

SERVICE AGREEMENT NO. 2515

SERVICE AGREEMENT NO. 2515

**TRANSMISSION FACILITY
INTERCONNECTION AGREEMENT**

BY AND BETWEEN

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

AND

ORANGE AND ROCKLAND UTILITIES, INC.

Dated as of March 20, 2020

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TRANSMISSION FACILITY INTERCONNECTION AGREEMENT

THIS TRANSMISSION FACILITY INTERCONNECTION AGREEMENT

(“Agreement”) is made and entered into this 20th day of March 2020, by and between Consolidated Edison Company of New York, Inc., a corporation organized and existing under the laws of the State of New York (“Developer”), and Orange and Rockland Utilities, Inc., a corporation organized and existing under the laws of the State of New York (“Connecting Transmission Owner”). Developer or Connecting Transmission Owner each may be referred to as a “Party” or collectively referred to as the “Parties”

RECITALS

WHEREAS, the New York Independent System Operator (“NYISO”) operates the Transmission System in New York State and the Connecting Transmission Owner owns transmission facilities electrically located in New York State;

WHEREAS, Developer and the Connecting Transmission Owner co-own a transmission line, which is referred to as “Y-88”, running from the Buchanan South Substation to the Ladentown Substation¹;

WHEREAS, the Connecting Transmission Owner is constructing a 345kV Gas Insulated Substation (“GIS”) known as the Lovett 345kV Substation, which is referred to as “Lovett Substation”;

WHEREAS, Lovett Substation is being constructed to resolve certain reliability concerns of the Connecting Transmission Owner;

WHEREAS, Y-88 will be bisected into two parts, Y-88 and Y-66;

WHEREAS, Y-88 and Y-66 will be separately interconnected² to transmission lines near the Lovett Substation;

¹ Transmission line Y-88 is owned 100% by the Developer from Buchanan South to midHudson River. The remainder of Y-88 is owned 85% by the Developer and 15% by the CTO. This agreement does not change or alter the ownership of the transmission line.

² The exact description on the interconnections is detailed in Appendices A and C.

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WHEREAS, Y-88 will run from Buchanan South Substation to a transmission line near the Lovett Substation and Y-66 will run from a transmission line near the Lovett Substation to the Ladentown Substation;

WHEREAS, Developer and the Connecting Transmission Owner have agreed to enter into this Agreement for the purpose of interconnecting the Y-88 and Y-66 to the New York Transmission System near the Lovett Substation;

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 30.1.0 or Attachment S of the NYISO OATT.

Affected System shall mean an electric system other than the transmission system owned, controlled or operated by the Connecting Transmission Owner or the Developer that may be affected by the proposed interconnection.

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

Affected Transmission Owner shall mean a New York public utility or authority (or its designated agent) other than the Connecting Transmission Owner that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York State Transmission System where System Upgrade Facilities are installed pursuant to Attachment X and Attachment S of the Tariff.

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.

Agreement shall have the meaning set forth in the preamble.

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.

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

Applicable Reliability Standards shall mean the requirements and guidelines of the Applicable Reliability Councils, and the Transmission District to which Y-88 and Y-66 are directly interconnected, 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.

Attachment Facilities shall mean the Connecting Transmission Owner's Attachment Facilities and the Developer's Attachment Facilities. Collectively, Attachment Facilities include all facilities and equipment between Y-88 and Y-66 and the Points of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect Y-88 and Y-66 to the New York State Transmission System. Attachment Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities or System Upgrade Facilities.

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.

Byway shall mean all transmission facilities comprising the New York State Transmission System that are neither Highways nor Other Interfaces. All transmission facilities in Zone J and Zone K are Byways.

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

Commercial Operation shall mean the status of Y-88 and Y-66 that has commenced transmitting electricity.

Commercial Operation Date shall mean the date on which Y-88 and Y-66 commences Commercial Operation as agreed to by the Parties pursuant to Appendix E to this Agreement.

Confidential Information shall mean any information that is defined as confidential by Article 22 of this Agreement.

Connecting Transmission Owner shall have the meaning set forth in the preamble to the Agreement.

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Connecting Transmission Owner's Attachment Facilities shall mean all facilities and equipment owned, controlled or operated by the Connecting Transmission Owner from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this Agreement, including any modifications, additions or upgrades to such facilities and equipment. Connecting Transmission Owner's Attachment Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities or System Upgrade Facilities.

Control Area shall mean an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to: (1) match, at all times, the power output of the Generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the Load within the electric power system(s); (2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; (3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and (4) provide sufficient generating capacity to maintain Operating Reserves in accordance with Good Utility Practice. A Control Area must be certified by the NPCC.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 17 of this Agreement.

Developer shall have the meaning set forth in the preamble.

Developer's Attachment Facilities shall mean all facilities and equipment, as identified in Appendix A to this Agreement, that are located between Y-88 and Y-66 and the Points of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect Y-88 and Y-66 to the New York State Transmission System. Developer's Attachment Facilities are sole use facilities.

Dispute Resolution shall mean the procedure described in Article 27 of this Agreement for resolution of a dispute between the Parties.

Effective Date shall mean the date on which this Agreement becomes effective upon execution by the Parties, subject to acceptance by the Commission.

Emergency State shall mean the condition or state that the New York State Power System is in when an abnormal condition occurs that requires automatic or immediate manual action to prevent or limit loss of the New York State Transmission System or Generators that could adversely affect the reliability of the New York State Power System.

Engineering & Procurement (E&P) Agreement shall mean an agreement that authorizes Connecting Transmission Owner to begin engineering and procurement of long leadtime items necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request.

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

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

FERC shall mean the Federal Energy Regulatory 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.

Gas Insulated Substation (“GIS”) - A substation employing gas-filled elements, generally employing Sulphur hexafluoride (SF6) as an insulating medium rather than air.

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 Transmission Owner, 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.

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Initial Synchronization Date shall mean the date upon which Y-88 and Y-66 are initially synchronized with the New York State Transmission System after being interconnected near the Lovett Substation.

In-Service Date shall mean the date upon which Developer reasonably expects it will be ready to begin using transmission lines Y-88 and Y-66 to transport energy.

IRS shall mean the Internal Revenue Service.

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

Lovett Substation shall mean the 345kV Gas Insulated Lovett Substation, including all facilities and equipment owned by the Connecting Transmission Owner that is located within the 345kV Gas Insulated Lovett Substation, as identified in Appendix A to this Agreement.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

Metering Equipment shall mean all metering equipment installed or to be installed at the Point of Interconnection, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

Minimum Interconnection Standard shall mean the reliability standard that must be met by any Transmission Facility proposing to connect to the New York State Transmission System. The Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System. The Standard does not impose any deliverability test or deliverability requirement on the proposed interconnection.

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

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.

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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.

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

Other Interfaces shall mean interfaces into New York capacity regions, Zone J and Zone K, and external ties into the New York Control Area.

Party or Parties shall have the meaning set forth in the preamble to the Agreement.

Points of Change of Ownership (PCO) shall mean the points, as set forth in Appendix A and C to this Agreement, where Developer's Attachment Facilities connect to the Connecting Transmission Owner's Attachment Facilities.

Points of Interconnection (POI) shall mean the points, as set forth in Appendix A and C to this Agreement, where Y-88 and Y-66 connect to the Connecting Transmission Owner's System Upgrade Facilities.

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.

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.

Stand Alone System Upgrade Facilities shall mean System Upgrade Facilities that may be constructed without affecting day-to-day operations of the New York State Transmission System during their construction. The Connecting Transmission Owner and the Developer must agree as to what constitutes Stand Alone System Upgrade Facilities.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, required to (1) protect the New York State Transmission System from faults or other electrical disturbances occurring on Y-88 and Y-66 and (2) protect Y-88 and Y-66 from faults or other electrical system disturbances occurring on the New York State Transmission System or on other delivery systems or other generating systems to which the New York State Transmission System is directly connected.

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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.

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.

Transmission Line shall mean the existing transmission line known as feeder Y-88 which runs between the existing 345kV Buchanan North Substation and the existing 345kV Ladentown Substation.

Trial Operation shall mean the period during which Developer is engaged in on-site test operations and commissioning of the Transmission Project prior to Commercial Operation.

Y-66 shall mean the redesignated portion of existing Transmission Line connecting a transmission line near the Lovett Substation to the Ladentown Substation. . Lovett

Y-88 shall mean the existing Transmission Line which runs between the 345kV Buchanan South Substation to the 345kV Ladentown Substation. Once Y-88 is interconnected to a transmission line near the Lovett Substation, Y-88 shall mean the portion of kY88 connecting a transmission line near the Lovett Substation to the Buchanan South Substation.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date. This Agreement shall become effective upon execution by the Parties, subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC. The Connecting Transmission Owner and Developer shall promptly file this Agreement with FERC upon execution in accordance with Article 3.1.

2.2 Term of Agreement. Subject to the provisions of Article 2.3, this Agreement shall remain in effect for a period of twenty (25) years from the Effective Date and shall be automatically renewed for each successive one-year period thereafter.

2.3 Termination.

2.3.1 Written Notice. This Agreement may be terminated by the Developer after

giving the Connecting Transmission Owner ninety (90) Calendar Days advance written notice at any time during the term of this Agreement, or by the

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Connecting Transmission Owner notifying FERC after Y-88 and Y-66 permanently ceases Commercial Operation.

2.3.2 Default. Either Party may terminate this Agreement in accordance with Article 17.

2.3.3 Compliance. Notwithstanding Articles 2.3.1 and 2.3.2, 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 a Party elects to terminate this Agreement pursuant to Article 2.3.1 above, the terminating Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for Attachment Facilities and equipment) or charges assessed by the other Party, as of the date of the other Party's receipt of such notice of termination, that are the responsibility of the terminating Party under this Agreement. In the event of termination by a Party, the other Party 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 Connecting Transmission Owner's Attachment Facilities that have not yet been constructed or installed, the Connecting Transmission Owner 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, such 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 the Connecting Transmission Owner shall deliver such material and equipment, and, if necessary, assign such contracts, to Developer as soon as practicable, at Developer's expense. To the extent that Developer has already paid Connecting Transmission Owner for any or all such costs of materials or equipment not taken by Developer, Connecting Transmission Owner shall promptly refund such amounts to Developer, less any costs, including penalties incurred by the Connecting Transmission Owner to cancel any pending orders of or return such materials, equipment, or contracts.

If Developer terminates this Agreement, it shall be responsible for all costs incurred in association with Developer's interconnection, including any cancellation costs relating to orders or contracts for Attachment Facilities and equipment, and other expenses including any System Upgrade Facilities for which the Connecting Transmission Owner has incurred expenses and has not been reimbursed by Developer.

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- 2.4.2** Connecting Transmission Owner may, at its option, retain any portion of such materials, equipment, or facilities that Developer chooses not to accept delivery of, in which case Connecting Transmission Owner shall be responsible for all costs associated with procuring such materials, equipment, or facilities.
- 2.4.3** With respect to any portion of the Attachment Facilities, and any other facilities already installed or constructed pursuant to the terms of this Agreement, Developer and Connecting Transmission Owner shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities as indicated in Appendix A.
- 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; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit Developer and Connecting Transmission Owner each to have access to the lands of the other pursuant to this Agreement or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

ARTICLE 3. REGULATORY FILINGS

- 3.1** **Filing.** Connecting Transmission Owner and Developer shall file this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. Any information related to studies for interconnection asserted by Developer to contain Confidential Information shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT. If Developer has executed this Agreement, or any amendment thereto, Developer shall reasonably cooperate with Connecting Transmission Owner with respect to such filing and provide any information reasonably requested by Connecting Transmission Owner needed to comply with Applicable Laws and Regulations.

ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE

- 4.1** **Reserved.**
- 4.2** **No Transmission Delivery Service.** The execution of this Agreement does not

constitute a request for, nor an agreement to provide, any Transmission Service under the NYISO OATT, and does not convey any right to deliver electricity to any specific customer or Point of Delivery. If Developer wishes to obtain Transmission Service on

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the New York State Transmission System, then Developer must request such Transmission Service in accordance with the provisions of the NYISO OATT.

- 4.3 No Other Services.** The execution of this Agreement does not constitute a request for, nor an agreement to provide Energy, any Ancillary Services or Installed Capacity under the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”). If Developer wishes to supply Energy, Installed Capacity or Ancillary Services, then Developer will make application to do so in accordance with the NYISO Services Tariff and the NYISO Installed Capacity Manual. This Agreement does not in any way alter the Transmission Project’s eligibility for Unforced Capacity Deliverability Rights to the extent such Unforced Capacity Deliverability Rights are requested by Developer after execution of this Agreement.

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

- 5.1 Options.** Unless otherwise mutually agreed to by Developer and Connecting Transmission Owner, Developer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either Standard Option or Alternate Option set forth below for completion of the Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities as set forth in Appendix A hereto, and such dates and selected option shall be set forth in Appendix B hereto.

5.1.1 Standard Option. The Connecting Transmission Owner shall design, procure, and construct the Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities, using Reasonable Efforts to complete the Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities by the dates set forth in Appendix B hereto. The Connecting Transmission Owner 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 the Connecting Transmission Owner reasonably expects that it will not be able to complete the Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities, by the specified dates, the Connecting Transmission Owner shall promptly provide written notice to Developer and NYISO, and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

5.1.2 Alternate Option. If the dates designated by Developer are acceptable to Connecting Transmission Owner, the Connecting Transmission Owner shall so notify Developer within thirty (30) Calendar Days, and shall assume

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responsibility for the design, procurement and construction of the System
Upgrade Facilities by the designated dates.

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5.1.3 Option to Build. If the dates designated by Developer are not acceptable to Connecting Transmission Owner, the Connecting Transmission Owner shall so notify the Developer within thirty (30) Calendar Days, and unless Developer and Connecting Transmission Owner agree otherwise, Developer shall have the option to assume responsibility for the design, procurement and construction of System Upgrade Facilities on the dates specified in Article 5.1.2.

5.1.4 Negotiated Option. If Developer elects not to exercise its option under Article 5.1.3, Option to Build, Developer shall so notify Connecting Transmission Owner within thirty (30) Calendar Days, and Developer and Connecting Transmission Owner shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of the Connecting Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities by Developer) pursuant to which Connecting Transmission Owner is responsible for the design, procurement and construction of the Connecting Transmission Owner's Attachment Facilities and System Upgrade Facilities. If the two Parties are unable to reach agreement on such terms and conditions, Connecting Transmission Owner shall assume responsibility for the design, procurement and construction of the Connecting Transmission Owner's Attachment Facilities and System Upgrades Facilities pursuant to 5.1.1, Standard Option.

5.2 General Conditions Applicable to Option to Build. If Developer assumes responsibility for the design, procurement and construction of System Upgrade Facilities,

- (1) Developer shall engineer, procure equipment, and construct System Upgrade Facilities (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Connecting Transmission Owner;
- (2) Developer's engineering, procurement and construction of the System Upgrade Facilities shall comply with all requirements of law to which Connecting Transmission Owner would be subject in the engineering, procurement or construction of the System Upgrade Facilities;
- (3) Connecting Transmission Owner shall review and approve the engineering design, equipment acceptance tests, and the construction of the System Upgrade Facilities;
- (4) Prior to commencement of construction, Developer shall provide to Connecting Transmission Owner a schedule for construction of the System Upgrade Facilities, and shall promptly respond to requests for information from Connecting Transmission Owner;

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(5) At any time during construction, Connecting Transmission Owner shall have the right to gain unrestricted access to the System Upgrade Facilities and to conduct inspections of the same;

(6) At any time during construction, should any phase of the engineering, equipment procurement, or construction of the Connecting Transmission Owner's System Upgrade Facilities not meet the standards and specifications provided by Connecting Transmission Owner Developer shall be obligated to remedy deficiencies in that portion of the System Upgrade Facilities;

(7) Developer shall indemnify Connecting Transmission Owner for claims arising from the Developer's construction of System Upgrade Facilities under procedures applicable to Article 18.1 Indemnity;

(8) Developer shall transfer control of System Upgrade Facilities to the Connecting Transmission Owner;

(9) Unless Developer and Connecting Transmission Owner otherwise agree, Developer shall transfer ownership of System Upgrade Facilities to Connecting Transmission Owner;

(10) The Connecting Transmission Owner shall be responsible for operation and maintenance the System Upgrade Facilities to the extent engineered, procured, and constructed in accordance with this Article 5.2, and Connecting Transmission Owner may transfer that responsibility to a third party by contract.

5.3 Reserved.

5.4 Reserved.

5.5 Equipment Procurement.

If responsibility for construction of the Connecting Transmission Owner's Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades is to be borne by the Connecting Transmission Owner, then the Connecting Transmission Owner shall commence design of the Connecting Transmission Owner's Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Developer and Connecting Transmission Owner otherwise agree in writing:

5.5.1 Reserved

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5.5.2 Reserved

5.5.3 The Connecting Transmission Owner has received written authorization to proceed with design and procurement from the Developer by the date specified in Appendix B hereto; and

5.5.4 The Developer has provided security to the Connecting Transmission Owner in accordance with Article 11.5 by the dates specified in Appendix B hereto.

5.6 Construction Commencement.

The Connecting Transmission Owner or Developer shall commence construction of the Connecting Transmission Owner's Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:

5.6.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

5.6.2 Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Connecting Transmission Owner's Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades;

5.6.3 The Connecting Transmission Owner has received written authorization to proceed with construction from Developer by the date specified in Appendix B hereto; and

5.7 Work Progress. Developer and Connecting Transmission Owner will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Either Party may, at any time, request a progress report from the other Party. If, at any time, Developer determines that the completion of the Connecting Transmission Owner's Attachment Facilities will not be required until after the specified In-Service Date, Developer will provide written notice to the Connecting Transmission Owner of such later date upon which the completion of the Connecting Transmission Owner's Attachment Facilities will be required.

5.8 Information Exchange. As soon as reasonably practicable after the Effective Date, Developer and Connecting Transmission Owner shall exchange information, regarding the design and compatibility of the Attachment Facilities and compatibility of the

Attachment Facilities with the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes.

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5.9 Reserved.

5.10 Developer's Attachment Facilities ("DAF").

Developer shall, at Connecting Transmission Owner expense, design, procure, construct, own and install the DAF, as set forth in Appendix A hereto.

5.10.1 DAF Specifications.

Developer shall submit initial specifications for the DAF, including System Protection Facilities, to Connecting Transmission Owner and NYISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. Connecting Transmission Owner and NYISO shall review such specifications to ensure that the DAF are compatible with the technical specifications, operational control, and safety requirements of the Connecting Transmission Owner and NYISO and comment on such specifications within thirty (30) Calendar Days of Developer's submission. All specifications provided hereunder shall be deemed to be Confidential Information.

5.10.2 No Warranty.

The review of Developer's final specifications by Connecting Transmission Owner and NYISO shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the DAF. Developer shall make such changes to the DAF as may reasonably be required by Connecting Transmission Owner or NYISO, in accordance with Good Utility Practice, to ensure that the DAF are compatible with the technical specifications, operational control, and safety requirements of the Connecting Transmission Owner and NYISO.

5.10.3 DAF Construction.

The DAF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Developer and Connecting Transmission Owner agree on another mutually acceptable deadline, the Developer shall deliver to the Connecting Transmission Owner and NYISO "as-built" drawings, information and documents for the DAF, such as: a one-line diagram, a site plan showing the Large Generating Facility and the DAF, plan and elevation drawings showing the layout of the DAF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Developer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the DAF, and the impedances (determined by factory tests) for the associated step-up transformers and the

Large Generating Facility. The Developer shall provide to, and coordinate with, Connecting Transmission Owner and NYISO with respect to proposed specifications for the excitation

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system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable.

5.11 Connecting Transmission Owner's Attachment Facilities Construction.

The Connecting Transmission Owner's Attachment Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Connecting Transmission Owner and Developer agree on another mutually acceptable deadline, the Connecting Transmission Owner shall deliver to the Developer "as-built" drawings, relay diagrams, information and documents for the Connecting Transmission Owner's Attachment Facilities set forth in Appendix A.

The Connecting Transmission Owner shall transfer operational control of the Connecting Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities to the NYISO upon completion of such facilities.

5.12 Access Rights. Upon reasonable notice and supervision by the Granting Party, and subject to any required or necessary regulatory approvals from a Governmental Authority, either the Connecting Transmission Owner or Developer ("Granting Party") shall furnish to the other Party ("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 at the Point of Interconnection to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect Y-88 and Y-66 with the New York State Transmission System; (ii) operate and maintain Y-88 and Y-66, the Attachment Facilities and the New York State Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this Agreement. 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.

5.13 Lands of Other Property Owners. If any part of the Connecting Transmission Owner's Attachment Facilities and/or System Upgrade Facilities is to be installed on property owned by persons other than Developer or Connecting Transmission Owner, the Connecting Transmission Owner shall at its expense use efforts, similar in nature and extent 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 Connecting

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Transmission Owner's Attachment Facilities and/or System Upgrade Facilities upon such property.

5.14 Permits. Connecting Transmission Owner and Developer shall cooperate with each other in good faith in obtaining all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, Connecting Transmission Owner shall provide permitting assistance to Developer comparable to that provided to the Connecting Transmission Owner's own, or an Affiliate's generation or transmission facilities, if any.

5.15 Reserved.

5.16 Reserved

5.17 Taxes.

5.17.1 Developer Payments Not Taxable. Developer and Connecting Transmission Owner intend that all payments or property transfers made by Developer to Connecting Transmission Owner for the installation of the Connecting Transmission Owner's Attachment Facilities and the 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.

5.17.2 Representations and Covenants. In accordance with IRS Notice 2001-82 and IRS Notice 88-129, as applicable to this Transmission Project, Developer represents and covenants that (i) ownership of the electricity transmitted on the Transmission Project 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 the Connecting Transmission Owner for the Connecting Transmission Owner's Attachment 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 Connecting Transmission Owner's Attachment 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 Transmission Project. 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.

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At Connecting Transmission Owner's request, Developer shall provide Connecting Transmission Owner with a report from an independent engineer confirming its representation in clause (iii), above. Connecting Transmission Owner represents and covenants that the cost of the Connecting Transmission Owner's Attachment Facilities paid for by Developer will have no net effect on the base upon which rates are determined.

5.17.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Connecting Transmission Owner. Notwithstanding Article 5.17.1, Developer shall protect, indemnify and hold harmless Connecting Transmission Owner from the cost consequences of any current tax liability imposed against Connecting Transmission Owner as the result of payments or property transfers made by Developer to Connecting Transmission Owner under this Agreement, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Connecting Transmission Owner.

Connecting Transmission Owner 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) Connecting Transmission Owner has determined, in good faith, that the payments or property transfers made by Developer to Connecting Transmission Owner should be reported as income subject to taxation or (ii) any Governmental Authority directs Connecting Transmission Owner to report payments or property as income subject to taxation; provided, however, that Connecting Transmission Owner may require Developer to provide security, in a form reasonably acceptable to Connecting Transmission Owner (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. Developer shall reimburse Connecting Transmission Owner for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Connecting Transmission Owner 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 Connecting Transmission Owner upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

5.17.4 Tax Gross-Up Amount. Developer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Developer will pay Connecting Transmission Owner, in addition to the amount

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paid for the Attachment Facilities and System Upgrade Facilities, an amount
equal to (1) the current taxes imposed on Connecting Transmission Owner

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("Current Taxes") on the excess of (a) the gross income realized by Connecting Transmission Owner as a result of payments or property transfers made by Developer to Connecting Transmission Owner under this Agreement (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Connecting Transmission Owner 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 Connecting Transmission Owner's composite federal and state tax rates at the time the payments or property transfers are received and Connecting Transmission Owner 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 Connecting Transmission Owner's anticipated tax depreciation deductions as a result of such payments or property transfers by Connecting Transmission Owner's current weighted average cost of capital. Thus, the formula for calculating Developer's liability to Connecting Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows:
$$(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate}).$$

Developer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Attachment Facilities and System Upgrade Facilities.

5.17.5 Private Letter Ruling or Change or Clarification of Law. At Developer's request and expense, Connecting Transmission Owner 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 Connecting Transmission Owner 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. Connecting Transmission Owner and Developer shall cooperate in good faith with respect to the submission of such request.

Connecting Transmission Owner 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. Connecting Transmission Owner 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

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connection with the request.

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- 5.17.6 Subsequent Taxable Events.** If, within 10 years from the date on which the relevant Connecting Transmission Owner Attachment Facilities are placed in service, (i) Developer Breaches the covenants contained in Article 5.17.2, (ii) a “disqualification event” occurs within the meaning of IRS Notice 88-129, or (iii) this Agreement terminates and Connecting Transmission Owner retains ownership of the Attachment Facilities and System Upgrade Facilities, the Developer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on Connecting Transmission Owner, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.
- 5.17.7 Contests.** In the event any Governmental Authority determines that Connecting Transmission Owner’s receipt of payments or property constitutes income that is subject to taxation, Connecting Transmission Owner 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, Connecting Transmission Owner may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Developer’s written request and sole expense, Connecting Transmission Owner may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. Connecting Transmission Owner 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 Connecting Transmission Owner shall keep Developer informed, shall consider in good faith suggestions from Developer about the conduct of the contest, and shall reasonably permit Developer or an Developer representative to attend contest proceedings.
- Developer shall pay to Connecting Transmission Owner on a periodic basis, as invoiced by Connecting Transmission Owner, Connecting Transmission Owner’s documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. At any time during the contest, Connecting Transmission Owner may agree to a settlement either with Developer’s consent or after obtaining written advice from nationally-recognized tax counsel, selected by Connecting Transmission Owner, 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. Any settlement without Developer’s consent or such written advice will relieve Developer from any obligation to indemnify Connecting Transmission Owner for the tax at issue in the contest.

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5.17.8 Refund. In the event that (a) a private letter ruling is issued to Connecting Transmission Owner which holds that any amount paid or the value of any property transferred by Developer to Connecting Transmission Owner 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 Connecting Transmission Owner in good faith that any amount paid or the value of any property transferred by Developer to Connecting Transmission Owner under the terms of this Agreement is not taxable to Connecting Transmission Owner, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Developer to Connecting Transmission Owner are not subject to federal income tax, or (d) if Connecting Transmission Owner receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Developer to Connecting Transmission Owner pursuant to this Agreement, Connecting Transmission Owner shall promptly refund to Developer the following:

- (i) Any payment made by Developer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,
- (ii) Interest on any amounts paid by Developer to Connecting Transmission Owner for such taxes which Connecting Transmission Owner 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 Connecting Transmission Owner refunds such payment to Developer, and
- (iii) With respect to any such taxes paid by Connecting Transmission Owner, any refund or credit Connecting Transmission Owner 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 Connecting Transmission Owner for such overpayment of taxes (including any reduction in interest otherwise payable by Connecting Transmission Owner to any Governmental Authority resulting from an offset or credit); provided, however, that Connecting Transmission Owner will remit such amount promptly to Developer only after and to the extent that Connecting Transmission Owner has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Connecting Transmission Owner's Attachment Facilities.

The intent of this provision is to leave both the Developer and Connecting Transmission Owner, to the extent practicable, in the event that no taxes

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are due with respect to any payment for Attachment Facilities and System Upgrade Facilities hereunder, in the same position they would have been in had no such tax payments been made.

5.17.9 Taxes Other Than Income Taxes. Upon the timely request by Developer, and at Developer's sole expense, Connecting Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Connecting Transmission Owner for which Developer may be required to reimburse Connecting Transmission Owner under the terms of this Agreement. Developer shall pay to Connecting Transmission Owner on a periodic basis, as invoiced by Connecting Transmission Owner, Connecting Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Developer and Connecting Transmission Owner 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 Connecting Transmission Owner 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 Connecting Transmission Owner.

5.18 Tax Status; Non-Jurisdictional Entities.

5.18.1 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 any Connecting Transmission Owner with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds. Notwithstanding any other provisions of this Agreement, the Connecting Transmission Owner shall not be required to comply with any provisions of this Agreement that would result in the loss of tax-exempt status of any of their Tax-Exempt Bonds or impair their ability to issue future tax-exempt obligations. For purposes of this provision, Tax-Exempt Bonds shall include the obligations of the Connecting Transmission Owner the interest on which is not included in gross income under the Internal Revenue Code.

5.19 Modification.

5.19.1 General. Either the Developer or Connecting Transmission Owner may undertake modifications to its facilities covered by this Agreement. If either the Developer or Connecting Transmission Owner plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party

shall provide to the other Party, sufficient information regarding such modification so that the other Party may evaluate the potential impact of such

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modification prior to commencement of the work. Such information shall be deemed to be Confidential Information hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Transmission Project. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

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

5.19.3 Modification Costs. Developer shall not be assigned the costs of any additions, modifications, or replacements that Connecting Transmission Owner makes to the Connecting Transmission Owner's Attachment Facilities or the New York State Transmission System to facilitate the interconnection of a third party to the Connecting Transmission Owner's Attachment Facilities or the New York State Transmission System, or to provide Transmission Service to a third party under the NYISO OATT, except in accordance with the cost allocation procedures in Attachment S of the NYISO OATT. Developer shall be responsible for the costs of any additions, modifications, or replacements to the Developer Attachment Facilities that may be necessary to maintain or upgrade such Developer Attachment Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-Commercial Operation Date Testing and Modifications. Prior to the Commercial Operation Date, the Connecting Transmission Owner shall test the Connecting Transmission Owner's Attachment Facilities and System Upgrade Facilities located near or in the Lovett and at the Ladentown Substation. Developer shall test the Developer's Attachment Facilities and Developer's System Upgrade Facilities located at the Buchanan South Substation, to ensure their safe and reliable operation. Similar testing may be required after initial operation. Developer and Connecting Transmission Owner shall each make any modifications to its facilities that are found to be necessary as a result of such testing. Developer has the right to test all System Upgrade Facilities located at the Buchanan South and Ladentown Substations. The Connecting Transmission Owner shall bear the cost of all such testing and modifications.

6.2 Post-Commercial Operation Date Testing and Modifications. Connecting Transmission Owner shall pay all the expenses associated with performing routine

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inspection and testing of the facilities and equipment located near or in the Lovett, in accordance with Good Utility Practice and Applicable Reliability Standards as may be necessary to provide for the continued interconnection of Y-88 and Y-66 with the New York State Transmission System in a safe and reliable manner. Developer shall pay all the expenses associated with performing routine inspection and testing of the facilities and equipment located in the Buchanan South Substation. The expenses associated with performing routine inspection and testing at the Ladentown Substation shall be paid according to the existing Ladentown Switching Station Agreement, dated as of January 11, 1974 between the Parties. Developer and Connecting Transmission Owner shall each have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities at the requester's expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing. Developer and Connecting Transmission Owner shall each notify the other Party in advance of its performance of tests of its Attachment Facilities. The other Party shall each have the right, at its own expense, to observe such testing.

6.4 Right to Inspect. Developer and Connecting Transmission Owner shall each have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Attachment Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Attachment Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT.

ARTICLE 7. METERING

7.1 General.

Developer and Connecting Transmission Owner shall each comply with applicable requirements of NYISO and the New York Public Service Commission when exercising its rights and fulfilling its responsibilities under this Article 7. Unless otherwise agreed by Connecting Transmission Owner and Developer, Connecting Transmission Owner shall install Metering Equipment at the Points of Interconnection prior to any operation of Y-88 and Y-66 and shall own, operate, test and maintain such Metering Equipment. Net

power flows including MW and MVAR, MWHR and loss profile shall be measured at the Points of Interconnection. Connecting Transmission Owner shall provide metering

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quantities, in analog and/or digital form, as required, to the Developer upon request. As negotiated between the Parties, the Connecting Transmission Owner shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Local Meters.

Developer, at its option and expense, may install and operate, on its premises and on its side of the Points of Interconnection, one or more local meters to check Connecting Transmission Owner's meters. Such local meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this Agreement, except as provided in Article 7.4 below. The local meters shall be subject at all reasonable times to inspection and examination by Connecting Transmission Owner or its designee. The installation, operation and maintenance thereof shall be performed entirely by Developer in accordance with Good Utility Practice.

7.3 Standards.

Connecting Transmission Owner shall install, calibrate, and test revenue quality Metering Equipment including potential transformers and current transformers in accordance with applicable ANSI and PSC standards as detailed in the NYISO Control Center Communications Manual and in the NYISO Revenue Metering Requirements Manual.

7.4 Testing of Metering Equipment.

Connecting Transmission Owner shall inspect and test all of its Metering Equipment upon installation at the Lovett and at the Ladentown Substation and at least once every two (2) years thereafter. The Developer shall inspect and test all of its Metering Equipment upon installation at the Buchanan South Substation. If requested to do so by the other Party, the Party owning the Metering Equipment shall, at the other Party's expense, inspect or test Metering Equipment more frequently than every two (2) years. the Party owning the Metering Equipment shall give reasonable notice of the time when any inspection or test shall take place, and the other Party may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at other Party's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to the Party owning the Metering Equipment's failure to maintain, then the Party owning the Metering Equipment shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, the Party owning the Metering Equipment shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Developer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment.

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7.5 Metering Data.

At CTO's expense, the metered data shall be telemetered to one or more locations designated by Connecting Transmission Owner, Developer and the NYISO. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy transmitted Y-88 and Y-66 at the Points of Interconnection.

ARTICLE 8. COMMUNICATIONS

8.1 Developer Obligations. In accordance with applicable NYISO requirements, Developer shall maintain satisfactory operating communications with Connecting Transmission Owner and the NYISO. The Connecting Transmission Owner shall provide standard voice line, dedicated voice line and facsimile communications at its transmission control room or central dispatch Lovett through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. The Connecting Transmission Owner shall also provide the dedicated data circuit(s) necessary to provide Connecting Transmission Owner and Developer data, to Developer, Connecting Transmission Owner and the NYISO as set forth in Appendix A hereto. Any required maintenance of such communications equipment shall be performed by the owner of such equipment, at the owner's expense. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit. Prior to the Initial Synchronization Date for Y-88 and Y-66, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Connecting Transmission Owner at Connecting Transmission Owner's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Connecting Transmission Owner, Developer and NYISO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by Connecting Transmission Owner, the Developer and the NYISO. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Developer, Connecting Transmission Owner, and the NYISO.

Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by that other Party. The other Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation. Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and

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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 9. OPERATIONS

- 9.1 General.** Each Party shall comply with Applicable Laws and Regulations and Applicable Reliability Standards. Each Party shall provide to the other Parties all information that may reasonably be required by the other Parties to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 Connecting Transmission Owner Obligations.** Connecting Transmission Owner shall cause the New York State Transmission System and the Connecting Transmission Owner's Attachment Facilities to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the NYISO Tariffs. Connecting Transmission Owner may provide operating instructions to Developer consistent with this Agreement, NYISO procedures and Connecting Transmission Owner's operating protocols and procedures as they may change from time to time. Connecting Transmission Owner will consider changes to its respective operating protocols and procedures proposed by Developer.
- 9.3 Developer Obligations.** Developer shall at its own expense operate, maintain and control Developer Attachment Facilities in a safe and reliable manner and in accordance with this Agreement. Developer shall operate Developer's Attachment Facilities in accordance with NYISO and Connecting Transmission Owner requirements.
- 9.4 Start-Up and Synchronization.** Consistent with the mutually acceptable procedures of the Developer and Connecting Transmission Owner, the Developer is responsible for the proper synchronization of Y-88 at the Buchanan South Substation, and the CTO shall have the responsibility for the proper synchronization of Y-66 and Y-88 at the Ladentown Substation and at the Lovett Substation to the New York State Transmission System in accordance with the NYISO, the Developer's and Connecting Transmission Owner procedures and requirements.
- 9.5 Reserved.**
- 9.6 Outages and Interruptions.**
- 9.6.1 Outages.**

9.6.1.1 Outage Authority and Coordination. Developer and Connecting

Transmission Owner may each, in accordance with NYISO procedures

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and Good Utility Practice and in coordination with the other Party, remove from service any of its respective Attachment Facilities or System Upgrade Facilities that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency State, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to both Developer and the Connecting Transmission Owner. In all circumstances either Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

9.6.1.2 Outage Schedules. Developer shall post scheduled outages of its transmission facilities on the NYISO OASIS.

9.6.1.3 Outage Restoration. If an outage on the Attachment Facilities or System Upgrade Facilities of the Connecting Transmission Owner or Developer adversely affects the other Party's operations or facilities, the Party that owns the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns the facility that is out of service shall provide the other Party and NYISO, to the extent such information is known, information on the nature of the Emergency State, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage.

9.6.2 Interruption of Service. If required by Good Utility Practice or Applicable Reliability Standards to do so, the NYISO or Connecting Transmission Owner may require Developer to interrupt or reduce transmission of electricity over Y-88 and Y-66 if such transmission could adversely affect the ability of NYISO and Connecting Transmission Owner to perform such activities as are necessary to safely and reliably operate and maintain the New York State Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.6.2:

9.6.2.1 The interruption or reduction shall continue only for so long as reasonably necessary to: (a) protect its facilities from physical damage or to prevent injury or damage to persons or property under Good Utility Practice; or (b) comply with Applicable Reliability Standards;

9.6.2.2 Any such interruption or reduction shall be : (a) undertaken in

accordance with applicable NYISO procedures and directives; (b) in accordance with the Connecting Transmission Owner's operating

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instructions; and (b) undertaken on an equitable, non-discriminatory basis with respect to all transmission facilities directly connected to that part of the New York State Transmission System owned by Connecting Transmission Owner;

- 9.6.2.3** When the interruption or reduction must be made under circumstances which do not allow for advance notice, the Connecting Transmission Owner shall notify Developer as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;
- 9.6.2.4** Except during the existence of an Emergency State, when the interruption or reduction can be scheduled without advance notice, Connecting Transmission Owner or Developer, as applicable, shall notify the other Party in advance regarding the timing of such scheduling and further notify the other Party of the expected duration. Connecting Transmission Owner shall coordinate with the Developer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Developer, the Connecting Transmission Owner and the New York State Transmission System;
- 9.6.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore Y-88 and Y-66, Attachment Facilities, and the New York State Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice, and in accordance with the directives of the NYISO.

9.6.3 Under-Frequency and Over-Frequency Conditions. The New York State Transmission System is designed to automatically activate a load-shed program as required by the NPCC in the event of an under-frequency system disturbance. Developer shall implement under-frequency and over-frequency relay set points for the Transmission Project as required by the NPCC to ensure the “ride through” capability of the New York State Transmission System. Y-88 and Y-66 response to frequency deviations of predetermined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the NYISO and Connecting Transmission Owner in accordance with Good Utility Practice. The term “ride through” as used herein shall mean the ability of a transmission facility to stay connected to and synchronized with the New York State Transmission System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice and with criteria A 3.

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9.6.4 System Protection and Other Control Requirements.

- 9.6.4.1 System Protection Facilities.** Connecting Transmission Owner shall install System Protection Facilities at the Lovett Substation and at the Ladentown Substation, if necessary. The Developer will install any System Protection Facilities that will be located at the Buchanan South Substation, if necessary, as a part of the interconnections of Y-88 and Y-66. The cost of installing all of the System Protection Facilities shall be borne by the Connecting Transmission Owner.
- 9.6.4.2** The protection facilities of both Developer and Connecting Transmission Owner shall be designed and coordinated with other systems in accordance with Good Utility Practice and Applicable Reliability Standards.
- 9.6.4.3** Developer and Connecting Transmission Owner shall each be responsible for protection of its respective facilities consistent with Good Utility Practice and Applicable Reliability Standards.
- 9.6.4.4** The protective relay design of Developer and Connecting Transmission Owner shall each incorporate the necessary test switches to perform the tests required in Article 6 of this Agreement. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of Developer's Transmission Project or the Connecting Transmission Owner's facilities.
- 9.6.4.5** Developer and Connecting Transmission Owner will each test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and NPCC criteria.
- 9.6.4.6** Prior to the In-Service Date, and again prior to the Commercial Operation Date, Developer and Connecting Transmission Owner shall each perform, or their agents shall perform, a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, Developer and Connecting Transmission Owner shall each perform calibration and functional trip tests of the System Protection Facilities in a manner and at intervals consistent with Connecting Transmission Owner's standard practice for performing such tests. These tests do not require

the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

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9.6.5 Requirements for Protection. In compliance with NPCC requirements, applicable requirements of other Applicable Reliability Councils, and Good Utility Practice, Connecting Transmission Owner shall procure, install, own, and maintain relays, circuit breakers and all other devices at the Lovett necessary to remove any fault contribution of Y-88 and Y-66 to any short circuit occurring on the New York State Transmission System not otherwise isolated by Connecting Transmission Owner's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the New York State Transmission System. Connecting Transmission Owner shall be solely responsible to disconnect Y-88 and Y-66 and Connecting Transmission Owner's other equipment at the Lovett if conditions on the New York State Transmission System could adversely affect Y-88 and Y-66.

9.6.6 Power Quality. Neither the facilities of Developer nor the facilities of Connecting Transmission Owner shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

9.7 Switching and Tagging Rules.

Developer and Connecting Transmission Owner shall each provide the other Party with a copy of its switching and tagging rules that are applicable to the other Party's activities. Such switching and tagging rules shall be developed and administered on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.8 Use of Attachment Facilities by Third Parties.

9.8.1 Purpose of Attachment Facilities. Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to by the Parties, the Attachment Facilities shall be constructed for the sole purpose of interconnecting Y-88 and Y-66 to the New York State Transmission System and shall be used for no other purpose.

9.8.2 Third Party Users. If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Connecting Transmission Owner's Attachment Facilities, or any part thereof, Developer shall be entitled to

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compensation for the capital expenses it incurred in connection with the
Attachment Facilities based upon the pro rata use of the Attachment Facilities by

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Connecting Transmission Owner, all third party users, and Developer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Attachment Facilities, will be allocated between Developer and any third party users based upon the pro rata use of the Attachment Facilities by Connecting Transmission Owner, all third party users, and Developer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

- 9.9 Disturbance Analysis Data Exchange.** The Parties will cooperate with one another and the NYISO in the analysis of disturbances to either the Transmission Project or the New York State Transmission System by gathering and providing access to any information relating to any disturbance, including information from disturbance recording equipment, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

ARTICLE 10. MAINTENANCE

- 10.1 Connecting Transmission Owner Obligations.** Connecting Transmission Owner shall maintain the, its transmission facilities and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement.
- 10.2 Developer Obligations.** Developer shall maintain Y-88 and Y-66, in a safe and reliable manner and in accordance with this Agreement.
- 10.3 Coordination.** Developer and Connecting Transmission Owner shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on Y-88 and Y-66 and the Attachment Facilities. Developer and Connecting Transmission Owner shall keep the NYISO fully informed of the preventive and corrective maintenance that is planned, and shall schedule all such maintenance in accordance with NYISO procedures.
- 10.4 Secondary Systems.** Developer and Connecting Transmission Owner shall each cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of Developer or Connecting Transmission Owner's

facilities and equipment which may reasonably be expected to impact the other Party.
Developer and Connecting Transmission Owner shall each provide advance notice to the

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other Party, and to NYISO, before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

- 10.5 Operating and Maintenance Expenses.** Subject to the provisions herein addressing the use of facilities by third parties, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, the Connecting Transmission Owner shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Connecting Transmission Owner Attachment Facilities; and (2) operation, maintenance, repair and replacement of Developer's Attachment Facilities. The Connecting Transmission Owner shall also be responsible for all operating and maintenance expenses associated with the SUFs that are located within the Lovett Substation and listed in Appendix A. The Developer will pay for all O&M expenses associated with the SUFs that are located at Buchanan South. The O&M expenses associated with the SUFs located in the Ladentown Substation shall be paid according to the Ladentown Switching Station Agreement, dated as of January 11, 1974.

ARTICLE 11. PERFORMANCE OBLIGATION

- 11.1 Developer Attachment Facilities.** Developer shall design, procure, construct, install, own and/or control Developer Attachment Facilities described in Appendix A, hereto.
- 11.2 Connecting Transmission Owner's Attachment Facilities.** Connecting Transmission Owner shall design, procure, construct, install, own and/or control the Connecting Transmission Owner's Attachment Facilities described in Appendix A hereto, at its sole expense.
- 11.3 System Upgrade Facilities.** The Connecting Transmission Owner shall design, procure, construct, install, and own the System Upgrade Facilities located at the Lovett Substation. The Developer shall design and procure the System Upgrade Facilities located at the Ladentown Substation. The Connecting Transmission Owner shall construct and install the System Upgrade Facilities located and at the Ladentown Substation. The System Upgrade Facilities located at the Ladentown Substation shall be owned by the Connecting Transmission Owner and the Developer according to the Ladentown Switching Station Agreement, dated as of January 11, 1974. Developer will design, procure, construct, install, and own the remaining in System Upgrade Facilities located in the Buchanan South as described in Appendix A. The cost of designing, procuring, constructing and installing all the System Upgrade Facilities shall be the responsibility of the Connecting Transmission Owner.

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11.4 Reserved.

11.5 Provision of Security.

No security posting is required.

11.6 Developer Compensation for Emergency Services. If, during an Emergency State, Developer provides services at the request or direction of the NYISO or Connecting Transmission Owner, Developer will be compensated for such services in accordance with the Services Tariff.

11.7 Line Outage Costs. Notwithstanding any provision in the Tariff to the contrary, Connecting Transmission Owner may propose to recover line outage costs associated with the installation of Connecting Transmission Owner's Attachment Facilities or System Upgrade Facilities on a case-by-case basis.

ARTICLE 12. INVOICE

12.1 General. Developer and Connecting Transmission Owner shall each submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. Developer and Connecting Transmission Owner 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.

12.2 Final Invoice. Within six months after completion of the construction of the Connecting Transmission Owner's Attachment Facilities and the System Upgrade Facilities, Connecting Transmission Owner shall provide an invoice of the final cost of the construction of the Connecting Transmission Owner's Attachment Facilities and the System Upgrade Facilities and shall set forth such costs in sufficient detail to enable Developer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates.

12.3 Payment. Invoices shall be rendered to the paying Party at the address specified in Appendix F 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

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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.

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- 12.4 Disputes.** In the event of a billing dispute between Connecting Transmission Owner and Developer, the other party shall continue to perform under this Agreement as long as the paying Party: (i) continues to make all payments not in dispute; and (ii) pays to the other Party or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the paying Party fails to meet these two requirements for continuation of service, then the other Party may provide notice to the paying Party of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii).

ARTICLE 13. EMERGENCIES

- 13.1 Obligations.** Each Party shall comply with the Emergency State procedures of the NYISO, the applicable Reliability Councils, Applicable Laws and Regulations, and any emergency procedures agreed to by the NYISO Operating Committee.
- 13.2 Notice.** The NYISO or, as applicable, Connecting Transmission Owner shall notify Developer promptly when it becomes aware of an Emergency State that affects the Connecting Transmission Owner's Attachment Facilities or the New York State Transmission System that may reasonably be expected to affect Developer's operation of Y-88 and Y-66 or the Developer's Attachment Facilities. Developer shall notify NYISO and Connecting Transmission Owner promptly when it becomes aware of an Emergency State that affects Y-88 and Y-66 or the Developer Attachment Facilities that may reasonably be expected to affect the New York State Transmission System or the Connecting Transmission Owner's Attachment Facilities. To the extent information is known, the notification shall describe the Emergency State, the extent of the damage or deficiency, the expected effect on the operation of Developer's or Connecting Transmission Owner's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.
- 13.3 Immediate Action.** Unless, in Developer's reasonable judgment, immediate action is required, Developer shall obtain the consent of Connecting Transmission Owner, such consent to not be unreasonably withheld, prior to performing any manual switching operations of Y-88 and Y-66 or in response to an Emergency State either declared by the NYISO, Connecting Transmission Owner or otherwise regarding New York State Transmission System.

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13.4 NYISO and Connecting Transmission Owner Authority.

13.4.1 General. The NYISO or Connecting Transmission Owner may take whatever actions with regard to the New York State Transmission System or the Connecting Transmission Owner's Attachment Facilities it deems necessary during an Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the New York State Transmission System or the Connecting Transmission Owner's Attachment Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.

The NYISO and Connecting Transmission Owner shall use Reasonable Efforts to minimize the effect of such actions or inactions on Y-88 and Y-66. The NYISO or Connecting Transmission Owner may, on the basis of technical considerations, require Y-88 and Y-66 to mitigate an Emergency State by taking actions necessary and limited in scope to remedy the Emergency State implementing a reduction or disconnection pursuant to Article 13.4.2; directing Developer to assist with blackstart (if available) or restoration efforts; or altering the outage schedules of the Transmission Project and the Developer Attachment Facilities. Developer shall comply with all of the NYISO and Connecting Transmission Owner's operating instructions concerning Y-88 and Y-66, in compliance with Applicable Laws and Regulations.

13.4.2 Reduction and Disconnection. The NYISO or Connecting Transmission Owner may disconnect Y-88 and Y-66, when such reduction or disconnection is necessary under Good Utility Practice due to an Emergency State. These rights are separate and distinct from any right of Curtailment of the NYISO pursuant to the NYISO OATT. When NYISO or Connecting Transmission Owner can schedule the reduction or disconnection in advance, NYISO or Connecting Transmission Owner shall notify Developer of the reasons, timing and expected duration of the reduction or disconnection. The NYISO or Connecting Transmission Owner shall coordinate with Developer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to Developer and the New York State Transmission System. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore Y-88 and Y-66, the Attachment Facilities, and the New York State Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

13.5 Developer Authority. Consistent with Good Utility Practice and this Agreement, Developer may take whatever actions or inactions with regard to Y-88 and Y-66 during an Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the Transmission Project, (iii) limit or prevent damage, and (iv) expedite

restoration of service. Developer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the New York State Transmission System and the

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Connecting Transmission Owner's Attachment Facilities. The NYISO and Connecting Transmission Owner shall use Reasonable Efforts to assist Developer in such actions.

- 13.6 Limited Liability.** Except as otherwise provided in Article 11.6 of this Agreement, no Party shall be liable to another Party for any action it takes in responding to an Emergency State so long as such action is made in good faith and is consistent with Good Utility Practice and the NYISO Tariffs.

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW

- 14.1 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 Developer 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.

14.2 Governing Law.

14.2.1 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.

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

14.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 15. NOTICES

- 15.1 General.** Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by a Party to the other Party and any instrument

required or permitted to be tendered or delivered by a Party in writing to the other Party 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

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Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F 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.

15.2 Billings and Payments. Billings and payments shall be sent to the addresses set out in Appendix F hereto.

15.3 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 F hereto.

15.4 Operations and Maintenance Notice. Developer and Connecting Transmission Owner shall each notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10 of this Agreement.

ARTICLE 16. FORCE MAJEURE

16.1 Force Majeure.

16.1.1 Economic hardship shall not constitute and is not considered a Force Majeure event.

16.1.2 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 Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

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ARTICLE 17. DEFAULT

17.1 Default.

17.1.1 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 Party. 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.

17.1.2 Right to Terminate. If a Breach is not cured as provided in this Article 17, or if a Breach is not capable of being cured within the period provided for herein, the non-Breaching Party 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 the non-breaching Party terminates 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.

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE

18.1 Indemnity. Each Party (the “Indemnifying Party”) shall at all times indemnify, defend, and save harmless, as applicable, the other Party (the “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, 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.

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18.1.1 Indemnified Party. If a Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1.3, 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.

18.1.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, 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.

18.1.3 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 18.1 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 includes the Indemnified Party 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 be required to pay the fees and expenses of an additional attorney to represent the Indemnified Party.

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.

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18.2 No Consequential Damages. Other than the Liquidated Damages heretofore described and the indemnity obligations set forth in Article 18.1, 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 the other Party under separate agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

18.3 Insurance. The following insurance requirements will apply in the event that Developer and the Connecting Transmission Owner are not affiliated companies.

Developer and Connecting Transmission Owner shall each, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following insurance coverages:

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

18.3.2 Commercial General Liability Insurance including premises and operations, personal injury, property damage, 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 damages to the extent normally available and include cross liability with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

18.3.3 Commercial 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 accident for bodily injury, including death, and property damage.

18.3.4 Excess Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.

18.3.5 The Commercial General Liability Insurance, Comprehensive Automobile

Insurance and Excess Liability Insurance policies of Developer and Connecting Transmission Owner shall name the other Party, its parent, associated and

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Affiliate companies and their respective directors, officers, agents, servants and employees (“Other Party Group”) as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group. Each party will provide thirty (30) calendar days advance written notice to the Other Party Group prior to the cancellation or any material change in coverage

- 18.3.6** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Liability Insurance policies providing additional insured status shall contain provisions that the policies are primary and shall apply to such extent without consideration for other policies separately carried. These policies shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer’s liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Developer and Connecting Transmission Owner shall each be responsible for its respective deductibles or retentions.
- 18.3.7** 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 two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage.
- 18.3.8** The requirements contained herein as to the types and limits of all insurance to be maintained by Developer and Connecting Transmission Owner are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by those Parties under this Agreement.
- 18.3.9** Within ten (10) 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, Developer and Connecting Transmission Owner shall provide certification of all insurance required in this Agreement, executed by an authorized representative of insurers.
- 18.3.10** Notwithstanding the foregoing, Developer and Connecting Transmission Owner may each self-insure to meet the insurance requirements of Articles 18.3.1 18.3.2, 18.3.3 and 18.3.5 auto liability and workers compensation is in statutory compliance with New York State laws In the event that a Party is self-insured pursuant to this Article 18.3.10, it shall notify the other Party that it meets the statutory requirements to self-insure and that its self-insurance program meets the New York State statutory self-insurance requirements in a manner consistent with that specified in Article 18.3.9.

18.3.11 Developer and Connecting Transmission Owner agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to

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any person, including death, and any property damage arising out of this Agreement.

Contractors' Insurance. Each party will require their Contractors of every level to: procure and maintain the following insurance at its own expense until completion and acceptance of performance hereunder, and thereafter to the extent stated below, with at least the monetary limits specified. The insurance shall be in policy forms which contain an "occurrence" and not a "claims made" determinant of coverage and shall be placed with insurance companies acceptable to the Connecting Transmission Owner.

A. Employment related insurance.

(a) Workers' Compensation Insurance as required by law.

(b) Employer's Liability Insurance, including accidents (with a limit of \$1,000,000 per accident) and occupation diseases (with a limit of \$1,000,000 per employee).

(c) Where applicable, insurance required by the United States Longshoremen's and harbor Workers' Act, the Federal Employers' Liability Act, and the Jones Act.

B. Commercial General Liability Insurance, including Contractual Liability, with limits of not less than \$5,000,000 per occurrence for bodily injury or death and \$1,000,000 per occurrence for property damage or a combined single limit of \$5,000,000 per occurrence and, for at least one year after completion of performance hereunder, Products/Completed Operations Liability Insurance with similar but separate and independent limits. Every contractor will be responsible for their policies' deductibles. The insurance shall contain no exclusions for explosion, collapse of a building or structure, or underground hazards. The insurance policy or policies shall name Connecting Transmission Owner and Developer as an additional insured. And their insurance will be primary and non-contributory to any other insurance available to the Additional Insured. There shall be no exclusion for claims by Contractor employees against Connecting Transmission Owner or Developer based on injury to Contractor's employees.

C. Commercial Automobile Liability Insurance, covering all owned, non-owned and hired automobiles used by the contractor or any subcontractors, with limits of \$1,000,000 each accident for bodily injury or death and property damage.

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D. Where the Work involves the use of aircraft, Aircraft Liability Insurance, covering all owned, non-owned and hired aircraft, including helicopters, used by Contractor or any Subcontractors, with a combined single limit of not less than \$5,000,000 for bodily injury or death and property damage. The insurance policy shall name Connecting Transmission Owner and Developer as an additional insured for the full policy limits insured.

Contractor will provide Connecting Transmission Owner with at least ten (10) days' written notice prior to the effective date of any cancellation of the insurance or of any changes in policy limits or scope of coverage.

At least three days prior to commencing work at the site, Contractor shall furnish Connecting Transmission Owner with Certificate(s) of Insurance covering all required insurance and signed by the insurer or its authorized representative certifying that the required insurance has been obtained. Such certificates shall state that the policies have been issued and are effective, show their expiration dates, and state that Connecting Transmission Owner is an additional insured with respect to all coverages enumerated in paragraphs B, D and E above. Connecting Transmission Owner shall have the right to require Contractor to furnish Connecting Transmission Owner, upon request, with a copy of the insurance policy or policies required under paragraphs A, C, and D hereunder. Contractor agrees that this is an insured contract. The insurance required herein is intended to cover Connecting Transmission Owner for its own liability for negligence or any other cause of action in any claim or lawsuit for bodily injury or property damage arising out of the Work performed pursuant to this Agreement.

ARTICLE 19. ASSIGNMENT

- 19.1 Assignment.** This Agreement may be assigned by a Party only with the written consent of the other Party; 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 Party in connection with the sale, merger, restructuring, or transfer of a substantial portion or all of its assets, including the Attachment Facilities it owns, 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 Developer shall have the right to assign this Agreement, without the consent of Connecting Transmission Owner, for collateral security purposes to aid in providing financing for the Transmission Project, provided that Developer will promptly

notify Connecting Transmission Owner of any such assignment. Any financing arrangement entered into by Developer pursuant to this Article will provide that prior to

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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 Connecting Transmission Owner of the date and particulars of any such exercise of assignment right(s) and will provide Connecting Transmission Owner with proof that it meets the requirements of Article 18.3. 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 20. SEVERABILITY

- 20.1 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; provided that if Developer (or any third party, but only if such third party is not acting at the direction of the Connecting Transmission Owner) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the rights and obligations of Developer and Connecting Transmission Owner shall be governed solely by the Standard Option (Article 5.1.1).

ARTICLE 21. COMPARABILITY

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

ARTICLE 22. CONFIDENTIALITY

- 22.1 Confidentiality.** 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 22.

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

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appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

22.1.1 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 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.1.2 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 NYISO OATT.

22.1.3 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 22.1.8 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.

22.1.4 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 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

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- 22.1.5 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 either Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
- 22.1.6 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.
- 22.1.7 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements, including the Tariff and NYISO Services Tariff.
- 22.1.8 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 Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this 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.
- 22.1.9 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 Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party pursuant to this Agreement.
- 22.1.10 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 22. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches

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or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.1.11 Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this Article 22 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 Tariff, 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. One Party is prohibited from notifying the other Party to this Agreement prior to the release of the Confidential Information to the FERC or its staff. The Party shall notify the other Party 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.

22.1.12 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 Tariff 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

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the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 23. ENVIRONMENTAL RELEASES

- 23.1 Developer and Connecting Transmission Owner Notice.** Developer and Connecting Transmission Owner shall each notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to Y-88 and Y-66 or the Attachment Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 24. INFORMATION REQUIREMENT

- 24.1 Information Acquisition.** Connecting Transmission Owner and Developer shall each submit specific information regarding the electrical characteristics of their respective facilities to the other, as described below and in accordance with Applicable Reliability Standards.
- 24.2 Information Submission by Connecting Transmission Owner.** The initial information submission by Connecting Transmission Owner shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include New York State Transmission System information necessary to allow the Developer to select equipment and meet any system protection and stability requirements, unless otherwise mutually agreed to by the Developer and Connecting Transmission Owner. On a monthly basis Connecting Transmission Owner shall provide Developer and if requested, to the NYISO, a status report on the construction and installation of Connecting Transmission Owner's Attachment Facilities and 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.
- 24.3 Updated Information Submission by Developer.** The updated information submission

by Developer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Information in this submission shall be the most current Y-88 and Y-66 design or expected performance data.

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Information submitted for stability models shall be compatible with NYISO standard models. If there is no compatible model, Developer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If Developer's data is different from what was originally provided to Connecting Transmission Owner and this difference may be reasonably expected to affect the other Party's facilities or the New York State Transmission System, then Connecting Transmission Owner and Developer 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 24.3. Such studies will provide an estimate of any additional modifications to the New York State Transmission System, Connecting Transmission Owner's Attachment Facilities, or System Upgrade Facilities based on the actual data and a good faith estimate of the costs thereof. Developer shall not begin Trial Operation until such studies are completed. Developer shall be responsible for the cost of any modifications required by the actual data, including the cost of any required studies.

- 24.4 Information Supplementation.** Prior to the Commercial Operation Date, Developer and Connecting Transmission Owner shall supplement their information submissions described above in this Article 24 with any and all "as-built" Y-88 and Y-66 information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. Developer shall conduct tests on Y-88 and Y-66 as required by Good Utility Practice.

Developer shall provide the Connecting Transmission Owner validated test recordings showing the responses of the Y-88 and Y-66.

Subsequent to the Commercial Operation Date, Developer shall provide Connecting Transmission Owner with any information changes due to equipment replacement, repair, or adjustment. Connecting Transmission Owner shall provide Developer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Connecting Transmission Owner substation that may affect Y-88 and Y-66 or Developer Attachment Facilities equipment ratings, protection or operating requirements. Developer and Connecting Transmission Owner shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS

- 25.1 Information Access.** Each Party ("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

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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 25.1 of this Agreement and to enforce their rights under this Agreement.

25.2 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.

25.3 Audit Rights. Subject to the requirements of confidentiality under Article 22 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, calculation of invoiced amounts, and each Party’s actions in an Emergency State. 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 25.4 of this Agreement.

25.4 Audit Rights Periods.

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

Accounts and records related to the design, engineering, procurement, and construction of Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities shall be subject to audit for a period of twenty-four months following Connecting Transmission Owner’s issuance of a final invoice in accordance with Article 12.2 of this Agreement.

25.4.2 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 25.4.1 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.

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- 25.5 Audit Results.** If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

ARTICLE 26. SUBCONTRACTORS

- 26.1 General.** Nothing in this 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.
- 26.2 Responsibility of Principal.** The establishment 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 Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall Connecting Transmission Owner be liable for the actions or inactions of Developer or its subcontractors with respect to obligations of Developer under Article 5 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.
- 26.3 No Limitation by Insurance.** The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

ARTICLE 27. DISPUTES

- 27.1 Submission.** In the event any Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance ("Dispute"), such Party shall provide the other Party 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 Party. 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 Party's 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

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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.

- 27.2 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 with an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.
- 27.3 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this 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 must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Attachment Facilities, or System Upgrade Facilities.
- 27.4 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel; or (2) one-half the cost of the single arbitrator jointly chosen by the Parties.
- 27.5 Termination.** Notwithstanding the provisions of this Article 27, 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.

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ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS

28.1 **General.** Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing. Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Transmission Project, Attachment Facilities and System Upgrade Facilities owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this 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.

28.1.2 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).

28.1.3 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.

28.1.4 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.

ARTICLE 29. MISCELLANEOUS

29.1 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.

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- 29.2 Conflicts.** The Parties expressly agree that the terms and conditions of the Appendices shall take precedence over the provisions of this cover agreement in case of a discrepancy or conflict between or among the terms and conditions of same.
- 29.3 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 Large Facility Interconnection Procedures or such Appendix to the 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".
- 29.4 Compliance.** Each Party shall perform its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, the Tariff 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 Party can discuss the amendment to this Agreement that is appropriate under the circumstances.
- 29.5 Joint and Several Obligations.** Except as otherwise stated herein, the obligations of Developer and Connecting Transmission Owner are several, and are neither joint nor joint and several.
- 29.6 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

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which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

- 29.7 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.
- 29.8 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.
- 29.9 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.
- 29.10 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.
- 29.11 Amendment.** The Parties may by mutual agreement amend this Agreement, by a written instrument duly executed by all the Parties.
- 29.12 Modification by the Parties.** The Parties may by mutual agreement amend the Appendices to this Agreement, by a written instrument duly executed by all of the Parties. Such an amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.
- 29.13 Reservation of Rights.** Connecting Transmission Owner 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 the other 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 Section 205 or 206 of the Federal Power Act and FERC's rules and regulations

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thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

29.14 No Partnership. This Agreement shall not be interpreted or construed to establish an association, joint venture, agency relationship, or partnership between 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.

29.15 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, resulting from the System Upgrade Facilities.

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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.

ORANGE AND ROCKLAND UTILITIES, INC.

By:_____

Francis W. Peverly

Vice President, Operations

Date:_____

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By:_____

Walter Alvarado

Vice President, System and Transmission Operations

Date:_____

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APPENDICES

Appendix A

Attachment Facilities and System Upgrade Facilities

Appendix B

Milestones

Appendix C

Interconnection Details

Appendix D

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Appendix E

Commercial Operation Date

Appendix F

Addresses for Delivery of Notices and Billings

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APPENDIX A

ATTACHMENT FACILITIES AND SYSTEM UPGRADE FACILITIES

1. Lovett Project/ Y-88 and Y-66 Overview

Lovett Substation is being constructed by the CTO for its own reliability and operational needs. The existing transmission line Y-88, is being bisected and two resulting transmission lines, Y-88 and Y-66 will be interconnected to two separate transmissions lines near the Lovett Substation in order to facilitate the CTO's ability to satisfy the CTO's reliability and operational requirements.

Presently, Developer owns 100% of the existing Y-88 transmission line from Buchanan South to mid-Hudson River. The Developer owns 85% of the line from mid-Hudson River to Ladentown Substation and the CTO owns the remaining 15%.

Once Y-88 is bisected into two transmission lines, Y-88 and Y-66, the Developer will own 100% of Y-88 from Buchanan South to mid-Hudson River and 85% of the line from mid-Hudson River to Lovett Substation. The CTO will own the remaining 15% from the middle of the Hudson River to the Lovett Substation. The Developer will own 85% of Y-66 from Lovett Substation to Ladentown Substation. The CTO will own 15% of Y-66 from Lovett Substation to Ladentown Substation.

Developer hereby agrees to the severing of the existing transmission line Y-88 into two parts, Y-88 and Y-66.

2. Attachment Facilities:

(a) Developer's Attachment Facilities ("DAF"):

None

(b) Connecting Transmission Owner's Attachment Facilities ("CTOAF"):

None

3. System Upgrade Facilities

List System Upgrade facilities here

(a) At the Lovett Substation

- New relay panels, first and second line protection for 345kV Y88 line to

NYISO Agreements --> Service Agreements --> Interconnection Agreement - Consolidated Edison and O&R
Buchanan Substation, and associated breaker failure protection;

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- New relay panels, first and second line protection for 345kV Y66 line to Ladentown Substation, and associated breaker failure protection;
- All necessary communication circuits to establish reliable relay protection operation and SCADA data transfer.

(b) At Buchanan South Substation

- Two (2) new relay panels (first and second line protection for 345kV Y88 line to Lovett Substation);
- Two (2) new breaker failure time relay panels for first and second line of protection;

(c) At Ladentown Substation

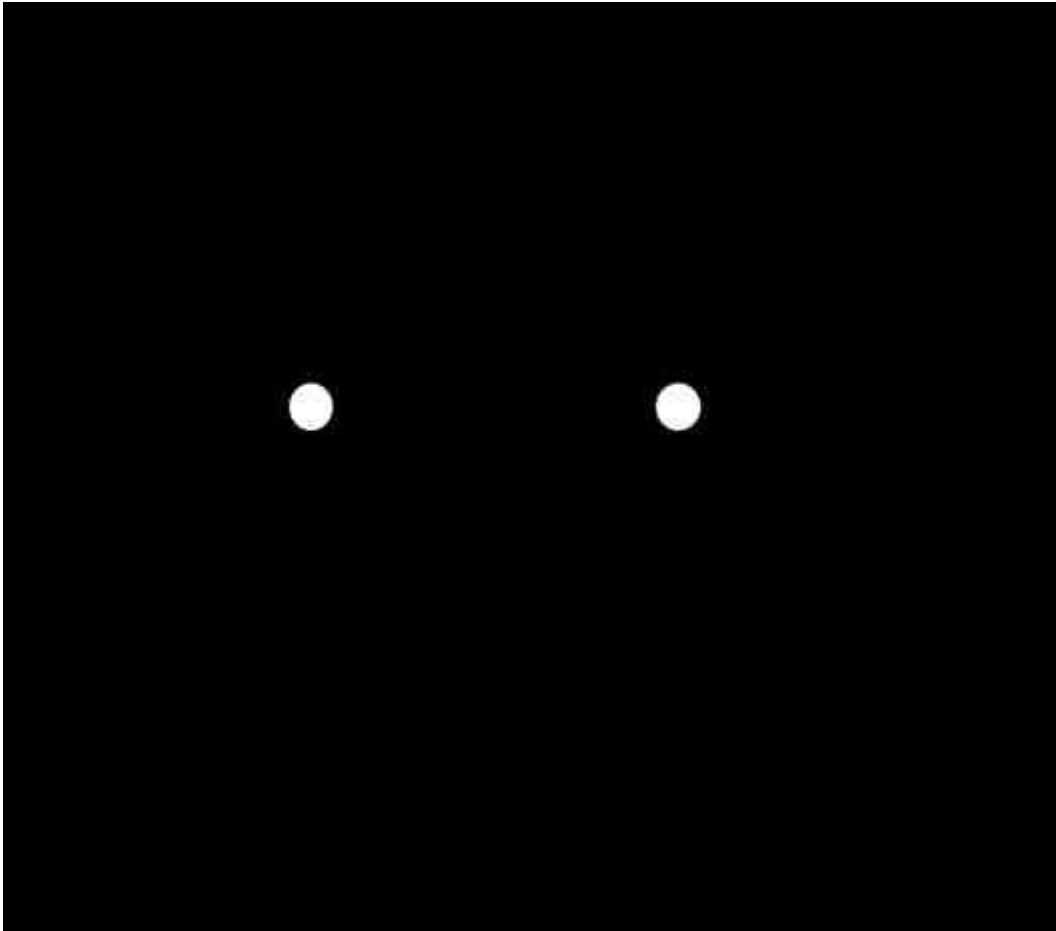
- Upgrade existing or install two (2) new relay panels (first and second line protection for 345kV Y66 line to Lovett Substation);
- Two (2) new breaker failure time relay panels for first and second line of protection;

4. System Deliverability Upgrades:

None.

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The Connecting Transmission Owner shall own all the facilities within Point of Ownership Change (“PCO”) markings.

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APPENDIX B**MILESTONES**

The following milestones shall apply to the engineering, procurement, construction, and testing for the interconnections of Y-88 and Y-66:

Item	Milestone	Responsible Party	Due Date
(a)	Completion of engineering packages for the SUFs at Buchanan and Ladentown	Developer	February 2020
(b)	Procure long lead equipment and materials for SUFs at Buchanan and Ladentown	Developer and CTO	April 2020
(c)	Completion of engineering packages for the SUFs at Lovett Substation	CTO	March 2021
(d)	Commence construction of the SUFs at Buchanan and Ladentown	Developer and CTO	November 2020
(e)	Commence construction of the SUFs at Lovett Substation	CTO	March 2022
(f)	Complete Development of Pre-Energization Checklist Form including the Testing Operations Protocol for Buchanan and Ladentown	Developer and CTO	September 2020
(g)	Complete construction of the SUFs at Buchanan and Ladentown	Developer and CTO	January 2021
(h)	Complete construction of the SUFs at the Lovett Substation	CTO	September 2022
(i)	Complete testing of, SUFs	Developer and CTO	November 2022
(j)	In-Service Date ³	Developer and CTO	November 2022
(k)	Commercial Operation Date	Developer and CTO	November 2022
(l)	Submit "as-built" drawings, information and vendor test documents for SUFs to CTO	Developer and CTO	March 2023

³ Developer shall request and obtain written approval from NYISO and CTO prior to energizing Y-88 and Y-66. If the Lovett Substation is ready for energization, CTO shall grant such approval within ten (10) days of receiving the request.

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The timeframes projected for the milestones are non-binding estimates. The actual dates for completion of the milestones are highly dependent upon lead times for the procurement of equipment and material, the availability of labor, outage scheduling, receipt of regulatory approvals, and the results of equipment testing. The completion and results of environmental remediation of the site, and other unforeseen events could also affect the achievement of the milestones. Connecting Transmission Owner and Developer are mutually undertaking the required engineering, procurement, or construction work to implement this reliability solution pursuant to this Agreement and as defined in Article 2 of this Agreement. Prior to the In-Service Date, Developer and Connecting Transmission Owner shall comply with NYISO procedures and request energization of Y-88 and Y-66. If the Transmission Project is determined to be ready for energization by Connecting Transmission Owner, the Connecting Transmission Owner shall grant such approval within ten (10) days of receiving the request by Developer.

The following notes apply to all work performed on Connecting Transmission Owner's System Upgrade Facilities.

- A. If permits are required for the work, the Connecting Transmission Owner will obtain the permits.
- B. Transmission system emergencies take precedence over all other work and could significantly impact the schedule depending upon the duration of the emergency.
- C. Connecting Transmission Owner schedules its resources months in advance, and its ability to reschedule manpower is limited by resource allocation to other Connecting Transmission Owner projects and tasks. Missing a schedule task or milestone date may result in some delay before Connecting Transmission Owner can reschedule its manpower to work on the assigned task.

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APPENDIX C

INTERCONNECTION DETAILS

1. Description of the Transmission Lines

Y-88 is an existing 345kV transmission line running from the Buchanan South Substation to the Ladentown Substation. After the 345kV Lovett Substation is constructed, Y-88 will be bisected and the two resulting transmission lines, Y-88 and Y-66. Both Y-66 and the redesignated Y-88, will be interconnected to the first transmission tower outside the 345kV Lovett Substation in two separate locations. The redesignated Y-88 will run from Buchanan South Substation to the 345kV Lovett Substation. Y-66, will run from the Lovett Substation to the Ladentown Substation.

2. Points of Interconnection (“POI”) and Points of Change in Ownership (“PCO”)

- (a) The POI and PCO for Y-88 shall be a point on this transmission line where an overhead conductor cable jumper on the first transmission pole outside the Lovett Substation is connected, as shown in Figure A-1.
- (b) The POI and the PCO for Y-66 shall be a point on this transmission line where an overhead conductor cable jumper on the first transmission pole outside the Lovett Substation is connected, as shown in Figure A-1.

3. Operating Requirements

- (a) Developer and Connecting transmission Owner shall comply with all provisions of NYISO tariffs and procedures, as amended from time to time, which apply to any aspect of Y-66’s and Y-88’s operations. Tariff revisions and/or operating protocols with NYISO, the Connecting Transmission Owner, and Developer may need to coordinate the operational control of Y-88 and Y-66.
- (b) Each Party shall comply with the other Party’s operating instructions and requirements, which requirements shall include the dedicated data circuits to be maintained by Connecting Transmission Owner in accordance with Article 8.1 of this Agreement. Operating instructions will be communicated by telephone, or such other means of communication as the Parties may agree upon.

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APPENDIX D

SECURITY ARRANGEMENTS

Infrastructure security of New York State Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day New York State Transmission System reliability and operational security. The Commission will expect the NYISO, all Transmission Owners, all Developers and all other Market Participants to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

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APPENDIX E

COMMERCIAL OPERATION DATE

Orange and Rockland Utilities, Inc.

390 West Route 59
Spring Valley, NY 10977
Attn: Vice President, Operations

Re: Lovett Interconnection

Dear _____:

This letter confirms that on **[Date]** Consolidated Edison Company of New York, Inc.. commenced Commercial Operation of the Y-88 and Y-66 transmission line , effective as of **[Date plus one day]**.

Thank you.

[Signature]

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, NY 10003

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APPENDIX F

ADDRESSES FOR DELIVERY OF NOTICES AND BILLINGS

1. Notices:

(a) Developer:

Consolidated Edison Company of New York, Inc.
4 Irving Place
Room 13-822
New York, NY 10003
Attn: Vice President, System and Transmission Operations
Phone: (212) 460-1210
Fax: (212) 353-8831

Consolidated Edison Company of New York, Inc.
4 Irving Place
Room 18-611
New York, NY 10003
Attn: Senior Vice President and General Counsel
Phone: (212) 460-1315
Fax: (212) 674-7329

(b) Connecting Transmission Owner:

Orange and Rockland Utilities, Inc.
390 West Route 59
Spring Valley, NY 10977
Attn: Vice President, Operations
Phone: (845) 577-3697
Fax: (845) 577-3074

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2. Billings and Payments:

(a) Developer:

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, NY 10003
Attn: Vice President, System and Transmission Operations
Room 13-822

Phone: (212) 460-1210

Fax: (212) 353-8831

(b) Connecting Transmission Owner:

Orange and Rockland Utilities, Inc.
390 West Route 59
Spring Valley, NY 10977
Attn: Vice President, Operations
Phone: (845) 577-3697
Fax: (845) 577-3074

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