

ENGINEERING & PROCUREMENT AGREEMENT

This **ENGINEERING & PROCUREMENT AGREEMENT** (the “*Agreement*”), is made and entered into as of September 21, 2020 (the “*Effective Date*”), by and between **LS POWER GRID NEW YORK CORPORATION I**, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 16150 Main Circle Dr., Ste. 310, Chesterfield, Missouri 63017 (“*Developer*”) and **NIAGARA MOHAWK POWER CORPORATION**, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 300 Erie Boulevard West, Syracuse, New York 13202 (the “*Company*”). Developer and the Company may be referred to hereunder, individually, as a “*Party*” or, collectively, as the “*Parties*”.

WITNESSETH

WHEREAS, Developer proposed a Public Policy Transmission Project identified as the NY AC Transmission Solution to satisfy an identified Public Policy Transmission Need, which project is more specifically described (solely for purposes of this Agreement) in Exhibit A of this Agreement (“*Transmission Project*”); and

WHEREAS, the New York Independent System Operator, Inc. (“*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 Developer to proceed with the Transmission Project;

WHEREAS, Developer, NYISO and the New York Power Authority (“*NYPA*”) are party to that certain Development Agreement, dated as of February 3, 2020 with respect to Developer’s and NYPA’s development of the Transmission Project to satisfy the identified Public Policy Transmission Need;

WHEREAS, Developer is proposing to interconnect its Transmission Project at various locations on the Company’s transmission system; and

WHEREAS, the Transmission Project was evaluated pursuant to the NYISO’s Transmission Interconnection Procedures contained in Attachment P of the NYISO Open Access Transmission Tariff (“*OATT*”) and issuance of a Facilities Study Report (as such term is defined below) is pending; and

WHEREAS, following the issuance of the Facilities Study Report, Developer and the Company contemplate negotiation of a Transmission Project Interconnection Agreement in connection with the proposed interconnection of

the Transmission Project to the Company's transmission system ("Interconnection Agreement"); and

WHEREAS, Developer has requested that the Company undertake certain engineering and procurement activities with respect to the mitigation of the Transmission Project's impact on, and the proposed interconnection of the Transmission Project to, the Company's transmission system, as more specifically described below, prior to issuance of the Facilities Study Report; and

WHEREAS, the Company is willing to perform the Company Work as contemplated in this Agreement, subject to (i) reimbursement by Developer of all Company costs and expenses incurred in connection therewith, (ii) Developer's performance of all other duties, responsibilities, and obligations set forth in this Agreement, including, without limitation, the Developer Required Actions (as defined below); and (iii) receipt of all "Required Approvals" (if any), as set forth in Section 18.1, in a form acceptable to the Company;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

1.0 Certain Definitions

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

"Additional Prepayment(s)" shall have the meaning set forth in Section 7.3 of this Agreement.

"Additional Prepayment Payment Date" shall have the meaning set forth in Section 7.3 of this Agreement.

"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 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 Requirements" 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.

"Balance Amount" shall have the meaning set forth in Section 8.1 of this Agreement.

"Bid(s)" shall have the meaning set forth in Exhibit B of this Agreement.

“Breaching Party” shall have the meaning set forth in Section 21.1 of this Agreement.

“CEIP” shall have the meaning set forth in Section 25.4 of this Agreement.

“CIP” shall have the meaning set forth in Section 25.4 of this Agreement.

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

“Company’s Network Upgrade Facilities” shall have the meaning set forth in Exhibit B of this Agreement.

“Company Reimbursable Costs” means the actual costs and expenses incurred by Company and/or its Affiliates in connection with performance of the Company Work or otherwise incurred by Company and/or its Affiliates in connection with this Agreement, and including, without limitation, any such costs that may have been incurred by Company and/or its Affiliates in connection with the Company Work or this Agreement prior to the Effective Date. These Company Reimbursable Costs shall include, without limitation, the actual expenses for labor (including, without limitation, internal labor), services, materials, subcontracts, equipment or other expenses incurred in the execution of the Company Work, all applicable overhead, overtime costs, all federal, state and local taxes incurred (including, without limitation, all taxes arising from amounts paid to Company that are deemed to be contributions in aid of construction), all costs of outside experts, consultants, counsel and contractors, all other third-party fees and costs, and all costs of obtaining any required permits, rights, consents, releases, approvals, or authorizations acquired by or on behalf of Company, including, without limitation, the Required Approvals.

“Company Work” means all duties, responsibilities, and obligations to be performed by Company as contemplated by Section 3.2 and/or Exhibit B of this Agreement.

“Company Work Cost Reports” shall have the meaning set forth in Section 5.5 of this Agreement.

“Convenience Termination Notice” shall have the meaning set forth in Section 7.3 of this Agreement.

“Damages” shall have the meaning set forth in Section 12.1 of this Agreement.

“Day” means a calendar day, provided, that, if an obligation under this Agreement falls due on a Saturday, Sunday or legal holiday, the obligation shall be due the next business day worked.

“Defect Notice” shall have the meaning specified in Section 3.3 of this Agreement.

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

“Developer Required Actions” means all duties, responsibilities, and obligations to be performed by Developer as contemplated by Section 3.4 of this Agreement.

“Disclosing Party” shall mean the Party disclosing Proprietary Information.

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“Dollars” and “\$” mean United States of America dollars.

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

“Facilities Study Report” shall mean that certain Facilities Study Report expected to be finalized pursuant to the Facilities Study Agreement by and among LS Power Grid New York, LLC, New York Power Authority, Company and NYISO dated July 19th, 2019 (the “Facilities Study Agreement”) as part of Developer’s interconnection request submitted and pending with the NYISO (NYISO Queue No. 556); the initial draft of such Facilities Study Report was delivered to NYISO on June 9th, 2020.

“FERC” shall mean the Federal Energy Regulatory Commission.

“FERC IA Acceptance Date” shall have the meaning specified in Section 2.2 of this Agreement.

“Force Majeure Event” shall have the meaning set forth in Section 23.1 of this Agreement.

“Good Utility Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility 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 refer to acceptable practices, methods, or acts generally accepted in the region in which the Project is located during the relevant time period. Good Utility Practice shall include, but not be limited to, NERC, NPCC, NYISO and NYSRC criteria, rules, guidelines, and standards, where applicable, and as they may be amended from time to time, including the rules, guidelines, and criteria of any successor organization to the foregoing entities.

“Indemnified Party” and “Indemnified Parties” shall have the meanings set forth in Section 12.1 of this Agreement.

“Initial Prepayment” shall have the meaning set forth in Section 7.2 of this Agreement.

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

“IRS” shall mean the US Internal Revenue Service.

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

“Non-Breaching Party” shall have the meaning set forth in Section 21.1 of this Agreement.

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“Non-Cancellable Equipment” shall have the meaning set forth in Section 21.4(b) of this Agreement.

“Non-Disclosure Term” shall have the meaning set forth in Section 25.3.4 of this Agreement.

“Notice to Proceed” shall have the meaning set forth in Section 7.3 of this Agreement.

“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 preamble to this Agreement.

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

“NYPA” shall mean the New York Power Authority.

“OATT” shall have the meaning specified in the preamble of this Agreement.

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

“Project” means the Company Work to be performed under this Agreement.

“Project Manager” means the respective representatives of each of the Developer and Company appointed pursuant to Section 10.1 of this Agreement.

“Proprietary 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 CEII and CIP and (iv) 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 (iii) preceding.

“Receiving Party” shall mean the Party receiving Proprietary Information.

“Refund Amount” shall have the meaning set forth in Section 8.1 of this Agreement.

“Representatives” shall, for the purposes of Article 25 of this Agreement, mean (a) the Affiliates of a Party and such Party’s and its Affiliates’ officers, directors, employees,

contractors, counsel and representatives and (b) with respect to Developer only, NYPA and its officers, directors, employees, contractors, counsel and representatives.

“Required Approvals” shall have the meaning set forth in Section 18.1 of this Agreement.

“Resources” shall have the meaning set forth in Section 23.1 of this Agreement.

“RFP” shall have the meaning set forth in Exhibit B of this Agreement.

“System Impact Study” shall mean the study conducted pursuant to Section 22.8 of Attachment P of the OATT that evaluates the impact of the proposed Transmission Project on the safety and reliability of the New York State Transmission System and, if applicable, an Affected System, to determine what Network Upgrade Facilities are needed for the proposed Transmission Project to connect reliably to the New York State Transmission System in a manner that meets the NYISO Transmission Interconnection Standard described in the OATT, Section 22.6.4 of Attachment P.

“Threshold Notice” shall have the meaning set forth in Section 7.3 of this Agreement.

“Total Payments Made” shall have the meaning set forth in Section 8.1 of this Agreement.

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

“Work” shall mean the Developer Required Actions and/or the Company Work, as applicable.

2.0 Term

- 2.1 This Agreement shall become effective as of the Effective Date and shall remain in full force and effect until performance has been completed hereunder, or until terminated in accordance with the terms of this Agreement, whichever occurs first; provided, however, that this Agreement shall not expire or terminate until all amounts due and owing hereunder have been paid in full as contemplated by this Agreement.
- 2.2 The foregoing notwithstanding, in the event that an Interconnection Agreement is filed with FERC during the term of this Agreement, (i) upon the date FERC accepts such Interconnection Agreement (the “FERC IA Acceptance Date”), the Company shall have no further obligation to perform any Work under this Agreement (any Work not completed hereunder to be performed subject to, and in accordance with, the terms and conditions of such Interconnection Agreement to the extent contemplated therein), and (ii) this Agreement shall terminate upon final payment by Developer of all Company Reimbursable Costs incurred during the term of this Agreement.

3.0 Scope of Work

- 3.1 Developer acknowledges that it has elected to enter into this Agreement prior to the completion of a Facilities Study Report and that it understands and accepts the associated risks, including, without limitation, the risk that, based on the final Facilities Study Report, the Company Work, and any materials procured in connection therewith, will not be useful or appropriate for or in connection with the Transmission Project or may need to be re-performed or re-procured, in whole or in part. Accordingly, Developer desires the Company to perform the Company Work (as defined below), and Company agrees to perform the Company Work consistent with and subject to the provisions of this Agreement.
- 3.2 The Company's scope of work is set forth in Exhibit B of this Agreement, attached hereto and incorporated herein by reference (the "Company Work"). This Agreement does not provide for, and the Company Work shall not include, any construction or breach of ground surface at any property, or any provision of generation interconnection service or transmission service.
- 3.3 The Company shall use commercially reasonable efforts to perform the Company Work in accordance with Good Utility Practice. Prior to the expiration of one (1) year following completion of the Company Work, Developer shall have the right to notify the Company in writing of the need for correction of defective Company Work that does not meet the standard of this Section 3.3 (each, a "Defect Notice"), provided, however, that, the fact that Company Work is not useful, or must be re-performed, in whole or in part, as contemplated by Section 3.1, shall not be deemed to constitute a defect in such Company Work. If the Company Work is defective within the meaning of the prior sentence, then, following its receipt of a timely Defect Notice with respect thereto, the Company shall promptly correct, repair or replace such defective Company Work, as appropriate, provided, that, Company shall not have any obligation to correct, repair or replace such defective Company Work unless the defect in the Company Work has (or is reasonably likely to have) a material adverse impact on implementation of the Transmission Project. The remedy set forth in this Section is the sole and exclusive remedy granted or available to Developer for any failure of the Company to meet the performance standards or requirements set forth in this Agreement.
- 3.4 Subject to the terms of this Agreement, Developer shall use reasonable efforts to perform the actions described in Exhibit C attached to this Agreement (the "Developer Required Actions"). All of the Developer Required Actions shall be performed at Developer's sole cost and expense.
- 3.5 Each Party shall reasonably cooperate and coordinate with the other Party, and with

such other Party's contractors, subcontractors and representatives, as needed to facilitate the Company Work and the Developer Required Actions.

4.0 **Changes in the Work**

- 4.1 Subject to Section 4.2, below, (a) any requests for material additions, modifications, or changes to the Work shall be communicated in writing by the Party making the request, and (b) if the Parties mutually agree to such addition, modification, or change to the applicable Work, such agreement shall be set forth in a written document signed by both Parties specifying such addition, modification or change. Any additional costs arising from such addition, modification or change to the Work shall be paid by Developer as part of Company Reimbursable Costs.
- 4.2 The foregoing notwithstanding, the Company is not required to obtain the consent or agreement of Developer for any change to the Company Work if such change is made in order to comply with any Applicable Requirement(s), Good Utility Practice, or the Company's applicable standards, specifications, requirements and practices; provided, however, that the Company shall notify Developer of such change to the Company Work as soon as reasonably practicable after the Company determines that the change is necessary to comply with any Applicable Requirement(s), Good Utility Practice, or the Company's applicable standards, specifications, requirements and practices. Any additional costs arising from such change shall be paid by Developer as part of Company Reimbursable Costs.

5.0 **Performance; Conditions to Proceed**

- 5.1 If Company Work is performed outside of normal working hours, Developer shall be responsible for paying all actual costs incurred in connection therewith, including, without limitation, applicable overtime costs, as part of Company Reimbursable Costs. For the avoidance of doubt: in no event shall the Company be obligated or required to perform Company Work outside of normal working hours if the Company determines, in its sole discretion, that such performance would be unreasonable, unsafe or otherwise not in compliance with Good Utility Practice.
- 5.2 Neither Party shall be liable for failure to meet any estimated, projected, preliminary, milestone or other schedule in connection with this Agreement or the Transmission Project.
- 5.3 Commencement of Company Work. The Company will proceed with the Company Work promptly following the Company's receipt of the Initial Prepayment.
- 5.4 Procurement Commencement. Anything in this Agreement to the contrary notwithstanding, the Company shall not be obligated to proceed with any procurement in connection with the Company Work unless and until all Additional Prepayments and all Company Reimbursable Costs invoiced to date have been paid in full to the Company.

5.5 Company Work Cost Reports. Company agrees to provide written reports (“*Company Work Cost Reports*”) to Developer on a semi-annual basis, due each July 15 and January 15. Each Company Work Cost Report shall include the following information with respect to the preceding six-month period: (i) a summary of Company Reimbursable Costs incurred during such period, (ii) a statement of the hours of Company Work furnished during such period, (iii) a listing of average hourly labor rates, and (iv) a reasonably detailed description of the tasks performed by Company (or its Affiliates) for the Company Work during such period.

6.0 Representations and Warranties

6.1 Each Party represents and warrants to the other that it has the requisite capacity and authority to enter into this Agreement and, subject to receipt of all Required Approvals as contemplated by Section 18.1, if any, fulfill its obligations hereunder, that the execution and delivery by it of this Agreement and the performance by it of its obligations hereunder have been duly authorized by all requisite corporate action, that this document is legal, valid and enforceable to the best of its knowledge, and that, subject to receipt of all Required Approvals as contemplated by Section 18.1, if any, and compliance with all Applicable Requirements, the entering into this Agreement and the fulfillment of its obligations hereunder does not contravene any law, statute or contractual obligation of the Party giving the representation or warranty.

6.2 Each Party represents and warrants to the other that no suit, action or arbitration, or legal, administrative or other proceeding is pending or has, to the best of its knowledge, been threatened against the representing Party that would have a material adverse effect on the validity or enforceability of this Agreement or the ability of the representing Party to fulfill its obligations hereunder.

7.0 Developer Obligation to Pay Company Reimbursable Costs; Additional Prepayments; Invoicing; Taxes

7.1 Developer shall pay or reimburse the Company for all Company Reimbursable Costs actually incurred by the Company and/or its Affiliates. Any estimates provided under or in connection with this Agreement or the Company Work (including, without limitation, the Initial Prepayment) shall not limit Developer’s obligation to pay the Company for all Company Reimbursable Costs actually incurred by the Company and/or its Affiliates.

- 7.2 Developer shall provide the Company with a prepayment of **\$1,750,000** (“Initial Prepayment”), such amount representing the Company’s current estimate of the total amount of Company Reimbursable Costs to perform the portion of the Company Work that Company anticipates performing during the initial eighteen (18) months following the Effective Date. The Company acknowledges that it has received \$950,000 from the Developer in partial payment of the Initial Prepayment; the Company shall invoice Developer for the remaining balance of the Initial Prepayment and Developer shall pay such amount to Company within thirty (30) Days of the invoice due date. Unless it elects to do so in its sole discretion, Company shall not be obligated to commence any Company Work under this Agreement prior to Company’s receipt of the Initial Prepayment.
- 7.3 If, during the performance of the Company Work, Company determines that one or more additional prepayments are required for the Company Work, Company may, but is not required to, request additional prepayment (each, an “Additional Prepayment”) from Developer; any such requests will be in writing, which will include a reasonable summary of the anticipated related additional costs and expenses, and be accompanied by a reasonably itemized invoice. If an Additional Prepayment is requested and is not received from Developer on or before the date specified in the applicable request, or if no date is specified, within 30 days of receipt of such written request (each, an “Additional Prepayment Payment Date”), Company may (but shall not be obligated to) suspend work (including, without limitation, halting any planned procurement related to such requested Additional Prepayment) upon the depletion of the Initial Prepayment and any other Additional Prepayments made by Developer hereunder to date, as applicable. Upon Company’s receipt of the Additional Prepayment from Developer (such Additional Prepayment to be additional to the Initial Prepayment and any other prepayments made by Developer to date), Company will recommence performance of the Company Work. In the event that Developer does not pay any requested Additional Prepayment in full on or before ninety (90) Days following the applicable Additional Prepayment Payment Date, then subject to Section 7.4, this Agreement, at Company’s election, shall be deemed terminated for convenience by Developer upon written notice to Developer. Company shall provide written notice to Developer (“Threshold Notice”) when the total Company Reimbursable Costs are estimated to have reached \$600,000. Upon issuance of the Threshold Notice, Company shall suspend performance of the Company Work pending Company’s receipt of a Notice to Proceed (as defined below). Following Developer’s receipt of the Threshold Notice, Company and Developer shall consult and Developer shall determine whether it wishes to (a) deliver written direction to Company to continue performance of the Company Work (“Notice to Proceed”) or (b) terminate this Agreement for convenience by delivering a written notice thereof to Company (“Convenience Termination Notice”). Following Company’s receipt of a Notice to Proceed signed by an authorized representative of Developer, Company will recommence performance of the Company Work in accordance with

and subject to the terms and conditions of this Agreement. In the event that Developer does not deliver either a Notice to Proceed or a Convenience

Termination Notice on or before ninety (90) Days following the date of the Threshold Notice, this Agreement, at Company's election, shall be deemed terminated for convenience by Developer.

- 7.4 Company may elect, in its sole discretion, to continue performance hereunder after the depletion of any prepayments, as described in Sections 7.2 and 7.3 herein, and invoice Developer at a later date. Except as otherwise expressly provided for in this Agreement, all invoices shall be due and payable thirty (30) Days from receipt of such invoice. If any undisputed payment due to Company under this Agreement is not made when due, or if any unpaid disputed payment is later determined to have been due and payable, Developer shall pay Company interest on the unpaid amount in accordance with Section 9.1 of this Agreement. In addition to any other rights and remedies available to Company, if (i) any payment due from Developer under this Agreement (including, without limitation, any Additional Prepayment) is not received within five (5) Days after the applicable invoice due date (except to the extent such payment has been previously disputed by Developer in good faith and in compliance with the last sentence of this Section 7.4), or (ii) at any time, the total invoiced payment amounts disputed and remaining unpaid by Developer hereunder exceed \$100,000 in aggregate amount, Company may suspend any or all Company Work pending receipt of all amounts due from Developer; any such suspension shall be without recourse or liability to Company. If Developer disputes, in good faith, any payment amount invoiced hereunder, Developer shall (a) timely pay the undisputed portion of such payment amount in accordance with the terms of this Agreement, and (b) provide written notice to Company with respect to the disputed portion of such payment amount, such notice shall (x) be provided to Company prior to the date such disputed payment is otherwise due under this Agreement and (y) contain a reasonably detailed explanation of Developer's basis for disputing the payment.
- 7.5 If Developer claims exemption from sales tax, Developer agrees to provide Company with an appropriate, current and valid tax exemption certificate, in form and substance satisfactory to the Company, relieving the Company from any obligation to collect sales taxes from Developer ("Sales Tax Exemption Certificate"). During the term of this Agreement, Developer shall promptly provide the Company with any modifications, revisions or updates to the Sales Tax Exemption Certificate or to Developer's exemption status. If Developer fails to provide an acceptable Sales Tax Exemption Certificate for a particular transaction, the Company shall add the sales tax to the applicable invoice to be paid by Developer.

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7.6 If the FERC IA Acceptance Date occurs before the Initial Prepayment or any Additional Prepayment has been fully used to reimburse for Company Work performed by the Company under this Agreement, the Company shall be authorized to apply the remaining balance of the Initial Prepayment and/or any Additional Prepayments to invoices charged to Developer under the Interconnection Agreement. The Company shall adjust the security to be provided under the Interconnection Agreement to reflect the Initial Prepayment and any Additional Prepayments received by the Company under this Agreement. Anything in this Agreement to the contrary notwithstanding, this Section 7.6 shall survive the termination of this Agreement if this Agreement is terminated pursuant to Section 2.2 hereof.

7.7 Company's invoices to Developer for all sums owed under this Agreement shall be sent to the individual and address specified below, or to such other individual and address as Developer may designate, from time to time, by written notice to the Company:

Name: Casey Carroll
Address: LS Power Grid New York
16150 Main Circle Dr., Ste. 310
Chesterfield, MO 63017

7.8 At any time during the term of this Agreement, Developer may request, in writing, from Company a reconciliation of the Company Reimbursable Costs incurred by Company as of the date Company receives written notice of the request. Company shall provide the reconciliation within thirty (30) Days of receiving such request.

7.9 All payments made under this Agreement shall be made in immediately available funds.

Unless otherwise directed by the Company, payments to the Company shall be made by wire transfer to an account specified by Company to Developer in writing after the Effective Date.

Unless otherwise directed by Developer, payments to Developer shall be made by wire transfer to an account specified by Developer to Company in writing after the Effective Date.

8.0 **Final Payment**

8.1 Within one hundred and eighty (180) Days following the earlier of (i) the completion of the Company Work, (ii) the effective early termination or

cancellation date of this Agreement in accordance with any of the provisions hereof, and (iii) the FERC IA Acceptance Date, the Company shall perform an overall reconciliation of the total of all Company Reimbursable Costs to the invoiced costs

previously paid to Company by Developer under this Agreement (“*Total Payments Made*”). If the total of all Company Reimbursable Costs actually incurred is greater than the Total Payments Made, the Company shall provide a final invoice to Developer for the balance due to the Company under this Agreement (the “*Balance Amount*”). If the Total Payments Made is greater than the total of all Company Reimbursable Costs actually incurred, Company shall reimburse the difference to Developer (“*Refund Amount*”) or, if applicable, may apply the Refund Amount as contemplated in Section 7.6 of this Agreement. The Refund Amount or Balance Amount, as applicable, shall be due and payable upon final reconciliation but no later than sixty (60) Days after such reconciliation. Any portion of the Balance Amount or Refund Amount, as applicable, remaining unpaid after that time shall be subject to interest as calculated pursuant to Section 9.1 of this Agreement.

9.0 **Interest on Overdue Amounts**

- 9.1 If any payment due under this Agreement is not made when due, the Party obligated to make such payment shall pay to the other Party interest on the unpaid amount calculated in accordance with Section 35.19a of the FERC’s regulations (18 C.F.R. 35.19a) from and including the due date until payment is made in full.

10.0 **Project Managers; Meetings**

- 10.1 Promptly following the Effective Date, each Party shall designate a Project Manager responsible for coordinating the Party's Work and shall provide the other Party with a written notice containing the name and contact information of such Project Manager ("*Project Manager*"). In no event shall any Project Manager be authorized to amend or modify the provisions of this Agreement unless such Project Manager is otherwise an authorized officer of such Party. Each Party may change its Project Manager, from time to time, by written notice to the other Party.
- 10.2 Each Party's Project Manager shall attend Project meetings (or teleconferences) at times and places mutually agreed to by the Parties.

11.0 **Disclaimer of Warranties, Representations and Guarantees**

- 11.1 DEVELOPER ACKNOWLEDGES THAT THE COMPANY IS NOT IN THE BUSINESS OF PERFORMING DESIGN, ENGINEERING OR PROCUREMENT SERVICES FOR PROFIT AND IS NOT RECEIVING ANY FEE OR PROFIT (AS CONTRASTED WITH COST REIMBURSEMENT) FOR ITS PERFORMANCE UNDER OR IN CONNECTION WITH THIS AGREEMENT. THE EXCLUSIVE REMEDY GRANTED TO DEVELOPER FOR ANY ALLEGED FAILURE OF COMPANY TO MEET THE PERFORMANCE STANDARDS OR REQUIREMENTS CONTAINED IN THIS AGREEMENT IS AS SET FORTH IN SECTION 3.3. COMPANY MAKES NO WARRANTIES, REPRESENTATIONS, OR GUARANTEES IN CONNECTION WITH THIS AGREEMENT, THE TRANSMISSION PROJECT, OR ANY COMPANY WORK, WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.
- 11.2 Notwithstanding any other provision of this Agreement, this Article shall survive the termination, cancellation, completion or expiration of this Agreement.

12.0 **Liability and Indemnification**

- 12.1 To the fullest extent permitted by applicable law (including, without limitation, the applicable provisions of any governing federal or state tariff), Developer shall indemnify and hold harmless, and at Company's option, defend Company, its parents and Affiliates and their respective officers, directors, members, managers, partners, employees, servants, agents, contractors and representatives (each, individually, an "*Indemnified Party*" and, collectively, the "*Indemnified Parties*"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, for economic damage, and for claims brought by third parties for personal injury, property damage or other damages, incurred by any Indemnified Party to the extent arising out of or in connection with this Agreement, the Project, or any Work (collectively, "*Damages*"), except to the extent such Damages are directly caused by the gross negligence, intentional misconduct or unlawful act of any Indemnified Party as determined by a court of competent final jurisdiction.
- 12.2 Without limiting the foregoing, Developer shall protect, indemnify and hold harmless the Company and its Affiliates from and against the cost consequences of any tax liability imposed against or on Company and/or its Affiliates (including, without limitation, the costs consequences of any tax liabilities resulting from a change in applicable law or from an audit determination by the IRS) as the result of or attributable to payments, and/or real or personal property transfers, made in connection with this Agreement, as well as any related interest and penalties, other than interest and penalties attributable to any delay directly caused by Company or the applicable Company Affiliate.
- 12.3 To the fullest extent permitted by applicable law, the Company's total cumulative liability for all claims of any kind, whether based upon contract, tort (including negligence and strict liability), or otherwise, for any loss, injury, or damage connected with, or resulting from, this Agreement, the Project or the Work, shall not exceed the aggregate amount of all payments (including the Initial Prepayment and any Additional Prepayments) made to Company by Developer as Company Reimbursable Costs under this Agreement.

- 12.4 Subject to the obligations set forth in Sections 12.1 and 12.2, neither Party shall be liable to the other Party for consequential, indirect, special, incidental, multiple, or punitive damages (including, without limitation, attorneys' fees or litigation costs) in connection with or related to this Agreement, including, without limitation, damage claims based on causes of action for breach of contract, tort (including negligence), or any other theory of recovery, whether or not (i) such damages were reasonably foreseeable or (ii) the Parties were advised or aware that such damages might be incurred.
- 12.5 Subject to the obligations set forth in Sections 12.1 and 12.2, neither Party shall be liable to the other Party for claims or damages in connection with or related to this Agreement for lost profits, delays, loss of use, business interruption, or claims of customers, whether such claims are categorized as direct or consequential damages, or whatever the theory of recovery, and whether or not (i) such damages were reasonably foreseeable or (ii) the Parties were advised or aware that such damages might be incurred.
- 12.6 Anything in this Agreement to the contrary notwithstanding, neither Party shall be responsible for any failure or inability to perform hereunder to the extent such failure or inability is caused by the acts or omissions of the other Party (including any contractor of such Party or any person or entity for whom such Party is legally responsible) or of any third party (other than a subcontractor of the Party that is unable or failing to perform hereunder).

For the avoidance of doubt: Company shall have no responsibility or liability under this Agreement for any delay in performance or nonperformance to the extent such delay in performance or nonperformance is caused by or as a result of (a) the inability or failure of Developer or its contractors to cooperate or to perform any tasks or responsibilities contemplated to be performed or undertaken by Developer under this Agreement (including, without limitation, the Developer Required Actions), (b) subject to Article 23.0, any Force Majeure Event, (c) the inability or failure of Developer and Company to reach agreement on any matter requiring their mutual agreement under the terms of this Agreement, (d) any valid order or ruling by any governmental agency or authority having jurisdiction over the subject matter of this Agreement, or (e) suspension of Work during such times as may be reasonably required to minimize or avoid risks to utility system reliability in accordance with Good Utility Practice.

- 12.7 Anything in this Agreement to the contrary notwithstanding, if any Party's liability in connection with this Agreement is limited or capped pursuant to any applicable law, statute, rule or regulation, then the other Party hereto shall be entitled to elect an identical liability limitation and/or cap as if such law, statute, rule or regulation were applicable to such Party. The obligations under this Article shall not be limited in any way by any limitation on Developer's insurance.

12.8 Notwithstanding any other provision of this Agreement, this Article shall survive the termination, cancellation, completion or expiration of this Agreement.

13.0 **Insurance; Employee and Contractor Claims**

13.1 Prior to the commencement of any 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, or the Company may elect to self-insure one or more of the insurance coverage amounts set forth in Exhibit D of this Agreement.

13.2 Prior to the commencement of any Work and during the term of the Agreement, the Developer, at its own cost and expense, shall procure and maintain insurance in form and amounts set forth in Exhibit D of this Agreement, or Developer may elect to self-insure one or more of such coverage amounts to the extent authorized or licensed to do so under the applicable laws of the State of New York, provided, that, the Developer provides written notice of any such election to the Company prior to the commencement of any Work under this Agreement.

13.3 Unless such Party elects to self-insure in accordance with Section 13.1 or Section 13.2 hereof, as applicable, each Party shall have its insurer furnish to the other Party 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 Work under this Agreement.

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

13.5 Anything in this Agreement to the contrary notwithstanding, each Party shall be solely responsible for the claims of its respective employees and contractors against such Party and shall release, defend, and indemnify the other Party, its Affiliates, and their respective officers, directors, employees, and representatives, from and against such claims. Notwithstanding any other provision of this Agreement, this Section shall survive the termination, cancellation, completion or expiration of this Agreement.

14.0 **Assignment and Subcontracting**

14.1 The Company may assign this Agreement, or any part thereof, to any of its Affiliates provided such assignee Affiliate agrees in writing to be bound by the terms and conditions of this Agreement. Developer may assign this Agreement to NYPA, provided NYPA agrees in writing (in form and substance acceptable to Company) to be bound by the terms and conditions of this Agreement. Each Party has the right to subcontract some or all of the work to be performed by such Party under the terms of this Agreement. Each Party may also use the services of its Affiliates in connection with its performance under this Agreement. Developer agrees that the reasonable costs and expenses of such Affiliates or contractors charged to or incurred by Company shall be paid by Developer as part of the Company Reimbursable Costs.

15.0 **Independent Contractor; No Partnership; No Agency; No Utility Services**

15.1 Company and Developer 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.

16.0 **[Reserved]**

17.0 **Safety**

17.1 Each Party shall be solely responsible for the safety and supervision of its own employees, representatives and contractors involved with its Work or any other activities contemplated by this Agreement. In connection with the performance contemplated by this Agreement, each Party shall, and shall require its representatives, contractors, and employees to, comply with all applicable Federal, state and local health and safety requirements, rules, regulations, laws and ordinances, including without limitation, the safety regulations adopted under the Occupational Safety and Health Act of 1970 ("OSHA"), as amended from time to time.

18.0 Required Approvals

18.1 Subject to Section 23.3 of this Agreement, the obligations of each Party to perform its respective Work under this Agreement are expressly contingent upon (i) each Party receiving all licenses, permits, permissions, certificates, approvals, authorizations, consents, franchises and releases from any local, state, or federal regulatory agency or other governmental agency or authority, and from any other third party that may be required for such Party in connection with the performance of such Party's obligations under or in connection with this Agreement (the "Required Approvals"), (ii) each Required Approval being granted without the imposition of any modification or condition of the terms of this Agreement or the subject transactions, unless such modification(s) or condition(s) are agreed to by both Parties in their respective sole discretion, and (iii) all applicable appeal periods with respect to the Required Approvals having expired without any appeal having been made or, if such an appeal has been made, a full, final and non-appealable determination having been made regarding same by a court or other administrative body of competent jurisdiction, which determination disposes of or otherwise resolves such appeal (or appeals) to the satisfaction of both Parties in their respective sole discretion. Each Party represents that, as of the Effective Date, it is not aware of any Required Approvals that will need to be obtained for such Party to perform its obligations under this Agreement.

18.2 Subject to Section 23.3 of this Agreement, if any application or request is made in connection with seeking any Required Approval and is denied, or is granted in a form, or subject to conditions, that either Party rejects, in its sole discretion, as unacceptable, this Agreement shall terminate as of the date that a Party notifies the other Party of such denial or rejection, in which event the obligations of the Parties under this Agreement shall cease as of such date and this Agreement shall terminate, subject to Developer's obligation to pay Company in accordance with the terms of this Agreement (including, without limitation, Sections 21.3 and 21.4 hereof) for all Company Reimbursable Costs. For the avoidance of doubt: all of the Company's actual costs in connection with seeking any Required Approvals shall also be included within the meaning of the term Company Reimbursable Costs and shall be paid for by Developer.

19.0 [Reserved]

20.0 [Reserved]

21.0 Right to Terminate Agreement; Remedies

21.1 If either Party (the "Breaching Party") (a) fails to pay any amount when due under the terms of this Agreement or fails to comply with or perform, in any material respect, any of the other terms or conditions of this Agreement; (b) sells or transfers

all or substantially all of its assets; (c) enters into any voluntary or involuntary bankruptcy proceeding or receivership; or (d) makes a general assignment for the

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benefit of its creditors, then the other Party (the “*Non-Breaching Party*”) shall have the right, without prejudice to any other right or remedy and after giving five (5) Days’ written prior notice to the Breaching Party and a reasonable opportunity for cure (not to exceed thirty (30) Days in the case of a failure to pay amounts when due), to terminate this Agreement, subject to Sections 21.4 and 21.5 of this Agreement. Subject to compliance with Section 22.1 of this Agreement, if applicable, the Non-Breaching Party shall also have the right to pursue any and all rights it may have against the Breaching Party under applicable law, subject to other applicable terms and conditions of this Agreement (including, without limitation, any applicable limitations on liability contained herein).

- 21.2 Subject to Sections 21.3 and 21.4 of this Agreement, this Agreement may also be terminated upon prior written notice (i) by Company in the event that Company Work under this Agreement is suspended or delayed for a period exceeding sixty (60) consecutive Days as the result of any continuing dispute between the Parties, or (ii) under the circumstances contemplated by, and in accordance with, Section 18.2, Section 21.5 or Section 26.2 of this Agreement.
- 21.3 In the event of any early termination or cancellation of the Company Work or this Agreement as contemplated by any provision of this Agreement, each Party shall discontinue its performance hereunder to the extent feasible and make every reasonable effort to procure cancellation of existing commitments, orders and contracts relating to its Work upon terms that are reasonably expected to minimize all associated costs.
- 21.4 (a) Subject to Section 21.4(b) below, in the event of any early termination or cancellation of the Company Work or this Agreement as contemplated by any provision of this Agreement, Company shall apply any unused monies available from the Initial Prepayment or any Additional Prepayments to reimburse itself, and, to the extent such Initial Prepayment or any Additional Prepayments have been depleted, Company shall invoice Developer, and Developer agrees to pay, for the following:
- (i) all Company Reimbursable Costs for Company Work performed on or before the effective date of termination or cancellation;
 - (ii) all other Company Reimbursable Costs incurred by Company and/or its Affiliates in connection with the Company Work prior to the effective date of termination or cancellation, including, without limitation, for materials, equipment, engineering and other items, assets or services which cannot reasonably be avoided, mitigated or cancelled; and
 - (iii) all Company Reimbursable Costs arising from cancellation costs

relating to orders or contracts entered into in connection with the

Company Work prior to the effective date of termination or cancellation.

(b) To the extent that any equipment procured or ordered hereunder as part of the Company Work cannot be reasonably cancelled (the “Non-Cancellable Equipment”), Company may elect:

- (i) to take title to the Non-Cancellable Equipment, in which event Company shall refund or credit the Developer, as applicable, for any amounts paid by the Developer as Company Reimbursable Costs for the Non-Cancellable Equipment and shall pay the cost of delivery of such Non-Cancellable Equipment; or
- (ii) to transfer title to and deliver the Non-Cancellable Equipment to Developer, in which event the Developer shall pay, as part of Company Reimbursable Costs, any unpaid balance with respect to the Non-Cancellable Equipment and the cost of delivery of the Non-Cancellable Equipment, such transfer to be on an ‘as is’ basis, without warranty from or recourse to Company, and to be implemented pursuant to a mutually acceptable Bill of Sale containing terms and conditions consistent with such an ‘as is’ transfer.

21.5 Notwithstanding anything to the contrary herein: subject to Section 21.4 hereof, Developer may terminate this Agreement for convenience at any time by providing written notice to Company. Upon receipt of any such notice, Company shall discontinue performance of this Agreement as and to the extent contemplated by Section 21.3 of this Agreement.

22.0 **Dispute Resolution**

22.1 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.

23.0 **Force Majeure**

23.1 A “*Force Majeure Event*” shall include fire, flood, windstorm, adverse weather conditions, emergencies, explosion, terrorism, riot, war, sabotage, acts of God, epidemics, pandemics, infectious disease outbreaks or other public health emergencies, crises or restrictions, including, without limitation, quarantines or other related employee or contractor restrictions, strikes or labor slow-downs, court injunction or order, federal and/or state law or regulation, delays by governmental authorities in approving regulatory, license and/or permit requests necessary in connection with the Company Work or the Developer Required Actions, order by any federal or state regulatory agency, or other causes, conditions or circumstances beyond the affected Party’s reasonable control. Without limiting the foregoing, a “Force Majeure Event” shall also include unavailability of personnel, equipment, supplies, or other resources (“*Resources*”) due to diversion of such Resources for other utility-related duties in connection with an emergency or other similar contingency, including, without limitation, storms or other adverse weather conditions. A Force Majeure Event shall not include acts of negligence or intentional wrongdoing by the Party claiming such Force Majeure Event.

If a Force Majeure Event should occur and impair the ability of either or both Parties to perform its, or their, respective, obligations hereunder, then, to the extent affected by such Force Majeure Event, the performance of this Agreement, with the exception of payment obligations, shall be suspended for the duration of such Force Majeure Event. At the conclusion of a Force Majeure Event, the price and time for performance under this Agreement shall be adjusted as reasonably necessary to overcome the effect of the delay occasioned by such Force Majeure Event. The foregoing notwithstanding and with the exception of payment obligations, if, as the direct or indirect result of any Force Majeure Event, the Parties’ continued

performance hereunder becomes irreparably impaired or prevented, the Parties may mutually agree to terminate this Agreement; provided, however, that,

notwithstanding any such termination, Developer shall pay the Company all of the Company Reimbursable Costs in accordance with Sections 21.3 and 21.4 of this Agreement.

- 23.2 Within thirty (30) Days after the cessation of any delay occasioned by a Force Majeure Event, the affected Party shall give written notice to the other Party specifying the estimated impact of the delay.
- 23.3 For the avoidance of doubt: to the extent any Party has a payment obligation pursuant to the terms of this Agreement, such payment obligation shall not be subject to or conditioned upon such Party receiving funding or reimbursement from any third party (and any failure to secure such funding or reimbursement shall not constitute a Force Majeure Event), nor shall any such obligation be conditioned upon the other Party executing any certificates or other instruments not expressly and specifically required by the terms of this Agreement.

24.0 **Compliance with Law**

- 24.1 Each Party shall comply, at all times, with all Applicable Requirements in connection with this Agreement and performance of its Work hereunder. Such compliance shall include, among other things, compliance with all applicable wage and hour laws and regulations and all other laws and regulations dealing with or relating to the employment of persons, and the payment of contributions, premiums, and taxes required by such laws and regulations. For the avoidance of doubt: neither Party shall be required to undertake or complete any action or performance under this Agreement that is inconsistent with such Party's standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, Good Utility Practice and/or any Applicable Requirement(s).

25.0 **Proprietary and Confidential Information**

- 25.1 Each Party acknowledges that, in the course of the performance of this Agreement, it may have access to Proprietary Information of the other Party.

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- 25.2 GENERAL RESTRICTIONS. Upon receiving Proprietary Information, the Receiving Party) and its Representative shall keep in strict confidence and not disclose to any person (with the exception of the Representatives of the Receiving Party, to the extent each such Representative has a need to know in connection herewith) any of the Disclosing Party's Proprietary Information except as otherwise provided by the terms and conditions of this Agreement. The Receiving Party and its Representatives shall not use such Proprietary Information except for the purposes identified herein without the prior written approval of the Disclosing Party. The Receiving Party shall be solely liable for any breach of this Article to the extent caused by its Representatives. Developer agrees that any Proprietary Information will be used solely for the Project or the Transmission Project and will not be used, either directly or indirectly, for the Developer's financial gain and/or commercial advantage or in violation of any applicable laws, rules or regulations.
- 25.3 EXCEPTIONS. Subject to Section 25.4 hereof, the Receiving Party shall not be precluded from, nor liable for, disclosure or use of Proprietary Information that:
- 25.3.1 is in or enters the public domain, other than by a breach of this Article; or
 - 25.3.2 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; or
 - 25.3.3 is developed by the Receiving Party or its Representatives independently of any disclosure under this Agreement, as evidenced by written records; or
 - 25.3.4 is disclosed more than three (3) years after first receipt of the disclosed Proprietary Information, or three (3) years after the termination or expiration of this Agreement, whichever occurs later (the "Non-Disclosure Term"); or
 - 25.3.5 is disclosed following receipt of the Disclosing Party's written consent to the disclosure of such Proprietary Information; or
 - 25.3.6 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.

Anything in this Article or the Agreement to the contrary notwithstanding, the Receiving Party or its Representative(s) may disclose Proprietary 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 Proprietary Information. Receiving Party will reasonably cooperate with the Disclosing Party's efforts to obtain such protective order.

- 25.4 Each Party acknowledges that information and/or data disclosed under this Agreement may include information that the Disclosing Party deems or determines to be "Critical Energy / Electrical Infrastructure Information" consistent with applicable FERC rules and policies ("CEII") and critical infrastructure protection information consistent with applicable NERC standards and procedures ("CIP"). Receiving Party shall, and shall cause its Representatives to, strictly comply with any and all laws, rules and regulations (including, without limitation, FERC and NERC regulations, rules, orders, standards, procedures and policies) applicable to any such CEII and/or CIP disclosed by or on behalf of Disclosing Party or that relates to any of Disclosing Party's or Disclosing Party's Affiliates' facilities.

Neither the Receiving Party nor its Representatives shall divulge any such CEII or CIP to any person or entity, directly or indirectly, unless permitted to do so by law and unless the Receiving Party has first obtained, in each case, the express specific written consent of the Disclosing Party and any affected Affiliate of the Disclosing Party. In any event, to the extent that the Receiving Party or any of its Representatives seeks or is ordered to submit any such CEII or CIP to FERC, a state regulatory agency, court or other governmental body, the Receiving Party shall, in addition to obtaining the Disclosing Party's and its Affiliate's prior written consent (as applicable), seek a protective order or other procedural protections to ensure that such information is accorded CEII or CIP status, as applicable, and is otherwise treated as confidential.

In the case of any Proprietary Information that is CEII or CIP, Receiving Party's obligations and duties under this Article shall survive until (i) the expiration of the Non-Disclosure Term, (ii) the date on which such CEII or CIP, as applicable, is no longer required to be kept confidential under applicable law, or (iii) the date as of which the Disclosing Party provides written notice to the Receiving Party that such CEII or CIP, as applicable, is no longer required to be kept confidential, whichever is later. With respect to CEII and CIP, in the event of any conflict or inconsistency between this Section and any other term or provision of this Agreement, this Section shall govern in connection with such CEII and CIP, as applicable.

- 25.5 Notwithstanding any provision of this Agreement to the contrary, all assets, equipment and facilities procured or constructed by or on behalf of Company, and all plans, designs, specifications, drawings and other materials and documents created or prepared by or for Company, in connection with the Work, and all title, copyright, intellectual property and other rights therein, shall be and remain the sole property of Company.
- 25.6 This Article shall survive any termination, expiration, completion or cancellation of this Agreement.

26.0 **Effect of Applicable Requirements; Governing Law**

- 26.1 If and to the extent a Party is required to take, or is prevented or limited in taking, any action or performance with respect to this Agreement by any Applicable Requirement(s), such Party shall not be deemed to be in breach of this Agreement as a result of such compliance with the Applicable Requirement(s).
- 26.2 If, during the term of this Agreement, the Applicable Requirements are changed or new Applicable Requirements are enacted, and such changed or new Applicable Requirements 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 promptly following the written request of the affected Party delivered to the other Party and made no later than six (6) months after the effective date of such change or addition to the Applicable Requirements, the Company shall suspend the Company Work and the Parties shall meet to negotiate in good faith such mutually acceptable amendments to this Agreement as the Parties determined to be 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 on and execute such mutually acceptable amendments within thirty (30) Days following the delivery date of such written request, this Agreement shall be deemed to be terminated for convenience by the affected Party effective as of the end of such thirty (30) Day period.
- 26.3 This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of New York without reference to such State's conflict-of-laws doctrine, and applicable Federal law. The Company and Developer agree to submit to the personal jurisdiction of the courts in the State of New York, or the Federal District courts in such State, as permitted by law, with respect to any matter or dispute arising out of this Agreement.

27.0 **Miscellaneous**

27.1 **NOTICES; FORM AND ADDRESS.** All notices, invoices and other communications from either Party to the other hereunder shall be in writing and shall be deemed received (i) upon actual receipt when personally delivered (provided, that, if the date of receipt is not a Day, then the date of receipt shall be deemed to be the immediately succeeding Day), (ii) upon acknowledgment of receipt if sent by facsimile (provided, that, if the date of acknowledgment is not a Day, then the date of receipt shall be deemed to be the immediately succeeding Day), (iii) upon the expiration of the third (3rd) Day after being deposited in the United States mails, postage prepaid, certified or registered mail, or (iv) upon the expiration of one (1) Day after being deposited during the regular business hours for next-day delivery and prepaid for overnight delivery with a national overnight courier, addressed to the other Party at the following address:

To Developer: LS Power Grid New York
 Attn: Casey Carroll
 Assistant Vice President
 16150 Main Circle Dr., Ste. 310
 Chesterfield, MO 63017
 Phone: (636) 532-2200

With a copy to:

LS Power Grid New York
Attn: Legal Department
16150 Main Circle Dr., Ste. 310
Chesterfield, MO 63017
Phone: (636) 532-2200

To Company: Niagara Mohawk Power Corporation
 Attn: Kevin C. Reardon
 Director, Commercial Services
 40 Sylvan Road
 Waltham, MA 02451
 (781) 907-2411

Either Party may change its address by giving the other Party notice thereof in conformity with this Section. Any payments made under this Agreement, if made by mail, shall be deemed to have been made on the date of receipt thereof.

- 27.2 EXERCISE OF RIGHT. No failure or delay on the part of either Party in exercising any right, power, or privilege hereunder, and no course of dealing between the Parties, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. Company agrees that it will accept payment from NYPA, on behalf of Developer, of any amount Developer is obligated to pay hereunder as if the same were paid by Developer, provided that (i) Developer shall be and remain the sole obligor with respect to such payment obligations and Company shall have no obligation to pursue or seek any payments or remedies from NYPA, (ii) NYPA shall not have any rights or claims under this Agreement arising from or in connection with such payments or otherwise, and (iii) without limiting the foregoing, NYPA shall not have any right to dispute amounts due under this Agreement and Company shall not have any obligation to engage in dispute resolution with NYPA under Section 7.4 or Article 22 of this Agreement or otherwise. For the avoidance of doubt: Company is not performing any work or services for NYPA under or pursuant to this Agreement.
- 27.3 HEADINGS: CONSTRUCTION. The descriptive headings of the several Articles, sections, and paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. Such headings shall not in any way define or affect the meaning, construction, or scope of any of the provisions hereof. Each Party and its counsel have participated fully in the review and preparation of this Agreement; this Agreement shall be considered to have been drafted by both Parties. Any rule of construction to the effect that ambiguities or inconsistencies are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against either Party.
- 27.4 INCORPORATION OF SCHEDULES AND EXHIBITS. The schedules, attachments and exhibits referenced in and attached to this Agreement shall be deemed an integral part hereof to the same extent as if written in whole herein. In the event that any inconsistency or conflict exists between the provisions of this Agreement and any schedules, attachments or exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such schedules, attachments or exhibits.
- 27.5 PRIOR AGREEMENTS; MODIFICATIONS. This Agreement and the schedules, attachments and exhibits attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous understandings, commitments, or representations concerning such subject matter. Each Party acknowledges that the other Party has not made any representations other than those that are expressly contained herein, if any. This Agreement may not be amended or modified in any way, and none of its provisions may be waived, except by a writing signed by an authorized representative of the Party against whom the amendment, modification, or waiver is sought to be enforced. The Project

Managers shall not be authorized representatives within the meaning of this Section.

- 27.6 SEVERABILITY. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision hereof shall be prohibited by, or determined to be invalid under, applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
- 27.7 NOUNS AND PRONOUNS. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular forms of nouns and pronouns shall include the plural, and vice versa.
- 27.8 NO THIRD PARTY BENEFICIARIES; RESERVATION OF RIGHTS. Nothing in this Agreement is intended to confer on NYPA or on any other person, other than the Parties, any rights or remedies under or by reason of this Agreement.

Additionally, nothing in this Agreement, including any description of the Transmission Project contained in or referenced by this Agreement, in any way addresses or resolves pending disputes between Company and Developer related to the issue of whether Company or Developer has a right to build, own, and earn a return on portions of the Transmission Project or other electric facilities that Company asserts are upgrades to Company facilities, or constitutes an acknowledgement or admission by Company or Developer that any portion of the Transmission Project or other electric facilities are appropriately built and owned by or included in the rate base of one Party instead of the other Party. Moreover, nothing in this agreement shall prejudice or otherwise restrict Company or Developer from asserting any and all claims regarding such matters in any manner that Company or Developer, as applicable, deems appropriate.

- 27.9 VALIDITY. Each Party hereby represents that the provisions of this Agreement constitute valid and legally binding obligations of such Party and are enforceable in accordance with their terms.
- 27.10 COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be considered an original. The exchange of copies of this Agreement and of signature pages by facsimile or other electronic transmission (including, without limitation, by e-mailed PDF) shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or other electronic means (including, without limitation, by e-mailed PDF) shall be deemed to be their original signatures for all purposes.

[Signatures are on following page.]

IN WITNESS WHEREOF, each Party has executed this Agreement by its duly authorized representative as of the Effective Date.


By POWER GRID NEW YORK CORPORATION

Name: Casey Carroll

Title: Assistant Vice President


By NIAGARA MOHAWK POWER CORPORATION

Name: Kevin C. Reardon

Title: Director, Commercial Services

LIST OF ATTACHMENTS, SCHEDULES AND EXHIBITS

Exhibit A Transmission Project Description

Exhibit B Scope of Company Work

Exhibit C Developer Required Actions

Exhibit D Insurance Requirements

Exhibit A: Transmission Project Description

The Transmission Project consists of the following components:

- Two (2) 345 kV transmission circuits of approximately 67 miles from the existing Edic 345 kV substation to the new Princetown 345 kV substation;
- Two (2) 345 kV single-circuit transmission lines of approximately 5 miles between the new Princetown substation and the new Rotterdam 345 kV substation, one of which will connect to the new Princetown substation and the other will loop in the Edic portion of the existing Edic to New Scotland #14 345 kV transmission line;
- One (1) double-circuit 345 kV transmission line of approximately 20 miles between the new Princetown substation and the existing New Scotland substation;
- Rebuild approximately six (6) miles of the existing Edic to New Scotland #14 345 kV transmission line to accommodate the new double-circuit 345 kV transmission line from Princetown to New Scotland;
- A new Rotterdam 345/230/115 kV substation with one (1) 345 kV connection to the new Princetown substation, one (1) 345 kV connection to the existing Edic substation, two (2) new 345/115 kV transformers connecting to the existing Rotterdam 115 kV switchyard, and one (1) new 345/230 kV transformer connecting to the existing Rotterdam to Eastover Road #38 230 kV transmission line;
- A new Princetown 345 kV substation with two (2) new 345 kV connections to the existing Edic substation, one (1) new 345 kV connection to the new Rotterdam substation, two (2) new 345 kV connections to the existing New Scotland substation, and one (1) 345 kV connection to the existing New Scotland substation via the partially rebuilt Edic to New Scotland #14 345 kV transmission line;
- Decommissioning of the Rotterdam to New Scotland #13 115 kV transmission line;
- Decommissioning of the Porter to Rotterdam #30 and #31 230 kV transmission lines;
- Decommissioning of the Rotterdam 230 kV substation; and
- Terminal upgrades at the Marcy and Edic 345 kV substations.

Exhibit B: Scope of Company Work

I. Background

The Agreement has been entered into prior to the issuance of a Facilities Study Report with respect to the Transmission Project, with the intention of allowing Company Work to commence at the risk of the Developer as contemplated by the Agreement. For the avoidance of doubt: preparation, completion and delivery of the Facilities Study Report is not part of the Company Work under this Agreement.

II. Scope of Work

The Company Work shall consist of the following:

Following the Effective Date, the Company will determine, in its sole discretion, the set of design, engineering, and long-lead procurement work that is appropriate and practicable to undertake under this Agreement with respect to the Company's Network Upgrade Facilities (as such term is defined below) that are covered or addressed by the System Impact Study as they are identified in the Company's draft facility study reports.

The term "Company's Network Upgrade Facilities" means the Network Upgrade Facilities (as such term is defined in the OATT) on or for the Company's transmission system that will be required to mitigate impacts resulting from, or that are otherwise required to accommodate, the Transmission Project.

Any Company Work would be performed only if it relates to the following substations, or if otherwise expressly described herein:

- New Scotland
- Rotterdam
- Porter
- Leeds
- Reynolds
- Eastover

With respect to procurement activities, Company Work may include, without limitation, some or all of the following as required in connection with the foregoing:

- A. Develop technical documents to solicit bid proposals for the selected procurement.

B. Issuance of the Request for Proposals (“RFP”), soliciting bid proposals,

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clarifying queries from bidders, and receiving bid proposals (“*Bid(s)*”).

- C. Bid evaluation and recommendation, which includes scoring of Bids based on technical, quality, price and identification of proposed vendors.
- D. Award to selected vendor and placement of order for the applicable materials and/or services.
- E. Coordination and involvement of project team members and stakeholders for the above listed tasks and to secure required internal approvals (including, without limitation, the creation of sanction papers and presentation thereof to internal committees/bodies for approval).
- F. Engineering and procurement activities to support temporary configurations as needed.

The Company anticipates starting procurement on long lead items such as, but not limited to, 345 kV circuit breakers (three phase), 115 kV circuit breakers (three phase), 345 kV disconnect switches, 345 kV CVTs (single phase), 345 kV VT (single phase), 230kV Combo CT/PT (single phase), 345kV Combo CT/PT(single phase), and relay/control panels for 345 kV and 115 kV.

The following transmission line support work will be included in the Company Work:

- A. Engineering and procurement activities for the required reconductoring work on Line #10 (Menands-Wolf Road);
- B. Engineering and procurement activities for the required line moves of Line #2 at New Scotland substation and Line #14 at Edic substation; and
- C. Engineering and procurement activities for the work being done on the 115kV tie-lines at Rotterdam, between Gordon Road substation and Rotterdam substation; and
- D. General transmission line engineering efforts to cooperate with Developer on wire design and structure detail at interconnection points.

NOTE: All procurement activities will be focused only on the procurement the Company determines, in its sole discretion, to perform under this Agreement and does not include all procurement that may be required with respect to the Company’s facilities or system expected to be impacted by the Transmission Project.

The Company recognizes the Developer’s construction schedule and the NYISO required inservice date of December 31, 2023 and will work under this Agreement to start tasks typically not initiated until after the completion of the applicable NYISO Facilities Study Report.

Notwithstanding the above: (i) the Company does not commit to any particular order of work or

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to any milestone, deadline or schedule to have any design, engineering, procurement or any other work completed and (ii) the work contemplated by this Exhibit and this Agreement does not encompass the full scope of work or services contemplated to be performed by an Affected Transmission Owner with respect to its Affected Transmission System pursuant to Section 22.4.4 of Attachment P to the OATT (“*Affected Transmission Owner Work*”) and shall, in no event, include any work or services other than such Affected Transmission Owner Work.

The Company Work may also include, without limitation, the following activities as required in connection with the foregoing:

1. Prepare, file for, and use reasonable efforts to obtain any Required Approvals that must be obtained by Company to enable it to perform the work contemplated by this Exhibit.
2. Review, from time to time, proposed outage schedules, construction sequencing, and other development activities.
3. Retain and use outside experts, counsel, consultants, and contractors in furtherance of the work contemplated herein.
4. Attendance at and preparation for monthly Work management and outage planning meetings, as required by the Work.
5. Perform any other reasonable tasks necessary or advisable in connection with the work contemplated by this Exhibit (including, without limitation, any changes thereto).
6. Engineering and procurement activities to support temporary configurations as needed.
7. Permitting and siting activities with respect to the Company’s Network Upgrade Facilities as Company determines to be needed or advisable.

The work contemplated by this Exhibit and this Agreement does not include any construction, relocations, alterations, modifications, or upgrades with respect to any Company, Developer or third party facilities, the Transmission Project or any interconnection thereof to the Company’s Transmission System (“*Implementation Work*”), nor does Company make any commitment to undertake such Implementation Work. If the Parties elect, in their respective sole discretion, to proceed with any Implementation Work: (i) such Implementation Work would be performed pursuant to a separate, detailed, written, and mutually acceptable Transmission Project Interconnection Agreement to be entered into by the Parties and the NYISO in accordance with the applicable provisions of the NYISO Open Access Transmission Tariff prior to the commencement of any such Implementation Work and (ii) payment of all actual costs incurred by

Company or its Affiliates in connection with or related to such Implementation Work shall be the responsibility of Developer and Developer shall reimburse Company for all such costs.

For the avoidance of doubt: the Company shall not have any responsibility for seeking or acquiring any real property rights in connection with the Company Work, the Project, the Transmission Project or this Agreement including, without limitation, licenses, consents, permissions, certificates, approvals, or authorizations, or fee, easement or right of way interests. Neither this Agreement nor the Company Work include granting, securing or arranging for Developer or any third party to have access rights in, through, over or under any real property owned or controlled by the Company; any such access rights would be the subject of separate written agreements.

Exhibit C: Developer Required Actions

The Developer Required Actions shall consist of the following:

1. Developer shall prepare, file for, and use commercially reasonable efforts to obtain all Required Approvals necessary to perform its obligations under this Agreement.
2. If and to the extent applicable or under the control of the Developer, provide complete and accurate information regarding the Developer's project and all applicable data, drawings and specifications.
3. Other responsibilities and access deemed necessary by Company to facilitate performance of the Company Work.

Exhibit D: Insurance Requirements

The Parties agree to provide Certificates of Insurance or Memorandums of Insurance evidencing the existence of insurance policies issued to them or self-insured coverage limits, satisfactory to the coverages and minimum limitations set forth below, and not subject to cancellation or material change without one Party giving thirty (30) days prior written notice to the other Party which policies 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 - \$1,000,000 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.

Each Party shall be included as an Additional Insured on the other Party's liability insurance policy(ies) with respect to the activities governed by this Agreement, and the New York Power Authority shall be included as an Additional Insured on the Company's liability insurance policy(ies) with respect to the activities governed by this Agreement.

For Company, the Additional Insured wording is: **NIAGARA MOHAWK POWER CORPORATION** d/b/a National Grid, shall be included as Additional Insureds.

For Developer, the Additional Insured wording is: **LS POWER GRID NEW YORK CORPORATION I** and **NEW YORK POWER AUTHORITY** shall be included as Additional Insureds.

1. Upon request, either Party shall promptly provide the requesting Party with either evidence of insurance or certificates of insurance evidencing the insurance coverage above. Developer shall provide such certificates or evidence of insurance to Company at the following address:

To: National Grid c/o Niagara Mohawk Power Corporation
Attention: Director, Commercial Services
40 Sylvan Road
Waltham, MA 02451

Company shall provide such certificates or evidence of insurance to Developer at the following address:

To: LS Power Grid New York Corporation I
Attn: Casey Carroll
16150 Main Circle Dr., Ste. 310
Chesterfield, MO 63017

2. Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
3. If a Party fails to secure or maintain any insurance coverage, or any insurance coverage is canceled before the completion of all services provided under this Agreement, and such party fails immediately to procure such insurance as specified herein, then the non-defaulting Party has the right but not the obligation to procure such insurance and, at its option, either bill the cost thereof to the defaulting Party or deduct the cost thereof from any sum due the defaulting Party under this Agreement.
4. To the extent requested, each Party shall furnish to the other Party copies of any accidents report(s) sent to the furnishing Party's insurance carriers covering accidents or incidents occurring in connection with or as a result of the performance of the Work under this Agreement.
5. Each Party shall comply with any governmental and/or site-specific insurance requirements even if not stated herein.
6. By the date that such coverage is required, each Party represents to the other Party that it will have full policy limits available and shall notify the other Party in writing when coverages required herein have been reduced as a result of claim payments, expenses, or both.

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SERVICE AGREEMENT NO. 2612
TRANSMISSION PROJECT
INTERCONNECTION AGREEMENT
AMONG THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
AND
NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID
AND
LS POWER GRID NEW YORK CORPORATION I
Dated as of April 2, 2021
(Segment A Double Circuit Transmission Project)

SERVICE AGREEMENT NO. 2612

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TRANSMISSION PROJECT INTERCONNECTION AGREEMENT

THIS TRANSMISSION PROJECT INTERCONNECTION AGREEMENT (“Agreement”) is made and entered into this 2nd day of April 2021, by and among LS Power Grid New York Corporation I, a corporation organized and existing under the laws of the State of New York (“Transmission Developer” with a Transmission Project), the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”), and Niagara Mohawk Power Corporation d/b/a National Grid a corporation organized and existing under the laws of the State of New York (“Connecting Transmission Owner”). Transmission Developer, the NYISO, or Connecting Transmission Owner each may be referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, NYISO operates the New York State Transmission System and Connecting Transmission Owner owns certain facilities included in the New York State Transmission System;

WHEREAS, Transmission Developer and New York Power Authority (“NYPA”) have developed the Transmission Project described in Appendix C to this Agreement that will interconnect to the New York State Transmission System;

WHEREAS, Transmission Developer will construct, own, and operate certain facilities of the Transmission Project identified in Section 3 of Appendix C to this Agreement (“LS Power Transmission Facilities”), and NYPA will construct, own, and operate certain facilities of the Transmission Project identified in Section 2 of Appendix C to this Agreement (“NYPA Transmission Facilities”);

WHEREAS, portions of the Transmission Project will interconnect to the New York State Transmission System at facilities owned and operated by the Connecting Transmission Owner;

WHEREAS, the Transmission Project was evaluated in the NYISO’s Transmission Interconnection Procedures located in Attachment P of the NYISO OATT;

WHEREAS, Transmission Interconnection Studies determined that certain Network Upgrade Facilities were required on the Connecting Transmission Owner’s system for the Transmission Project to connect reliably to the system in a manner that meets the NYISO Transmission Interconnection Standard; and

WHEREAS, Transmission Developer, NYPA, NYISO, and Connecting Transmission Owner have agreed: (i) for Transmission Developer, NYISO, and Connecting Transmission Owner to enter into this Agreement for the purpose of interconnecting the LS Power Transmission Facilities with the Connecting Transmission Owner’s facilities included in the New York State Transmission System, and (ii) for NYPA, NYISO, and Connecting Transmission Owner to enter into a separate Transmission Project Interconnection Agreement for the purpose of

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interconnecting the NYPA Transmission Facilities with the Connecting Transmission Owner's facilities included in the New York State Transmission System;

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

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 1 of the ISO OATT, Section 22.1 of Attachment P of the ISO OATT, Section 25.1.2 of Attachment S of the ISO OATT, the body of the Transmission Interconnection Procedures or the body of this Agreement.

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

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

Affected Transmission Owner shall mean the 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 Deliverability Upgrades, System Upgrade Facilities, or Network Upgrade Facilities are or will be installed pursuant to Attachment P, Attachment X, Attachment Z, or Attachment S to the ISO OATT.

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

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, including but not limited to Environmental Law.

Applicable Reliability Councils shall mean the 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 the LS Power Transmission Facilities is 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

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

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Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Transmission Interconnection Studies by the NYISO, Connecting Transmission Owner, or the Transmission Developer, as described in Section 22.6.1 of the Transmission Interconnection Procedures.

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

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

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

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

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

Connecting Transmission Owner shall mean the New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System or Distribution System at the Point(s) of Interconnection, and (iii) is a Party to this Agreement. For purposes of this Agreement, the Connecting Transmission Owner is defined in the introductory paragraph.

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.

Development Agreement shall mean the agreement executed between the NYISO, Transmission Developer, and NYPA concerning the development of the Transmission Project, dated February 3, 2020, as it may be amended from time to time.

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

Emergency shall mean any abnormal condition or situation which the Connecting Transmission Owner, Transmission Developer or NYISO, in their sole discretion, deems imminently likely to endanger life or property, or adversely affect or impair the New York State Transmission

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System, the LS Power Transmission Facilities, Connecting Transmission Owner's electrical system, or the electrical or transmission systems of others to which they are directly or indirectly connected, which requires immediate automatic or manual action to correct. Such an abnormal system condition or situation includes, without limitation, overloading or potential overloading (exceeding thermal limits of pre- and post-contingency), excessive voltage drop, exceeding voltage limits as defined by the NYISO, the Transmission Developer or Connecting Transmission Owner, load shedding, voltage reduction, operating reserve deficiencies, frequency deviations, over-generation or other non-normal conditions. Economic hardship of a Party will not constitute an "Emergency."

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.

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

Facilities Study shall mean the study conducted pursuant to Section 22.9 of Attachment P of the NYISO OATT to determine a list of facilities required to reliably interconnect the Transmission Project (including Network Upgrade Facilities) as identified in the System Impact Study, the cost of those facilities, and the time required to interconnect the Transmission Project with the New York State Transmission System.

Facilities Study Agreement shall mean the agreement described in Section 22.9.1 of Attachment P of the NYISO OATT for conducting the Facilities Study.

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

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

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

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,

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or act to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts
generally accepted in the region.

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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 Transmission 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.

Initial Synchronization Date(s) shall mean the date(s) upon which the LS Power Transmission Facilities and Network Upgrade Facilities, as applicable, are initially synchronized with the New York State Transmission System and upon which Trial Operation begins, which date(s) shall be set forth in the milestones table in Appendix B. The Connecting Transmission Owner or Transmission Developer, as applicable, must provide notice of the Initial Synchronization Date(s) to the other Parties in the form of Appendix E-1 to this Agreement.

In-Service Date(s) shall mean the date(s) upon which the LS Power Transmission Facilities and Network Upgrade Facilities, as applicable, are energized consistent with the provisions of this Agreement and available to provide Transmission Service under the NYISO’s Tariffs, which date(s) shall be set forth in the milestones table in Appendix B. The Connecting Transmission Owner or Transmission Developer, as applicable, must provide notice of the In-Service Date(s) to the other Parties in the form of Appendix E-2 to this Agreement.

IRS shall mean the Internal Revenue Service.

LS Power Transmission Facilities shall mean LS Power’s portion of the Transmission Project as defined in the recitals and identified in Section 3 of Appendix C to this Agreement.

Metering Equipment shall mean all metering equipment installed or to be installed at the LS Power Transmission Facilities pursuant to this Agreement, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

Metering Points shall mean the location(s) identified by the NYISO for any Metering Equipment associated with the Transmission Project that are required for the Transmission Project to provide zonal or subzonal metering data.

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

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Network 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 or additions to the New York State Transmission System that are required for the proposed Transmission Project to connect reliably to the system in a manner that meets the NYISO Transmission Interconnection Standard. For purposes of this Agreement, the Network Upgrade Facilities are described in Appendix A of this Agreement.

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

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

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

NYISO Transmission Interconnection Standard shall mean the reliability standard that must be met by any Transmission Project 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.

NYPA Transmission Facilities shall mean Transmission Developer's portion of the Transmission Project as defined in the recitals and identified in Section 2 of Appendix C to this Agreement.

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

Operating Agreement shall mean the Operating Agreement that the Transmission Developer is required to enter into with the NYISO concerning the operation of its transmission facilities in accordance with the requirements in Section 31.1.7.3 of Attachment Y of the OATT, as such agreement may be amended from time to time.

Party or Parties shall mean NYISO, Connecting Transmission Owner, or Transmission Developer or any combination of the above.

Point(s) of Change of Ownership shall mean the point(s), as set forth in Appendix C to this Agreement, where the LS Power Transmission Facilities connect to the Connecting Transmission Owner's system.

Point(s) of Interconnection shall mean the point(s), as set forth in Appendix C to this Agreement, where the LS Power Transmission Facilities connect to the New York State Transmission System.

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.

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Security shall mean a cash deposit, bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, provided to or executed for the benefit of the Connecting Transmission Owner, meeting the commercially reasonable requirements of the Connecting Transmission Owner with which it is required to be provided or posted pursuant to Article 11.4, and consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1 of this Agreement.

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.

System Impact Study shall mean the study conducted pursuant to Section 22.8 of Attachment P of the NYISO OATT that evaluates the impact of the proposed Transmission Project on the safety and reliability of the New York State Transmission System and, if applicable, and Affected System, to determine what Network Upgrade Facilities are needed for the proposed Transmission Project to connect reliably to the New York State Transmission System in a manner that meets the NYISO Transmission Interconnection Standard.

System Impact Study Agreement shall mean the agreement described in Section 22.8.1 of Attachment P of the NYISO OATT for conducting the System Impact Study.

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 at the Transmission Project and (2) protect the Transmission Project 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.

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 Developer shall mean an entity that proposes to interconnect its Transmission Project to the New York State Transmission System in compliance with the NYISO Transmission Interconnection Standard. For purposes of this Agreement, the Transmission Developer is defined in the introductory paragraph.

Transmission Interconnection Application shall mean the Transmission Developer’s request, in the form of Appendix 1 to the Transmission Interconnection Procedures, to interconnect a Transmission Project to the New York State Transmission System.

Transmission Interconnection Procedures (“TIP”) shall mean the interconnection procedures applicable to a Transmission Interconnection Application pertaining to a Transmission Project that are included in Attachment P of the NYISO OATT.

Transmission Interconnection Study shall mean any of the following studies: the Optional Feasibility Study, the System Impact Study, and the Facilities Study described in the Transmission Interconnection Procedures.

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Transmission Project shall mean the Transmission Developer's proposed transmission facility or facilities that collectively satisfy the definition of Transmission Project in Section 22.3.1 of Attachment P of the NYISO OATT. For purposes of this Agreement, the Transmission Project is described in Appendix C of this Agreement and is comprised of the LS Power Transmission Facilities and the NYPA Transmission Facilities.

Transmission Project Interconnection Agreement shall mean this interconnection agreement applicable to the interconnection of the Transmission Project to the New York State Transmission System.

Trial Operation shall mean the period(s) during which Connecting Transmission Owner or Transmission Developer, as applicable, is engaged in on-site test operations and commissioning of the LS Power Transmission Facilities or Network Upgrade Facilities prior to the In-Service Date.

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 NYISO and Connecting Transmission Owner shall promptly file this Agreement with FERC upon execution in accordance with Article 3.

2.2 Term of Agreement.

Subject to the provisions of Article 2.3, this Agreement shall remain in effect for a period of twenty (20) 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.

2.3.1.1 Written Notice of Termination

This Agreement may be terminated: (i) by any Party after giving the other Parties ninety (90) Calendar Days advance written notice following the termination of the Development Agreement prior to the completion of its term, subject to the suspension requirements in Article 2.3.1.2 below; or (ii) by the mutual agreement in writing of all Parties.

2.3.1.2 Suspension Period for Project Transfer

2.3.1.2.1 If the Development Agreement is terminated prior to the completion of its term and the NYISO exercises its right under the Development Agreement and the Tariff to request that a developer other than the Transmission Developer complete the Transmission

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Project, this Agreement shall be suspended. The suspension period will last until either: (i) the
NYISO issues a written determination that the Transmission Project cannot be transferred to

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another developer and will not proceed, or (ii) the Transmission Developer completes the assignment of this Agreement to a new developer selected by the NYISO as set forth in Article 2.3.1.2.3. During the suspension period, the running of any advanced notice of termination time period pursuant to Article 2.3.1.1 will be paused. The Agreement shall not be terminated during the suspension period without the written agreement of all Parties.

2.3.1.2.2 During the suspension period, the Transmission Developer and Connecting Transmission Owner shall suspend all work associated with the construction and installation of the Network Upgrade Facilities required for only the Transmission Project under this Agreement with the condition that the New York State Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and the safety and reliability criteria of Connecting Transmission Owner and NYISO. In such event, Transmission Developer shall be responsible for all reasonable and necessary costs and/or obligations in accordance with this Agreement, including those which Connecting Transmission Owner (i) has incurred pursuant to this Agreement prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the New York State Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Connecting Transmission Owner cannot reasonably avoid; *provided, however*, that prior to canceling or suspending any such material, equipment or labor contract, Connecting Transmission Owner shall obtain Transmission Developer's authorization to do so, which authorization shall not unreasonably be withheld, conditioned or delayed.

2.3.1.2.3 If, pursuant to its Tariff, the NYISO selects a new developer to complete the Transmission Project, Transmission Developer shall coordinate with the new developer concerning the assignment of this Agreement to the new developer pursuant to the assignment requirements in Article 19 of this Agreement. All liabilities under this Agreement existing prior to such transfer shall remain with the Transmission Developer, unless otherwise agreed upon by the Transmission Developer and the new developer as part of their good faith negotiations regarding the transfer.

2.3.2 Default.

Any 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 Transmission Developer shall be responsible for all costs that are the responsibility of the

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Transmission Developer under this Agreement that are incurred by the Transmission Developer or the other Parties through the date, as applicable, of the other Parties' receipt of a Party's notice of termination, or of the Parties' mutual agreement to terminate the agreement. Such costs include any cancellation costs relating to orders or contracts. In the event of termination by the Transmission Developer, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this Agreement, unless otherwise ordered or approved by FERC:

2.4.1 With respect to any portion of the Network Upgrade Facilities that have not yet been constructed or installed, but that is being relied upon by other projects in the manner described in Article 11.5 of this Agreement, Transmission Developer shall forfeit any remaining Security in accordance with the requirements in Article 11.5.

2.4.2 With respect to any portion of the Network Upgrade Facilities that has not yet been constructed or installed and is not being relied upon by other projects in the manner described in Article 11.5 of this Agreement, the Connecting Transmission Owner shall to the extent possible and with Transmission 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 Transmission Developer elects not to authorize such cancellation, Transmission 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 Transmission Developer as soon as practicable, at Transmission Developer's expense. To the extent that Transmission Developer has already paid Connecting Transmission Owner for any or all such costs of materials or equipment not taken by Transmission Developer, Connecting Transmission Owner shall promptly refund such amounts to Transmission 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.

2.4.3 Connecting Transmission Owner may, at its option, retain any portion of such materials, equipment, or facilities that Transmission 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.

2.4.4 With respect to any portion of the Network Upgrade Facilities, and any other facilities already installed or constructed pursuant to the terms of this Agreement, Transmission Developer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Disconnection.

Upon termination of this Agreement, Transmission Developer and Connecting Transmission Owner will take all appropriate steps to disconnect the LS Power Transmission Facilities from the New York State Transmission System and to perform such work as may be necessary to ensure that the New York State Transmission System shall be left in a safe and

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reliable condition in accordance with Good Utility Practice and the safety and reliability criteria
of Connecting Transmission Owner and NYISO. All costs required to effectuate such

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disconnection shall be borne by the Transmission Developer, unless such termination resulted from the Connecting Transmission Owner's Default of this Agreement.

2.6 Survival.

This Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder; including billings and payments pursuant to this Agreement and Transmission Developer's satisfaction of the Security requirements in Article 11.5; 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 Transmission 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

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

ARTICLE 4. SCOPE OF SERVICE

4.1 Interconnection of Transmission Facilities.

The Transmission Developer's LS Power Transmission Facilities and the Connecting Transmission Owner's transmission system shall interconnect at the Points of Interconnection set forth in Appendix C of this Agreement in accordance with the terms and conditions of this Agreement.

4.2 No Transmission Delivery Service.

The execution of this Agreement does not constitute a request for, nor agreement to provide, any Transmission Service under the ISO OATT, and does not convey any right to deliver electricity to any specific customer or Point of Delivery.

4.3 No Other Services.

The execution of this Agreement does not constitute a request for, nor agreement to provide Energy, any Ancillary Services or Installed Capacity under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff").

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ARTICLE 5. NETWORK UPGRADE FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

5.1 Network Upgrade Facilities

Unless otherwise mutually agreed to by Transmission Developer and Connecting Transmission Owner, Transmission Developer shall select the In-Service Date(s) and Initial Synchronization Date(s) of the Network Upgrade Facilities, and such dates shall be set forth in Appendix B hereto. The Connecting Transmission Owner's obligation to design, procure, construct, install, and own the Network Upgrade Facilities shall be set forth in Appendix A hereto. The Connecting Transmission Owner shall use Reasonable Efforts to complete the Network 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 Network Upgrade Facilities by the specified dates, the Connecting Transmission Owner shall promptly provide written notice to the Transmission Developer and NYISO, and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

5.2 Equipment Procurement.

The Connecting Transmission Owner shall commence design of the Network Upgrade Facilities and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Transmission Developer and Connecting Transmission Owner otherwise agree in writing:

5.2.1 NYISO and Connecting Transmission Owner have completed the Facilities Study pursuant to the Facilities Study Agreement;

5.2.2 The NYISO has completed the required cost allocation analyses, and Transmission Developer has provided Security to the Connecting Transmission Owner in accordance with Article 11.4; and

5.2.3 The Connecting Transmission Owner has received written authorization to proceed with design and procurement from the Transmission Developer.

5.3 Construction Commencement.

The Connecting Transmission Owner shall commence construction of the Network Upgrade Facilities as soon as practicable after the following additional conditions are satisfied:

5.3.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval, to the extent required for the construction of a discrete aspect of the Network Upgrade Facilities;

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

5.3.3 The Connecting Transmission Owner has received written authorization to proceed with construction from the Transmission Developer; and

5.3.4 The Transmission Developer has provided Security to the Connecting Transmission Owner in accordance with Article 11.4.

5.4 Work Progress.

The Transmission Developer and Connecting Transmission Owner will keep each other, and NYISO, advised periodically as to the progress of their respective design, procurement and construction efforts of the LS Power Transmission Facilities and the Network Upgrade Facilities. Any Party may, at any time, request a progress report from the Transmission Developer or Connecting Transmission Owner.

5.5 Information Exchange.

As soon as reasonably practicable after the Effective Date, the Transmission Developer and Connecting Transmission Owner shall exchange information, and provide NYISO the same information, regarding the design and compatibility of the LS Power Transmission Facilities and Network Upgrade Facilities and the compatibility of the LS Power Transmission Facilities and Network Upgrade Facilities with the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.6 Network Upgrade Facilities

Connecting Transmission Owner shall design and construct the Network Upgrade Facilities in accordance with Good Utility Practice. Connecting Transmission Owner shall deliver to the other Parties pursuant to the dates set forth in Appendix B “as-built” drawings, information and documents for the Network Upgrade Facilities.

The Connecting Transmission Owner shall transfer operational control to the NYISO of Network Upgrade Facilities at a voltage above 115 kV upon completion of such facilities, but shall not transfer operational control of Network Upgrade Facilities of a voltage of 115 kV or lower.

5.7 Access Rights.

Upon reasonable notice and supervision by the Granting Party, and subject to any required or necessary regulatory approvals, the Connecting Transmission Owner and Transmission Developer (“Granting Party”) shall each furnish to the other Parties (“Access Party”) at no cost any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and

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egress at the Point(s) of Interconnection to construct, operate, maintain, repair, test (or witness
testing), inspect, replace or remove facilities and equipment to: (i) interconnect the LS Power

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Transmission Facilities and Network Upgrade Facilities with the New York State Transmission System; (ii) operate and maintain the LS Power Transmission Facilities, Network Upgrade 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.

5.8 Lands of Other Property Owners.

If any part of the Network Upgrade Facilities is to be installed on property owned by persons other than Transmission Developer or Connecting Transmission Owner, the Connecting Transmission Owner shall at Transmission Developer's 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 Network Upgrade Facilities upon such property.

5.9 Permits.

NYISO, Connecting Transmission Owner and the Transmission 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 the Transmission Developer comparable to that provided to the Connecting Transmission Owner's own, or an Affiliate's, generation or transmission facilities, if any.

5.10 Suspension.

Transmission Developer reserves the right, upon written notice to Connecting Transmission Owner and NYISO, to suspend at any time all work by Connecting Transmission Owner associated with the construction and installation of the Network Upgrade Facilities required for only the Transmission Project under this Agreement with the condition that the New York State Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and the safety and reliability criteria of Connecting Transmission Owner and NYISO. If the suspension will impact the Transmission Developer's ability to meet any Advisory Milestones or Critical Path Milestones in the Development Agreement, Transmission Developer shall notify the NYISO in accordance with the requirements in Article 3.3 of the Development Agreement. NYISO reserves the right, upon written notice to Transmission Developer and Connecting Transmission Owner, to require the suspension of all work by Transmission Developer and Connecting Transmission Owner associated with the engineering,

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procurement, and/or construction services under this Agreement if the NYISO terminates the Development Agreement pursuant to Article 8 of the Development Agreement.

In the event of suspension under this Article 5.10, Transmission Developer shall be responsible for all reasonable and necessary costs and/or obligations in accordance with the ISO OATT and the Facilities Study report including those which Connecting Transmission Owner (i) has incurred pursuant to this Agreement prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the New York State Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Connecting Transmission Owner cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Connecting Transmission Owner shall obtain Transmission Developer's authorization to do so.

Connecting Transmission Owner shall invoice Transmission Developer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Transmission Developer suspends work by the Transmission Developer and Connecting Transmission Owner required under this Agreement pursuant to this Article 5.10, and has not informed the Parties that it is recommencing its work and requested Connecting Transmission Owner to recommence its work required under this Agreement on or before the expiration of three (3) years following commencement of such suspension, this Agreement shall be deemed terminated. The three-year period shall begin on the date of the written notice required under this Article 5.10 or the date specified in the written notice of suspension.

5.11 Taxes.

5.11.1 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Connecting Transmission Owner.

Transmission 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 Transmission 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 Transmission Developer under this Agreement unless (i) Connecting Transmission Owner has determined, in good faith, that the payments or property transfers made by Transmission 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.

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5.11.2 Tax Gross-Up Amount.

Transmission Developer's liability for the cost consequences of any current tax liability under this Article 5.11 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Transmission Developer will pay Connecting Transmission Owner, in addition to the amount paid for the Network Upgrade Facilities, an amount equal to (1) the current taxes imposed on Connecting Transmission Owner ("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 Transmission Developer to Connecting Transmission Owner under this Agreement (without regard to any payments under this Article 5.11) (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 Transmission Developer's liability to Connecting Transmission Owner pursuant to this Article 5.11.2 can be expressed as follows: $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value Depreciation Amount})) / (1 - \text{Current Tax Rate})$. Transmission Developer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Network Upgrade Facilities.

5.11.3 Private Letter Ruling or Change or Clarification of Law.

At Transmission 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 Transmission Developer to Connecting Transmission Owner under this Agreement are subject to federal income taxation. Transmission 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 Transmission Developer's knowledge. Connecting Transmission Owner and Transmission Developer shall cooperate in good faith with respect to the submission of such request.

Connecting Transmission Owner shall keep Transmission 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 Transmission Developer to participate in all discussions with the IRS regarding such request for a private letter ruling. Connecting Transmission Owner shall allow Transmission Developer to attend all

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meetings with IRS officials about the request and shall permit Transmission Developer to prepare the initial drafts of any follow-up letters in connection with the request.

5.11.4 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 Transmission 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 Transmission 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 Transmission 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 Transmission Developer to Connecting Transmission Owner pursuant to this Agreement, Connecting Transmission Owner shall promptly refund to Transmission Developer the following:

(i) Any payment made by Transmission Developer under this Article 5.11 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Transmission 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 Transmission Developer to the date Connecting Transmission Owner refunds such payment to Transmission 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 Transmission 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 Network Upgrade Facilities.

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

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5.11.5 Taxes Other Than Income Taxes.

Upon the timely request by Transmission Developer, and at Transmission 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 Transmission Developer may be required to reimburse Connecting Transmission Owner under the terms of this Agreement. Transmission 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. Transmission 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 Transmission 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, Transmission Developer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Connecting Transmission Owner.

5.12 Tax Status; Non-Jurisdictional Entities.

5.12.1 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.

5.12.2 Non-Jurisdictional Entities

Transmission Developer does not waive its exemption, pursuant to Section 201(f) of the FPA, from Commission jurisdiction with respect to the Commission's exercise of the FPA's general ratemaking authority.

5.13 Modification.

5.13.1 General.

If, prior to the In-Service Date of the LS Power Transmission Facilities or Network Upgrade Facilities, either the Transmission Developer or Connecting Transmission Owner proposes to modify the Transmission Project or Network Upgrade Facilities, they must inform the other Parties of the proposed modification and must satisfy the requirements for such modifications in (i) Section 22.5.4 of Attachment P to the NYISO OATT, and (ii) the Development Agreement. The Transmission Developer shall be responsible for the cost of any such additional modifications, including the cost of studying the materiality and impact of the modification.

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Following the In-Service Date of the LS Power Transmission Facilities or Network Upgrade Facilities, either the Transmission Developer or Connecting Transmission Owner may undertake modifications to its facilities covered by this Agreement. If either the Transmission 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, and to NYISO, sufficient information regarding such modification so that the other Party and NYISO may evaluate the potential impact of such 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 transmission of electricity at the Point(s) of Interconnection. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party and NYISO at least ninety (90) Calendar Days in advance of the commencement of construction regarding such work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

5.13.2 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.

5.13.3 Modification Costs.

Transmission Developer or Connecting Transmission Owner, as applicable, shall not be assigned the costs of any additions, modifications, or replacements that the other Party makes to the New York State Transmission System to facilitate the interconnection of a third party to the New York State Transmission System, or to provide Transmission Service to a third party under the ISO OATT, except in accordance with the cost allocation procedures in Attachment S of the ISO OATT.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-In-Service Date Testing and Modifications.

Prior to the In-Service Date of the LS Power Transmission Facilities or Network Upgrade Facilities, as applicable, the Connecting Transmission Owner or Transmission Developer, as specified in Appendix A, shall test the LS Power Transmission Facilities and Network Upgrade Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Transmission 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. Transmission Developer shall bear the cost of all such testing and modifications. Transmission Developer and Connecting Transmission Owner shall coordinate with NYISO prior to performing the testing of the LS Power Transmission Facilities and Network Upgrade Facilities and prior to the facilities entering into service.

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6.2 Post-In-Service Date Testing and Modifications.

Transmission Developer and Connecting Transmission Owner shall each at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice and Applicable Reliability Standards as may be necessary to ensure the continued interconnection of the LS Power Transmission Facilities with the New York State Transmission System in a safe and reliable manner. Transmission 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 requesting Party's expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing.

Transmission Developer and Connecting Transmission Owner shall each notify the other Party, and the NYISO, in advance of its performance of tests of the LS Power Transmission Facilities and Network Upgrade Facilities. The other Party, and the NYISO, shall each have the right, at its own expense, to observe such testing.

6.4 Right to Inspect.

Transmission 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 System Protection Facilities and other protective equipment. NYISO shall have these same rights of inspection as to the facilities and equipment of Transmission Developer and Connecting Transmission Owner. 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 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 ISO OATT.

ARTICLE 7. METERING

7.1 General.

Transmission Developer or Connecting Transmission Owner, as applicable (the "Metering Party") shall procure and install Metering Equipment at any Metering Points identified by the NYISO prior to any operation of the LS Power Transmission Facilities, as specified in Appendix A. The Metering Party shall own, operate, test, maintain, and, if directed by the NYISO, relocate such Metering Equipment in accordance with ISO Procedures, as such requirements are amended from time to time. The Metering Party shall provide the other Parties,

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as such requirements are amended from time to time. Transmission Developer shall bear all reasonable documented costs associated with the purchase, installation, and testing of Metering Equipment identified as Network Upgrade Facilities in Appendix A, and each Metering Party shall be responsible for the costs of operation and maintenance of its Metering Equipment.

7.2 Check Meters.

Connecting Transmission Owner or Transmission 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 check meters to check the Metering Party's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this Agreement, except as provided in Article 7.4 below. The installation, operation and maintenance thereof shall be performed entirely by the Party installing the check meters in accordance with Good Utility Practice.

7.3 Standards.

The Metering Party shall install, calibrate, and test revenue quality Metering Equipment including potential transformers and current transformers in accordance with ISO Procedures, as such requirements are amended from time to time.

7.4 Testing of Metering Equipment.

The Metering Party shall inspect and test all of its Metering Equipment upon installation and at least once every two (2) years thereafter. If required by ISO Procedures, the Metering Party shall, at its own expense, inspect or test Metering Equipment more frequently than every two (2) years. The Metering Party shall give reasonable notice of the time when any inspection or test shall take place, and the other Parties 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 Transmission Developer's expense in order to provide accurate metering, unless the inaccuracy or defect is due to Connecting Transmission Owner's failure to maintain, then Connecting Transmission Owner shall pay. The Metering Party and NYISO shall address the loss of meter data or meter data anomalies in accordance with ISO Procedures. The NYISO shall reserve the right to review all associated metering equipment installation on the Transmission Developer's or Connecting Transmission Owner's property at any time.

7.5 Metering Data.

At Metering Party's expense, the metered data shall be telemetered to one or more locations designated by NYISO. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy at the Metering Points.

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ARTICLE 8. COMMUNICATIONS

8.1 Transmission Developer Obligations.

Transmission Developer shall maintain satisfactory operating communications, including providing analog and digital real-time telemetry, with Connecting Transmission Owner and NYISO in accordance with the requirements in this Agreement, the Operating Agreement (including Section 2.05, *Local Control Center, Metering and Telemetry*), NYISO Tariffs, and ISO Procedures, as such requirements are amended from time to time. Transmission Developer shall provide standard voice line, dedicated voice line and facsimile communications at its control center for the LS Power Transmission Facilities through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. Transmission Developer shall also provide the dedicated data circuit(s) necessary to provide Transmission Developer data to Connecting Transmission Owner and NYISO as set forth in Appendix D hereto. The data circuit(s) shall extend from the LS Power Transmission Facilities to the location(s) specified by Connecting Transmission Owner and NYISO. Any required maintenance of such communications equipment shall be performed by Transmission Developer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit.

Prior to the Initial Synchronization Date of the LS Power Transmission Facilities, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Transmission Developer, or by Connecting Transmission Owner at Transmission Developer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Connecting Transmission Owner 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 and NYISO. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Connecting Transmission Owner and NYISO.

Each Party will promptly advise the appropriate 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 Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation.

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Party providing such equipment and the Party receiving such equipment.

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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. Connecting Transmission Owner or Transmission Developer, as applicable, shall provide the NYISO with notifications of all of its power system equipment additions or modifications in accordance with ISO Procedures, including the NYISO's Reliability Analysis Data Manual (Manual 24).

9.2 NYISO and Connecting Transmission Owner Obligations.

Connecting Transmission Owner and NYISO shall cause the New York State Transmission System to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the NYISO Tariffs. Connecting Transmission Owner and NYISO may provide operating instructions to Transmission 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 and NYISO will consider changes to their respective operating protocols and procedures proposed by Transmission Developer.

9.3 Transmission Developer Obligations.

Transmission Developer shall at its own expense operate, maintain and control the LS Power Transmission Facilities in a safe and reliable manner and in accordance with this Agreement, the NYISO Tariffs, ISO Procedures, and the Operating Agreement. Transmission Developer shall operate the LS Power Transmission Facilities in accordance with NYISO and Connecting Transmission Owner requirements, as such requirements are set forth or referenced in Appendix C hereto. Appendix C will be modified to reflect changes to the requirements as they may change from time to time. Any Party may request that the appropriate other Party or Parties provide copies of the requirements set forth or referenced in Appendix C hereto.

9.4 Outages and Interruptions.

9.4.1 Outages.

9.4.1.1 Outage Authority and Coordination.

Transmission Developer and Connecting Transmission Owner may each, in accordance with NYISO procedures and Good Utility Practice and in coordination with the other Party, remove from service any of its LS Power Transmission Facilities or Network 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 or Emergency State, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal

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on a date and time mutually acceptable to both the Transmission Developer and the Connecting
Transmission Owner. In all circumstances either Party planning to remove such facility(ies)

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from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

9.4.1.2 Outage Schedules.

The Transmission Developer or Connecting Transmission Owner, as applicable, and pursuant to ISO Procedures, shall post scheduled outages of its respective transmission facilities on the NYISO OASIS.

9.4.1.3 Outage Restoration.

If an outage on the LS Power Transmission Facilities or Network Upgrade Facilities 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 or 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.

9.4.2 Interruption of Service. If required by Good Utility Practice or Applicable Reliability Standards to do so, the NYISO, Connecting Transmission Owner, or Transmission Developer may require the Connecting Transmission Owner or Transmission Developer to interrupt the transmission of electricity if such transmission of electricity could adversely affect the ability of NYISO and, as applicable, Connecting Transmission Owner or Transmission Developer 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 permitted under this Article 9.4.2:

9.4.2.1 The interruption shall continue only for so long as reasonably necessary under Good Utility Practice;

9.4.2.2 When the interruption must be made under circumstances which do not allow for advance notice, NYISO, Connecting Transmission Owner, or Transmission Owner shall notify, as applicable, Transmission Developer or Connecting Transmission Owner by telephone as soon as practicable of the reasons for the curtailment or interruption, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;

9.4.2.3 Except during the existence of an Emergency or Emergency State, when the interruption can be scheduled without advance notice, NYISO, Connecting Transmission Owner, or Transmission Developer shall notify, as applicable, Transmission Developer or Connecting Transmission Owner in advance regarding the timing of such scheduling and of the expected duration. The Parties shall coordinate with each other using Good Utility Practice to

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schedule the interruption during periods of least impact to the Transmission Developer, the
Connecting Transmission Owner and the New York State Transmission System;

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9.4.2.4 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the LS Power Transmission Facilities, Network Upgrade Facilities, and the New York State Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

9.4.3 System Protection and Other Control Requirements.

9.4.3.1 System Protection Facilities. Transmission Developer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the LS Power Transmission Facilities. Connecting Transmission Owner shall install at Transmission Developer's expense any System Protection Facilities that may be required on the New York State Transmission System as a result of the interconnection of the LS Power Transmission Facilities.

9.4.3.2 The protection facilities of both the Transmission Developer and Connecting Transmission Owner shall be designed and coordinated with other systems in accordance with Good Utility Practice and Applicable Reliability Standards.

9.4.3.3 The Transmission Developer and Connecting Transmission Owner shall each be responsible for protection of its respective facilities consistent with Good Utility Practice and Applicable Reliability Standards.

9.4.3.4 The protective relay design of the Transmission 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 the LS Power Transmission Facilities.

9.4.3.5 The Transmission Developer and Connecting Transmission Owner will each test, operate and maintain System Protection Facilities in accordance with Good Utility Practice, NERC and NPCC criteria.

9.4.3.6 Prior to the In-Service Dates of the Network Upgrade Facilities and LS Power Transmission Facilities, the Transmission 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, the Transmission Developer and Connecting Transmission Owner shall each perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

9.4.4 Requirements for Protection.

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In compliance with NPCC requirements and Good Utility Practice, Transmission
Developer shall provide, install, own, and maintain relays, circuit breakers and all other devices

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necessary to remove any fault contribution of the LS Power Transmission Facilities 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. Such protective equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the LS Power Transmission Facilities and the New York State Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Transmission Developer and Connecting Transmission Owner. Transmission Developer shall be responsible for protection of the LS Power Transmission Facilities and Transmission Developer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. Transmission Developer shall be solely responsible to disconnect the LS Power Transmission Facilities and Transmission Developer's other equipment if conditions on the New York State Transmission System could adversely affect the LS Power Transmission Facilities.

9.4.5 Power Quality.

Neither the facilities of Transmission 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.

9.5 Switching and Tagging Rules.

The Transmission Developer and Connecting Transmission Owner shall each provide the other Party a copy of its switching and tagging rules that are applicable to the other Party's activities. Such switching and tagging rules shall be developed on a nondiscriminatory 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.

9.6 Disturbance Analysis Data Exchange.

The Parties will cooperate with one another and the NYISO in the analysis of disturbances to either the LS Power Transmission Facilities 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.

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ARTICLE 10. MAINTENANCE

10.1 Connecting Transmission Owner Obligations.

Connecting Transmission Owner shall maintain its transmission facilities, including the Network Upgrade Facilities, in a safe and reliable manner and in accordance with this Agreement.

10.2 Transmission Developer Obligations.

Transmission Developer shall maintain the LS Power Transmission Facilities in a safe and reliable manner and in accordance with this Agreement.

10.3 Coordination.

The Transmission Developer and Connecting Transmission Owner shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the LS Power Transmission Facilities and the Network Upgrade Facilities. The Transmission Developer and Connecting Transmission Owner shall keep 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.

The Transmission 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 Transmission Developer or Connecting Transmission Owner's facilities and equipment which may reasonably be expected to impact the other Party. The Transmission Developer and Connecting Transmission Owner shall each provide advance notice to the 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 others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, Transmission Developer shall be responsible for all reasonable expenses including overheads, associated with owning, operating, maintaining, repairing, and replacing the LS Power Transmission Facilities. The Connecting Transmission Owner shall be responsible for all reasonable expenses including overheads, associated with owning, operating, maintaining, repairing, and replacing the Network Upgrade Facilities.

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ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Transmission Project.

Transmission Developer shall design, procure, construct, install, own and/or control the LS Power Transmission Facilities as set forth in Appendix C hereto, at its sole expense.

11.2 Network Upgrade Facilities.

Connecting Transmission Owner shall design, procure, construct, and install the Network Upgrade Facilities as specified in Appendix A hereto. Connecting Transmission Owner shall own, operate, maintain, and control the Network Upgrade Facilities.

11.3 Reserved.

11.4 Provision of Security.

Within thirty (30) Calendar Days of the Effective Date of this Agreement, Transmission Developer shall provide Connecting Transmission Owner with the first installment of Security in the amount set forth in Appendix A of this Agreement. Transmission Developer shall provide Connecting Transmission Owner with additional installments of Security in the amounts set forth in Appendix A of this Agreement on or before the applicable dates set forth in Appendix A of this Agreement. The amount of Security shall be adjusted as provided in Appendix A of this Agreement

11.5 Forfeiture of Security

The Security that the Transmission Developer provides the Connecting Transmission Owner in accordance with Article 11.4 of this Agreement shall be irrevocable and shall be subject to forfeiture in the event that the Transmission Developer subsequently terminates or abandons development of the Transmission Project. Any Security provided by the Transmission Developer to the Connecting Transmission Owner shall be subject to forfeiture to the extent necessary to defray the cost of: (1) Network Upgrade Facilities required for other Transmission Developers whose Transmission Project interconnection studies included the Transmission Project and Network Upgrade Facilities specified in this Agreement in their base cases; and (2) System Upgrade Facilities and System Deliverability Upgrade Facilities required for projects for which the Transmission Project and Network Upgrade Facilities were included in their Annual Transmission Reliability Assessment and/or Class Year Deliverability Study, as applicable. If Transmission Developer's Security is subject to forfeiture to defray the costs of an affected upgrade pursuant to this Article 11.5 and the Security is not in a form that can be readily drawn on by the Connecting Transmission Owner to defray the costs of the affected upgrade, Transmission Developer shall negotiate in good faith with the Connecting Transmission Owner to replace the Security with cash or an alternative form of Security that can be readily drawn on by Connecting Transmission Owner up to the amount required to satisfy Transmission Developer's Security obligations under this Agreement, including defraying the costs of the

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affected upgrade. Connecting Transmission Owner shall only be responsible for using
Transmission Developer's Security to defray the costs of an affected upgrade to the extent

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Transmission Developer has provided cash or Security in a form that the Connecting Transmission Owner can readily draw on to defray such costs.

11.6 Network Upgrade Facility Costs

11.6.1 If the actual cost of Network Upgrade Facilities is less than the agreed-to and secured amount, Transmission Developer is responsible only for the actual cost figure.

11.6.2 If the actual cost of Network Upgrade Facilities is greater than the agreed-to and secured amount because other projects have been expanded, accelerated, otherwise modified or terminated, Transmission Developer is responsible only for the agreed-to and secured amount for the Network Upgrade Facilities. The additional cost is covered by the developers of the modified projects, or by the drawing on the cash that has been paid and the Security that has been posted for terminated projects, depending on the factors that caused the additional cost. Such forfeitable Security from other developers will be drawn on only as needed for this purpose, and only to the extent that the terminated project associated with that Security has caused additional cost and that the developer of the terminated project has provided cash or Security in a form that the Connecting Transmission Owner can readily draw on.

11.6.3 If the actual cost of the Network Upgrade Facilities is greater than the agreed-to and secured amount for reasons other than those set forth in Article 11.6.2, Transmission Developer will pay the additional costs incurred in accordance with Good Utility Practice to Connecting Transmission Owner as such costs are incurred. Disputes between Transmission Developer and Connecting Transmission Owner concerning costs in excess of the agreed-to and secured amount will be resolved by the parties in accordance with the terms and conditions of Article 27.

11.7 Line Outage Costs.

Notwithstanding anything in the ISO OATT to the contrary, the Connecting Transmission Owner may propose to recover line outage costs associated with the installation of Network Upgrade Facilities on a case-by-case basis.

11.8 Transmission Developer's Responsibilities Under this Agreement in Relation to NYPA's Related Responsibilities under its Transmission Project Interconnection Agreement

Transmission Developer shall be responsible for satisfying all obligations specified for the Transmission Developer in this Agreement in accordance with the requirements of this Agreement; *provided; however*, that if NYPA individually, or collectively with Transmission Developer, satisfies an obligation on Transmission Developer's behalf, the obligation will be deemed satisfied for purposes of this Agreement. Transmission Developer agrees that any issue or dispute between Transmission Developer and NYPA concerning the satisfaction of an obligation under this Agreement shall not excuse Transmission Developer's performance of its obligations under this Agreement and shall be resolved between Transmission Developer and NYPA outside of this Agreement.

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ARTICLE 12. INVOICE

12.1 General.

The Transmission Developer shall submit to Connecting Transmission Owner, on a monthly basis, invoices of amounts due for the preceding month. Connecting Transmission Owner shall submit invoices to Transmission Developer as provided in Appendix A of this Agreement and, for costs greater than the agreed-to and secured amount, as contemplated in Section 11.6.3. Each invoice shall state the month or month(s) to which the invoice applies and describe the services and equipment provided or to be provided. The Transmission 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 and Refund of Remaining Security.

Within twelve months after completion of construction of Network Upgrade Facilities, Connecting Transmission Owner shall provide an invoice of the final cost of the construction of the Network Upgrade Facilities and shall set forth such costs in sufficient detail to enable Transmission Developer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Connecting Transmission Owner shall refund to Transmission Developer any amount by which the actual payment or Security provided by Transmission Developer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice; provided, however, that any refund of Security shall be subject to the provisions of Article 11.5.

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, or the invoicing Party may draw on any Security it holds to recover amounts owed by the other Party. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices will not constitute a waiver of any rights or claims the paying Party may have under this Agreement.

12.4 Disputes.

In the event of a billing dispute between Connecting Transmission Owner and Transmission Developer, Connecting Transmission Owner shall continue to perform under this Agreement as long as Transmission Developer: (i) continues to make all payments not in dispute; and (ii) pays to Connecting Transmission Owner or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Transmission Developer fails to meet these two requirements for continuation of service, then Connecting Transmission

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Owner may provide notice to Transmission Developer of a Default pursuant to Article 17.
Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to

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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 NYISO, the applicable Reliability Councils, Applicable Laws and Regulations, and any emergency procedures agreed to by the NYISO Operating Committee. Transmission Developer and Connecting Transmission Owner agree to coordinate with NYISO to develop procedures that will address the operations of the LS Power Transmission Facilities during Emergency conditions.

13.2 Notice.

Each Party shall notify the other Parties promptly when it becomes aware of an Emergency or Emergency State that affects, or may reasonably be expected to affect, the LS Power Transmission Facilities or the New York State Transmission System. To the extent information is known, the notification shall describe the Emergency or Emergency State, the extent of the damage or deficiency, the expected effect on the operation of Transmission 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 Transmission Developer's reasonable judgment, immediate action is required, Transmission Developer shall obtain the consent of Connecting Transmission Owner, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the LS Power Transmission Facilities in response to an Emergency or Emergency State either declared by NYISO, Connecting Transmission Owner or otherwise regarding New York State Transmission System.

13.4 NYISO, Transmission Developer, and Connecting Transmission Owner Authority.

Consistent with ISO Procedures, Good Utility Practice, and this Agreement, any Party may take whatever actions with regard to the New York State Transmission System it deems necessary during an Emergency or Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the New York State Transmission System, (iii) limit or prevent damage, and (iv) expedite restoration of service. Transmission Developer and Connecting Transmission Owner shall use Reasonable Efforts to assist the other in such actions.

13.5 Limited Liability.

No Party shall be liable to another Party for any action it takes in responding to an

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Emergency or Emergency State so long as such action is made in good faith and is consistent
with Good Utility Practice and the NYISO Tariffs.

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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 Transmission 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 Parties and any instrument required or permitted to be tendered or delivered by a Party in writing to the other Parties shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix 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.

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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.

Transmission Developer and Connecting Transmission Owner shall each notify the other Party, and NYISO, 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 Economic hardship is not considered a Force Majeure event.

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

ARTICLE 17. DEFAULT

17.1 General.

No Breach shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Parties. Upon a Breach, the non-Breaching Parties shall give written notice of such to the Breaching Party and, if Transmission Developer is the Breaching Party prior to the In-Service Date, the non-Breaching Parties shall additionally provide written notice of such to NYPA. 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, or such longer period of time mutually agreed by the Parties, which agreement shall not be unreasonably withheld; and, if cured within such time, the Breach specified in such notice shall cease to exist.

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17.2 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 Parties acting together shall thereafter have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not those Parties terminate this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

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

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

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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

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Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

Except as stated below, the Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

18.2 No Consequential Damages.

Other than 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 another Party under separate agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

18.3 Insurance.

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

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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 ("CGL") Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available using Insurance Services Office, Inc. Commercial General Liability Coverage ("ISO CG") Form CG 00 01 04 13 or a form equivalent to or better than CG 00 01 04 13, with minimum limits of Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

18.3.3 Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

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

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

18.3.6 The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Liability Insurance policies of Transmission Developer and Connecting Transmission Owner shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insureds using ISO CG Endorsements: CG 20 33 04 13, and CG 20 37 04 13 or CG 20 10 04 13 and CG 20 37 04 13 or equivalent to or better forms. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Calendar days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

18.3.7 The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Transmission Developer and Connecting Transmission Owner shall each be responsible for its respective deductibles or retentions.

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

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

18.3.10 The requirements contained herein as to the types and limits of all insurance to be maintained by the Transmission 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.

18.3.11 Within fourteen (14) 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, Transmission Developer and Connecting Transmission Owner shall provide certificate of insurance for all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.

18.3.12 Notwithstanding the foregoing, Transmission Developer and Connecting Transmission Owner may each self-insure to meet the minimum insurance requirements of Articles 18.3.1 through 18.3.9 to the extent it maintains a self-insurance program; provided that, such Party's senior debt is rated at investment grade, or better, by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.1 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this Article 18.3.12, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Articles 18.3.1 through 18.3.9 and provide evidence of such coverages. For any period of time that a Party's senior debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.1 through 18.3.9.

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

18.3.14 Subcontractors of each party must maintain commercially reasonable

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insurance types and amounts for their scope of work, including maintaining any insurance
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Utility Practice. In addition, the subcontractor's insurance policies must state that they are primary and non-contributory and contain a waiver of subrogation, to the extent permitted by the insurer and commercially reasonable.

ARTICLE 19. ASSIGNMENT

This Agreement may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this Agreement without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; provided further that a Party may assign this Agreement without the consent of the other Parties in connection with the sale, merger, restructuring, or transfer of a substantial portion or all of its assets (or, in the case of Transmission Developer, a transfer of all or a substantial portion of the LS Power Transmission Facilities), so long as the assignee in such a transaction directly assumes in writing all rights, duties and obligations arising under this Agreement; and provided further that the Transmission Developer shall have the right to assign this Agreement, without the consent of the NYISO or Connecting Transmission Owner, for collateral security purposes to aid in providing financing for the Transmission Project, provided that the Transmission Developer will promptly notify the NYISO and Connecting Transmission Owner of any such assignment. Any financing arrangement entered into by the Transmission Developer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the NYISO and Connecting Transmission Owner of the date and particulars of any such exercise of assignment right(s) and will provide the NYISO and Connecting Transmission Owner with proof that it meets the requirements of Articles 11.4 (if applicable at the time of such assignment) and 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

If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement.

ARTICLE 21. COMPARABILITY

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

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

22.2 Term.

During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.3 Confidential Information.

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

22.4 Scope.

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Article 22.9 of this Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Agreement. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

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22.5 Release of Confidential Information.

No Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees, consultants, or to NYPA or to parties who may be considering providing financing to or equity participation with Transmission Developer (directly or indirectly), or to potential purchasers or assignees of a Party or a Party's direct or indirect parent company, 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.

22.6 Rights.

Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by any Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

22.7 No Warranties.

By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.

22.8 Standard of Care.

Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this Agreement or its regulatory requirements, including the ISO OATT and NYISO Services Tariff. The NYISO shall, in all cases, treat the information it receives in accordance with the requirements of Attachment F to the ISO OATT.

22.9 Order of Disclosure.

If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to

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obtain reliable assurance that confidential treatment will be accorded any Confidential
Information so furnished.

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22.10 Termination of Agreement.

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

22.11 Remedies.

The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 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.

22.12 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 ISO OATT, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to the Commission or its staff. The Party shall notify the other Parties to the Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time the Parties may respond before such information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations. A Party shall not be liable for any losses, consequential or otherwise, resulting from that Party divulging Confidential Information pursuant to a FERC or state regulatory body request under this paragraph.

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22.13 Required Notices Upon Requests or Demands for Confidential Information

Except as otherwise expressly provided herein, no Party shall disclose Confidential Information to any person not employed or retained by the Party possessing the Confidential Information, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement, the ISO OATT or the NYISO Services Tariff. Prior to any disclosures of a Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 23. TRANSMISSION DEVELOPER AND CONNECTING TRANSMISSION OWNER NOTICES OF ENVIRONMENTAL RELEASES

Transmission 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 the LS Power Transmission Facilities or Network Upgrade 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 Transmission Developer shall each submit specific information regarding the electrical characteristics of their respective facilities to the other, and to NYISO, as described below and in accordance with Applicable Reliability Standards.

24.2 Information Submission Concerning the Network Upgrade Facilities.

The initial information submission by Connecting Transmission Owner shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation of the Network Upgrade Facilities and shall include New York State Transmission System information necessary to allow the Transmission Developer to select equipment and meet any system protection and stability requirements, unless otherwise mutually agreed to by the Transmission Developer and Connecting Transmission Owner. On a quarterly basis Connecting Transmission Owner and Transmission Developer shall each provide the other Parties a status report on the

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(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 Concerning the LS Power Transmission Facilities.

The updated information submission by the Transmission Developer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation of the LS Power Transmission Facilities. Transmission Developer shall submit a completed copy of the Transmission Project data requirements contained in Appendix 1 to the Transmission Interconnection Procedures. It shall also include any additional information provided to Connecting Transmission Owner for the Facilities Study. Information in this submission shall be the most current Transmission Project design or expected performance data. Information submitted for stability models shall be compatible with NYISO standard models. If there is no compatible model, the Transmission Developer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Transmission Developer's data is different from what was originally provided to Connecting Transmission Owner and NYISO pursuant to a Transmission Interconnection Study agreement among Connecting Transmission Owner, NYISO and Transmission Developer and this difference may be reasonably expected to affect the other Parties' facilities or the New York State Transmission System, but does not require the submission of a new Transmission Interconnection Application, then NYISO will conduct appropriate studies to determine the impact on the New York State Transmission System based on the actual data submitted pursuant to this Article 24.3. Such studies will provide an estimate of any additional modifications to the New York State Transmission System or Network Upgrade Facilities based on the actual data and a good faith estimate of the costs thereof. The Transmission Developer shall not begin Trial Operation for the LS Power Transmission Facilities until such studies are completed. The Transmission 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.

As soon as reasonably practicable after the In-Service Date, the Transmission Developer and Connecting Transmission Owner shall supplement their information submissions described above in this Article 24 with any and all "as-built" LS Power Transmission Facilities and Network Upgrade Facilities information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Transmission Developer shall conduct tests on the LS Power Transmission Facilities as required by Good Utility Practice.

Subsequent to the In-Service Date, the Transmission Developer shall provide Connecting Transmission Owner and NYISO any information changes concerning the LS Power Transmission Facilities due to equipment replacement, repair, or adjustment. Connecting

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Transmission Owner shall provide the Transmission Developer and NYISO any information changes concerning the Network Upgrade Facilities due to equipment replacement, repair or

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adjustment in the directly connected substation or any adjacent Connecting Transmission Owner substation that may affect the LS Power Transmission Facilities' equipment ratings, protection or operating requirements. The Transmission 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 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 or 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.

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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 the Network 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.

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 creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the NYISO or Connecting Transmission Owner be liable for the actions or inactions of the Transmission Developer or its subcontractors with respect to obligations of the Transmission 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.

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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 (a "Dispute"), such Party shall provide the other Parties with written notice of the Dispute ("Notice of Dispute"). Such Dispute shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Parties. In the event the designated representatives are unable to resolve the Dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Parties' receipt of the Notice of Dispute, such Dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such Dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.

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 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

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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

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filed with FERC if it affects jurisdictional rates, terms and conditions of service, or Network 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-third 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.

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 LS Power Transmission Facilities and Network 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

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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.

29.2 Conflicts.

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

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 Transmission Interconnection Procedures or such Appendix to the Transmission 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

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determination of any period of time, “from” means “from and including”, “to” means “to but
excluding” and “through” means “through and including”.

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29.4 Compliance.

Each Party shall perform its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, the ISO OATT and Good Utility Practice. To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement for its compliance therewith. When any Party becomes aware of such a situation, it shall notify the other Parties promptly so that the Parties can discuss the amendment to this Agreement that is appropriate under the circumstances.

29.5 Joint and Several Obligations.

Except as otherwise stated herein, the obligations of NYISO, Transmission 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 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 NYPA (solely to the extent described herein), and the obligations herein assumed are solely for the use and benefit of the Parties and NYPA (solely to the extent described herein), their successors in interest and their permitted 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. Termination or Default of this Agreement for any reason by the Transmission Developer shall not constitute a waiver of the Transmission Developer's legal rights to obtain Capacity Resource Interconnection Service and Energy Resource Interconnection Service from the NYISO and Connecting Transmission Owner in accordance with the provisions of the ISO OATT. Any waiver of this Agreement shall, if requested, be provided in writing.

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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 three of 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 three 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.

NYISO and 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 Transmission Developer shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

29.14 No Partnership.

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

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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 the Transmission Developer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the LS Power Transmission Facilities and Network 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.

New York Independent System Operator, Inc.

By:

Name:

Title:

Date:

Niagara Mohawk Power Corporation d/b/a National Grid

By:

Name:

Title:

Date:

LS Power Grid New York Corporation I

By:

Name:

Title:

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APPENDICES

Appendix A

Network Upgrade Facilities

Appendix B

Milestones

Appendix C

Interconnection Details

Appendix D

Security Arrangements Details

Appendix E-1

Initial Synchronization Date

Appendix E-2

In-Service Date

Appendix F

Addresses for Delivery of Notices and Billings

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APPENDIX A

NETWORK UPGRADE FACILITIES

The Transmission Project consists of the NYPA Transmission Facilities and the LS Power Transmission Facilities, which are specified in Sections 2 and 3 of Appendix C of this Agreement. The NYPA Transmission Facilities and the LS Power Transmission Facilities will interconnect to the New York State Transmission System at existing transmission facilities owned and operated by the Connecting Transmission Owner.

The Facilities Study identified Network Upgrade Facilities (“NUFs”) required to reliably interconnect the NYPA Transmission Facilities and the LS Power Transmission Facilities to the Connecting Transmission Owner’s system. The Network Upgrade Facilities for Connecting Transmission Owner’s system associated with the NYPA Transmission Facilities are described in Section I of this Appendix A. The Network Upgrade Facilities for Connecting Transmission Owner’s system associated with the LS Power Transmission Facilities are described in Sections II and III of this Appendix A. The Network Upgrade Facilities are depicted in Figures A-1, A-2, and A-3 in this Appendix A.

The Connecting Transmission Owner shall engineer, design, procure, construct, install, test, and commission the Network Upgrade Facilities.

I. Network Upgrade Facilities Associated with NYPA Transmission Facilities for Connecting Transmission Owner’s Transmission System

The NUFs on Connecting Transmission Owner’s system associated with the NYPA Transmission Facilities are as follows:

i. Line Modifications Outside of Edic Substation

To accommodate the two (2) new 345 kV transmission circuits - Lines 351 and 352 - from Connecting Transmission Owner’s existing 345 kV Edic Substation to Transmission Developer’s new 345 kV Princetown Substation, the line positions at the Edic Substation will be shifted. This will require the following line modifications outside of the Edic Substation:

- Removal of the existing steel deadend lattice tower (Structure 1-0) on the existing Edic-New Scotland Line 14;
- For the new Edic-Gordon Rd. Line 14A, installation of one (1) 3-pole steel deadend structure with caisson foundations;
- Installation of approximately 975 circuit feet of conductor (in total) from the demarcation points to the station termination structures for Lines 351, 352, and 14A;
- Installation of approximately 275 linear feet of optical ground wire (“OPGW”) from the demarcation point to the station termination structure for Line 351;
- Installation of approximately 425 linear feet of OPGW from the demarcation point to the station termination structure for Line 352; and

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- Installation of approximately 275 linear feet of overhead shield wire (“OHSW”) from the demarcation point to the station termination structure Line 14A.

(Note: Conductor and OPGW will match the conductor and OPGW used for the Transmission Project.)

All exterior connections to the Edic Substation (*e.g.*, demarcation points) shall be reviewed and accepted by Connecting Transmission Owner during final engineering.

II. Network Upgrade Facilities Associated with the LS Power Transmission Facilities Concerning Connecting Transmission Owner’s Substations

The NUFs associated with the LS Power Transmission Facilities concerning Connecting Transmission Owner’s substations are as follows:

A. New Scotland Substation

The 345kV bus at Connecting Transmission Owner’s New Scotland Substation must be extended to add two (2) more lines: Princetown-New Scotland Lines 361 and 362. The New Scotland-Rotterdam Line 13 will be retired. The existing Line 14 and Line 2 positions will be reconfigured for new lines to the Princetown and Alps/Knickerbocker Substations.¹ In addition, as a result of the increase in fault duty caused by the Transmission Project, overdutied breakers must be replaced.

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B. Rotterdam Substation

The 230kV portion of Connecting Transmission Owner’s Rotterdam Substation shall be retired; the existing connections to the substation’s 115kV busses 33G and 77G will be reused for the Transmission Developer’s Gordon Road Substation 345kV transformers; and the existing Line 38 to Eastover Station shall re-terminate at the Gordon Road Substation.

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C. Leeds Substation

The Transmission Project causes an increase in fault current in the area that will require replacement of overdutied breakers at Connecting Transmission Owner’s Leeds Substation.

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D. Reynolds Road Substation

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The Knickerbocker Substation is part of the Segment B transmission project in NYISO Interconnection Queue No. 543. The reconfiguration is required to bring the lines in for the Transmission Project.

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The Transmission Project causes an increase in fault current in the area that will require replacement of overdutied breakers at Connecting Transmission Owner's Reynolds Road Substation.

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E. Porter Substation

Removal of Lines 30 and 31 will require retirement of Line 30 and Line 31 positions at Connecting Transmission Owner's Porter Substation which will require breaker removals, bus modifications, installation of CCVTs and protection and controls modifications.

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F. Eastover Substation

With Line 38 re-terminating at Gordon Road Substation, modifications to the Line 38 protection at Connecting Transmission Owner's Eastover Station are required.

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G. New Scotland Bus Work

[CONTAINS CEII - REMOVED FROM PUBLIC VERSION]

H. Rotterdam Bus Work

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III. Network Upgrade Facilities Associated with the LS Power Transmission Facilities Concerning Connecting Transmission Owner's Transmission Lines

The NUFs associated with the LS Power Transmission Facilities concerning Connecting Transmission Owner's transmission lines are as follows:

A. New Scotland Station

To accommodate the new 345kV Princetown-New Scotland Lines 361 and 362, the bus must be extended at the New Scotland Substation to add two more line positions and the New Scotland - Alps Line 2 will be moved to a new breaker position at the station. Therefore, the following line modifications outside of New Scotland Station are required:

- Removal of two (2) steel deadend lattice tower (Structures 1 and 2 on the New Scotland-Alps Line 2);

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- Removal of approximately 950 linear feet of 2-7/16” 7-strand EHS galvanized shield wire;
- Removal of approximately 950 circuit feet of 2-1192.5 MCM 45/7 “BUNTING” ACSR;
- Installation of one (1) 3-pole steel deadend structure with caisson foundations for the Line 2;
- Installation of one (1) steel H-frame suspension structure for Line 2;
- Installation of approximately 650 circuit feet of 2-1192.5 MCM “BUNTING” ACSR for Line 2;
- Installation of approximately 650 linear feet of 2-7/16” 7-strand EHS galvanized shield wire for Line 2;
- Installation of approximately 500 feet of conductor between the demarcation point and the station termination structures for Lines 361 and 362; and
- Installation of approximately 500 linear feet of OPGW from the demarcation point to the station termination structure for Lines 361 and 362.

(Note: Conductor and OPGW will match the conductor and OPGW used for the Transmission Project.)

The connection from Structure 448 to Structure 449 on the proposed Princetown-New Scotland Line 14B and the connection of Line 14A between Structure 408 and the new Line 14A structure shall be reviewed and accepted by Connecting Transmission Owner during final engineering.

B. Wolf Rd-Menands Line 10

To resolve the overload on the Everett-Wolf Rd 115kV line caused by the Transmission Project, approximately 1.36 miles of the 115kV Wolf Rd-Menands Line 10 (between Wolf Rd Substation and the Everett Rd tap) must be reconducted. This will require:

- Removal of approximately 0.02 circuit miles of 336.4 18/1 “MERLIN” aluminum conductor steel reinforced (ACSR) cable;
- Removal of approximately 1.34 circuit miles of 4/0 CU 7S conductor; and
- Installation of approximately 1.36 miles of 795 26/7 “DRAKE” ACSR conductor.

If the structure analysis performed in preliminary engineering determines that structure replacements are required, the Transmission Developer will be responsible for the associated additional costs. 125’ x 125’ work pads will be required for the installation of the concrete caisson foundations and steel pole structures.

IV. Metering at Transmission Developer’s Substations

The Facilities Study report for the Transmission Project dated November 9, 2020, identified certain revenue metering as Network Upgrade Facilities for the Gordon Road

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Substation if Connecting Transmission Owner is responsible for such metering. The Facilities
Study report noted that “[i]f there is a change in Metering Authority (i.e., LS Power becomes a

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Metering Authority), the revenue metering NUFs identified could change.” Connecting Transmission Owner and Transmission Developer have agreed that Transmission Developer will be responsible for the metering at the Gordon Road Substation, notwithstanding the fact that such metering was previously identified in the aforementioned Facilities Study report as Network Upgrade Facilities. Transmission Developer shall coordinate with the NYISO and Connecting Transmission Owner concerning the identification of all required metering associated with the Transmission Project. Prior to the operation of the LS Power Transmission Facilities, Transmission Developer must, at its expense, procure, install, and test all Metering Equipment required at Transmission Developer’s substations in connection with its Transmission Project pursuant to the metering requirements in Article 7 of this Agreement, the Operating Agreement, the NYISO’s Tariffs, and ISO Procedures.

V. Affected System Upgrade Facilities

The Transmission Interconnection Studies for the Transmission Project identified New York Power Authority (“NYPA”) and New York State Electric & Gas Corporation (“NYSEG”) as Affected System Operators, which systems are impacted by the Transmission Project. The Facilities Studies conducted for the Transmission Project identified certain Network Upgrade Facilities required for these Affected Systems.

A. NYPA

The Transmission Interconnection Studies for the Transmission Project identified that certain Network Upgrade Facilities at NYPA’s Marcy 345 kV Substation are required in connection with the Transmission Project. This work will be performed by NYPA, and cost will be allocated between NYPA and Transmission Developer, in accordance with the terms of the First Amended and Restated Participation Agreement, dated as of January 28, 2021, entered into between NYPA and Transmission Developer.

B. NYSEG

The Transmission Interconnection Studies for the Transmission Project identified that certain Network Upgrade Facilities at NYSEG’s Fraser 345 kV Substation are required in connection with the Transmission Project. This work will be performed in accordance with the terms of an engineering, procurement, and construction agreement that will be developed by and among the NYISO, NYSEG, and, as applicable, NYPA and/or Transmission Developer.

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VI. Cost Estimates

Q556 Segment A Facilities Study Estimate

Network Upgrade Facilities (NUFs)

Engineering, design, construction, testing and commissioning of Network Upgrade Facilities.

<i>Edic Station</i>	\$0
<i>New Scotland Station</i>	\$11,372,700
<i>Rotterdam Station</i>	\$11,059,800
<i>Leeds Station</i>	\$1,796,400
<i>Reynolds Rd Station</i>	\$1,468,300
<i>Porter Station</i>	\$480,900
<i>Eastover Station</i>	\$72,500
<i>New Scotland Bus Work</i>	\$1,741,700
<i>Rotterdam Bus Work</i>	\$1,161,200
<i>Line 10 Reconductoring</i>	\$1,087,800
<i>Transmission Line - Edic Station</i>	\$1,086,000
<i>Transmission Line - New Scotland Station</i>	\$1,410,000
<i>NUF Subtotal</i>	\$32,737,300
Subtotal	\$32,737,300
Contingency	\$7,884,000
TOTAL	\$40,621,300

VII. Security Payments

In accordance with Articles 11.4 and 12.1 of this Agreement, Transmission Developer shall make the following prepayments as Security toward Connecting Transmission Owner’s estimated costs to design, engineer, procure, construct, and install the Network Upgrade Facilities (each, a “Security Payment”, and collectively, the “Security Payments”). Connecting Transmission Owner shall submit to the Transmission Developer, at least thirty (30) Calendar Days before each Security Payment other than the First Security Payment, invoices for amounts due for the succeeding month(s). Each invoice shall state the Security Payment to which the invoice applies and describe the services and equipment provided or to be provided.

- (1) \$2,189,867.00 such amount to be due and payable within 30 Calendar Days of the Effective Date of this Agreement (the “First Security Payment”);
- (2) an additional \$16,649,367.00 subject to adjustment as contemplated below, such amount to be due and payable on September 1, 2021;

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- (3) an additional \$14,307,733.00 subject to adjustment as contemplated below, such amount to be due and payable on May 1, 2022;
- (4) an additional \$2,533,167.00, subject to adjustment as contemplated below, such amount to be due and payable on January 1, 2024; and
- (5) an additional \$2,623,167.00, subject to adjustment as contemplated below, such amount to be due and payable on January 1, 2026.

The actual amount of any Security Payment to be paid by Transmission Developer may be reduced by Connecting Transmission Owner by providing written notice to Transmission Developer of the adjusted Security Payment amount, which reduction shall be implemented promptly if at any time Connecting Transmission Owner determines (in its reasonable discretion) that the ultimate costs of Network Upgrade Facilities are reasonably expected to be materially less than estimated as of the Effective Date; provided, that Security Payments identified above in clauses (4) and (5) shall be reduced only after completing the refund described in the last paragraph of this Appendix A. Additionally, the timing of any required Security Payment may be reasonably adjusted by Connecting Transmission Owner to be required on an earlier date upon at least thirty (30) days' prior written notice to Transmission Developer (together with reasonable supporting documentation) if progress on constructing the Network Upgrade Facilities is proceeding ahead of the original schedule and additional Security is needed to ensure continued progress of the work.

The Connecting Transmission Owner shall not be obligated to commence engineering or construction, as applicable, unless the Connecting Transmission Owner has received payment in full of the corresponding Security Payment as contemplated above.

The Connecting Transmission Owner may draw upon the Security Payments to fulfill its obligation to construct the Network Upgrade Facilities as required under this Agreement.

The Security Payment amounts are cost estimates only and, subject to Article 11.6.3 of this Agreement, shall not limit Transmission Developer's obligation to pay Connecting Transmission Owner for all costs actually incurred by Connecting Transmission Owner to design, engineer, procure, construct, and install the Network Upgrade Facilities as contemplated by this Agreement, and for any other unpaid amounts due and payable by Transmission Developer under the terms of this Agreement. If the actual cost of the Network Upgrade Facilities is greater than the agreed-to and secured amount for reasons other than those set forth in Section 11.6.2, Connecting Transmission Owner will invoice Transmission Developer in accordance with Sections 11.6.3 and 12.3 for such excess costs that are incurred in accordance with Good Utility Practice, and Transmission Developer shall pay any such properly-issued invoice within thirty (30) Calendar Days of receipt in accordance with Section 12.3.

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Within six (6) months after the “Complete construction of remaining Network Upgrade Facilities (excluding Rotterdam 115kV and Eastover)” milestone listed in Appendix B, Connecting Transmission Owner shall (i) provide Transmission Developer with a written estimate of (1) any

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remaining costs expected to be incurred in connection with constructing Network Upgrade Facilities (“Estimated Remaining Costs”), and (2) a contingency amount equal to thirty percent (30%) of the Estimated Remaining Costs (the “Contingency Amount”) and (ii) refund to Transmission Developer all Security except for an amount which, when aggregated with the amount of any remaining required Security Payments, is equal to the sum of the Estimated Remaining Costs and the Contingency Amount. Final invoicing and any final refund of Security shall be done in accordance with Article 12.2 of this Agreement.

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Figure A-1

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Figure A-2

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Figure A-3

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APPENDIX B

MILESTONES

	Milestone	Date	Responsible Party
1.	Execute Engineering & Procurement Agreement to advance the Transmission Project schedule	Completed	Connecting Transmission Owner/ Transmission Developer - LS Power
2.	Issue written authorization to proceed with engineering	Completed	Transmission Developer - LS Power
3.	Prepayment issued and received	Completed	Connecting Transmission Owner/Transmission Developer - LS Power
4.	Start engineering of Transmission Project	Completed	Transmission Developer - LS Power
5.	Start engineering of Network Upgrade Facilities	Completed	Connecting Transmission Owner
6.	Execution and Closing of Lease for Property Rights	Completed	Connecting Transmission Owner/Transmission Developer - LS Power/Transmission Developer - NYPA
7.	Receipt of Article VII certification and receipt of NY PSC Notice to Proceed	Completed	Transmission Developer - LS Power/Transmission Developer - NYPA
8.	Start construction of Transmission Project	Completed	Transmission Developer - LS Power
9.	Initial closing for Asset Purchase Agreement	Completed	Connecting Transmission Owner/Transmission Developer - LS Power
10.	Start construction of Network Upgrade Facilities	04/2021	Connecting Transmission Owner
11.	Engineering design ready for permitting of substation and	09/2021	Connecting Transmission Owner

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	Milestone	Date	Responsible Party
	transmission line NUFs at the Edic and New Scotland substations		
12.	Complete engineering for Transmission Project principle components	02/2022	Transmission Developer - LS Power
13.	Complete construction of Wolf Rd-Menands Line 10 NUFs	03/2022	Connecting Transmission Owner
14.	Final closing for Asset Purchase Agreement	04/2022	Connecting Transmission Owner/Transmission Developer - LS Power
15.	Complete construction of Rotterdam interim configuration substation upgrades	04/2022	Connecting Transmission Owner
16.	Complete construction of the Gordon Road substation and required transmission lines	04/2022	Transmission Developer - LS Power
17.	Gordon Road substation and required transmission lines Initial Synchronization Date and In-Service Date	04/2022	Connecting Transmission Owner/Transmission Developer - LS Power
18.	Testing and commissioning of Rotterdam interim configuration substation upgrades	05/2022	Connecting Transmission Owner/Transmission Developer - LS Power
19.	Testing and commissioning of the Gordon Road substation and required transmission lines	05/2022	Connecting Transmission Owner/Transmission Developer - LS Power
20.	Complete engineering for remaining Network Upgrade Facilities principle components	10/2022	Connecting Transmission Owner
21.	Complete construction of the Princetown substation and required transmission lines	03/2023	Transmission Developer - LS Power

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	Milestone	Date	Responsible Party
22.	Testing and commissioning of the Princetown substation and required transmission lines	04/2023	Connecting Transmission Owner/Transmission Developer - LS Power
23.	Princetown substation and required transmission lines Initial Synchronization Date and In-Service Date	04/2023	Connecting Transmission Owner/Transmission Developer - LS Power
24.	Complete construction of substation and transmission line NUFs at the New Scotland substation necessary to interconnect the Princetown to New Scotland #55, #361 and #362 transmission lines	05/2023	Connecting Transmission Owner
25.	Complete construction of substation and transmission line NUFs at the Edic substation	09/2023	Connecting Transmission Owner
26.	Complete construction of the remaining Transmission Project facilities (excluding Rotterdam 115kV and Eastover)	10/2023	Transmission Developer - LS Power
27.	Complete construction of remaining Network Upgrade Facilities (excluding Rotterdam 115kV and Eastover)	10/2023	Connecting Transmission Owner
28.	Complete testing and commissioning of the remaining Transmission Project facilities and Network Upgrade Facilities (excluding Rotterdam 115kV and Eastover)	10/2023	Connecting Transmission Owner/ Transmission Developer - LS Power/Transmission Developer - NYPA
29.	Initial Synchronization Date and In-Service Date for the remaining Transmission Project facilities and Network Upgrade Facilities (excluding Rotterdam 115kV and Eastover)	10/2023	Connecting Transmission Owner/ Transmission Developer - LS Power/Transmission Developer - NYPA

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	Milestone	Date	Responsible Party
30.	Completion of As Built (excluding Rotterdam 115kV and Eastover)	12/2024	Connecting Transmission Owner/Transmission Developer - LS Power
31.	Completion of Rotterdam 115kV Network Upgrade Facilities related to fault current aspects	06/2027	Connecting Transmission Owner
32.	Start Retirement of 230kV Equipment and Installation of 115kV Connections to Gordon Road	07/2027	Connecting Transmission Owner/Transmission Developer - LS Power
33.	Complete Retirement of 230kV Equipment and Installation of 115kV Connections to Gordon Road	02/2029	Connecting Transmission Owner/Transmission Developer - LS Power
34.	Complete testing and commissioning for Rotterdam 115kV and Eastover	02/2029	Connecting Transmission Owner/ Transmission Developer - LS Power
35.	In-Service Date for Rotterdam 115kV and Eastover	02/2029	Connecting Transmission Owner/Transmission Developer - LS Power
36.	Completion of As-Built	10/2029	Connecting Transmission Owner/Transmission Developer - LS Power
37.	Project Closeout Completed	02/2030	Connecting Transmission Owner
38.	Final invoicing	02/2030	Connecting Transmission Owner

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APPENDIX C

INTERCONNECTION DETAILS

1. Description of the Transmission Project

The Transmission Project is the Segment A Double-Circuit Proposal that was submitted by the Transmission Developer and NYPA, evaluated in the NYISO's Public Policy Transmission Planning Process, and selected by the NYISO Board of Directors on April 8, 2019 as the more efficient and cost-effective transmission solution to the Segment A of the AC Transmission Public Policy Transmission Needs identified by the New York State Public Service Commission in its December 17, 2015 Order in Case No. 12-T-0502. The Transmission Project will be located in the Mohawk Valley Region (Zone E) and Capital Region (Zone F) in the State of New York and is principally comprised of a new double-circuit 345 kV transmission line between the Edic 345 kV substation and the New Scotland 345 kV substation.

The Transmission Project consists of the following components:

- Two (2) new 345 kV transmission circuits of approximately 67 miles from the existing Edic 345 kV substation to the new Princetown 345 kV substation;
- Two (2) new 345 kV single-circuit transmission lines of approximately 5 miles between the new Princetown substation and the new Gordon Road 345 kV substation, one of which will connect to the new Princetown substation and the other will loop in the Edic portion of the existing Edic to New Scotland #14 345 kV transmission line;
- One (1) new double-circuit 345 kV transmission line of approximately 20 miles between the new Princetown substation and the existing New Scotland substation;
- Rebuild approximately six (6) miles of the existing Edic to New Scotland #14 345 kV transmission line to accommodate the new double-circuit 345 kV transmission line from Princetown to New Scotland;
- A new Gordon Road 345/230/115 kV substation with one (1) 345 kV connection to the new Princetown substation, one (1) 345 kV connection to the existing Edic substation, two (2) new 345/115 kV transformers connecting to the existing Rotterdam 115 kV switchyard, and one (1) new 345/230 kV transformer connecting to the existing Rotterdam to Eastover Road #38 230 kV transmission line;
- A new Princetown 345 kV substation with two (2) new 345 kV connections to the existing Edic substation, one (1) new 345 kV connection to the new Gordon Road substation, two (2) new 345 kV connections to the existing New Scotland substation, and one (1) 345 kV connection to the existing New Scotland substation via the partially rebuilt Edic to New Scotland #14 345 kV transmission line;
- Decommissioning of the Rotterdam to New Scotland #13 115 kV transmission line;
- Decommissioning of the Porter to Rotterdam #30 and #31 230 kV transmission lines; and

- Decommissioning of the Rotterdam 230 kV substation.

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Additional details concerning the Transmission Project are set forth in Appendices A and B of the Development Agreement.

2. NYPA Transmission Facilities

The NYPA Transmission Facilities consist of a portion of the two (2) new 345 kV transmission circuits of approximately 67 miles from the existing Edic 345 kV substation to the new Princetown 345 kV substation.

3. LS Power Transmission Facilities

The LS Power Transmission Facilities consists of the following components:

- Part of the two (2) new 345 kV transmission circuits of approximately 67 miles from the existing Edic 345 kV substation to the new Princetown 345 kV substation;
- Two (2) new 345 kV single-circuit transmission lines of approximately 5 miles between the new Princetown substation and the new Gordon Road 345 kV substation, one of which will connect to the new Princetown substation and the other will loop in the Edic portion of the existing Edic to New Scotland #14 345 kV transmission line;
- One (1) new double-circuit 345 kV transmission line of approximately 20 miles between the new Princetown substation and the existing New Scotland substation;
- Rebuild approximately six (6) miles of the existing Edic to New Scotland #14 345 kV transmission line to accommodate the new double-circuit 345 kV transmission line from Princetown to New Scotland;
- A new Gordon Road 345/230/115 kV substation with one (1) 345 kV connection to the new Princetown substation, one (1) 345 kV connection to the existing Edic substation, two (2) new 345/115 kV transformers connecting to the existing Rotterdam 115 kV switchyard, and one (1) new 345/230 kV transformer connecting to the existing Rotterdam to Eastover Road #38 230 kV transmission line; and
- A new Princetown 345 kV substation with two (2) new 345 kV connections to the existing Edic substation, one (1) new 345 kV connection to the new Gordon Road substation, two (2) new 345 kV connections to the existing New Scotland substation, and one (1) 345 kV connection to the existing New Scotland substation via the partially rebuilt Edic to New Scotland #14 345 kV transmission line.

LS Power will own and decommission the following existing transmission line assets after they are transferred from Connecting Transmission Owner (and for the avoidance of doubt, the following shall not be considered LS Power Transmission Facilities):

- The Rotterdam to New Scotland #13 115 kV transmission line; and
- The Porter to Rotterdam #30 and #31 230 kV transmission lines.

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4. Description of the Points of Interconnection and Points of Change of Ownership

The Point of Interconnection (“POI”) and Point of Change in Ownership (“PCO”) locations are identified in the Table C-1 below. The POI and PCO locations are identified on the one-line diagrams in Figure A-1, Figure A-2 and Figure A-3. Figure C-1, Figure C-2, Figure C-3, and Figure C-4 are representative drawings of the physical POI/PCO locations. The POI and PCO are the same location since the Transmission Project will not require any Connecting Transmission Owner’s Attachment Facilities.

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Table C-1: POI/PCO Locations

POI/PCO ID	Transmission Line	Line # Designation	Structure Number where POI/PCO Is Located	Structure Description where POI/PCO Is Located	Description of Change in Ownership	Representative Interconnection Drawing	Anticipated Timeframe of Interconnection
E	Porter - Rotterdam 230 kV	31	664	Existing wooden tangent structure	The Transmission Developer will own, operate and maintain the existing wood H-frame structure 664, all associated hardware, and the conductor to the east of structure 664. Connecting Transmission Owner will own, operate and maintain the conductor to the west of structure 664.	C-2	Spring 2021 - Spring 2022
F	Porter - Rotterdam 230 kV	31	720	First structure outside of the Rotterdam 230 kV substation	H-frame structure 720, all associated hardware, and the conductor to the west of structure 720. Connecting Transmission Owner will own, operate and maintain the conductor to the east of structure 720.	C-2	Spring 2021 - Spring 2022

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POI/PCO ID	Transmission Line	Line # Designation	Structure Number where POI/PCO Is Located	Structure Description where POI/PCO Is Located	Description of Change in Ownership	Representative Interconnection Drawing	Anticipated Timeframe of Interconnection
G	Edic - New Scotland 345 kV	14	408	Existing steel pole structure	3- Transmission Developer will own, operate and maintain the transmission line on the Transmission Developer's side of the structure (including the hardware necessary to deadend Transmission Developer's conductor and OHGW onto the structure). Connecting Transmission Owner will own, operate and maintain the structure, including the jumpers, connectors, etc. necessary to connect the Transmission Developer's conductors and OHGW to the Connecting Transmission Owner's facilities at the POI/PCO (hereinafter referred to as "Typical Connecting Transmission Owner Deadend").	C-4	Fall 2021 - Spring 2022

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POI/PCO ID	Transmission Line	Line # Designation	Structure Number where POI/PCO Is Located	Structure Description where POI/PCO Is Located	Description of Change in Ownership	Representative Interconnection Drawing	Anticipated Timeframe of Interconnection
H	Edic - New Scotland 345 kV (will become the Gordon Road to New Scotland line and Princetown to New Scotland line in the future but POI/PCO doesn't change)	14 (future 55)	7/3	New structure replacing Connecting Transmission Owner's existing structure 448	Connecting Transmission Owner will own, operate and maintain the transmission line on the Connecting Transmission Owner's side of the structure (including the hardware necessary to deadend Connecting Transmission Owner's conductor and OHGW onto the structure). Connecting Transmission Developer will own, operate and maintain the structure, including the jumpers, connectors, etc. necessary to connect the Connecting Transmission Owner's conductors and OHGW to the Transmission Developer's facilities at the POI/PCO (hereinafter referred to as "Typical Transmission Developer Deadend"). The Transmission Developer will own, operate and maintain the existing wood H-frame transmission line structure 645, all associated hardware, and the conductor to the east of structure 645. Connecting Transmission Owner will own, operate and maintain the conductor to the west of structure 645.	C-1	Permanent
I	Porter - Rotterdam 230 kV	30	645	Existing wooden tangent structure	Connecting Transmission Owner will own, operate and maintain the conductor to the west of structure 645.	C-2	Fall 2021 - Spring 2022

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POI/ PCO ID	Transmission Line	Line # Designation	Structure Number where POI/PCO Is Located	Structure Description where POI/PCO Is Located	Description of Change in Ownership	Representative Interconnection Drawing	Anticipated Timeframe of Interconnection
J	Porter - Rotterdam 230 kV	30	696	First structure outside of the Rotterdam 230 kV substation	Typical Transmission Developer Deadend	C-1	Fall 2021 - Spring 2022
K	Edic - Gordon Road 345 kV	14	408	Existing steel pole structure	3- Typical Connecting Owner Deadend	C-4	Permanent
L	Gordon Road - Rotterdam 230 kV	31	1	New steel structure	Typical Transmission Developer Deadend	C-1	Spring 2022 - Completion of Rotterdam Final Configuration
M	Gordon Road - Rotterdam 230 kV	30	696	Existing wooden structure	3-pole Typical Transmission Developer Deadend	C-1	Spring 2022 - Completion of Rotterdam Final Configuration

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POI/ PCO ID	Transmission Line	Line # Designation	Structure Number where POI/PCO Is Located	Structure Description where POI/PCO Is Located	Description of Change in Ownership	Representative Interconnection Drawing	Anticipated Timeframe of Interconnection
N	Princeton - New Scotland 345 kV	361	21/1	First structure outside of New Scotland substation	Connecting Transmission Owner will own, operate and maintain the transmission line on the Connecting Transmission Owner’s side of the structure (including the hardware necessary to deadend Connecting Transmission Owner’s conductor and OPGW/OHGW onto the structure). Transmission Developer will own, operate and maintain the structure, including the jumpers, connectors, splice boxes, etc. necessary to connect the Connecting Transmission Owner’s conductors and OPGW/OHGW to the Transmission Developer’s facilities at the POI/PCO. Connecting Transmission Owner will provide a coil near the OPGW splice box provided by Transmission Developer (hereinafter referred to as “Typical Transmission Developer Deadend with OPGW”).	C-1	Permanent
O	Princeton - New Scotland 345 kV	362	21/1	First structure outside of New Scotland substation	Typical Transmission Developer Deadend with OPGW	C-1	Permanent

					C-12		

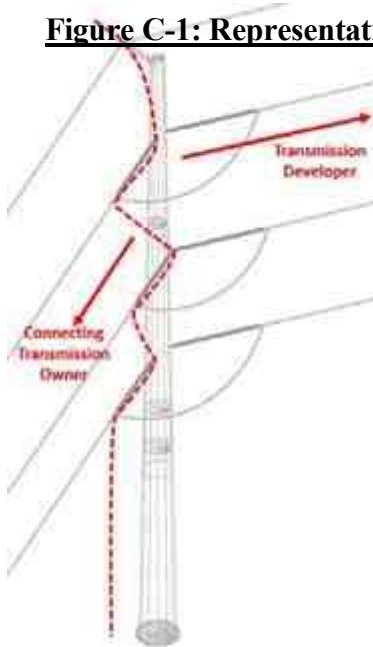
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POI/PCO ID	Transmission Line	Line # Designation	Structure Number where POI/PCO Is Located	Structure Description where POI/PCO Is Located	Description of Change in Ownership	Representative Interconnection Drawing	Anticipated Timeframe of Interconnection
P	Gordon Road - Rotterdam 115 kV	23	Substation frame	A- Substation structure within the Gordon Road Substation	Connecting Transmission Owner will own, operate and maintain the transmission line on the Connecting Transmission Owner's side of the A-frame substation structure (including the hardware necessary to deadend Connecting Transmission Owner's conductor and OHGW onto the structure). Transmission Developer will own, operate and maintain the structure, including the jumpers, connectors, etc. necessary to connect the Connecting Transmission Owner's conductors and OHGW to the Transmission Developer's facilities at the POI/PCO (hereinafter referred to as "Typical Substation A-frame").	C-3	Permanent
Q	Gordon Road - Rotterdam 115 kV	24	Substation frame	A- Substation structure within the Gordon Road Substation	Typical Substation A-frame	C-3	Permanent
R	Gordon Road - Eastover 230 kV	38	1	First structure outside of Gordon Road substation	Typical Transmission Developer Deadend	C-1	Permanent

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Figure C-1: Representative Transmission Developer Owned Deadend Interconnection Drawing*



* Drawing is representative of ownership for multiple deadend structure configurations (i.e. single circuit monopole deadend, double circuit monopole deadend, 2-pole deadend, 3-pole deadend, etc.)

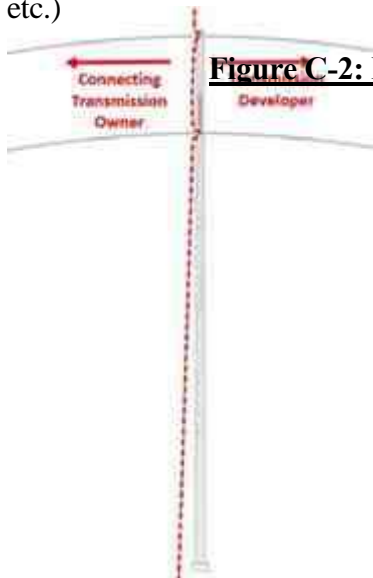


Figure C-2: Representative Tangent Interconnection Drawing

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Figure C-3: Representative Substation A-frame Interconnection Drawing

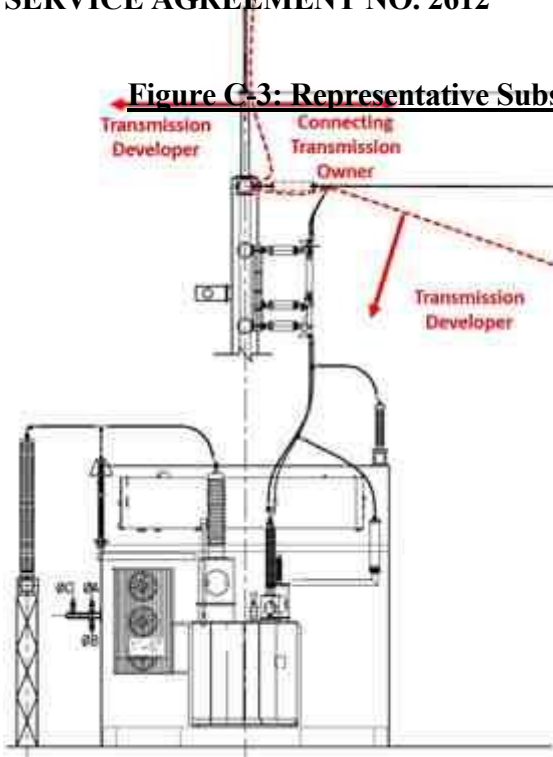
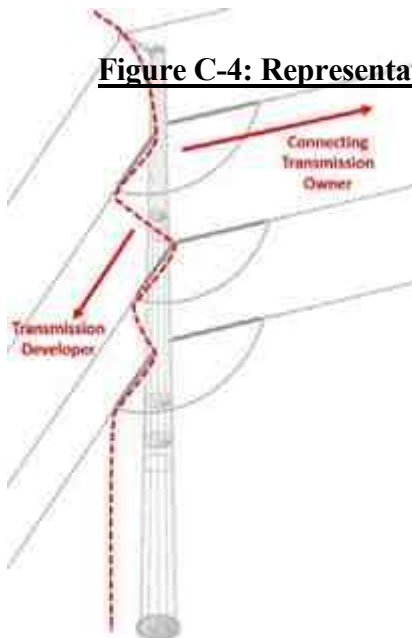


Figure C-4: Representative Connecting Transmission Owner Owned Deadend Interconnection Drawing*



* Drawing is representative of ownership for multiple deadend structure configurations (i.e. single circuit monopole deadend, double circuit monopole deadend, 2-pole deadend, 3-pole deadend, etc.)

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5. [Reserved]

6. Interim Configuration/Operation

As a result of the evolution of the Transmission Project's Facilities Study performed by the Connecting Transmission Owner, the NYISO requested that Transmission Developer assume responsibility for the engineering, procurement, and construction of an interim configuration at the Transmission Project's Gordon Road 345kV Substation to temporarily delay the need for certain interconnection-related upgrades, enabling the Transmission Project to proceed on schedule.

Interim Configuration

The following describes the Transmission Project scope of the interim configuration, incremental to the Transmission Project as originally proposed:

- Installation of two three-phase 345kV/230kV transformers instead of four single-phase 345/230kV transformers;
- Installation of a sixth terminal position by installing a ninth breaker;
- Termination of lines as entering/exiting the Gordon Road Substation as follows:
 - One (1) 345/230kV transformer connected to the current #31 line breaker position at National Grid's Rotterdam 230kV substation;
 - One (1) 345/230kV transformer connected to the current #30 line breaker position at National Grid's Rotterdam 230kV substation;
 - No 115kV transmission line connections to the Transmission Project's two 345/115kV transformers; and
 - No changes to the Transmission Project's two incoming 345kV transmission lines.
- Appurtenant equipment; and
- Associated protection and controls revisions.

Additionally, Connecting Transmission Owner will replace the line relays on the existing #30 and #31 breaker positions at the Rotterdam 230kV substation.

Like the originally proposed Transmission Project, the interim configuration includes the Transmission Project's two 345/115kV transformers; however, they will not be in-service during the interim configuration.

Final Configuration

Upon completion of the interconnection-related upgrades by Connecting Transmission Owner, Transmission Developer will convert the Transmission Project's Gordon Road 345kV

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substation to its final configuration, which performs electrically the same as the Transmission Project's original proposal with added reliability benefits.

From the interim configuration state, conversion to the final configuration will consist of the following major elements:

- Energizing the Transmission Project's two 345/115kV transformers;
- Removing one 345/230kV transformer from service to be used as an installed spare;
- Retermination of lines as entering/exiting the Gordon Road Substation as follows:
 - The in-service 345/230kV transformer connected to the existing 230kV #38 line to the Eastover Substation;
 - The out-of-service 345/230kV transformer having no low side connection;
 - The two 345/115kV transformers connected to two breaker positions at Connecting Transmission Owner's Rotterdam 115kV Substation; and
 - No changes to the Transmission Project's two incoming 345kV transmission lines.
- Appurtenant equipment; and
- Associated protection and controls revisions.

7. Transmission Developer Operating Requirements

Transmission Developer must comply with all applicable NYISO tariffs and procedures, as amended from time to time.

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APPENDIX D

SECURITY ARRANGEMENTS DETAILS

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 Transmission 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-1

INITIAL SYNCHRONIZATION DATE

[Date]

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

Niagara Mohawk Power Corporation d/b/a National Grid
Attention: Director, Transmission Commercial Services
40 Sylvan Road
Waltham, MA 02541-1120
Phone (781)-795-2672
Email: Kevin.Reardon@nationalgrid.com]

LS Power Grid New York
Attention: Project Manager
16150 Main Circle Dr., Suite 310
Chesterfield, MO 63017

Re: **[LS Power Transmission Facilities/Network Upgrade
Facilities]**

Dear :

On **[Date]** **[Transmission Developer/Connecting Transmission Owner]** initially synchronized the **[describe NYPA Transmission Facilities/Network Upgrade Facilities]**. This letter confirms **[Transmission Developer/Connecting Transmission Owner]**'s Initial Synchronization Date was **[specify]**.

Thank you.

[Signature]

[Transmission Developer/ Connecting Transmission Owner Representative]

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APPENDIX E-2

IN-SERVICE DATE

[Date]

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

Niagara Mohawk Power Corporation d/b/a National Grid
Attention: Director, Transmission Commercial Services
40 Sylvan Road
Waltham, MA 02541-1120
Phone (781)-795-2672
Email: Kevin.Reardon@nationalgrid.com]

LS Power Grid New York
Attention: Project Manager
16150 Main Circle Dr., Suite 310
Chesterfield, MO 63017

Re: _____ [**LS Power Transmission Facilities/Network Upgrade Facilities**]

Dear _____:

On **[Date]** **[Transmission Developer/Connecting Transmission Owner]** has completed Trial Operation of **[describe LS Power Transmission Facilities/Network Upgrade Facilities]**. This letter confirms that **[describe LS Power Transmission Facilities/Network Upgrade Facilities]** **[has/have]** commenced service, effective as of **[Date plus one day]**.

Thank you.

[Signature]

[Transmission Developer/Connecting Transmission Owner Representative]

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APPENDIX F

ADDRESSES FOR DELIVERY OF NOTICES AND BILLINGS

Notices:

NYISO:

Before commercial operation of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, System and Resource Planning
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

After commercial operation of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, Operations
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

Connecting Transmission Owner:

National Grid
Attention: Daniel DiMarco
Lead Account Manager
300 Erie Blvd West
Syracuse, NY 13202
Phone (315)-263-0313

Transmission Developer:

LS Power Grid New York
Attn: Project/Asset Manager
16150 Main Circle Dr., Ste. 310
Chesterfield, MO 63017
Phone: (636) 532-2200

with a copy to:

LS Power Grid New York
Attn: Legal Department

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Chesterfield, MO 63017
Phone: (636) 532-2200

Billings and Payments:

Connecting Transmission Owner:

National Grid
Attention: Daniel DiMarco
Lead Account Manager
300 Erie Blvd West
Syracuse, NY 13202
Phone (315)-460-1137
Email: Daniel.dimarco@nationalgrid.com

Transmission Developer:

LS Power Grid New York
Attn: Project/Asset Manager
16150 Main Circle Dr., Ste. 310
Chesterfield, MO 63017
Phone: (636) 532-2200

Alternative Forms of Delivery of Notices (telephone, facsimile or email):

NYISO:

Before commercial operation of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, System and Resource Planning
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118
E-mail: interconnectionsupport@nyiso.com

After commercial operation of the Transmission Project:

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

SERVICE AGREEMENT NO. 2612

Fax: (518) 356-6118

E-mail: interconnectionsupport@nyiso.com

Connecting Transmission Owner:

National Grid

Attention: Daniel DiMarco

Lead Account Manager

300 Erie Blvd West

Syracuse, NY 13202

Phone (315)-460-1137

Email: Daniel.dimarco@nationalgrid.com

Transmission Developer:

Before commercial operation of the Transmission Project:

LS Power Grid New York

Attn: Project Manager

16150 Main Circle Dr., Ste. 310

Chesterfield, MO 63017

Phone: (636) 532-2200

Email: ccarroll@lspower.com

with a copy to:

LS Power Grid New York

Attn: Legal Department

16150 Main Circle Dr., Ste. 310

Chesterfield, MO 63017

Phone: (636) 532-2200

Email: cbrandt@lspower.com

After commercial operation of the Transmission Project:

LS Power Grid New York

Attn: Asset Manager

16150 Main Circle Dr., Ste. 310

Chesterfield, MO 63017

Phone: (636) 532-2200

Email: bbrau@lspower.com

with a copy to:

New York Independent System Operator, Inc. - NYISO Agreements - Service Agreements - Joint TPIA among NYISO, NMPC, and LS Power
LS Power Grid New York
Attn: Legal Department

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SERVICE AGREEMENT NO. 2612

16150 Main Circle Dr., Ste. 310
Chesterfield, MO 63017
Phone: (636) 532-2200
Email: cbrandt@lspower.com

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Service Agreement No. 2627

SERVICE AGREEMENT NO. 2627
OPERATING AGREEMENT
BETWEEN THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
AND
LS POWER GRID NEW YORK CORPORATION I
Dated as of May 18, 2021

Service Agreement No. 2627

OPERATING AGREEMENT

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Service Agreement No. 2627

OPERATING AGREEMENT

THIS OPERATING AGREEMENT (“Agreement”) is made and entered into this 18th day of May, 2021, by and between LS Power Grid New York Corporation I, a non-incumbent transmission owner organized and existing as a corporation under the laws of the State of New York (“NTO”), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“ISO”). The NTO and the ISO each may be referred to as a “Party” or collectively referred to as the “Parties.”

WITNESSETH:

WHEREAS, the ISO is an independent system operator that is responsible under its Open Access Transmission Tariff (“ISO OATT”) and its Market Administration and Control Area Services Tariff (“ISO Services Tariff”) as they may be amended from time to time (collectively, “ISO Tariffs”), and the ISO Related Agreements, filed with and accepted by the Federal Energy Regulatory Commission (“Commission”), for providing non-discriminatory, open access transmission service, maintaining reliability, performing system planning, and administering competitive wholesale markets for energy, capacity, and ancillary services in New York State;

WHEREAS, the NTO is the owner of certain transmission facilities specified herein that are integrated with the NYS Transmission System and the NTO has fiduciary responsibilities to its investors to assure, among other things, the receipt of adequate revenues to maintain its transmission facilities, a reasonable rate of return on its transmission facilities, and to provide for recovery of the capital invested in its transmission facilities;

Service Agreement No. 2627

WHEREAS, the NTO has executed, along with this Agreement, the Independent System Operator Agreement (“ISO Agreement”) and has executed a Service Agreement(s) as a Transmission Owner for purposes of the ISO Tariffs;

WHEREAS, the ISO will exercise ISO Operational Control over certain of the NTO’s transmission facilities classified as “NTO Transmission Facilities Under ISO Operational Control”;

WHEREAS, the NTO and ISO have agreed to enter into this Agreement for the purpose of the NTO authorizing the ISO to exercise, and the ISO assuming, ISO Operational Control over the NTO Transmission Facilities Under ISO Operational Control in accordance with the requirements set forth in this Agreement, the ISO Tariffs, and the ISO Related Agreements, as applicable;

WHEREAS, the NTO will continue to own and be responsible for the physical operation, modification and maintenance of its NTO Transmission Facilities Under ISO Operational Control; and

WHEREAS, the ISO OATT will provide for the payment by Transmission Customers for Transmission Service at rates designed to enable the NTO to recover its revenue requirement to the extent allowed, accepted, or approved by FERC;

WHEREAS, the ISO has a comprehensive planning process for reliability needs that includes the Reliability Planning Process and the Short-Term Reliability Process, and each Transmission Owner, including the NTO, will participate in this planning process as described in the ISO OATT;

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NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, the Parties do hereby agree with each other, for themselves and their successors and assigns, as follows:

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ARTICLE 1.0: DEFINITIONS

1.01 Capitalized Terms

Capitalized terms that are not otherwise defined herein shall have the meaning set forth in the definitions contained in Article 1 of the ISO Agreement, as it existed on the date this Agreement is signed by the Parties. Those definitions contained in Article 1 of the ISO Agreement are hereby incorporated by reference in their entirety into this Agreement; *provided, however,* that an NTO shall be a Transmission Owner for purposes of the ISO Tariffs and this Agreement notwithstanding the definition of Transmission Owner contained in the ISO Agreement related to the ownership of 100 circuit miles of transmission in New York State and becoming a signatory to the ISO/TO Agreement. Modifications to such definitions in the ISO Agreement shall apply to this Agreement only if the Parties to this Agreement agree in writing pursuant to Section 6.14 below.

Service Agreement No. 2627

ARTICLE 2.0: RESPONSIBILITIES OF THE NTO

2.01 Transmission Facilities

The NTO owns certain transmission facilities over which the ISO will have day-to-day operational control to maintain these facilities in a reliable state, as defined by the Reliability Rules and all other applicable reliability rules, standards and criteria, and in accordance with the ISO Tariffs, ISO Related Agreements and ISO Procedures (“ISO Operational Control”). These NTO facilities shall be classified as “NTO Transmission Facilities Under ISO Operational Control,” and are listed in Appendix A-1 of this Agreement. The NTO also will be responsible for providing notification to the ISO with respect to actions related to certain other transmission facilities. These facilities shall be classified as “NTO Transmission Facilities Requiring ISO Notification,” and are listed in Appendix A-2 of this Agreement. Transmission facilities may be added to, or deleted from, the lists of facilities provided in Appendices A-1 and A-2 herein by mutual written agreement of the ISO and the NTO owning and controlling such facilities. Currently listed facilities will be posted on the ISO’s OASIS.

2.02 Transmission System Operation

The NTO shall be responsible for ensuring that all actions related to the operation, maintenance and modification of its facilities that are designated as NTO Transmission Facilities Under ISO Operational Control and NTO Transmission Facilities Requiring ISO Notification are performed in accordance with the terms of this Agreement, all Reliability Rules and all other applicable reliability rules, standards and criteria, all operating instructions, ISO Tariffs, and ISO Procedures.

2.03 Local Area Transmission System Facilities

Transmission system facilities not designated as NTO Transmission Facilities Under ISO
Operational Control or as NTO Transmission Facilities Requiring ISO Notification shall be

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collectively known as “Local Area Transmission System Facilities” and are listed in Appendix A-3 of this Agreement. Transmission facilities may be added to, or deleted from, the list of facilities provided in Appendix A-3 herein by mutual written agreement of the ISO and the NTO owning and controlling such facilities. The NTO shall have sole responsibility for the operation of its Local Area Transmission System Facilities, provided, however, that such operation shall comply with all Reliability Rules and ISO Tariffs as applicable, and all other applicable reliability rules, standards and criteria, and shall not compromise the reliable and secure operation of the NYS Transmission System. The NTO shall promptly comply to the extent practicable with a request from the ISO, or from the Transmission Owner(s) to which its facilities are interconnected (“Interconnecting Transmission Owner(s)” or “ITO(s)”), to take action with respect to coordination of the operation of its Local Area Transmission System Facilities.

2.04 Safe Operations

Notwithstanding any other provision of this Agreement, an NTO may take, or cause to be taken, such action with respect to the operation of its facilities as it deems necessary to maintain Safe Operations. To ensure Safe Operations, the local operating rules of the ITO(s) shall govern the connection and disconnection of generation with NTO transmission facilities. Safe Operations include the application and enforcement of rules, procedures and protocols that are intended to ensure the safety of personnel operating or performing work or tests on transmission facilities.

2.05 Local Control Center, Metering and Telemetry

The NTO shall operate, pursuant to ISO Tariffs, ISO Procedures, Reliability Rules and all other applicable reliability rules, standards and criteria on a twenty-four (24) hour basis, a suitable local control center(s) with all equipment and facilities reasonably required for the ISO

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to exercise ISO Operational Control over NTO Transmission Facilities Under ISO Operational Control, and for the NTO to fulfill its responsibilities under this Agreement. The NTO shall maintain the local control center(s), as well as suitable backup operations, consistent with the Reliability Rules and all other applicable reliability rules, standards and criteria to permit the ISO, as the Transmission Operator, to meet its obligations. All NTO system operators in real-time communication with the ISO or responsible for directing real-time actions on NTO Transmission Facilities Under ISO Operational Control shall be required to maintain a NERC Transmission Operator or Reliability Operator certificate. Operation of the NYS Power System is a cooperative effort coordinated by the ISO control center in conjunction with local control centers and will require the exchange of all reasonably necessary information. The NTO shall maintain Supervisory Control and Data Acquisition (“SCADA”) systems and provide the ISO with SCADA information on facilities listed in Appendices A-1 and A-2 herein as well as on generation and merchant transmission resources interconnected to the NTO’s transmission facilities pursuant to the ISO OATT.

The NTO shall provide metering data for its transmission facilities to the ISO, unless other parties are authorized by the appropriate regulatory authority to provide metering data. The NTO shall collect and submit to the ISO billing quality metering data and any other information for its transmission facilities required by the ISO for billing purposes. The NTO shall provide to the ISO the telemetry and other operating data from generation and merchant transmission resources interconnected to its transmission facilities that the ISO requires for the operation of the NYS Power System. The NTO will establish and maintain a strict code of conduct to prevent such information from reaching any unauthorized person or entity.

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2.06 Security Constrained Unit Commitment Adjustments

The NTO shall coordinate with its ITO(s) as applicable regarding any request for commitment of additional Generators. If, following coordination among the NTO and its ITO(s), an additional resource(s) needs to be committed to ensure local area reliability, the NTO, or the ITO(s) at the NTO's request, may request commitment of additional Generators (including specific output level(s)). The ISO will use Supplemental Resource Evaluation ("SRE"), pursuant to ISO Tariffs and ISO Procedures, to fulfill a request from the NTO or ITO(s), as appropriate, for additional units.

2.07 Design, Maintenance and Rating Capabilities

The NTO shall comply with the provisions of this Agreement, all Reliability Rules and all other applicable reliability rules, standards and criteria, ISO Procedures, and Good Utility Practice with respect to the design, maintenance and rating the capabilities of NYS Transmission System facilities.

2.08 Maintenance Scheduling

The NTO shall schedule maintenance of its facilities designated as NTO Transmission Facilities Under ISO Operational Control and schedule any outages (other than forced transmission outages) of said transmission system facilities in accordance with outage schedules approved by the ISO. The NTO shall comply with maintenance schedules coordinated by the ISO, pursuant to this Agreement, for NTO Transmission Facilities Under ISO Operational Control. The NTO shall be responsible for providing notification of maintenance schedules to the ISO for NTO Transmission Facilities Requiring ISO Notification. The NTO shall provide notification of maintenance schedules to affected Transmission Owners for NTO Transmission Facilities Requiring ISO Notification and Local Area Transmission Facilities pursuant to Section

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2.09 NERC Registration

The NTO shall register or enter into agreement with a NERC registered entity for all required NERC functions applicable to the NTO, that may include, without limitation, those functions designated by NERC to be: “Transmission Owner” and “Transmission Planner” and “Transmission Operator.” The Parties agree to negotiate in good faith the compliance obligations for the NERC functions applicable to, and to be performed by, each Party with respect to the NTO’s facilities. Notwithstanding the foregoing, the ISO shall register for the “Transmission Operator” function for all NTO Transmission Facilities under ISO Operational Control identified in Appendix A-1 of this Agreement.

2.10 Investigations and Restoration

The NTO shall promptly conduct investigations of equipment malfunctions and failures and forced transmission outages in a manner consistent with applicable FERC, PSC, NRC, NERC, NPCC and NYSRC rules, principles, guidelines, standards and requirements, ISO Procedures and Good Utility Practice. The NTO shall supply the results of such investigations to the NYSRC, the ISO, and, pursuant to Section 3.5.3 of the ISO Services Tariff, the other Transmission Owners. Following a total or partial system interruption, restoration shall be coordinated between the ISO control center and local control centers. The local control centers shall have the authority, in coordination with the ISO, to restore the system and to re-establish service if doing so would minimize the period of service interruption. The NTO shall determine the level of resources to be applied to restore facilities to service following a failure, malfunction, or forced transmission outage.

2.11 Information and Support

The NTO shall obtain from the ISO, and the ISO shall provide to the NTO, the necessary information and support services to comply with their obligations under this Article.

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2.12 Performance of Obligation by Third Parties

The NTO may arrange for one or more third parties to perform its responsibilities under this Agreement; *provided, however*, that the NTO shall require each such third party to agree in writing to comply with all applicable terms and conditions of this Agreement; *provided, further*, that in all cases the NTO shall be responsible for the acts and omissions of each such third party to the same extent as if such acts and omissions were made by the NTO or its employees, and such use of a third party shall not relieve the NTO of its responsibilities under this Agreement. Notwithstanding the foregoing, the NTO shall have the right to assign this entire Agreement pursuant to the terms of Article 4.0 hereof.

2.13 Comprehensive Planning Process for Reliability Needs

- a. Notwithstanding any provision, including Section 3.08(e) contained in this Agreement, the NTO acknowledges its obligations described in the ISO's Reliability Planning Process set forth in Attachment Y of the ISO OATT and in the Short-Term Reliability Process set forth in Attachment FF of the ISO OATT, that arise when the ISO designates the NTO as a "Responsible Transmission Owner," pursuant to Section 31.2.4.3 of the ISO OATT or Attachment FF of the ISO OATT, to address a reliability need(s) related to the transmission facilities that the NTO owns and that are subject to this Agreement.
- b. The NTO's obligations described in Section 2.13(a) above shall be subject to the full recovery in wholesale rates on a current basis by the NTO, in accordance with the rate mechanism set forth in Section 6.10 of the ISO OATT (Rate Schedule 10) or Section 6.16 of the ISO OATT (Rate Schedule 16), of all reasonably incurred

costs, including a reasonable return on investment and any applicable regulatory incentives, related to the preparation of a proposal for, and the development,

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construction, operation, and maintenance of, regulated transmission projects undertaken, or caused to be undertaken, by the NTO to meet a reliability need identified in the ISO's Reliability Planning Process or Short-Term Reliability Process as a result of being designated as the Responsible Transmission Owner, including those regulated transmission projects that were subsequently determined by the ISO not to be necessary to meet a reliability need or that cannot be completed because of the failure to obtain necessary federal, state, or local authorizations or for any other circumstance beyond the NTO's reasonable control;

- c. The NTO's obligations described in Section 2.13(a) above shall be further conditioned on:
1. The recovery of transmission-related costs in rates, as provided for in Section 2.13(b) above, will include, but not be limited to, all reasonable costs related to (i) obtaining or attempting to obtain all federal, state and local authorizations necessary for completion of the project included in the Comprehensive Reliability Plan and (ii) acquiring or attempting to acquire all necessary real property rights for such project;
 2. The receipt by the NTO of all federal, state, and local authorizations necessary for completion of the regulated transmission project and acquisition by the NTO of all necessary property rights; and
 3. The right of the NTO to request any incentives available under regulatory policies related to investments in transmission projects as part of any filing under rates as provided for in Section 2.13(b) above.

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- d. Nothing contained in Section 2.13 of this Agreement shall limit the right of the NTO to protest, comment on, or engage in litigation before FERC, the New York Public Service Commission, or any court with respect to proposed changes to the Reliability Planning Process.

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ARTICLE 3.0: RESPONSIBILITIES OF THE ISO

3.01 Operation and Coordination

The ISO shall direct the operation of, coordinate the maintenance scheduling of, and coordinate the planning of certain facilities of the NYS Power System, including coordination with the control center(s) maintained by or on behalf of the NTO, in accordance with the Reliability Rules and all other applicable reliability rules, standards and criteria, as follows:

- a. Administering Control Area operations of the NYS Power System;
- b. Performing balancing of Generation and Load while ensuring the safe, reliable and efficient operation of the NYS Power System;
- c. Exercising ISO Operational Control over certain facilities of the NYS Power System under normal operating conditions and system Emergencies to maintain system reliability;
- d. Coordinating the NYS Power System equipment outages and maintenance and maintaining the safety and short term reliability of the NYS Power System; and
- e. Conducting the Reliability Planning Process in accordance with Attachment Y of the ISO OATT and the Short-Term Reliability Process in accordance with Attachment FF of the ISO OATT.

3.02 Tariff Administration and Performance of Responsibilities Under ISO Related Agreements

The ISO shall (a) administer the ISO OATT, the ISO Services Tariff and the ISO Agreement in accordance with their provisions as they may be amended from time to time, and (b) shall comply with the provisions of this Agreement, the ISO/TO Agreement, the NYSRC Agreement and the ISO/NYSRC Agreement.

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3.03 Granting of Authority

The ISO responsibilities set forth in Article 3 of this Agreement, are granted by the NTO to the ISO only so long as each of the conditions set forth below is met and continues to be met throughout the term of this Agreement:

- a. The ISO fully implements all Reliability Rules and all other applicable reliability rules, standards and criteria including, without limitation, using all reasonable efforts to require all Market Participants to maintain applicable levels of Installed Capacity and Operating Capacity, consistent with the ISO OATT, the ISO Services Tariff, all Reliability Rules and all other applicable reliability rules, standards and criteria;
- b. The ISO has a FERC-accepted transmission tariff(s) and rate schedules which provide(s) for full recovery of the transmission revenue requirement of the NTO to the extent allowed, accepted or approved by FERC;
- c. The ISO does not act in violation of lawful PSC or FERC Orders;
- d. The ISO does not have a financial interest in any commercial transaction involving the use of the NYS Power System or any other electrical system except to the limited extent required for the ISO to be the single counterparty to market transactions in accordance with the credit requirements for organized wholesale electric markets set forth in Commission Order Nos. 741 and 741-A as codified in 18 C.F.R. § 35.47 (2011) or successor provisions;
- e. The ISO distributes revenues from the collection of transmission charges to the NTO in a timely manner; and
- f. The ISO enforces and complies with the creditworthiness and collection standards

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3.04 Collection and Billing

The ISO shall facilitate and/or perform the billing and collection of revenues related to services provided by the ISO pursuant to the terms of the ISO OATT and the ISO Services Tariff.

3.05 Proposed Material Modifications to the NYS Power System

Pursuant to the requirements of applicable provisions of the ISO OATT, ISO Related Agreements and ISO Procedures, the ISO shall evaluate the impact of any proposed material modification to the NYS Power System. Any proposed material modification to the NTO's facilities must satisfy the requirements of applicable provisions of the ISO OATT, NYSRC and ISO/NYSRC Agreements, ISO Procedures, and this Agreement. In the event of a dispute regarding the impact of the proposed modification, the ISO or the NTO may refer the issue for resolution pursuant to procedures set forth in Article 11 of the ISO Services Tariff, as such procedures may be amended from time to time.

3.06 OASIS

The ISO shall maintain the OASIS for the New York Control Area.

3.07 NERC Registration

If and to the extent any of the NTO's facilities are NERC jurisdictional facilities, the ISO will register for certain NERC functions applicable to those NTO facilities. Such functions may include, without limitation, those functions designated by NERC to be "Reliability Coordinator" and "Balancing Authority" and "Transmission Planner" and "Planning Coordinator." The Parties agree to negotiate in good faith the compliance obligations for the NERC functions applicable to, and to be performed by, each Party with respect to the NTO's facilities.

Notwithstanding the foregoing, the ISO shall register for the "Transmission Operator" function

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for all NTO Transmission Facilities under ISO Operational Control identified in Appendix A-1 of this Agreement.

3.08 NTO's Reserved Rights

Notwithstanding any other provision of this Agreement with the exception of Section 2.13 above, the NTO shall retain all of the rights set forth in this Section; provided, however, that such rights shall be exercised in a manner consistent with the NTO's rights and obligations under the Federal Power Act and the Commission's rules and regulations thereunder. This Section is not intended to reduce or limit any other rights of the NTO as a signatory to this Agreement or any of the ISO Related Agreements or under an ISO Tariff.

- a. The NTO shall have the right at any time unilaterally to file pursuant to Section 205 of the Federal Power Act to change the ISO OATT, a Service Agreement under the ISO OATT, or the ISO Agreement to the extent necessary: (i) to recover all of its reasonably incurred costs, plus a reasonable return on investment related to services under the ISO OATT and (ii) to accommodate implementation of, and changes to, an NTO's retail access program.
- b. Nothing in this Agreement shall restrict any rights, to the extent such rights exist:
 - (i) of the NTO that is a party to a merger, acquisition or other restructuring transaction to make filings under Section 205 of the Federal Power Act with respect to the reallocation or redistribution of revenues among Transmission Owners or the assignment of its rights or obligations, to the extent the Federal Power Act requires such filings; or
 - (ii) of the NTO to terminate its participation in the ISO pursuant to Section 3.02 of the ISO Agreement or Article 6 of this

Agreement, notwithstanding any effect its withdrawal from the ISO may have on the distribution of transmission revenues among other Transmission Owners.

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- c. The NTO retains all rights that it otherwise has incident to its ownership of its assets, including, without limitation, its transmission facilities including, without limitation, the right to build, acquire, sell, merge, dispose of, retire, use as security, or otherwise transfer or convey all or any part of its assets, including, without limitation, the right to amend or terminate the NTO's relationship with the ISO in connection with the creation of an alternative arrangement for the ownership and/or operation of its transmission facilities on an unbundled basis (e.g., a transmission company), subject to necessary regulatory approvals and to any approvals required under applicable provisions of this Agreement.
- d. The obligation of the NTO to expand or modify its transmission facilities in accordance with the ISO OATT shall be subject to the NTO's right to recover, pursuant to appropriate financial arrangements contained in Commission-accepted tariffs or agreements, all reasonably incurred costs, plus a reasonable return on investment, associated with constructing and owning or financing such expansions or modifications to its facilities.
- e. Except as provided in Section 2.13 above, the responsibilities granted to the ISO under this Agreement shall not expand or diminish the responsibilities of the NTO to modify or expand its transmission system, nor confer upon the ISO the authority to direct the NTO to modify or expand its transmission system.
- f. The NTO shall have the right to construct (or cause to be constructed), invest in, and own any regulated transmission facilities that the ISO determines are required to meet a reliability need identified by the Reliability Planning Process or the Short-Term Reliability Process, so long as the appropriate regulatory agency(ies)

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has granted its approval. The costs associated with any such transmission facilities shall be recovered in rates as provided for in Section 2.13(b) above and the ISO OATT.

- g. The NTO shall have the right to adopt and implement procedures it deems necessary to protect its electric facilities from physical damage or to prevent injury or damage to persons or property.
- h. The NTO retains the right to take whatever actions it deems necessary to fulfill its obligations under local, state or federal law.
- i. Nothing in this Agreement shall be construed as limiting in any way the rights of the NTO to make any filing with the PSC.
- j. Notwithstanding anything to the contrary in this Agreement, no amendment to any provision of this Section may be adopted without the agreement of the NTO.

3.09 Retention of Non-Transferred Obligations

Any and all other rights and responsibilities of the NTO related to the ownership or operation of its transmission assets or to its rights to withdraw its assets from ISO control, that have not been specifically transferred to the ISO under this Agreement or otherwise addressed under this Agreement, will remain with the NTO.

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ARTICLE 4.0: ASSIGNMENT

4.01 Assignments by the NTO or the ISO

This Agreement cannot be assigned by the ISO. This Agreement may be assigned by the NTO including, without limitation, to any entity(ies) in connection with a merger, consolidation, reorganization or change in the organizational structure of the assigning Party, provided that the surviving entity(ies) agree, in writing, to be bound by the terms of this Agreement.

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ARTICLE 5.0: LIMITATION OF LIABILITY AND INDEMNIFICATION

5.01 Limitations of Liability

Except as otherwise provided under the ISO OATT, the NTO shall not be liable (whether based on contract, indemnification, warranty, tort, strict liability or otherwise) to the ISO, any Market Participant, any third party or other party for any damages whatsoever, including without limitation, special, indirect, incidental, consequential, punitive, exemplary or direct damages resulting from any act or omission in any way associated with this Agreement, except to the extent the NTO is found liable for gross negligence or intentional misconduct, in which case the NTO shall not be liable for any special, indirect, incidental, consequential, punitive or exemplary damages. Nothing in this Section will excuse an NTO from an obligation to pay for services provided to the NTO by the ISO or to pay any deficiency payments, penalties, or sanctions imposed by the ISO under the ISO OATT or the ISO Services Tariff. The ISO shall not be liable to the NTO or any other party for any damages resulting from any act or omission in any way associated with this Agreement, except to the extent provided for under the ISO OATT.

5.02 Additional Limitations of Liability

Except as otherwise provided under the ISO OATT, the NTO shall not be liable for any indirect, consequential, exemplary, special, incidental or punitive damages including, without limitation, lost revenues or profits, the cost of replacement power or the cost of capital, even if such damages are foreseeable or the damaged party has been advised of the possibility of such damages and regardless of whether any such damages are deemed to result from the failure or inadequacy of any exclusive or other remedy. The ISO shall not be liable to the NTO or any other party for any damages resulting from any act or omission in any way associated with this Agreement, except to the extent provided for under the ISO OATT.

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5.03 Indemnification

Each Party shall at all times indemnify, save harmless and defend the other Party, including their directors, officers, employees, trustees, and agents, or each of them, from and against all claims, demands, losses, liabilities, judgments, damages (including, without limitation, any consequential, incidental, direct, special, indirect, exemplary or punitive damages and economic costs), and related costs and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by the Party in any actions or proceedings between the Party and a Market Participant, or any other third party) arising out of or related to the ISO's or the NTO's acts or omissions related in any way to the NTO's ownership or operation of its transmission facilities when such acts or omissions are either (1) pursuant to or consistent with ISO Procedures or direction; or (2) in any way related to the NTO's or the ISO's performance under the ISO OATT, the ISO Services Tariff, the ISO Agreement, the ISO/NYSRC Agreement, NYSRC Agreement, or this Agreement; *provided, however*, that the NTO shall not have any indemnification obligation under this Section 5.02 with respect to any loss to the extent the loss results from the gross negligence or intentional misconduct of the ISO; *provided, further*, that the ISO shall not have any indemnification obligation under this Section 5.02 with respect to any loss except to the extent the loss results from the gross negligence or intentional misconduct of the ISO.

5.04 Force Majeure

Each Party shall not be considered to be in default or breach under this Agreement, and shall be excused from performance or liability for damages to any other party, if and to the extent it shall be delayed in or prevented from performing or carrying out any of the provisions of this

Agreement, except the obligation to pay any amount when due, arising out of or from any act, omission, or circumstance occasioned by or in consequence of any act of God, labor disturbance,

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failure of contractors or suppliers of materials, act of the public enemy, war, invasion, insurrection, riot, fire, storm, flood, ice, explosion, breakage or accident to machinery or equipment or by any other cause or causes beyond such Party's reasonable control, including any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, or by the making of repairs necessitated by an emergency circumstance not limited to those listed above upon the property or equipment of the ISO or any party to the ISO Agreement. Nothing contained in this Article shall relieve any entity of the obligations to make payments when due hereunder or pursuant to a Service Agreement. Any party claiming a force majeure event shall use reasonable diligence to remove the condition that prevents performance, except the settlement of any labor disturbance shall be in the sole judgment of the affected party.

5.05 Claims by Employees and Insurance

Each Party shall be solely responsible for and shall bear all of the costs of claims by its own employees, contractors, or agents arising under and covered by, any workers' compensation law. Each Party shall furnish, at its sole expense, such insurance coverage and such evidence thereof, or evidence of self-insurance, as is reasonably necessary to meet its obligations under this Agreement.

5.06 Survival

The provisions of this Article, "Limitations of Liability and Indemnification" shall survive the termination or expiration of this Agreement or the ISO Tariffs.

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ARTICLE 6.0: OTHER PROVISIONS

6.01 Term and Termination for Cause

This Agreement shall become effective upon the execution of this Agreement by the NTO and the ISO and on the later of: (i) the date on which FERC, the PSC and any other regulatory agency having jurisdiction accepts this agreement without condition or material modification and grants all approvals needed to place the NTO's facilities in service, including, without limitation, any approvals required under Section 70 of the Public Service Law and Section 203 of the FPA; or (ii) on such later date specified by FERC. Without waiving or limiting any of its other rights under this Article, if the NTO determines that any of the conditions set forth in Section 3.03 hereof is not being met or ceases to be in full force and effect the NTO may terminate this Agreement, withdraw from the ISO Agreement and the ISO Tariffs, and withdraw its assets from the ISO's control and administration on ninety (90) days prior written notice to the ISO and FERC. Such notice shall identify the condition or conditions set forth in Section 3.03 that have not been met or no longer are in full force and effect; provided, however, that prior to the filing of such notice, the ISO shall be advised of the specific condition or conditions that are no longer in full force and effect, and the ISO shall have the opportunity to restore the effectiveness of the condition or conditions identified within a thirty (30) day period. If the effectiveness of the condition or conditions is not restored within thirty (30) days, the NTO may file a notice of termination with the ISO and FERC; provided, however, that if the ISO demonstrates that it has made a good faith effort but has been unable to restore the effectiveness of the condition or conditions within the thirty (30) day period, the ISO shall be provided an additional thirty (30) day period to restore the effectiveness of the condition or conditions and

the NTO may not file the notice of termination until the expiration of the second thirty (30) day period. The NTO's termination of this Agreement under this Section shall be effective ninety

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(90) days after the filing of the notice of termination unless FERC finds that such termination of the NTO is contrary to the public interest, as that standard has been judicially construed under the Mobile-Sierra doctrine. However, the NTO may withdraw the notice or extend the termination date. Nothing in this section shall be construed as a voluntary undertaking by the NTO to remain a Party to this Agreement after the expiration of its notice of termination.

6.02 Termination by Election

The NTO may terminate this Agreement, withdraw from the ISO Agreement and the ISO Tariffs, and withdraw its assets from the ISO control and administration upon ninety (90) days written notice to the ISO Board and FERC. Such termination and withdrawal shall be effective unless FERC finds that such termination and withdrawal is contrary to the public interest, as that standard has been judicially construed under the Mobile-Sierra doctrine. Any modification to this Article shall provide the NTO with the right to terminate this Agreement pursuant to the unmodified provisions of this Article, within ninety (90) days of the effective date of such modification.

6.03 Obligations after Termination

- a. Following termination of this Agreement, a Party shall remain liable for all obligations arising hereunder prior to the effective date of termination, including all obligations accrued prior to the effective date, imposed on the Party by this Agreement or the ISO Tariffs or other ISO Related Agreements.
- b. Termination of this Agreement shall not relieve the NTO of any continuing obligation it may have under the ISO Tariffs and ISO Related Agreements, unless the NTO also withdraws from the ISO Tariffs or ISO Related Agreements.

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6.04 Winding Up

Any provision of this Agreement that expressly or by implication comes into or remains in force following the termination of this Agreement shall survive such termination. The surviving provisions shall include, but shall not be limited to: (i) those provisions necessary to permit the orderly conclusion, or continuation pursuant to another agreement, of transactions entered into prior to the termination of this Agreement, (ii) those provisions necessary to conduct final billing, collection, and accounting with respect to all matters arising hereunder, and (iii) the indemnification and limitation of liability provisions as applicable to periods prior to such termination. The ISO and the terminating NTO shall have an obligation to make a good faith effort to agree upon a mutually satisfactory termination plan. Such plan shall have among its objectives an orderly termination. The plan shall address, to the extent necessary, the allocation of any costs directly related to the termination by the NTO.

6.05 Confidentiality

- A. Party Access. Each Party shall supply information to the other Party as required by this Agreement. Information shall be treated as Confidential Information under this Agreement if (i) it has been clearly marked or otherwise designated as “Confidential information” by the Party supplying the information, or (ii) it is information designated as Confidential Information by applicable provisions of the ISO Tariffs; *provided, however*, Confidential Information does not include information: (i) in the public domain or that has been previously publicly disclosed without violation of this Agreement, (ii) required by law to be publicly submitted or disclosed (with notice to the other Party), or (iii) necessary to be divulged in an action to enforce this Agreement.

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Notwithstanding anything in this Section to the contrary, the NTO shall not have a right hereunder to receive or review any documents, data or other information of another Market Participant or the ISO, including documents, data or other information provided to the ISO, to the extent such documents, data or information have been designated as confidential pursuant to the procedures specified in the ISO Tariffs or to the extent that they have been designated as confidential by such other Market Participant; *provided, however*, that the NTO may receive and review any composite documents, data and other information that may be developed based on such confidential documents, data or information if the composite does not disclose any individual Market Participant's confidential data or information.

- B. Required Disclosure. The ISO shall treat any Confidential Information it receives from the NTO in accordance with applicable provisions of the ISO Tariffs. If the NTO receives Confidential Information from the ISO, it shall hold such information in confidence, employing at least the same standard of care to protect the Confidential Information obtained from the ISO as it employs to protect its own Confidential Information. Each Party shall not disclose the other Party's Confidential Information to any third party or to the public without prior written authorization of the Party providing the information; *provided, however*, if the ISO is required by applicable law, or in the course of administrative or judicial proceedings, or subpoena, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section, the ISO will do so in accordance with applicable provisions of the ISO Tariffs. And if the NTO is required by applicable law, or in the course of administrative or judicial proceedings, or subpoena, to disclose information that is otherwise required to be

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maintained in confidence pursuant to this Section, the NTO may make disclosure of such information; provided, however, that as soon as the NTO learns of the disclosure requirement and prior to making such disclosure, the NTO shall notify the ISO of the requirement and the terms thereof and the ISO may, at its sole discretion and cost, assert any challenge to or defense against the disclosure requirement and the NTO shall cooperate with the ISO to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. Each Party shall cooperate with the Other Party to obtain proprietary or confidential treatment of such information by the person to whom such information is disclosed prior to any such disclosure.

6.06 Governing Law; Jurisdiction

The interpretation and performance of this Agreement shall be in accordance with and shall be controlled by the laws of the State of New York as though this Agreement is made and performed entirely in New York. With respect to any claim or controversy arising from this Agreement or performance hereunder within the subject matter jurisdiction of the Federal or State courts of the State of New York, the Parties consent to the exclusive jurisdiction and venue of said courts.

6.07 Headings

The section headings herein are for convenience and reference only and in no way define or limit the scope of this Agreement or in any way affect its provisions. Whenever the terms hereto, hereunder, herein or hereof are used in this Agreement, they shall be construed as referring to this entire Agreement, rather than to any individual section, subsection or sentence.

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6.08 Mutual Agreement

Nothing in this Agreement is intended to limit the Parties' ability to mutually agree upon taking a course of action different than that provided for herein; provided that doing so will not adversely affect any other Parties' rights under this Agreement.

6.09 Contract Supremacy

In the case of a conflict between the express terms of this Agreement and the terms of the ISO Agreement, the express terms of this Agreement shall prevail.

6.10 Additional Remedies

The Parties agree that remedies at law will be inadequate to protect the interests of the NTO and that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by the ISO in accordance with their specific terms or were otherwise breached. Accordingly, it is agreed that the NTO shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or an ISO Tariff by the ISO, and specific performance to enforce specifically the terms and provisions thereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which the NTO is entitled at law or in equity.

6.11 No Third Party Rights

Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties hereto, any rights or remedies under or by reason of this Agreement.

6.12 Not Partners

Nothing contained in this Agreement shall be construed to make the Parties partners or joint venturers or to render either Party liable for the debts or obligations of the other Party.

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6.13 Waiver

Any waiver at any time of the rights of either Party as to any default or failure to require strict adherence to any of the terms herein, on the part of the other Party to this Agreement or as to any other matters arising hereunder shall not be deemed a waiver as to any default or other matter subsequently occurring.

6.14 Modification

This Agreement is subject to change under Section 205 of the Federal Power Act, as that section may be amended or superseded, upon the mutual written agreement of the Parties. Absent mutual agreement of the Parties, it is the intent of this Section 6.14 that, to the maximum extent permitted by law, the terms and conditions set forth in Sections 2.01, 2.13, 3.03, 3.08, 3.09, 4.01, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 6.01, 6.02, 6.09 and 6.14 of this Agreement shall not be subject to change, regardless of whether such change is sought (a) by the Commission acting sua sponte on behalf of either Party or third party, (b) by a Party, (c) by a third party, or (d) in any other manner; subject only to an express finding by the Commission that such change is required under the public interest standard under the Mobile-Sierra doctrine. Any other provision of this Agreement may be changed pursuant to a filing with FERC under Section 206 of the Federal Power Act and a finding by the Commission that such change is just and reasonable.

6.15 Counterparts

This Agreement may be executed in counterparts, neither one of which needs to be executed by both Parties, and this Agreement shall be binding upon both Parties with the same force and effect as if both Parties had signed the same document, and each such signed counterpart shall constitute an original of this Agreement.

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IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed in its corporate name by its proper officers as of the date first written above.

New York Independent System Operator, Inc.

By: _____
Rick Gonzales

Title: Chief Operating Officer

Date: _____

LS Power Grid New York Corporation I

By: _____
Casey Carroll

Title: Assistant Vice President

Date: _____

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APPENDIX A-1

**LISTING OF NTO TRANSMISSION FACILITIES
UNDER ISO OPERATIONAL CONTROL***

EQUIPMENT NAME	FROM BUS NAME	FROM BUS KV	TO BUS NAME	TO BUS KV
LINE SEGMENT #14 ^{1±}	EDIC	345 KV	GORDON ROAD	345 KV
LINE SEGMENT #371 ²	GORDON ROAD	345 KV	PRINCETOWN	345 KV
LINE SEGMENT #55 ^{3±}	PRINCETOWN	345 KV	NEW SCOTLAND	345 KV
LINE SEGMENT #30 [±]	GORDON ROAD	230 KV	ROTTERDAM	230 KV
LINE SEGMENT #31 [±]	GORDON ROAD	230 KV	ROTTERDAM	230 KV
LINE SEGMENT #351 [±]	EDIC	345 KV	PRINCETOWN	345 KV
LINE SEGMENT #352 [±]	EDIC	345 KV	PRINCETOWN	345 KV
LINE SEGMENT #361	PRINCETOWN	345 KV	NEW SCOTLAND	345 KV
LINE SEGMENT #362	PRINCETOWN	345 KV	NEW SCOTLAND	345 KV
TRANSFORMER 1	GORDON ROAD	345 KV	GORDON ROAD	230 KV
TRANSFORMER 3	GORDON ROAD	345 KV	GORDON ROAD	230 KV

* The transmission facilities listed in this Appendix A-1 that are not in-service as of the effective date of this Agreement will be completed and placed in service by the NTO in accordance with the applicable development agreement entered into by the parties concerning such facilities. If, subsequent to the execution of this Agreement, there are any material changes to the transmission facilities listed in this Appendix A-1, the NTO and ISO shall update this Appendix A-1 in accordance with Section 2.01 of this Agreement.

± The NTO owns a portion of the transmission facility.

¹ This line segment will be constructed and placed into service in segments, and will remain under ISO operational control during construction. From approximately Spring 2021 to Spring 2022, the line segment will be a part of the #31 line. Line segment #14 will be in its ultimate configuration starting in approximately Spring 2022.

² This line segment will be constructed and placed into service in segments, and will remain under ISO operational control during construction. From approximately Fall 2021 to Spring 2022, the line segment will be a part of the #30 line. From approximately Spring 2022 to Spring 2023, the line segment will be a part of a temporary #55 line configuration (Gordon Road to New Scotland 345 kV), which combines the #55 line segment and the #371 line segment. Line segment #371 will be in its ultimate configuration starting in approximately Spring 2023.

³ This line segment will be constructed and placed into service in segments, and will remain under ISO operational control during construction. From approximately Fall 2021 to Spring 2022, the line segment will be a

New York Independent System Operator, Inc. - NYISO Agreements - Service Agreements - Operating Agreement between NYISO & LS Power NY Corp 1 part of the #14 line. From approximately Spring 2022 to Spring 2023, the line segment will be a part of a temporary #55 line configuration (Gordon Road to New Scotland 345 kV), which combines the #55 line segment and the #371 line segment. Line segment #55 will be in its ultimate configuration starting in approximately Spring 2023.

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APPENDIX A-2

**LISTING OF NTO TRANSMISSION FACILITIES
REQUIRING ISO NOTIFICATION**

EQUIPMENT NAME	FROM BUS NAME	FROM BUS KV	TO BUS NAME	TO BUS KV
TRANSFORMER BANK 2	GORDON RD	345 KV	GORDON ROAD	115 KV
TRANSFORMER BANK 4	GORDON RD	345 KV	GORDON ROAD	115 KV

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APPENDIX A-3

LISTING OF NTO LOCAL AREA TRANSMISSION SYSTEM FACILITIES

