, but not limited to, Right-of-Way Grant (BLM), final UEP (PUCN), Special Use Permits, Grading Permits, Building Permits, etc.	12/15/17
<u>23</u>	Interconnection Customer to provide \$ 160,000 Cash for TPIF equipment procurement/construction	01/01/18
<u>24</u>	Interconnection Customer to contact Transmission Provider to schedule initial coordination meeting for protection, system control, telecommunications, and metering to discuss Telemetry Points Worksheet	01/15/18
<u>25</u>	Interconnection Customer to complete access roads to Izzenhood Substation and accepted by Transmission Provider	03/01/18
<u>26</u>	Interconnection Customer to provide signed deed and easements for Izzenhood Substation, access roads, and the line fold to Transmission Provider	03/14/18
<u>27</u>	Interconnection Customer to provide Transmission Provider with confirmation to proceed on project construction	03/15/18
<u>28</u>	Interconnection Customer to provide signed Telemetry Points Worksheet to Transmission Provider	03/15/18
<u>29</u>	Interconnection Customer to provide completed Energy Imbalance Market Resource Data Template with attachments	03/15/18
<u>30</u>	Interconnection Customer to provide \$ 3,100,000 Cash for DU equipment procurement/construction	05/01/18
<u>31</u>	Interconnection Customer to provide Transformer (GSU) specification data to Transmission Provider	05/01/18
<u>32</u>	Interconnection Customer to provide One-line with Protection Scheme Descriptions and Relay Settings to Transmission Provider	06/01/18
<u>33</u>	Interconnection Customer to provide Control Room Preliminary Dimension Design to Transmission Provider	07/15/18
<u>34</u>	Interconnection Customer to provide \$ 1,525,000 Cash for DU equipment procurement/construction	09/01/18
<u>35</u>	Interconnection Customer to provide full access to Battle Mountain Solar Substation including subgrade complete and accepted by Transmission Provider	11/01/18
<u>36</u>	Interconnection Customer to Provide T-1 line from Generator Control Room ESCC	11/01/18
<u>37</u>	Interconnection Customer to provide Transformer (GSU) testing data to Transmission Provider	11/01/18
<u>38</u>	Interconnection Customer to complete all installations of conduits with pull strings and make available for Transmission Provider use	11/01/18
<u>39</u>	Interconnection Customer to provide DC load centers dedicated for Transmission Provider communications equipment and RTU	11/01/18
<u>40</u>	Interconnection Customer to complete Control Room construction with cable trays and conduits and provide full access to Transmission Provider	11/01/18
<u>41</u>	Interconnection Customer to Provide dial up line to meter	11/01/18
<u>42</u>	Interconnection Customer to complete installation of Generator Facility protection relays	11/01/18
<u>43</u>	Interconnection Customer to complete installation of Meter Structure including PT/CT installation and meter cabinet	11/01/18
<u>44</u>	Interconnection Customer to provide 125 Volt DC power to meter cabinet	11/01/18
<u>45</u>	Interconnection Customer to initiate application for Standby Service	12/01/18
<u>46</u>	Interconnection Customer to provide 24 hour access number to Transmission Provider or ring down line from Generator Control Room ESCC	01/01/19
<u>47</u>	Interconnection Customer to provide either: (1) documentation showing how the Interconnection Customer will meet the IRS Notice 88-129 and 2001-82 "Safe Harbor" provision or (2) Cash to the Transmission Provider for CIAC tax gross up for the Transmission Provider Interconnection Facilities at the applicable rate	01/01/19

Agreed to by:

For the Transmission Provider

DocuSigned by:

*Walter Sparsch*

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Date 9/20/2017

For the Interconnection Customer

DocuSigned by:

*Philip Prause*

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Date 20.09.2017

<b>48</b>	Interconnection Customer to complete Section 7 form and submit to BLM for "Transmission Provider Interconnection Facilities" - provide Transmission Provider copy of submittal for review	01/01/19
<b>49</b>	Interconnection Customer to complete Interconnection Customer Interconnection Facilities including the installation of 120 kV breaker, GSU transformer, and generator lead line.	01/01/19
<b>50</b>	Interconnection Customer to provide Transmission Provider operation plan for generator start up	01/01/19
<b>51</b>	Interconnection Customer to perform Facility Trip Testing - Provide notice to Transmission Provider	01/15/19
<b>52</b>	Pre-energization Meeting with Interconnection Customer and Transmission Provider to discuss draft Operating Procedures provided by Transmission Provider	01/15/19
<b>53</b>	Interconnection Customer to acknowledge in writing that all plant systems are adequately protected and have been tested prior to energization	01/15/19
<b>54</b>	Interconnection Customer to return signed final Operating Procedures provided by Transmission Provider	01/20/19
<b>55</b>	Interconnection Customer to execute Standby Service Agreement	At least one week prior to in-service date
<b>56</b>	<b>In-Service Date</b>	<b>02/01/19</b>
<b>57</b>	Interconnection Customer to complete Neighboring Entity Coordination Attestation	02/15/19
<b>58</b>	Interconnection Customer to execute an Access to Equipment Easement Agreement to the Transmission Provider for the Transmission Provider's Interconnection Facilities at the Interconnection's Customer's Plant Site.	02/15/19
<b>59</b>	Generator Testing Start Date - Provide notice to Transmission Provider	02/17/19
<b>60</b>	<b>Commercial Operation Date - Provide notice to Transmission Provider</b>	<b>03/15/19</b>
<b>61</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/20
<b>62</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/21
<b>63</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/22
<b>64</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/23
<b>65</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/24
<b>66</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/25
<b>67</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/26
<b>68</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/27
<b>69</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/28
<b>70</b>	Interconnection Customer to provide written notice to the Transmission Provider detailing how it continually meets the Safe Harbor Provision	03/15/29

Agreed to by:

For the Transmission Provider

DocuSigned by:

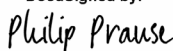


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Date 9/20/2017

For the Interconnection Customer

DocuSigned by:




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Date 20.09.2017


<b>Transmission Provider Milestones</b>		
<b><u>1</u></b>	Transmission Provider Interconnection Facilities and Distribution Upgrades Completed Provided that all necessary approvals by Governmental Authorities are received, Interconnection Customer's required facilities are constructed, tested and ready for service per Interconnection Customer milestones above, and the Interconnection Customer has provided required securities and notices to the Transmission Provider per Interconnection Customer milestones above.	<b>02/01/19</b>
<b><u>2</u></b>	Transmission Provider Interconnection Facilities Completed for COD Provided that all necessary approvals by Governmental Authorities are received, Interconnection Customer's required facilities are constructed, tested and ready for service per Interconnection Customer milestones above, and the Interconnection Customer has provided required securities and notices to the Transmission Provider per Interconnection Customer milestones above.	<b>03/15/19</b>

Agreed to by:

For the Transmission Provider

DocuSigned by:  
  
 6903BABC3E894A4... Date 9/20/2017

For the Interconnection Customer

DocuSigned by:  
  
 1D281B44F16044A... Date 20.09.2017



## **LGIA Appendix C: Interconnection Details**

**BATTLE MOUNTAIN SP, LLC. – Company GV**

**Type of Interconnection Service:** Network Resource Interconnection Service

**Generating Facility Capacity:** 101 MW net at the Point of Interconnection

**Total Generating Facility Nameplate Rating:** 114.4 MVA gross from fifty-two (52) 2.2 MVA SMA Sunny Central 2200-US inverters

**Point of Interconnection:**

The Point of Interconnection will be the point where the Interconnection Customer's 120 kV generator lead line from the Battle Mountain SP Substation meets the proposed Izzenhood 120 kV switching station on the Transmission Provider's 120 kV Battle Mountain – Valmy #120 line. See Appendix C.

**Point of Change of Ownership:**

The Point of Change of Ownership will be the point where the Interconnection Customer's 120 kV generator lead line terminates on the Transmission Provider-owned termination structure located adjacent to the Izzenhood 120 kV switching station. See Appendix C.

**Nominal Delivery Voltage:** 120 kV

**Metering Voltage:** 120 kV

## 1. Generating Facility Communications and Protection Requirements:

### 1. Communications Requirements—Generating Facility Telemetry:

- a. Generating Facility telemetry outputs:
  - i. Generator Plant total MW, MVAR, 3-phase amps, 3-phase volts (L-G referred to L-L) and accumulated MW-hr in and out. Fiber will be required if the distance between the meter and the Transmission Provider's RTU exceeds 1500 feet.
- b. Hard-wired open/closed indication for transformer circuit breaker/circuit switcher to Transmission Provider's ESCC;
- c. Plant transformer protection lockout status (one for each transformer, GSU, Unit Aux, or Station Service where connected to the POI high side bus);
- d. Tripped/Reset indication of all GSU and line protection lockouts – totalized so that there is one indication per GSU;
- e. Condition signal indicating percentage of plant output availability to ESCC Control Room on a continuous basis;
- f. Interconnection Customer to provide SCADA capability to transmit real-time data output from the weather measurement equipment of the solar PV plant (Global and Point of Array diffuse Solar Radiance, Ambient Temperature and Wind Speed). Data collection shall be provided by customer from each individual (if more than one) weather station totalized such that there is one indication per point. Customer shall provide data using Transmission Provider accepted protocol or hardwired directly to Transmission Provider's RTU;
- g. Interconnection Customer shall provide forecasted hourly solar plant energy production data consistent with WECC-defined operational planning requirements and Energy Imbalance Market<sup>1</sup> requirements, (up to a 1 week forecast) including updates to all forecast hourly output values no less frequently than once per calendar day. Such forecasts shall be based on numerical weather prediction (NWP) models. Interconnection Customer shall provide data using Transmission Provider accepted protocol directly to Transmission Provider.
- h. Interconnection Customer shall provide any environmental data that may impact the percentage of the Generating Facility output availability (i.e. low temperature, high wind and/or trip settings);
- i. Load Tap Changer (LTC) indication tap position and manual on/off indication (if GSUs are equipped with LTC);
- j. Note—RTU at plant to which output will be delivered is to be designated as the master RTU. The Interconnection Customer will supply an interface that will allow the Transmission Provider's RTU to be the master (polling) device.

### 2. Generating Facility control points – Transmission Provider will require the following control points:

- a. Trip control of transformer main 120 kV breaker (hard-wired)

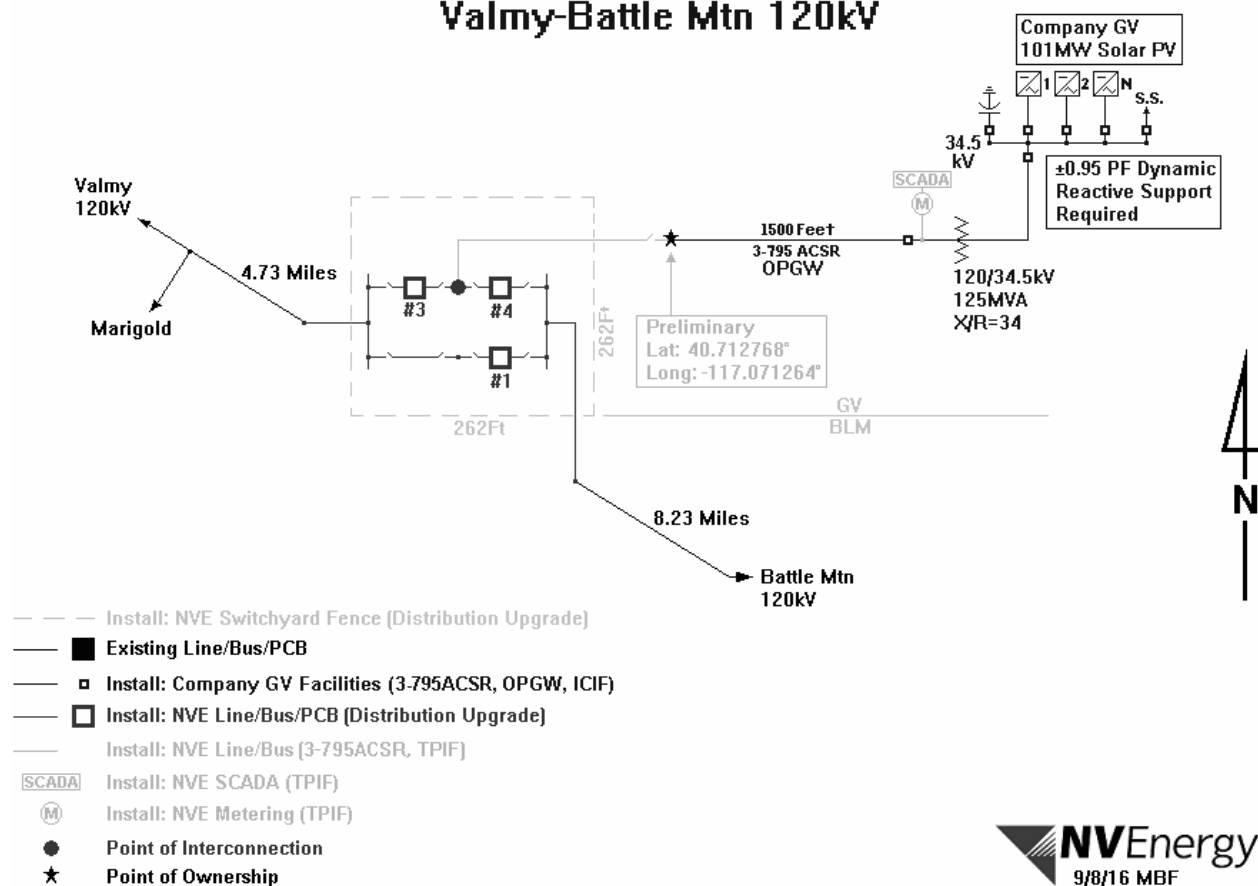
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<sup>1</sup> As defined in Section I.1.13D "Energy Imbalance Market (EIM)" of the Nevada Power Company Open Access Transmission Tariff.

3. Checklist of items that must be completed prior to proceeding with any start up and synchronization for Interconnection Customer's plant:
- a. Review by Transmission Provider of Interconnection Customer's protection settings for coordination purposes;
  - b. Interconnection Customer must perform both calibration and functional trip tests of its System Protection Facilities and report results back to Transmission Provider;
  - c. Complete communications required;
  - d. SCADA indications at plant substation operational with full Transmission Provider ESCC access;
  - e. Adequate voice communication at Interconnection Customer's substation (cell or land line at sub);
  - f. Transmission Provider to coordinate end to end trip test of the line protection between Izzenhood 120kV switching station and Interconnection Customer's main interrupting device(s);
  - g. Transmission Provider to trip test Interconnection Customer's main interrupting device(s) from the RTU control point;
  - h. Interconnection Customer to acknowledge in writing that all plant systems are adequately protected and have been tested; and
  - i. Interconnection Customer and Transmission Provider to have start up and in service process meetings one (1) week prior to start-up and in service event.

## LGIA Appendix C: One-Line Diagram

### Company GV Interconnection Valmy-Battle Mtn 120kV



## **LGIA Appendix D: Security Arrangements Details**

Infrastructure security of Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day Transmission System reliability and operational security. FERC will expect all Transmission Providers, market participants, and Interconnection Customers interconnected to the Transmission System to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

## **LGIA Appendix E: Commercial Operation Date**

This Appendix E is a part of the LGIA between Transmission Provider and Interconnection Customer.

**[Date]**

**[Transmission Provider Address]**

Re: \_\_\_\_\_ Large Generating Facility

Dear \_\_\_\_\_:

On **[Date]** **[Interconnection Customer]** has completed Trial Operation of Unit No. \_\_\_\_.  
This letter confirms that **[Interconnection Customer]** commenced Commercial Operation of Unit No. \_\_\_\_ at the Large Generating Facility, effective as of **[Date plus one day]**.

Thank you.

**[Signature]**

**[Interconnection Customer Representative]**

## **LGIA Appendix F: Addresses for Delivery of Notices and Billings**

### **Notices:**

Unless otherwise provided in this Agreement, any written notice demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national carrier service, or sent by first class mail, postage prepaid, to the person specified below:

#### **Transmission Provider**

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Manager, Transmission Business Services  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 775-834-4802 Fax: 775-834-3047  
E-Mail: [TransmissionPolicy@nvenergy.com](mailto:TransmissionPolicy@nvenergy.com)

#### **Interconnection Customer**

Interconnection Customer: Battle Mountain SP, LLC  
Attention: Philip Prause  
Address: 718 University Ave.  
City: Los Gatos State: CA Zip: 95032  
Phone: 855-475-6853 Fax: 877-580-4151  
E-Mail: [p.prause@gp-joule.com](mailto:p.prause@gp-joule.com)

### **Billings and Payments:**

Billings and payments shall be sent to the addresses set out below:

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Manager, Transmission Business Services  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 775-834-4802 Fax: 775-834-3047  
E-Mail: [TransmissionPolicy@nvenergy.com](mailto:TransmissionPolicy@nvenergy.com)

#### **Interconnection Customer**

Interconnection Customer: Battle Mountain SP, LLC  
Attention: Philip Prause  
Address: 718 University Ave.  
City: Los Gatos State: CA Zip: 95032  
Phone: 855-475-6853 Fax: 877-580-4151  
E-Mail: [p.prause@gp-joule.com](mailto:p.prause@gp-joule.com)

**Alternative Forms of Delivery of Notices (telephone, facsimile or email):**

Any notice or request required or permitted to be given by either party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

**Transmission Provider:**

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Associate Project Manager  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 775-834-4042 Fax: 775-834-3047  
E-Mail: [TransmissionPolicy@nvenergy.com](mailto:TransmissionPolicy@nvenergy.com)

**Interconnection Customer**

Interconnection Customer: Battle Mountain SP, LLC  
Attention: Philip Prause  
Address: 718 University Ave.  
City: Los Gatos State: CA Zip: 95032  
Phone: 855-475-6853 Fax: 877-580-4151  
E-Mail: [p.prause@gp-joule.com](mailto:p.prause@gp-joule.com)

**Designated Operating Executive:**

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

**Transmission Provider:**

Transmission Provider: Sierra Pacific Power Company d/b/a NV Energy  
Attention: Director, T&D System Operations  
Address: 6100 Neil Road or PO Box 10100  
City: Reno State: NV Zip: 89511  
Phone: 702-402-6601 Fax: 702-402-6631  
E-Mail: [ESCCOperations@nvenergy.com](mailto:ESCCOperations@nvenergy.com)

**Interconnection Customer**

Interconnection Customer: Battle Mountain SP, LLC  
Attention: Philip Prause  
Address: 718 University Ave.  
City: Los Gatos State: CA Zip: 95032  
Phone: 855-475-6853 Fax: 877-580-4151  
E-Mail: [p.prause@gp-joule.com](mailto:p.prause@gp-joule.com)

**Changes to the Notice Information**

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.



## **LGIA Appendix G: Interconnection Requirements For A Wind Generating Plant**

Appendix G sets forth requirements and provisions specific to a wind generating plant. All other requirements of this LGIA continue to apply to wind generating plant interconnections.

### **A. Technical Standards Applicable to a Wind Generating Plant**

#### **i. Low Voltage Ride-Through (LVRT) Capability**

A wind generating plant shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the standard below. The LVRT standard provides for a transition period standard and a post-transition period standard.

#### **Transition Period LVRT Standard**

The transition period standard applies to wind generating plants subject to FERC Order 661 that have either: (i) interconnection agreements signed and filed with the Commission, filed with the Commission in unexecuted form, or filed with the Commission as non-conforming agreements between January 1, 2006 and December 31, 2006, with a scheduled in-service date no later than December 31, 2007, or (ii) wind generating turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for delivery through 2007.

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the transmission provider. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15 p.u., as measured at the high side of the wind generating plant step-up transformer (i.e. the transformer that steps the voltage up to the transmission interconnection voltage or “GSU”), after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system.
2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU or to faults that would result in a voltage lower than 0.15 per unit on the high side of the GSU serving the facility.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.

4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator, etc.) within the wind generating plant or by a combination of generator performance and additional equipment.
5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

#### **Post-transition Period LVRT Standard**

All wind generating plants subject to FERC Order No. 661 and not covered by the transition period described above must meet the following requirements:

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the transmission provider. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system. A wind generating plant shall remain interconnected during such a fault on the transmission system for a voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.
2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator) within the wind generating plant or by a combination of generator performance and additional equipment.
5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

**ii. Power Factor Design Criteria (Reactive Power)**

A wind generating plant shall maintain a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this LGIA, if the Transmission Provider's System Impact Study shows that such a requirement is necessary to ensure safety or reliability. The power factor range standard can be met by using, for example, power electronics designed to supply this level of reactive capability 606 (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors if agreed to by the Transmission Provider, or a combination of the two. The Interconnection Customer shall not disable power factor equipment while the wind plant is in operation. Wind plants shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the System Impact Study shows this to be required for system safety or reliability.

**iii. Supervisory Control and Data Acquisition (SCADA) Capability**

The wind plant shall provide SCADA capability to transmit data and receive instructions from the Transmission Provider to protect system reliability. The Transmission Provider and the wind plant Interconnection Customer shall determine what SCADA information is essential for the proposed wind plant, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability in its area.