

Attachment I

ENGINEERING, PROCUREMENT & CONSTRUCTION AGREEMENT

This Engineering, Procurement & Construction Agreement (“Agreement”), dated as of March 1, 2021 (the “Effective Date”), is made by and between New York Transco, LLC (the “Company”), having its principal place of business at 1 Hudson City Center, Hudson, New York, Castleton Power, LLC (“Castleton”), a Delaware limited liability company with an office located at One North Lexington Avenue, Suite 1450, White Plains, New York, and New York Independent System Operator, Inc. (“NYISO”), a New York not-for-profit corporation. The Company and Castleton shall each be referred to as a “Party,” and shall be referred to collectively as the “Parties.” The terms “Party” and “Parties” as used herein shall not include NYISO or any successor Independent System Operator.

RECITALS

WHEREAS, the Company and Niagara Mohawk Power Corporation, d/b/a National Grid, (“National Grid”) proposed a Public Policy Transmission Project to satisfy an identified Public Policy Transmission Need (the “Transmission Project”);

WHEREAS, NYISO selected the Transmission Project as the more efficient or cost-effective transmission solution to satisfy an identified Public Policy Transmission Need and has directed the Company to proceed with the Transmission Project;

WHEREAS, the Company entered into a development agreement, dated January 10, 2020, with NYISO (“Development Agreement”) to ensure that the Transmission Project will be constructed and in service in time to satisfy the Public Policy Transmission Need;

WHEREAS, the Transmission Project may require certain modifications to the relays located at the Fort Orange substation;

WHEREAS, the Parties desire to set forth the terms and conditions for conducting certain design activities and for access to the Fort Orange substation, as specified in **Exhibit A** to this Agreement, to ensure both the development and interconnection of the Company’s Transmission Project remains on schedule and the continuation of the interconnection of Castleton’s electric generating facility (the “Facility”) to National Grid’s transmission system in a safe and reliable manner; and

WHEREAS, NYISO is a signatory to this Agreement consistent with *American Electric Power Service Corporation*, 112 FERC ¶ 61,128 at P 10 (2005), to ensure that NYISO is kept fully apprised of the matters addressed herein so that NYISO may be kept aware of any reliability and planning issues that may arise.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

1. Information Requirements; Scope of Work; Access Rights.

1.1 The Parties acknowledge that they are entering into this Agreement in order to ensure the timely development and interconnection of the Transmission Project, as contemplated in the Development Agreement and accompanying milestone schedule to that agreement (the “Development Schedule”). In connection with the NYISO System Impact Study performed to determine the impacts of the interconnection of the Transmission Project on the NYISO-controlled electric transmission grid, NYISO has determined that the Fort Orange substation is affected by the Transmission Project and the Company desires Castleton to begin to perform such work associated with the necessary modifications to its facilities identified in Exhibit A to accommodate the interconnection of the Transmission Project. Castleton agrees to perform the work consistent with the provisions of this Agreement.

1.2 Castleton’s scope of work is set forth in Exhibit A of this Agreement, and incorporated herein by reference (the “Castleton Work”). The Parties acknowledge that the Castleton Work shall be limited to the provision of existing drawings, schematics, specifications, criteria and data related to the Transmission Project (specifically related to the Fort Orange substation), and that the Company or the Company’s Contractor shall be responsible for performing any and all engineering design, procurement and construction of the Transmission Project, including any modifications to the Fort Orange substation at the sole cost and expense of the Company (“Company Work”). In addition, Castleton shall have no responsibility for the payment of any delay damages, penalties, liquidated damages and the like in connection with the failure by Company or Contractor to maintain the Development Schedule of any of the Transmission Project, including the Castleton Work and Company Work; provided such failure by Company or Contractor is not the result of Castleton’s failure to allow timely access to the Fort Orange substation by Company and/or Contractor as required hereunder. The Parties specifically acknowledge that, upon completion of the work hereunder, the Company shall have no current or on-going obligation for the operation and maintenance for any modified or upgraded equipment at the Fort Orange substation or any other component comprising the Fort Orange substation, nor shall Company be responsible for any future repairs for any modified or upgraded equipment at the Fort Orange substation, except as set forth in Section 10 herein.

1.3 Castleton hereby grants to the Company, Company’s employees, representatives, consultants and contractors, including but not limited to Company’s Contractor, the non-exclusive and non-transferable right to enter upon Castleton’s property for the duration of the Transmission Project, as and where needed to access the Fort Orange substation, subject to the terms and conditions herein, to conduct the Company Work, including any modifications to the Fort Orange substation, and as may otherwise be required for the Company to exercise its rights and comply with its obligations under this Agreement. The Company shall use commercially reasonable efforts to minimize interference with Castleton’s use and occupancy of the Fort Orange substation.

1.4 Subject to the terms of this Agreement, the Company shall perform the actions set forth in Exhibit B attached hereto.

1.5 In performance of the Castleton Work and Company Work hereunder, Castleton and the Company:

a. shall use commercially reasonable efforts to perform the Castleton Work and Company Work, respectively; and

b. shall at all times perform in material compliance with all applicable federal, state and local laws and ordinances and all lawful orders, rules and regulations of any governmental authority.

1.6 All capitalized terms not otherwise defined in Attachment 1 of this Agreement shall have the meanings ascribed to such terms in the NYISO's Open Access Transmission Tariff (“OATT”) inclusive of Attachment P and, if not defined therein, then Attachment X of the OATT.

1.7 Castleton is party to an existing Power Put and Interconnection Agreement with Niagara Mohawk Power Corporation dated April 27, 1998 (“IA”). The Company shall advise Castleton to the extent the work accomplished by the Company’s Contractor may require any amendment to the IA and Castleton shall be responsible for discussing any such proposed amendments with Transmission Owner.

2. Representatives.

All work pertaining to the Castleton Work and Company Work that is the subject of this Agreement will be approved by and coordinated only through designated and authorized representatives of the Company and Castleton (each a “Representative”). Each Party shall promptly, following the Effective Date, provide the other Party in writing with the name and contact information of such Representative. Each Party may change its Representative, from time to time, by written notice to the other Party.

3. Work Duration and Reports.

3.1 The Parties agree to the estimated schedule set forth in **Exhibit C** attached hereto (the “Schedule”). If either party is unable to complete the Castleton Work or the Company Work within the time periods specified in **Exhibit C**, the party shall notify the other party of such delay and the reason(s) why additional time is required, and shall provide a revised estimate of when the Castleton or Company Work can be completed.

3.2 The Parties agree to provide each other periodic reports on the status of the Castleton Work and Contractor Work at intervals as agreed by the Parties, and also shall provide status reports upon the reasonable request of either Party Company.

4. Payment.

4.1 Castleton shall perform the Castleton Work at no cost to Castleton, and the cost of the Company Work shall be paid directly by the Company to Company’s Contractor. The Company has the sole responsibility to reimburse Company’s Contractor for work performed by the Company’s Contractor.

5. Term and Termination.

5.1 This Agreement shall be effective, as of the Effective Date, upon its execution by both Parties and shall remain in effect until performance has been completed hereunder to the satisfaction of the Company, unless terminated earlier pursuant to its terms.

5.2 If a Party breaches any material term or condition of this Agreement and fails to cure the same within thirty (30) business days after receiving written notice from the other Party specifying such material breach, the non-breaching Party may (a) terminate this Agreement immediately upon notice to the breaching Party, or (b) agree in writing that the breaching party is diligently pursuing a cure, and extend the cure period at its sole discretion, subject to immediate termination upon notice.

5.3 In addition to any other termination rights provided in this Agreement, the Company may terminate this Agreement at any time upon ten (10) days' prior written notice to Castleton if the Transmission Project is cancelled or if modifications to the Fort Orange substation become unnecessary.

5.4 For termination pursuant to Sections 5.2 and 5.3, the terminating Party shall promptly pay to the non-terminating Party any reasonable and verifiable costs, fees, penalties and charges incurred by the non-terminating Party as a result of such termination; provided, however, that the remedy specified in this Section 5.4 shall not be the non-terminating Party's exclusive remedy in the event of such termination.

6. Notice.

Any notices, requests, or other correspondence and communication given under this Agreement shall be in writing and must be sent (a) by hand delivery, (b) by registered or certified mail, return receipt requested, (c) by a reputable national overnight courier service, postage prepaid, or (d) by facsimile transmission, addressed to a Party at its address or telephone facsimile number set forth below, with the original of such facsimile to be delivered within two (2) business days thereafter by one of the other means set forth in this Article 6. For purposes of this Agreement, notices sent by hand delivery, overnight courier or facsimile (if followed by the original as required by this Article 6) shall be deemed given upon receipt and notices sent by registered or certified mail shall be deemed given three (3) business days following the date of mailing. Either Party may give notice, as herein provided, specifying a different person, address or facsimile number than that which is listed below.

For Castleton:
Castleton Power, LLC
1 North Lexington Avenue
White Plains, NY 10601
Attn: General Counsel
Phone: 914-421-4900
E-mail: noticeofficer@Castleton.com

For the Company:
New York Transco, LLC
1 Hudson City Center
Hudson, NY 12534
Attn: Paul Haering
Phone: (518) 444-4880
E-mail: Paul.Haering@NYTransco.com

7. Confidentiality.

7.1 Unless otherwise required by applicable law, rule or regulation, the Company and Castleton agree to maintain the confidentiality of this Agreement and any and all Confidential Information, during the term of this Agreement and for a period of two (2) years following the expiration or any termination of this Agreement, except that the Company and Castleton may disclose any and all Confidential Information provided by a Party hereunder on a need-to-know basis to its employees, agents, counsel, financing parties, accountants, and Affiliates (and its Affiliates' employees, agents, counsel, financing parties, accountants and representatives) who have first been advised of the confidentiality provisions of this Agreement. Neither Party shall use such Confidential Information except for the purposes identified herein without the prior written approval of the disclosing Party.

7.2 The receiving Party shall not be precluded from, nor liable for, disclosure or use of Confidential Information that: (a) is in or enters the public domain, other than by a breach of this Article; (b) is known to the receiving Party or its representatives at the time of first disclosure hereunder, or thereafter becomes known to the receiving Party or its representatives subsequent to such disclosure without similar restrictions from a source other than the disclosing Party, as evidenced by written records; (c) is developed by the receiving Party or its representatives independently of any disclosure under this Agreement, as evidenced by written records; (d) is disclosed more than two (2) years after the termination or expiration of this Agreement; (e) is disclosed following receipt of the disclosing Party's written consent to the disclosure of such Confidential Information; or (f) is necessary to be disclosed, in the reasonable belief of the receiving Party or its representatives, for public safety reasons, provided, that, receiving Party has attempted to provide as much advance notice of the disclosure to the disclosing Party as is practicable under the circumstances.

7.3 Anything in this Article or the Agreement to the contrary notwithstanding, the receiving Party or its representative(s) may disclose Confidential Information of the other Party to the extent the receiving Party or its representative(s) is required to do so by law, by a court, or by other governmental or regulatory authorities; provided, however, that, if permitted to do so by applicable law, the receiving Party shall give the disclosing Party written notice of any such required disclosure prior to such disclosure being made so that the disclosing Party may seek a protective order with respect to such Confidential Information. The receiving Party shall reasonably cooperate with the disclosing Party's efforts to obtain such protective order.

7.4 Each Party hereby acknowledges and agrees (a) that the Confidential Information of the other Party is a valuable trade secret of the other Party and that any unauthorized disclosure thereof could cause irreparable harm and loss to the other Party, and (b) that money damages would not be a sufficient remedy for any breach or threatened breach of this Agreement and that each Party shall be entitled to seek specific performance and/or injunctive relief as a remedy for any such breach or threatened breach. Such remedy shall not be deemed to be the exclusive remedy for any such breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

7.5 No license or right to any trade secret, business method, patent (now issued or hereafter issuing), trademark, trade name, copyright or any other intellectual property of a disclosing Party is granted by this Agreement.

8. Indemnification.

Each Party (each, an “Indemnitor”) agrees to indemnify, hold harmless and defend the other Party and its Affiliates, and the trustees, directors, officers, employees, and agents of each of them (each, an “Indemnitee”), from and against any and all damages, losses, costs, expenses (including reasonable attorneys’ fees and disbursements, expert fees and disbursements and other litigation expenses), causes of action, suits, claims, liens, fines, penalties and liabilities, in tort, contract, or otherwise resulting from claims of third parties arising, or claimed to have arisen, as a result of any acts or omissions of the Indemnitor under this Agreement or the Castleton Work or Company Work (collectively, “Damages”), except to the extent such Damages are directly caused by the negligence, intentional misconduct or unlawful act of the Indemnified Party as determined by a court of competent final jurisdiction.

9. Disclaimer of Damages/Limitation of Liability.

9.1 Subject to the obligations set forth in Article 8, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS OR GOODWILL, ARISING IN CONNECTION WITH THIS AGREEMENT, THE CASTLETON WORK, COMPANY WORK PERFORMED HEREUNDER, AND/OR THE INTENDED USE THEREOF, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY OR NEGLIGENCE. This Section 9.1 shall survive the expiration or any termination of this Agreement.

9.2 Without limitation of the provisions of Section 9.1 above, the total liability of the Indemnitor to the Indemnitee in connection with this Agreement shall be limited to direct monetary damages proven by Indemnitee. The foregoing limitation applies to all causes of actions and claims, including, without limitation, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts. The Parties acknowledge and accept the reasonableness of the foregoing disclaimers and limitations of liability. This Section 9.2 shall survive the expiration or any termination of this Agreement.

9.3 Nothing in this Agreement shall be construed to create or give rise to any liability on the part of NYISO, and the Parties expressly waive any claims that may arise against NYISO under this Agreement.

9.4 The Parties acknowledge and understand that the signature of the authorized officer of NYISO on this Agreement is for the limited purpose of acknowledging that representatives of NYISO have read the terms of this Agreement. The Parties and NYISO further state that they understand that FERC desires that the Parties keep NYISO fully apprised of the matters addressed herein as well as any reliability and planning issues that may arise under this Agreement, and that the signature of the NYISO officer shall not in any way be deemed to imply that NYISO is taking

responsibility for the actions of any Party, that NYISO has any affirmative duties under this Agreement or that NYISO is liable in any way under this Agreement.

10. Warranty

10.1 The Company warrants to Castleton that the Company Work provided under this Agreement shall be performed by or through the Company or Company's Contractor with reasonable skill, care, and diligence and in accordance with customarily accepted professional practices (the "Warranty"). If during the one (1) year period commencing upon the completion of the work set forth in Exhibit B attached hereto (the "Warranty Period"), Castleton notifies the Company that any portion thereof fails to meet the Warranty or Contractor or the Company otherwise become aware of any such failure, the Company shall, at its own expense, request that Contractor re-perform or correct any portion thereof that does not comply with the Warranty. With respect to any corrective work performed pursuant to this Section 10.1, the Warranty Period shall be extended with respect to such corrective work so as to expire on the first anniversary of the date such corrective work is completed. The Parties acknowledge that, under certain circumstances, it may not be possible for Contractor to commence any corrective work promptly upon receiving notice or becoming aware that such corrective work is required hereunder; therefore, the Parties agree that any such delay (on account of a delay in receiving any required outage, scheduling conflict or otherwise), including a delay that prevents commencement prior to the expiration of the applicable Warranty Period, shall not limit or obviate the Company's obligation to have Contractor perform such corrective work in accordance with the terms and conditions of this Section 10.1.

10.2 Castleton shall provide Contractor with reasonable access to the Fort Orange substation for the purpose of performing its Warranty obligations under this Section 10; provided, however, that such access shall (i) not interfere with the ongoing operation of any portions of the substation then in operation, and (ii) be conducted in coordination with Castleton and the Transmission Owner, and on such schedule as Castleton may reasonably require so as to avoid any adverse impact on Castleton's operation, access, or other use of the substation.

11. Force Majeure.

Any delay in or failure of performance under this Agreement (other than a failure to comply with a payment obligation) shall not be considered a breach of this Agreement if and to the extent caused by events (each, a "Force Majeure Event"), beyond the reasonable control of the Party affected, including but not limited to acts of God, governmental restrictions, strikes, riots, wars or other military action, fires, floods, vandalism, or sabotage. Market conditions and/or fluctuations (including a downturn of any Party's business) shall not be deemed Force Majeure Events. A Force Majeure Event shall not include acts of negligence or intentional wrongdoing by the Party claiming such Force Majeure Event.

The Party whose performance is affected by a Force Majeure Event shall promptly notify the other Party, giving details of the Force Majeure Event, and the obligations of the Party giving such notice shall be suspended to the extent caused by the Force Majeure Event and for so long as the Force Majeure Event continues, and the time for performance of the affected obligation hereunder shall be extended by the time of the delay caused by the Force Majeure Event. During the continuation of the Force Majeure Event, the nonperforming party shall (a) exercise

commercially reasonable due diligence to overcome the Force Majeure Event; (b) to the extent it is able, continue to perform its obligations under this Agreement; and (c) cause the suspension of performance to be of no greater scope and no longer duration than the Force Majeure Event requires.

12. Insurance

12.1 Prior to the commencement of any Castleton Work and Company Work and during the term of the Agreement, the Company, at its own cost and expense, shall procure and maintain insurance in form and amounts set forth in **Exhibit D** of this Agreement. The Company shall have its insurer furnish to Castleton certificates of insurance, on forms approved by the Insurance Commissioner of the State of New York, evidencing the insurance coverage required by this Article, such certificates to be provided prior to the commencement of any Castleton Work and Company Work under this Agreement.

12.2 Each Party shall be separately responsible for insuring its own property and operations.

13. Governing Law; Change in Law

13.1 When not in conflict with or preempted by federal law, including, without limitation, Part II of the Federal Power Act, 16 U.S.C. §§824d, *et seq.*, and Part 35 of Title 18 of the Code of Federal Regulations, 18 C.F.R. §§35, *et seq.*, each as may be modified from time to time, this Agreement shall be construed and governed in accordance with the law of the State of New York without giving effect to any choice or conflict of law rule that would cause the application of the law of any jurisdiction other than the State of New York.

13.2 If, during the term of this Agreement, the Applicable Laws are changed or new Applicable Laws are enacted, and such changed or new Applicable Laws result in the imposition of charges or costs that are materially different than the terms agreed to in this Agreement as of the Effective Date, or makes the performance of the obligations hereunder impossible, then upon the request of the affected Party made no later than six (6) months after the effective date of such change or addition to the Applicable Laws, the Parties shall meet to negotiate in good faith such amendments to this Agreement as are necessary to fulfill the purposes of this Agreement and to give effect to the original intentions of the Parties as negotiated and agreed to herein. In the event the Parties are unable to reach agreement within thirty (30) days following such request, the matter shall be resolved in accordance with Article 21 herein.

14. Amendments.

All amendments to this Agreement shall be in written form executed by the Parties.

15. Assignment; Successors and Assigns.

15.1 Neither Party shall assign this Agreement to any third party without the express written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either Party (a) may assign all or part of this Agreement to any Affiliate and (b) may assign all or part of this Agreement to any other entity providing financing

to such Party (as collateral or otherwise); provided further, however, that the assigning Party must provide fifteen (15) days prior notice to the non-assigning Party of such an assignment and the assigning Party shall not be released from its obligations and liabilities under this Agreement following such an assignment.

15.2 This Agreement shall be binding on the successors and permitted assigns of both Parties.

15.3 In the event of a permitted assignment, the assigning Party shall provide prior notice to the other Party.

15.4 In the event of a permitted assignment, assignee shall assume all obligations of assignor and assignor shall not be released from liability following an assignment.

16. Severability.

If any term or provision of this Agreement is held illegal or unenforceable by a court with jurisdiction over this Agreement, all other terms in this Agreement will remain in full force, the illegal or unenforceable provision shall be deemed struck. In the event that the stricken provision materially affects the rights, obligations or duties of either Party, the Parties shall substitute a provision by mutual agreement that preserves the original intent of the Parties as closely as possible under applicable law.

17. Merger.

This Agreement, including all exhibits, schedules and attachments, embodies the entire agreement between the Parties. The Parties shall not be bound by or liable for any statement, writing, representation, promise, inducement or understanding not set forth herein.

18. Representations and Warranties of Authority.

Each Party represents and warrants to the other that:

a. it has full power and authority to execute, deliver and perform its obligations under this Agreement;

b. the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action by such Party; and

c. the execution and delivery of this Agreement by such Party and the performance of the terms, covenants and conditions contained herein will not violate the articles of incorporation or by-laws of such Party, or any order of a court or arbitrator, and will not conflict with and will not constitute a material breach of, or material default under, the provisions of any material contract by which either Party is bound.

These representations and warranties shall survive the expiration or termination of this Agreement.

19. No Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

20. No Waiver

Each Party further agrees that no failure or delay by the other Party in exercising any of its rights under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this Agreement.

21. Independent Contractor; No Partnership; No Agency; No Utility Services

The Company and Castleton shall be independent contractors. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship or partnership between the Parties or to impose any partnership obligation or partnership liability upon 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, the other Party. This Agreement is not an agreement to provide or take utility services of any kind, including, without limitation, interconnection or other electric transmission services.

22. Dispute Resolution

Any dispute arising under this Agreement shall be the subject of good-faith negotiations between the Parties. Following the occurrence of a dispute, each Party shall designate one or more representatives with the authority to negotiate the particular matter in dispute for the purpose of participating in such negotiations. Unless a Party identifies exigent circumstances reasonably requiring expedited resolution of the dispute by a court or agency with jurisdiction over the dispute, any dispute that is not resolved through good-faith negotiations after a negotiation period of not less than thirty (30) days may be submitted by either Party for resolution to a court or to an agency with jurisdiction over the dispute. Notwithstanding the foregoing, any dispute arising under this Agreement may be submitted to non-binding arbitration or any other form of alternative dispute resolution upon the written agreement of both Parties to participate in such an alternative dispute resolution process. This Agreement is made subject to and shall be construed under the laws of the State of New York, without giving effect to its principles or rules regarding conflicts of laws, and the Parties agree that the state and federal courts situated in the State of New York shall have exclusive jurisdiction to resolve any disputes with respect to this Agreement or the Confidential Information with each Party irrevocably consenting to the jurisdiction thereof for any actions, suits or proceedings arising out of or relating to this Agreement or the Confidential Information, and each Party irrevocably (i) waives its rights to jury trials with respect thereto; and (ii) consents to

service by mail at its address set forth at the beginning of this Agreement. In the event of any litigation hereunder, the prevailing Party shall be entitled to costs and reasonable attorney's fees.

23. Cooperation

Castleton shall use reasonable efforts to cooperate with the Company's development and financing of the Transmission Project by: (a) providing status updates and other information reasonably requested by the Company regarding the performance of the Castleton Work; and (b) providing information reasonably requested by the Company to facilitate the financing of the Transmission Project; provided, however, that this Article 23 shall not require Castleton to incur any material costs or expenses.

24. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute only one legal instrument.

[Remainder of page left intentionally blank]

The Parties hereby execute this Agreement by the signature of their authorized agents as of the date first written above.

Castleton Power, LLC

By: 
Name: Thomas J. Gerardi
Title: Managing Director
Date: 2/25/21

New York Transco, LLC

By: _____
Name: Victor Mullin
Title: President
Date: _____

The signature below of the authorized officer of New York Independent System Operator, Inc. is for the limited purpose of acknowledging that a representative of NYISO has read this Agreement as of the __ day of _____, 2021.

New York Independent System Operator

By: _____
Name: _____
Title: _____

The Parties hereby execute this Agreement by the signature of their authorized agents as of the date first written above.

Castleton Power, LLC

By: _____
Name: _____
Title: _____
Date: _____

New York Transco, LLC

By: Victor Mullin
Name: Victor Mullin
Title: President
Date: March 1, 2021

The signature below of the authorized officer of New York Independent System Operator, Inc. is for the limited purpose of acknowledging that a representative of NYISO has read this Agreement as of the ___ day of _____, 2021.

New York Independent System Operator

By: _____
Name: _____
Title: _____

The Parties hereby execute this Agreement by the signature of their authorized agents as of the date first written above.

Castleton Power, LLC

New York Transco, LLC

By: _____

By: _____

Name: _____

Name: Victor Mullin

Title: _____

Title: President

Date: _____

Date: _____

The signature below of the authorized officer of New York Independent System Operator, Inc. is for the limited purpose of acknowledging that a representative of NYISO has read this Agreement as of the 25 day of February, 2021.

New York Independent System Operator

By: Zachary G. Smith
Digitally signed by Zachary G. Smith
DN: cn=Zachary G. Smith, o=New York ISO, ou=System &
Resource Planning, email=zsmith@nyiso.com, c=US
Date: 2021.02.25 12:11:38 -05'00'

Name: Zachary G. Smith

Title: Vice President, System & Resource Planning

Attachment 1

Certain Definitions

Wherever used in this Agreement with initial capitalization, whether in the singular or the plural, these terms shall have the following meanings:

“Affiliate” means any person or entity controlling, controlled by, or under common control with, any other person or entity; “control” of a person or entity shall mean the ownership of, with right to vote, 50% or more of the outstanding voting securities, equity, membership interests, or equivalent, of such person or entity.

“Agreement” means this Engineering, Procurement & Construction Agreement, including all annexes, appendices, attachments, schedules, and exhibits and any subsequent written amendments or modifications thereto, as may be mutually agreed to and executed by the Parties.

“Applicable Laws” shall mean all applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits, licenses, authorizations, approvals and other duly authorized actions of 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, NYISO, NYSRC and NPCC requirements, and any applicable reliability standards.

“Castleton” shall have the meaning set forth in the preamble to this Agreement.

“Castleton Work” means all duties, responsibilities, and obligations to be performed by Castleton as contemplated by Section 1.2 and Exhibit A of this Agreement.

“Company” shall have the meaning set forth in the preamble to this Agreement.

“Company Work” means all duties, responsibilities, and obligations to be performed by the Company as contemplated by Exhibit B of this Agreement.

“Confidential Information” means (i) all financial, technical and other non-public or proprietary information which is furnished or disclosed by the disclosing Party or its Affiliates (or its or its Affiliates’ agents, servants, contractors, representatives, or employees) to the receiving Party or its representative(s) in connection with this Agreement and that is described or identified (at the time of disclosure) as being non-public, confidential or proprietary, or the non-public or proprietary nature of which is apparent from the context of the disclosure or the contents or nature of the information disclosed, (ii) any market sensitive information (including, without limitation, outages scheduled on generators or transmission lines of Company or any third party), (iii) all memoranda, notes, reports, files, copies, extracts, inventions, discoveries, improvements or any other thing prepared or derived from any information described in subparts (i) through (ii) preceding. “Damages” shall have the meaning set forth in Article 8 of this Agreement.

“Contractor” shall mean Burns & McDonnell.

“Development Agreement” shall have the meaning set forth in the Recitals.

“Development Schedule” shall have the meaning set forth in Section 1.1.

“Effective Date” shall have the meaning set forth in the preamble of this Agreement.

“Facilities Study Report” shall mean that certain Facilities Study Report expected to be finalized as part of the Company’s interconnection request submitted and pending with the NYISO (NYISO Queue No. 543).

“Force Majeure Event” shall have the meaning set forth in Article 11 of this Agreement.

“Implementation Work” shall have the meaning set forth in Exhibit A of this Agreement.

“Indemnatee” shall have the meaning set forth in Article 8 of this Agreement.

“Indemnitor” shall have the meaning set forth in Article 8 of this Agreement

“NERC” shall mean the North American Electric Reliability Corporation or any successor organization.

“NPCC” shall mean the Northeast Power Coordinating Council, Inc. (a reliability council under Section 202 of the Federal Power Act) or any successor organization.

“NYISO” shall have the meaning set forth in the recitals to this Agreement.

“NYSRC” shall mean the New York State Reliability Council or any successor organization thereto.

“OATT” shall have the meaning set forth in Section 1.6.

“Party” and “Parties” shall have the meanings set forth in the preamble to this Agreement.

“Representative” shall have the meaning set forth in Article 2 of this Agreement.

“Schedule” shall have the meaning set forth in Section 3.1 and Exhibit C of this Agreement.

“Transmission Project” shall have the meaning set forth in the recitals of this Agreement.

“Transmission Owner” shall mean Castleton’s current interconnecting electric utility, National Grid.

EXHIBIT A

SCOPE OF CASTLETON WORK

Project Background

The Transmission Project is identified by the NYISO as the “Q#543 Segment B Project”. As further studied by the NYISO in its System Impact Study and Facilities Study Report, NYISO has determined that the Fort Orange substation will require system upgrades as a result of the Transmission Project.

Castleton is obligated by NYISO to ensure that the upgrades, as detailed in such Facilities Study Report attached hereto as Attachment 1, are completed as determined by the Transmission Project’s schedule.

The work contemplated by this Exhibit A is to enable the Company and Contractor to undertake the required upgrades on Castleton’s behalf.

Castleton Work shall consist of the following:

1. Supply as-built drawings, vendor drawings, specifications, procedures, and any design, procurement and/or construction standards necessary for the Company or Contractor to complete the design, procurement and construction. All drawings shall be provided in AutoCAD format if available, or in a format compatible with the Company’s and the Contractor’s design systems and/or acceptable to the Company and Contractor.
2. Timely review of the Company’s engineering documents and packages, approval of technical designs, equipment specifications, construction drawings, relay settings and approve specifications for any equipment; provided, however, the Contractor will create and approve any purchase orders and relay settings as needed.
3. Provide Company, Contractor and Contractor’s sub-contractors access to the Fort Orange substation as needed to perform the engineering, procurement, and construction activities.
4. Support procurement and related procurement activities as requested by the Company. Company or Contractor are responsible for identifying and procuring items required for construction.
5. Participate in review meetings to discuss designs submitted, standards that are to be included/adjusted and outage planning.
6. Provide review and comment of constructability, construction sequencing, and proposed outage planning as needed after Transmission Owner’s approval of same.

7. Support start up commissioning and testing, including coordination with the Contractor to determine the relay and protective setting, and required notifications to the Transmission Owner.
8. It is anticipated that Project upgrades and modifications to the Fort Orange substation will require the existing Relay Protection and Control Schemes to be reviewed, and modified as necessary, for Castleton. Castleton shall work with the Company and the Transmission Owner to provide any existing substation relay setting calculations and relay files.
9. Provide support to Contractor so that the relay coordination between the Company Substations and the Fort Orange substation can be effectively performed.
10. Provide support and assistance on the NERC FAC-008 rating of new equipment and, based on ownership of the asset, define who will be the rating authority for each applicable requirement.
11. Support engineering and construction activities by granting reasonable access to the Fort Orange substation and any rights-of-way as needed.
12. Castleton shall confirm that operational policies and procedures for the Fort Orange substation are reviewed and updated, if required, based on the changes implemented by Company and/or Contractor.
13. Provide Castleton designees for review of engineering and design, construction, commissioning, outage planning and coordination, and other items as needed.

EXHIBIT B

SCOPE OF COMPANY WORK

Company Work shall consist of the following:

1. Perform design and engineering in connection with the Transmission Project consistent with the proposed scope of work in the NYISO System Impact Study Report, Facilities Study Report and the IA. The completed Facilities Study Report is attached hereto as Attachment 1.
2. The Company or Company's designee will coordinate any activities needed with Castleton's Transmission Owner.
3. Support Transmission Project construction activities by coordinating, scheduling, and obtaining outages with the NYISO and any Fort Orange station or lines, and by issuing and/or holding the outage permits.
4. The Company or Company's designee shall prepare and submit to Castleton for review and approval, all necessary engineering packages needed.
5. The Company or Company's designee shall prepare and submit to Castleton for review and approval, all necessary procurement / equipment specifications and drawings.
6. The Company or Company's designee shall prepare and submit to Transmission Owner for review and approval, all necessary engineering packages needed.
7. The Company or Company's designee shall prepare and submit to Transmission Owner for review and approval, all necessary procurement / equipment items.
8. The Company or Company's designee shall setup, run and coordinate, at a minimum, monthly meetings for project status, support and updates.
9. The Company shall prepare, file for, and use commercially reasonable efforts to obtain all required governmental and utility approvals necessary to perform its obligations under this Agreement.
10. If and to the extent applicable or under the control of the Company, provide complete and accurate information regarding the Company's project and all applicable data, drawings and specifications, as needed.
11. Other responsibilities and access as agreed between the Company or Castleton as being necessary to facilitate performance of the Castleton Work.

12. Conduct a survey of the Fort Orange substation to identify the boundaries of the property owned by Castleton and any easements encumbering such property, as needed.
13. Perform or allow the Company or Company's designee to perform soil borings and sampling to determine soil characteristics for potential foundation design, as needed.
14. The Company or Company's designee will perform the procurement of equipment and materials required to incorporate the Transmission Project.
15. The Company will work with equipment suppliers to ensure that the manufacturers' warranties are in the name of Castleton for Castleton owned / retained upgrades.
16. The Company or Company's designee will perform all required construction required to incorporate the Transmission Project.
17. The Company or Company's designee will perform all required start up testing and commissioning of the newly installed or modified substation equipment required to incorporate the Transmission Project.
18. Perform any other reasonable tasks necessary or advisable in connection with the Company Work contemplated by this Exhibit B (including, without limitation, any changes thereto).

Summary of Company Work – Fort Orange Substation (“Fort Orange”)

Fort Orange is a 115kV substation located in Castleton-on-Hudson, New York. Fort Orange as currently identified in the NYISO System Impact Study, the facility line #15 tap connected to existing National Grid Greenbush, Valkin and Hudson 115kV Substations will be relocated to new line #14N between National Grid Schodack and Valkin 115kV Substations. Due to this change, the Fort Orange substation Line Panel will be renamed, drawings will be updated to reflect the changes, and line relay settings will be reviewed and updated as necessary. Transfer from Line #15 to Line #14 will be undertaken separately by Transmission Owner and is not contemplated as work by the Company under this Agreement.

Specifications

Company and its Contractor will develop procurement specifications for equipment and material procurement.

Company and its Contractor will utilize Contractor's construction specifications for construction.

Conceptual Scope

Station drawings and labels will be updated to reflect the transmission line tap updates at Fort Orange.

Controls & Integration

Station drawings and labels will be updated by Company and Contractor to reflect the transmission line updates at Fort Orange.

Relay settings

Relay setting upgrades for the relocated 115kV transmission line #14 tap will be provided in this scope of work. Review and update existing (21/50FD) relay settings if required and coordinate with Transmission Owner for approval of the update line setting. Setting calculations will be developed as necessary to document the design basis. Native relay setting files will be created for each relay based on the associated setting calculation.

Deliverables

Upon successful completion of design, drawings and relay settings will be issued for construction.

30% Deliverables

- a. One-line Diagrams

90% Deliverables

- a. One-line Diagrams
- b. Panel Front Views
- c. Relay Setting calculations and native relay files
- d. Complete Bill of Materials

IFC Package

- a. Updated 90% deliverables with applicable comments incorporated

As per Exhibit A, Castleton will be requested to provide support in the above activities, including but not limited to the supply of available drawings, specifications, criteria used to design Fort Orange's stations, etc., provide timely reviews of Company's engineering, and provide final approval of technical designs, equipment specifications, construction drawings, and relay settings as required.

Exhibit C: Schedule

Below is an estimated schedule and Castleton shall endeavor to complete the work in the timeframes and schedules mutually agreed upon by the Parties. The Schedule provided below contains the dates the Company or its designee will provide design packages to Castleton and Transmission Owner for review and comment. Castleton shall have fourteen (14) days to provide a consolidated set of comments to the Contractor.

Station	30% Package Submittal	Protection & Control 90% Package Submittal	Relay Settings 90% Package Submittal
Fort Orange	Completed	08-Apr-2021	23-July-2021

Upon execution of this Agreement, the Parties shall develop and agree upon the schedule of the services, taking into account the Company's anticipated schedule for submittal of information to Castleton and the commitments made to the NYISO for completion of the overall project by the Company. Castleton agrees to provide comments or approvals in accordance with the agreed upon schedule.

Exhibit D: Insurance Requirements

The Company agrees to provide a Certificate of Insurance or Memorandum of Insurance evidencing the existence of insurance policy(ies) issued to it or self-insured coverage limits, satisfactory to the coverages and minimum limitations set forth below, and not subject to cancellation or material change without giving thirty (30) days prior written notice to Castleton, which policy(ies) or equally satisfactory renewals or extensions thereof shall be maintained in force during the term of this Agreement, as follows:

- Workers Compensation and Employers Liability Insurance as required by the State of New York. If required, coverage shall include the U.S. Longshoremen's and Harbor Workers' Compensation Act and the Jones Act.
- Commercial General Liability (CGL), including Contractual Liability, and Product/Completed Operations Liability Insurance covering all insurable operations required under the provisions of this Agreement with the following minimum limits of liability:
 - Combined single limit - \$2,000,000 per occurrence
- Automobile Liability - covering all owned, non-owned and hired vehicles used in connection with all operations, work or services to be performed by or on behalf of either Party under or in connection with this Agreement with minimum limits of:
 - Combined Single Limit - \$1,000,000 per occurrence.

Umbrella - Coverage to be as broad as primary including Additional Insureds as required hereunder.

Each Occurrence and in the Aggregate - \$5,000,000 unless a different amount is agreed to in writing by Castleton

Providing coverage in excess of:

General Liability
Automobile Liability
Employers Liability

Castleton shall be included as an Additional Insured on the Company's liability insurance policy(ies) with respect to the activities governed by this Agreement.

PUBLIC

Attachment 1

Facilities Study Report

**STUDY CONTAINS CRITICAL ELECTRIC INFRASTRUCTURE INFORMATION
DO NOT RELEASE PURSUANT TO 18 CFR §§388.112 AND 388.113**