SERVICE AGREEMENT NO. 2856

SERVICE AGREEMENT NO. 2856

AMENDED AND RESTATED

ENGINEERING, PROCUREMENT, AND CONSTRUCTION AGREEMENT

AMONG THE

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

AND

ROCHESTER GAS AND ELECTRIC CORPORATION,

AND

HECATE ENERGY CIDER SOLAR, LLC

Dated as of August 12, 2025

(Sta. 255 Substation Upgrades for Cider Solar Project)

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ENGINEERING, PROCUREMENT, AND CONSTRUCTION AGREEMENT

THIS ENGINEERING, PROCUREMENT, AND CONSTRUCTION AGREEMENT ("Agreement") is made and entered into this 12th day of August 2025, by and among Hecate Energy Cider Solar, LLC, a limited liability company organized and existing under the laws of the State of Delaware ("Developer"), Rochester Gas and Electric Corporation, a corporation organized and existing under the laws of New York ("Affected System Operator"), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York ("NYISO"). Developer, the NYISO, or Affected System Operator each may be referred to as a "Party" or collectively referred to as the "Parties."

RECITALS

WHEREAS, Developer is developing a 500 MW photovoltaic solar farm, identified as the Cider Solar project with NYISO Interconnection Queue No. 811 ("Large Generating Facility"), that will interconnect to certain transmission facilities of the New York Power Authority ("Connecting Transmission Owner") that are part of the New York State Transmission System operated by the NYISO;

WHEREAS, the Large Generating Facility will interconnect at Connecting Transmission Owner's new Graham Substation, and the interconnection will have certain impacts on the Affected System owned by Affected System Operator;

WHEREAS, the Large Generating Facility is participating in the Interconnection Facilities Study for Class Year for 2021, and the Part 1 Study component of the Interconnection Facilities Study has preliminarily: (i) identified certain System Upgrade Facilities to be constructed on the Affected System owned by Affected System Owner to enable the Large Generating Facility to interconnect reliably to the New York State Transmission System in a manner that meets the NYISO Minimum Interconnection Standard ("Affected System Upgrade Facilities"), and (ii) identified the costs identified for the Affected System Upgrade Facilities;

WHEREAS, Developer has entered into a Large Generator Interconnection Agreement among the NYISO, Connecting Transmission Owner, and Developer concerning the interconnection of the Large Generating Facility prior to the completion of the Interconnection Facilities Study for Class Year 2021;

WHEREAS, in the Large Generator Interconnection Agreement, Developer has agreed to accept its Project Cost Allocation and to post the related Security for the System Upgrade Facilities identified for the Large Generating Facility in the Interconnection Facilities Study for Class Year 2021 in accordance with the requirements in the NYISO OATT, which facilities include the Affected System Upgrade Facilities;

WHEREAS, Developer provided Security to the Affected System Operator as part of the Interconnection Facilities Study process in Class Year 2021, to cover the final cost estimate identified in the study for the Affected System Upgrade Facilities;

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WHEREAS, Developer and Affected System Operator desire to have Affected System Operator perform, and Affected System Operator is willing to perform, the engineering, procurement, and construction services required to construct the Affected System Upgrade Facilities ("EPC Services") in accordance with the terms and conditions hereinafter set forth;

WHEREAS, Developer, Affected System Operator, and the NYISO have agreed to enter into this Agreement for the purpose of allocating the responsibilities for the performance and oversight of the EPC Services required to construct the Affected System Upgrade Facilities;

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

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 1 of the ISO OATT, Section 30.1 of Attachment X of the ISO OATT, Section 25.1.2 of Attachment S of the ISO OATT, or the body of this Agreement.

Affected System shall mean the electric system of the Affected System Operator that is affected by the Large Generating Facility.

Affected System Operator shall have the meaning set forth in the introductory paragraph.

Affected System Upgrade Facilities shall have the meaning set forth in the recitals and shall consist of the System Upgrade Facilities described in Appendix A of this Agreement.

Affiliate shall mean, with respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust or unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term "control" shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control.

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, including but not limited to Environmental Law.

Applicable Reliability Councils shall mean the ERO, the NPCC and the NYSRC.

Applicable Reliability Standards shall mean the requirements and guidelines of the Applicable Reliability Councils, and the Transmission District in which the Affected System Upgrade Facilities will be constructed, as those requirements and guidelines are amended and modified and in effect from time to time; provided that no Party shall waive its right to challenge the

applicability or validity of any requirement or guideline as applied to it in the context of this Agreement.

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ASO Estimated Total Costs shall be the costs for the engineering, procurement, and construction of the Affected System Upgrade Facilities, which costs have been finalized in the completed Interconnection Facilities Study for Class Year 2021.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Business Day shall mean Monday through Friday, excluding federal holidays.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Completion Date shall mean the date on which the Affected System Operator has completed the EPC Services, as set forth in Appendix A.

Confidential Information shall mean any information that is defined as confidential by Article 16 of this Agreement.

Connecting Transmission Owner shall have the meaning set forth in the recitals.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 11 of this Agreement.

Developer shall have the meaning set forth in the introductory paragraph.

Effective Date shall mean the date determined under Article 2.1 of this Agreement.

Electric Reliability Organization ("ERO") shall mean the North American Electric Reliability Corporation or its successor organization.

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

EPC Services shall have the meaning set forth in the recitals and shall consist of the services described in Appendix A.

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

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.

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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 delineate 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 any of 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 Developer, NYISO, Affected System Operator, Connecting Transmission Owner, 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.

In-Service Date shall mean the date upon which the Affected System Upgrade Facilities are energized consistent with the provisions of this Agreement, notice of which must be provided to the NYISO and Developer in the form of Appendix C.

Interconnection Facilities Study shall mean a study conducted by NYISO or a third party consultant for the Developer to determine a list of facilities (including Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility with the New York State Transmission System or with the Distribution System. The scope of the study is defined in Section 30.8 of the Standard Large Facility Interconnection Procedures.

Interconnection Facilities Study Agreement ("Class Year Study Agreement") shall mean the form of agreement contained in Appendix 2 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection Facilities Study.

Interconnection Request shall mean a Developer's request, in the form of Appendix 1 to the Standard Large Facility Interconnection Procedures, in accordance with the Tariff, to interconnect a new Large Generating Facility to the New York State Transmission System or to the Distribution System, or to materially increase the capacity of, or make a material modification to the operating characteristics of, an existing Large Generating Facility that is interconnected with the New York State Transmission System or with the Distribution System.

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IRS shall mean the Internal Revenue Service.

Large Generating Facility shall have the meaning set forth in the recitals.

Large Generator Interconnection Agreement ("LGIA") shall mean the interconnection agreement for the Large Generating Facility among the NYISO, Connecting Transmission Owner, and Developer.

Milestones shall mean the milestones for the performance of the EPC Services, as set forth in Appendix A.

New York State Transmission System shall mean the entire New York State electric transmission system, which includes (i) the Transmission Facilities Under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area.

Notice of Dispute shall mean a written notice of a dispute or claim that arises out of or in connection with this Agreement or its performance.

NPCC shall mean the Northeast Power Coordinating Council or its successor organization.

NYISO Minimum Interconnection Standard – The reliability standard that must be met by any generation facility or Class Year Transmission Project that is subject to NYISO's Large Facility Interconnection Procedures in Attachment X to the ISO OATT or the NYISO's Small Generator Interconnection Procedures in Attachment Z, that is proposing to connect to the New York State Transmission System or Distribution System, to obtain ERIS. The Minimum Interconnection Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System or to the Distribution System. The Minimum Interconnection Standard does not impose any deliverability test or deliverability requirement on the proposed interconnection.

NYSRC shall mean the New York State Reliability Council or its successor organization.

Party or Parties shall have the meaning set forth in the introductory paragraph.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this 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.

Security shall mean a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the Affected System Operator, meeting the commercially reasonable requirements of the Affected System Operator with which it is required to be posted pursuant to Article 6.2, and consistent with the Uniform Commercial Code of the jurisdiction identified in Article 8.2 of this Agreement.

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Services Tariff shall mean the NYISO Market Administration and Control Area Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

Standard Large Facility Interconnection Procedures shall mean the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that are included in Attachment X of the ISO OATT.

System Upgrade Facilities shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications to the existing transmission system that are required to maintain system reliability due to: (i) changes in the system, including such changes as load growth and changes in load pattern, to be addressed in the form of generic generation or transmission projects; and (ii) proposed interconnections. In the case of proposed interconnection projects, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard.

Tariff shall mean the NYISO Open Access Transmission Tariff ("OATT"), as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date.

This Agreement shall become effective upon the date of execution by the Parties, subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC. The NYISO and Affected System Operator shall promptly file this Agreement with FERC upon execution. Developer shall reasonably cooperate with the NYISO and Affected System Operator with respect to the filing of this Agreement with FERC and provide any information reasonably requested by the NYISO and Affected System Operator needed for such filing.

2.2 Term of Agreement.

Subject to the provisions of Article 2.3, this Agreement shall remain in effect until the later of: (i) the Completion Date, and (ii) the date on which the final payment of all invoices issued under this Agreement have been made pursuant to Articles 7.1 and 7.3 and any remaining Security has been released or refunded pursuant to Article 7.2.

2.3 Termination.

2.3.1 Completion of Term of Agreement

This Agreement shall terminate upon the completion of the term of the Agreement pursuant to Article 2.2.

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2.3.2 Written Notice.

This Agreement may be terminated: (i) by all Parties agreeing in writing to terminate this Agreement, or (ii) by the NYISO and the Affected System Operator after giving Developer ten (10) Calendar Days advanced written notice after the Large Generator Interconnection Agreement for the Large Generating Facility among the NYISO, Connecting Transmission Owner, and Developer has been terminated and such notice of termination has been accepted by FERC.

2.3.3 Default.

Any Party may terminate this Agreement to the extent permitted under Article 11 and Article 21.

2.3.4 Compliance.

Notwithstanding Articles 2.3.1, 2.3.2, and 2.3.3, no termination of this Agreement 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 Agreement, which notice has been accepted for filing by FERC.

2.4 Termination Costs.

If this Agreement is terminated pursuant to Article 2.3.2 above, Developer shall be responsible for all costs that are the responsibility of Developer under this Agreement that are incurred by Developer or the other Parties through the date the Parties agree in writing to terminate this Agreement or through the date of Developer's receipt of a notice of termination. Such costs include any cancellation costs relating to orders or contracts concerning the EPC Services or Affected System Upgrade Facilities. In the event of termination, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this Agreement, unless otherwise ordered or approved by FERC:

2.4.1 With respect to any portion of the EPC Services that have not yet been performed, the Affected System Operator shall, to the extent possible and with Developer's authorization, cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, the Affected System Upgrade Facilities; provided that in the event Developer elects not to authorize such cancellation, Developer shall assume all payment obligations with respect to such materials, equipment, and contracts, and Affected System Operator shall deliver such material and equipment, and, if necessary, assign such contracts, to Developer as soon as practicable, at Developer's expense.

2.4.2 Affected System Operator may, at its option, retain any portion of such materials or equipment that Developer chooses not to accept delivery of, in which case Affected System Operator shall be responsible for all costs associated with procuring such materials or equipment.

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2.4.3 With respect to any portion of the EPC Services already performed pursuant to the terms of this Agreement, Developer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such related materials, equipment, or facilities.

2.5 Survival.

This Agreement 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 Agreement; and to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect.

ARTICLE 3. EPC SERVICES

3.1 Performance of EPC Services.

Affected System Operator shall perform the EPC Services, as set forth in Appendix A hereto, using Reasonable Efforts to complete the EPC Services by the Milestone dates set forth in Appendix A hereto. Affected System Operator 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 Affected System Operator reasonably expects that it will not be able to complete the EPC Services by the specified dates, Affected System Operator shall promptly provide written notice to Developer and NYISO, and shall undertake Reasonable Efforts to meet the earliest dates thereafter. The NYISO has no responsibility, and shall have no liability, for the performance of any of the EPC Services under this Agreement.

3.2 Equipment Procurement.

3.2.1 Affected System Operator shall commence design of the Affected System Upgrade Facilities and procure necessary equipment as soon as practicable after it receives written authorization to proceed with design and procurement for the Developer by the date specified in Appendix A hereto, unless Developer and the Affected System Operator otherwise agree in writing.

3.3 Construction Commencement.

Affected System Operator shall commence construction of the Affected System Upgrade Facilities as soon as practicable after the following conditions are satisfied:

3.3.1 Approval of the appropriate Governmental Authority has been obtained, to the extent required, for the construction of a discrete aspect of the Affected System Upgrade Facilities;

3.3.2 Necessary real property rights and rights-of-way have been obtained, to the extent required, for the construction of a discrete aspect of the Affected System Upgrade Facilities; and

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3.3.3 The Affected System Operator has received from Developer written authorization to proceed with construction in accordance with the Milestones set forth in Appendix A.

3.4 Information Exchange.

As soon as reasonably practicable after the Effective Date, Developer and Affected System Operator shall exchange information, and provide NYISO the same information, regarding the design of the Affected System Upgrade Facilities and compatibility of the Affected System Upgrade Facilities with the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes. Developer shall inform the Affected System Operator and NYISO of any termination of the Large Generator Interconnection Agreement for the Large Generating Facility within ten (10) days of the termination of the Large Generator Interconnection Agreement.

3.5 Ownership of Affected System Upgrade Facilities.

Affected System Operator shall own the Affected System Upgrade Facilities.

3.6 Access Rights.

Upon reasonable notice and supervision by the Granting Party, and subject to any required or necessary regulatory approvals, either the Affected System Operator or Developer ("Granting Party") shall furnish to the other of those two Parties ("Access Party") at no cost 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, repair, test (or witness testing), inspect, replace or remove Affected System Upgrade Facilities. 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. The Access Party shall indemnify the Granting Party against all claims of injury or damage from third parties resulting from the exercise of the access rights provided for herein.

3.7 Reserved.

3.8 Lands of Other Property Owners.

If any part of the Affected System Operator's Affected System Upgrade Facilities is to be installed on property owned by persons other than Developer or Affected System Operator, the Affected System Operator shall, at Developer's expense, use efforts similar in nature and extend to those that it typically undertakes for its own or affiliated generation, 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 the Affected System Operator's Affected System Upgrade Facilities on such property.

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3.9 Permits.

NYISO, Developer, and Affected System Operator shall cooperate with each other in good faith in obtaining all permits, licenses and authorizations that are necessary to accomplish the EPC Services in compliance with Applicable Laws and Regulations. With respect to this paragraph, Affected System Operator shall provide permitting assistance to the Developer comparable to that provided to the Affected System Operator's own, or an Affiliate's generation, if any.

3.10 Suspension.

Developer reserves the right, upon written notice to Affected System Operator and NYISO, to suspend at any time all work associated with the construction and installation of the Affected System Upgrade Facilities required for only that Developer's Large Generating Facility with the condition that the New York State Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and the safety and reliability criteria of Affected System Operator and NYISO. In such event, Developer shall be responsible for all reasonable and necessary costs and/or obligations in accordance with Attachment S to the ISO OATT including those which Affected System Operator (i) has incurred pursuant to this Agreement 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 New York State 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 Affected System Operator cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Affected System Operator shall obtain Developer's authorization to do so.

Affected System Operator shall invoice Developer for such costs pursuant to Article 7 and shall use due diligence to minimize its costs. In the event Developer suspends work required under this Agreement pursuant to this Article 3.10, and has not required Affected System Operator to recommence the work required under this Agreement on or before the expiration of three (3) years following commencement of such suspension, this Agreement 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 Affected System Operator and NYISO, if no effective date is specified.

3.11 Taxes.

3.11.1 Developer Payments Not Taxable.

The Developer and Affected System Operator intend that all payments or property transfers made by Developer to Affected System Operator for the installation of the Affected System Upgrade Facilities 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.

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3.11.2 Representations and Covenants.

In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Developer represents and covenants that (i) ownership of the electricity generated at the Developer's Large Generating Facility will pass to another party prior to the transmission of the electricity on the New York State Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to Affected System Operator for the Affected System Upgrade Facilities will be capitalized by Developer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Affected System Upgrade 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 Affected System Operator's request, Developer shall provide Affected System Operator with a report from an independent engineer confirming its representation in clause (iii), above. Affected System Operator represents and covenants that the cost of the Affected System Upgrade Facilities paid for by Developer will have no net effect on the base upon which rates are determined.

3.11.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Affected System Operator.

Notwithstanding Article3.12.1, Developer shall protect, indemnify and hold harmless Affected System Operator from the cost consequences of any current tax liability imposed against Affected System Operator as the result of payments or property transfers made by Developer to Affected System Operator under this Agreement, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Affected System Operator.

Affected System Operator shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Developer under this Agreement unless (i) Affected System Operator has determined, in good faith, that the payments or property transfers made by Developer to Affected System Operator should be reported as income subject to taxation or (ii) any Governmental Authority directs Affected System Operator to report payments or property as income subject to taxation. Developer shall reimburse Affected System Operator for such costs on a fully grossed-up basis, in accordance with Article 3.12.4, within thirty (30) Calendar Days of receiving written notification from Affected System Operator of the amount due, including detail about how the amount was calculated.

This 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 the Affected System Operator 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 3.12.

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3.11.4 Tax Gross-Up Amount.

Developer's liability for the cost consequences of any current tax liability under this Article 3.12 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Developer will pay Affected System Operator, in addition to the amount paid for the Affected System Upgrade Facilities, an amount equal to (1) the current taxes imposed on Affected System Operator ("Current Taxes") on the excess of (a) the gross income realized by Affected System Operator as a result of payments or property transfers made by Developer to Affected System Operator under this Agreement (without regard to any payments under this Article 3.12) (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 the Affected System Operator 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 Affected System Operator's composite federal and state tax rates at the time the payments or property transfers are received and Affected System Operator 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 Affected System Operator's anticipated tax depreciation deductions as a result of such payments or property transfers by Affected System Operator's current weighted average cost of capital. Thus, the formula for calculating Developer's liability to Affected System Operator pursuant to this Article 3.12.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount - Present Value Depreciation Amount))/(1 - Current Tax Rate). Developer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Affected System Upgrade Facilities.

3.11.5 Private Letter Ruling or Change or Clarification of Law.

At Developer's request and expense, Affected System Operator 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 Developer to Affected System Operator under this Agreement are subject to federal income taxation. Developer 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 Developer's knowledge. Affected System Operator and Developer shall cooperate in good faith with respect to the submission of such request.

Affected System Operator shall keep Developer 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 Developer to participate in all discussions with the IRS regarding such request for a private letter ruling. Affected System Operator shall allow Developer to attend all meetings with IRS officials about the request and shall permit Developer to prepare the initial drafts of any follow-up letters in connection with the request.

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3.11.6 Subsequent Taxable Events.

If, within 10 years from the date on which the relevant Affected System Upgrade Facilities are placed in service, (i) Developer Breaches the covenants contained in Article 3.12.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this Agreement terminates and Affected System Operator retains ownership of the Affected System Upgrade Facilities, Developer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on Affected System Operator, calculated using the methodology described in Article 3.12.4 and in accordance with IRS Notice 90-60.

3.11.7 Contests.

In the event any Governmental Authority determines that Affected System Operator's receipt of payments or property constitutes income that is subject to taxation, Affected System Operator shall notify Developer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Developer and at Developer's sole expense, Affected System Operator may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Developer's written request and sole expense, Affected System Operator may file a claim for refund with respect to any taxes paid under this Article 3.12, whether or not it has received such a determination. Affected System Operator 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 Affected System Operator shall keep Developer informed, shall consider in good faith suggestions from Developer about the conduct of the contest, and shall reasonably permit Developer or Developer's representative to attend contest proceedings.

Developer shall pay to Affected System Operator on a periodic basis, as invoiced by Affected System Operator, Affected System Operator's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest, including any costs associated with obtaining the opinion of independent tax counsel described in this Article 3.12.7. The Affected System Operator may abandon any contest if Developer fails to provide payment to the Affected System Operator within thirty (30) Calendar Days of receiving such invoice. At any time during the contest, Affected System Operator may agree to a settlement either with Developer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Affected System Operator, but reasonably acceptable to Developer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Developer's obligation shall be based on the amount of the settlement agreed to by Developer, 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. The Affected System Operator may also settle any tax controversy without receiving Developer's consent or any such written advice; however, any such settlement will relieve Developer from any obligation to indemnify Affected System Operator for the tax at issue in the contest (unless the failure to obtain written advice is attributable to Developer's unreasonable refusal to the appointment of independent tax counsel).

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3.11.8 Refund.

In the event that (a) a private letter ruling is issued to Affected System Operator which holds that any amount paid or the value of any property transferred by Developer to Affected System Operator under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Affected System Operator in good faith that any amount paid or the value of any property transferred by Developer to Affected System Operator under the terms of this Agreement is not taxable to Affected System Operator, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Developer to Affected System Operator are not subject to federal income tax, or (d) if Affected System Operator receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Developer to Affected System Operator pursuant to this Agreement, Affected System Operator shall promptly refund to Developer the following:

(i) Any payment made by Developer under this Article 3.12 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Developer to Affected System Operator for such taxes which Affected System Operator did not submit to the taxing authority, 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 payment was made by Developer to the date Affected System Operator refunds such payment to Developer, and

(iii) With respect to any such taxes paid by Affected System Operator any refund or credit Affected System Operator 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 the Affected System Operator for such overpayment of taxes (including any reduction in interest otherwise payable by Affected System Operator to any Governmental Authority resulting from an offset or credit); provided, however, that Affected System Operator will remit such amount promptly to Developer only after and to the extent that Affected System Operator has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Affected System Upgrade Facilities.

The intent of this provision is to leave both Developer and Affected System Operator, to the extent practicable, in the event that no taxes are due with respect to any payment for Affected System Upgrade Facilities hereunder, in the same position they would have been in had no such tax payments been made.

3.11.9 Taxes Other Than Income Taxes.

Upon the timely request by Developer, and at Developer's sole expense, Affected System Operator shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Affected System Operator for which Developer may be required to reimburse Affected System Operator under the terms of this Agreement.

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Developer shall pay to Affected System Operator on a periodic basis, as invoiced by Affected System Operator, Affected System Operator's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Developer and Affected System Operator 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 Developer to Affected System Operator 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, Developer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Affected System Operator.

3.11.10 Tax Status.

Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the tax status of any Party including the status of NYISO, or the status of Affected System Operator or Developer with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

3.12 Modification.

3.12.1 General.

If, prior to the In-Service Date, the Affected System Operator proposes to modify the Affected System Upgrade Facilities, the Affected System Operator must provide to the NYISO at least ninety (90) Calendar Days in advance of the commencement of the work, or such shorter period upon which the Parties may agree, sufficient information for the NYISO to evaluate the impact of the proposed modification on the reliable interconnection of Developer's Large Generating Facility to the New York State Transmission System. The NYISO's agreement to the proposed modification shall not be unreasonably withheld, conditioned, or delayed if the proposed modification is reasonably necessary to the interconnection of the Large Generating Facility, will enable Developer's Large Generating Facility to reliably interconnect to the New York State Transmission System and will not impose additional costs to Developer greater than the estimated cost for the Affected System Upgrade Facilities determined in accordance with Attachment S of the ISO OATT.

3.12.2 Standards.

Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this Agreement, NYISO requirements and Good Utility Practice.

3.12.3 Modification Costs.

Developer shall not be assigned the costs of any additions, modifications, or replacements that Affected System Operator makes to the Affected System Upgrade Facilities or the New York State Transmission System to facilitate the interconnection of a third party to the Affected System Upgrade Facilities or the New York State Transmission System, or to provide

Transmission Service to a third party under the ISO OATT, except in accordance with the cost allocation procedures in Attachment S of the ISO OATT.

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ARTICLE 4. TESTING AND INSPECTION

4.1 Initial Testing and Modifications.

In accordance with the Milestones set forth in Appendix A, Affected System Operator shall test the Affected System Upgrade Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Affected System Operator shall make any modifications to the facilities that are found to be necessary as a result of such testing. Developer shall bear the cost of all such testing and modifications

ARTICLE 5. COMMUNICATIONS

5.1 No Annexation.

Any and all equipment placed on the premises of a Party during the term of this Agreement 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 Party providing such equipment and the Party receiving such equipment.

ARTICLE 6. PERFORMANCE OBLIGATIONS

6.1 EPC Services and Cost Responsibilities.

Affected System Operator shall perform the EPC Services described in Appendix A, hereto and as otherwise set forth by the terms of this Agreement, at Developer's sole expense up to the ASO Estimated Total Costs amount. The Developer's and Affected System Operator's respective responsibilities for the cost of Affected System Operator's performance of the EPC Services above the ASO Estimated Total Costs amount shall be determined in accordance with Section 25.8.6 of Attachment S to the ISO OATT. ASO Estimated Total Costs amount shall be set forth in Appendix A.

6.2 Provision and Application of Security.

Developer has provided Affected System Operator with Security in the amount of the ASO Estimated Total Costs for the Affected System Upgrade Facilities in accordance with Attachment S to the ISO OATT. If the Developer: (i) does not pay an invoice issued by Affected System Operator pursuant to Article 7.1 within the timeframe set forth in Article 7.3 or (ii) does not pay any disputed amount into an independent escrow account pursuant to Article 7.4, the Affected System Operator may draw upon Developer's Security to recover such payment. The Developer's Security shall be reduced after discrete portions of the EPC Services have been performed in accordance with the requirements in Section 25.8.5 of Attachment S to the NYISO OATT.

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ARTICLE 7. INVOICE

7.1 General.

To the extent that any amounts are due to the Developer or Affected System Operator under this Agreement, including amounts due for the performance of EPC Services above the ASO Estimated Total Costs in accordance with Section 25.8.6 of Attachment S to the ISO OATT, the Developer or Affected System Operator, as applicable, shall submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month or as otherwise agreed by such Parties and as set forth in Section 3 of Appendix A. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Developer and Affected System Operator may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts one Party owes to the other Party under this Agreement, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party. Within six months after the Completion Date, Developer or Affected System Operator, as applicable, shall provide a final invoice to the other Party of any remaining amounts due associated with the EPC Services.

7.2 Refund of Remaining Security/Cash and Overpayment Amount.

The Affected System Operator shall release or refund to the Developer any remaining portions of its Security or cash payment provided by the Developer pursuant to Article 7.2 and any amount the Developer has overpaid as described in Article 7.4 within 30 days of the later of: (i) Developer's payment of any final invoice to the Affected System Operator, and (ii) Affected System Operator's completion of the EPC Services.

7.3 Payment.

Invoices shall be rendered to the paying Party at the address specified in Appendix B hereto. 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 will not constitute a waiver of any rights or claims the paying Party may have under this Agreement.

7.4 Disputes.

In the event of a billing dispute between Parties, the Party owed money shall continue to perform under this Agreement as long as the other Party: (i) continues to make all payments not in dispute; and (ii) pays to the Party owed money or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Party that owes money fails to meet these two requirements for continuation of service, then the Party owed money may provide notice to the other Party of a Default pursuant to Article 11. 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 C.F.R. § 35.19a(a)(2)(iii).

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ARTICLE 8. REGULATORY REQUIREMENTS AND GOVERNING LAW

8.1 Regulatory Requirements.

Each Party's obligations under this Agreement 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 Agreement shall require a Party to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 2005 or the Public Utility Regulatory Policies Act of 1978, as amended.

8.2 Governing Law.

8.2.1 The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of New York, without regard to its conflicts of law principles.

8.2.2 This Agreement is subject to all Applicable Laws and Regulations.

8.2.3 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 9. NOTICES

9.1 General.

Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by a Party to the other Parties and any instrument required or permitted to be tendered or delivered by a Party in writing to the other Parties 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 B hereto.

A Party may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

9.2 Billings and Payments.

Billings and payments shall be sent to the addresses set out in Appendix B hereto.

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9.3 Alternative Forms of Notice.

Any notice or request required or permitted to be given by a Party to the other Parties 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 B hereto.

ARTICLE 10. FORCE MAJEURE

10.1 General.

Economic hardship is not considered a Force Majeure event. A Party shall not be responsible or liable, or deemed, in Default with respect to any obligation hereunder, other than the obligation to pay money when due, to the extent the Party is 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 Parties 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 11. DEFAULT

11.1 General.

No Breach 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 Agreement or the result of an act or omission of the other Parties. Upon a Breach, the non-Breaching Parties shall give written notice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach 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 Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

11.2 Right to Terminate.

If a Breach is not cured as provided in this Article 11.2, or if a Breach is not capable of being cured within the period provided for herein, the non-Breaching Parties acting together shall thereafter have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not those Parties terminate this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

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ARTICLE 12. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE

12.1 Indemnity.

Each Party (the "Indemnifying Party") shall at all times indemnify, defend, and save harmless, as applicable, the other Parties (each an "Indemnified Party") from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, the alleged violation of any Environmental Law, or the release or threatened release of any Hazardous Substance, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties (any and all of these a "Loss"), arising out of or resulting from (i) the Indemnified Party's performance of its obligations under this Agreement on behalf of the Indemnifying Party, except in cases where the Indemnifying Party can demonstrate that the Loss of the Indemnified Party was caused by the gross negligence or intentional wrongdoing of the Indemnified Party or (ii) the violation by the Indemnifying Party of any Environmental Law or the release by the Indemnifying Party of any Hazardous Substance.

12.1.1 Indemnified Party.

If a Party is entitled to indemnification under this Article 12 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 12.1.3, to assume the defense of such claim, such Indemnified Party 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.

12.1.2 Indemnifying Party.

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 12, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

12.1.3 Indemnity Procedures.

Promptly after receipt by an Indemnified Party 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 12.1 may apply, the Indemnified Party 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.

Except as stated below, 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 Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or

additional to those available to the Indemnifying Party, the Indemnified Party 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 Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party 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 Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, 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 Party, which shall not be unreasonably withheld, conditioned or delayed.

12.2 No Consequential Damages.

Other than the indemnity obligations set forth in Article 12.1, in no event shall any Party be liable under any provision of this Agreement 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 another Party under separate agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

12.3 Insurance.

Affected System Operator shall, at its own expense, procure and maintain in force throughout the period of this Agreement and until released by the other Parties, the following minimum insurance coverages, with insurance companies licensed to write insurance or approved eligible surplus lines carriers in the state of New York with a minimum A.M. Best rating of A or better for financial strength, and an A.M. Best financial size category of VIII or better:

12.3.1 Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of New York State.

12.3.2 Commercial General Liability ("CGL") Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage 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 using Insurance Services Office, Inc. Commercial General Liability Coverage ("ISO CG") Form CG 00 01 04 13 or a form equivalent to or better than CG 00 01 04 13, with minimum limits of Two Million

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Dollars ($2,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

12.3.3 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.

12.3.4 If applicable, the Commercial General Liability and Comprehensive Automobile Liability Insurance policies should include contractual liability for work in connection with construction or demolition work on or within 50 feet of a railroad, or a separate Railroad Protective Liability Policy should be provided.

12.3.5 Excess Liability Insurance over and above the Employers' Liability, Commercial General Liability and Comprehensive Automobile Liability Insurance coverages, with a minimum combined single limit of Twenty Million Dollars ($20,000,000) per occurrence and Twenty Million Dollars ($20,000,000) aggregate. The Excess policies should contain the same extensions listed under the Primary policies.

12.3.6 The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Liability Insurance policies of Affected System Operator shall name the Developer, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insureds using ISO CG Endorsements: CG 20 33 04 13, and CG 20 37 04 13 or CG 20 10 04 13 and CG 20 37 04 13 or equivalent to or better forms. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement 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.

12.3.7 The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Affected System Operator shall be responsible for its deductibles or retentions.

12.3.8 The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for at least three (3) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Developer and Affected System Operator.

12.3.9 If applicable, Pollution Liability Insurance in an amount no less than $7,500,000 per occurrence and $7,500,000 in the aggregate. The policy will provide coverage for claims resulting from pollution or other environmental impairment arising out of or in connection with work performed on the premises by the other party, its contractors and and/or subcontractors. Such insurance is to include coverage for, but not be limited to, cleanup, third party bodily injury and property damage and remediation and will be written on an occurrence

basis. The policy shall name the Other Party Group as additional insureds, be primary and contain a waiver of subrogation.

12.3.10 The requirements contained herein as to the types and limits of all insurance to be maintained by Affected System Operator are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Affected System Operator under this Agreement.

12.3.11 Within 90 Calendar Days following execution of this Agreement, 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, Affected System Operator shall each provide the Developer with a certificate of insurance for all insurance required to be maintained by the providing Party in this Agreement, executed by each insurer or by an authorized representative of each insurer.

12.3.12 Notwithstanding the foregoing, Affected System Operator may self-insure to meet the minimum insurance requirements of Articles 12.3.1 through 12.3.9 to the extent it maintains a self-insurance program; provided that, Affected System Operator's senior 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 12.3.1 through 12.3.9. In the event that Affected System Operator is permitted to self-insure pursuant to this Article 12.3.12, it shall notify Developer 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 Articles 12.3.1 through 12.3.9 and provide evidence of such coverages. For any period of time that Affected System Operator's senior debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, Affected System Operator shall comply with the insurance requirements applicable to it under Articles 12.3.1 through 12.3.9.

12.3.13 Developer and Affected System Operator 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 Agreement.

12.3.14 Subcontractors of each party must maintain the same insurance requirements stated under Articles 12.3.1 through 12.3.9 and comply with the Additional Insured requirements herein. In addition, their policies must state that they are primary and non-contributory and contain a waiver of subrogation.

ARTICLE 13. ASSIGNMENT

13.1 Assignment.

This Agreement may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this Agreement without the consent of the other Parties 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

Agreement; provided further that a Party may assign this Agreement without the consent of the other Parties in connection with the sale, merger, restructuring, or transfer of a substantial

portion or all of its assets, so long as the assignee in such a transaction directly assumes in writing all rights, duties and obligations arising under this Agreement; and provided further that the Developer shall have the right to assign this Agreement, without the consent of the NYISO or Affected System Operator, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Developer will promptly notify the NYISO and Affected System Operator of any such assignment. Any financing arrangement entered into by Developer 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 the NYISO and Affected System Operator of the date and particulars of any such exercise of assignment right(s) and will provide the NYISO and Affected System Operator with proof that it meets the requirements of Article 6.2. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement 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 14. SEVERABILITY

If any provision in this Agreement 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 Agreement.

ARTICLE 15. COMPARABILITY

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

ARTICLE 16. CONFIDENTIALITY

16.1 Confidentiality.

Certain information exchanged by the Parties during the term of this Agreement shall constitute confidential information ("Confidential Information") and shall be subject to this Article 16.

If requested by a Party receiving information, the Party supplying the information shall provide in writing, the basis for asserting that the information referred to in this Article 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.

16.2 Term.

During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article 16, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

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16.3 Confidential Information.

The following shall constitute Confidential Information: (1) any non-public information that is treated as confidential by the disclosing Party and which the disclosing Party identifies as Confidential Information in writing at the time, or promptly after the time, of disclosure; or (2) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F to the ISO OATT.

16.4 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 Agreement; or (6) is required, in accordance with Article 16.9 of this Agreement, 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 Agreement. 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.

16.5 Release of Confidential Information.

No Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be considering providing financing to or equity participation with Developer, or to potential purchasers or assignees of a Party, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article 16 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 16.

16.6 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 Parties of Confidential Information shall not be deemed a waiver by any Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

16.7 No Warranties.

By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party

obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.

16.8 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 Parties under this Agreement or its regulatory requirements, including the ISO OATT and NYISO Services Tariff. The NYISO shall, in all cases, treat the information it receives in accordance with the requirements of Attachment F to the ISO OATT.

16.9 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 any 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 Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this Agreement. 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.

16.10 Termination of Agreement.

Upon termination of this Agreement for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Parties, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Parties) or return to the other Parties, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Parties pursuant to this Agreement.

16.11 Remedies.

The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 16. Each Party accordingly agrees that the other Parties 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 16, 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 16, 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 16.

16.12 Disclosure to FERC, its Staff, or a State.

Notwithstanding anything in this Article 16 to the contrary, and pursuant to 18 C.F.R. 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 Agreement or the ISO OATT, 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 C.F.R. 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 Parties to this Agreement prior to the release of the Confidential Information to the Commission or its staff. The Party shall notify the other Parties to the Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time the Parties may respond before such information would be made public, pursuant to 18 C.F.R. 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. A Party shall not be liable for any losses, consequential or otherwise, resulting from that Party divulging Confidential Information pursuant to a FERC or state regulatory body request under this paragraph.

16.13 Required Notices Upon Requests or Demands for Confidential Information.

Except as otherwise expressly provided herein, no Party shall disclose Confidential Information to any person not employed or retained by the Party possessing the Confidential Information, 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 Agreement, the ISO OATT or the NYISO Services Tariff. Prior to any disclosures of a 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 17. AFFECTED SYSTEM OPERATOR NOTICES OF ENVIRONMENTAL RELEASES

Affected System Operator shall notify the other Parties, 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 Affected System Upgrade Facilities, each of which may reasonably be expected to affect the other Parties. Affected System Operator shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the

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notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Parties copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 18. INFORMATION REQUIREMENT

18.1 Information Acquisition.

Affected System Operator and Developer shall each submit specific information regarding the electrical characteristics of their respective facilities to the other Parties and to the NYISO as described below and in accordance with Applicable Reliability Standards.

18.2 Information Submission by Affected System Operator.

On a monthly basis, Affected System Operator shall provide Developer and NYISO a status report on the construction and installation of the Affected System Upgrade Facilities, 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.

18.3 Information Submission by Developer.

Developer shall submit to Affected System Operator a completed copy of the Large Generating Facility data requirements contained in Appendix 1 to the Standard Large Facility Interconnection Procedures. It shall also include any additional information provided to Affected System Operator for the Interconnection 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 NYISO standard models. If there is no compatible model, the Developer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Developer's data is different from what was originally provided to Affected System Operator and NYISO and this difference may be reasonably expected to affect the other Parties' facilities or the New York State Transmission System, but does not require the submission of a new Interconnection Request, then NYISO will conduct appropriate studies to determine the impact on the New York State Transmission System based on the actual data submitted pursuant to this Article 18.3. Such studies will provide an estimate of any additional modifications to the New York State Transmission System or Affected System Upgrade Facilities based on the actual data and a good faith estimate of the costs thereof. The Developer shall not begin Trial Operation until such studies are completed. The Developer shall be responsible for the cost of any modifications required by the actual data, including the cost of any required studies.

18.4 Information Supplementation.

Affected System Operator shall supplement its information submissions described above in this Article 18 with any and all "as built" information or "as tested" performance information

that differs from the initial submissions or, alternatively, written confirmation that no such differences exist.

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ARTICLE 19. INFORMATION ACCESS AND AUDIT RIGHTS

19.1 Information Access.

Each Party ("Disclosing Party") shall make available to another Party ("Requesting Party") information that is in the possession of the Disclosing Party and is necessary in order for the Requesting Party to: (i) verify the costs incurred by the Disclosing Party for which the Requesting Party is responsible under this Agreement; and (ii) carry out its obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Article 19.1 of this Agreement and to enforce their rights under this Agreement.

19.2 Reporting of Non-Force Majeure Events.

Each Party (the "Notifying Party") shall notify the other Parties when the Notifying Party becomes aware of its inability to comply with the provisions of this Agreement 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 Agreement.

19.3 Audit Rights.

Subject to the requirements of confidentiality under Article 16 of this Agreement, each Party shall have the right, during normal business hours, and upon prior reasonable notice to another Party, to audit at its own expense the other Party's accounts and records pertaining to the other Party's performance or satisfaction of its obligations under this Agreement. Such audit rights shall include audits of the other Party's costs and calculation of invoiced amounts. 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 the Party's performance and satisfaction of obligations under this Agreement. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 19.4 of this Agreement.

19.4 Audit Rights Periods.

19.4.1 Audit Rights Period for Construction-Related Accounts and Records.

Accounts and records related to the design, engineering, procurement, and construction of the Affected System Upgrade Facilities shall be subject to audit for a period of twenty-four months following the issuance of a final invoice in accordance with Article 7.1 of this Agreement.

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19.4.2 Audit Rights Period for All Other Accounts and Records.

Accounts and records related to a Party's performance or satisfaction of its obligations under this Agreement other than those described in Article 19.4.1 of this Agreement 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.

19.5 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 20. SUBCONTRACTORS

20.1 General.

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

20.2 Responsibility of Principal.

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties 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 the NYISO or Affected System Operator be liable for the actions or inactions of Developer or its subcontractors with respect to obligations of Developer under Article 3 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

20.3 No Limitation by Insurance.

The obligations under this Article 20 will not be limited in any way by any limitation of subcontractor's insurance

ARTICLE 21. DISPUTES

21.1 Submission.

In the event any Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance (a "Dispute"), such Party shall provide the other Parties with written notice of the Dispute ("Notice of Dispute"). Such Dispute 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 Parties. In the event the designated representatives are unable to resolve the Dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Parties' receipt of the Notice of Dispute, such 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 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 Agreement.

21.2 External Arbitration Procedures.

Any arbitration initiated under this Agreement 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. In each case, the arbitrator(s) 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 21, the terms of this Article 21 shall prevail.

21.3 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 Agreement 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(s) must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, or Affected System Upgrade Facilities.

21.4 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; or (2) one-third the cost of the single arbitrator jointly chosen by the Parties.

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21.5 Termination.

Notwithstanding the provisions of this Article 21, any Party may terminate this Agreement in accordance with its provisions or pursuant to an action at law or equity. The issue of whether such a termination is proper shall not be considered a Dispute hereunder.

ARTICLE 22. REPRESENTATIONS, WARRANTIES, AND COVENANTS

22.1 General.

Each Party makes the following representations, warranties and covenants:

22.1.1 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 of New York; 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 Agreement 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 Agreement.

22.1.2 Authority.

Such Party has the right, power and authority to enter into this Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement 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).

22.1.3 No Conflict.

The execution, delivery and performance of this Agreement 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.

22.1.4 Consent and Approval.

Such Party has sought or obtained, or, in accordance with this Agreement 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 Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

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ARTICLE 23. MISCELLANEOUS

23.1 Binding Effect.

This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.

23.2 Conflicts.

If there is a discrepancy or conflict between or among the terms and conditions of this cover agreement and the Appendices hereto, the terms and conditions of this cover agreement shall be given precedence over the Appendices, except as otherwise expressly agreed to in writing by the Parties.

23.3 Rules of Interpretation.

This Agreement, 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 Agreement, 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 Agreement), 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 Agreement
or such Appendix to this Agreement, or such Section to the Standard Large Facility
Interconnection Procedures or such Appendix to the Standard Large Facility Interconnection
Procedures, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of
similar import shall be deemed references to this Agreement 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".

23.4 Compliance.

Each Party shall perform its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, the ISO OATT and Good Utility Practice. 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 Agreement for its compliance therewith. When any Party becomes aware of such a situation, it shall notify the other Parties promptly so that the Parties can discuss the amendment to this Agreement that is appropriate under the circumstances.

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23.5 Joint and Several Obligations.

Except as otherwise stated herein, the obligations of NYISO, Developer, and Affected System Operator are several, and are neither joint nor joint and several.

23.6 Entire Agreement.

This Agreement, 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 Agreement. 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 Agreement.

23.7 No Third Party Beneficiaries.

This Agreement 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 permitted their assigns.

23.8 Waiver.

The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement 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 Agreement 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 Agreement. Any waiver of this Agreement shall, if requested, be provided in writing.

23.9 Headings.

The descriptive headings of the various Articles of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

23.10 Multiple Counterparts.

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

23.11 Amendment.

The Parties may by mutual agreement amend this Agreement, by a written instrument duly executed by all of the Parties.

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23.12 Modification by the Parties.

The Parties may by mutual agreement amend the Appendices to this Agreement, by a written instrument duly executed by all three of the Parties. Such an amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.

23.13 Reservation of Rights.

NYISO and Affected System Operator shall have the right to make unilateral filings with FERC to modify this Agreement 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 Developer shall have the right to make a unilateral filing with FERC to modify this Agreement 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 another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement 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.

23.14 No Partnership.

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No 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, any other Party.

23.15 Other Transmission Rights.

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, or transmission congestion rights that Developer 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 Affected System Upgrade Facilities.

23.16 Modifications Related to NYISO's Compliance with Order No. 2023.

If, as part of the NYISO's compliance proceeding at the Commission in response to Order No. 2023, the Commission directs that the NYISO modify the *pro forma* Standard Large Generator Interconnection Agreement located in Appendix 4 of Attachment X of the ISO OATT, the Parties shall amend and restate this Agreement to incorporate the modifications; *provided, however*, the Parties may agree to include in the amended and restated agreement non-conforming changes to any terms of the *pro forma* Standard Large Generator Interconnection Agreement that have been modified to comply with the Commission's order, which non-conforming modifications must be filed with the Commission for its acceptance.

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IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

New York Independent System Operator, Inc.

By: _____

Name: _____

Title: _____

Date:

Rochester Gas & Electric Corporation

By: _____

Name: _____

Title: _____

Date:

By: _____

Name: _____

Title: _____

Date: _____

Hecate Energy Cider Solar, LLC

By: _____

Name: _____

Title: _____

Date:

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APPENDICES

Appendix A
EPC Services

Appendix B
Addresses for Delivery of Notices and Billings

Appendix C
In-Service Date

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APPENDIX A

EPC SERVICES

1. Affected System Upgrade Facilities

The Affected System Upgrade Facilities concern relay upgrades at Affected System Operator's Sta. 255 Station, including:

- updating drawings and line/relay tagging;
- reviewing and testing line protection relay settings for the Sta. 255 Station to the planned Graham Substation, line CHI; and
- communication mode updates.

The proposed protection at the Sta. 255 Station for Line CHI includes the following:

- assume existing GE L90- A-system line differential protection, communicating over OPGW fiber (on DH2 transmission line structure); and
- assume existing SEL 411L- B-system line distance protection, communicating over Niagara Mohawk Power Corporation d/b/a National Grid's optical infrastructure.

Affected System Operator shall adjust relay settings as needed, test, and commission the Affected System Upgrade Facilities in accordance with the following requirements, to the extent not inconsistent with the terms of this Agreement, the ISO OATT, or applicable NYISO procedures:

- Affected System Operator's Bulletin No. 86-01, *Requirements for the Interconnection of Generation, Transmission and End-User Facilities*;
- Applicable Affected System Operator engineering and construction standards; and
- NERC Reliability Guideline "*Newly interconnecting inverter-based resources should eliminate the use of momentary cessation to the greatest possible extent*."

2. ASO Estimated Total Costs

The ASO Estimated Total Costs for the Affected System Upgrade Facilities at Sta. 255 Station is $328,918.*

*Affected System Owner currently estimates that the cost of the Affected System Upgrade Facilities is $705,037.

3. Security & Prepayment

In accordance with Article 6.2 of this Agreement, Developer has provided Affected System Operator with Security in the amount of $328,918.00 in the form of a letter of credit. Developer will also post cash prepayment for the Affected System Upgrades per the Milestone

Payment table below. The Affected System Operator will draw down on this cash amount as costs accrue. This process will continue until the project is complete and trued up. The Affected

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System Operator's receipt of the prepayment amounts from the Developer shall reduce the Developer's obligation with respect to maintaining the Security and reduce Affected System Operator's recourse to the Security, on a dollar-for-dollar basis, once the total remaining value of the work falls below $328,918.00. The Developer may, at its request, reissue to the Affected System Operator the Security to reflect such reduced amount in a form and substance reasonably satisfactory to Affected System Operator for the remaining Security amount. Affected System Operator will take reasonable steps to effectuate such reissuance, including returning any prior issued Security to Developer.

Sta 255 EPC (Q811) Milestone Payments		
Payment Activity /Timing	IA Milestone	Amount
IA Execution	Jun-25	$ 300,000.00
Project kick off - delivery as left settings	Sep-25	$ 200,000.00
Start Relay setting review	Apr-26	$ 205,037.00
Total		$ 705,037.00

4. Milestones

Schedule may change depending on any required coordination with work associated with the Graham Substation.

Item	Milestone	Date	Responsible Party
1.	EPC Agreement	June 2025	Developer/Affected System Operator
2.	Engineering start	September 2025	Affected System Operator
3.	Provide as-left settings for Sta. 255	September 2025	Affected System Operator
4.	Engineering end	December 2025	Affected System Operator
5.	Relay Settings Review Start	Apr-2026	Affected System Operator
6.	Relay Settings Review Completion	June -2026	Affected System Operator

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7.	Testing/commissioning	July -2026	Affected System Operator
8.	In-Service date	July - 2026	Affected System Operator
9.	As-Built Drawings/Project Complete	October - 2026	Affected System Operator

For purposes of this Agreement, Affected System Operator will not require Developer to provide security in an amount equal to the cost consequences of any current tax liability under Article 3.11 herein.

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APPENDIX B

ADDRESSES FOR DELIVERY OF NOTICES AND BILLINGS

Notices:

NYISO:

New York Independent System Operator, Inc.
Attn: Vice President, System and Resource Planning
10 Krey Boulevard Rensselaer, NY 12144
Phone: (518) 356-6000
Email: interconnectionsupport@nyiso.com

Rochester Electric & Gas Corporation:

Rochester Gas and Electric Corporation
Attn: Manager-Programs/Projects
Electric Transmission Services
PO Box 5224
Binghamton, NY 13902-5224
Phone: (607) 237-5533
Email: NYISOInterconnectionAdmin@avangrid.com

Hecate Energy Cider Solar, LLC:

Hecate Energy Cider Solar LLC
230 Park Avenue, Suite 1560 New York, NY 10169
Phone: (646) 720-9463
Email: legal@ greenbackercapital.com

Billings and Payments:

Rochester Electric & Gas Corporation:

Rochester Gas and Electric Corporation
Attn: Mgr. Billing & Risk Management
PO Box 5224
Binghamton, NY 13902-5224
Phone: (585) 484-6883 Fax: (607) 762-8885
NYISOInterconnectionAdmin@avangrid.com

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SERVICE AGREEMENT NO. 2856

Hecate Energy Cider Solar, LLC:

Hecate Cider Solar, LLC

230 Park Ave, New York, NY 10169
PO Box 15007 Portland, ME 04102
Email: invoices@greenbackercapital.com
CC: accountspayable@greenbackercapital.com
Phone: (646) 720-9463

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SERVICE AGREEMENT NO. 2856

APPENDIX C

IN-SERVICE DATE

[**Date**]

New York Independent System Operator, Inc.
Attn: Vice President, Operations
10 Krey Boulevard Rensselaer, NY 12144

Re: Cider Solar - Affected System Upgrade Facilities (Sta. 255)

Dear _____:

On **[Date] [Affected System Operator]** has completed the Affected System Upgrade Facilities. This letter confirms that [describe Affected System Upgrade Facilities] have commenced service, effective as of [Date plus one day].

Thank you.

[**Signature**]

[**Affected System Operator's Representatives]**

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