SERVICE AGREEMENT NO. 1757

AMENDED AND RESTATED

INTERCONNECTION AGREEMENT   
 AMONG THE

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.   
 AND

NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID   
 AND

NEW YORK STATE ELECTRIC & GAS CORPORATION   
 AND

NINE MILE POINT NUCLEAR STATION, LLC

dated as of May 14, 2012

(Nine Mile Point Unit 2)

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AMENDED AND RESTATED STANDARD LARGE GENERATOR   
 INTERCONNECTION AGREEMENT

THIS AMENDED AND RESTATED STANDARD LARGE GENERATOR

INTERCONNECTION AGREEMENT (“Agreement”) is made and entered into this 14th day   
of May, 2012, by and among Nine Mile Point Nuclear Station, LLC, a limited liability company   
organized and existing under the laws of the State of Delaware (“Developer” with a Large   
Generating Facility), 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”), Niagara   
Mohawk Power Corporation d/b/a National Grid (“National Grid”), a corporation organized and   
existing under the laws of the State of New York, and New York State Electric & Gas   
Corporation (“NYSEG”), a corporation organized and existing under the laws of the State of   
New York. National Grid and NYSEG each may be referred to as a “Connecting Transmission   
Owner” and collectively referred to as “Connecting Transmission Owners.” Developer, the   
NYISO, or each of the Connecting Transmission Owners each may be referred to as a “Party” or   
collectively referred to as the “Parties.”

RECITALS

WHEREAS, NYISO operates the Transmission System and the Connecting   
Transmission Owners own certain facilities included in the Transmission System; and

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

WHEREAS, Developer, NYISO, and the Connecting Transmission Owners have agreed to enter into this Agreement for the purpose of interconnecting the Large Generating Facility with 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

30.1 of Attachment X of the NYISO OATT or Attachment S of the NYISO OATT.

Affected System shall mean an electric system other than the transmission systems

owned, controlled or operated by the Connecting Transmission Owners that may be affected by the proposed interconnection.

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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 Owners 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 or System Upgrade Facilities are installed pursuant to Attachment X and Attachment S of the Tariff.

Affiliate shall mean, with respect to a person or entity, any individual, corporation,

partnership, firm, joint venture, association, joint-stock company, trust or unincorporated

organization, directly or indirectly controlling, controlled by, or under common control with,

such person or entity. The term “control” shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control.

Ancillary Services shall mean those services that are necessary to support the

transmission of Capacity and Energy from resources to Loads while maintaining reliable

operation of the New York State Transmission System in accordance with Good Utility Practice.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, 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 Developer’s Large   
Generating Facility 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 the applicability or validity of any requirement or guideline as applied to it in the   
context of this Agreement.

Attachment Facilities shall mean the Connecting Transmission Owner’s Attachment

Facilities and the Developer’s Attachment Facilities. Collectively, Attachment Facilities include all facilities and equipment between the Large Generating Facility and the Point of   
Interconnection, including any modification, additions or upgrades that are necessary to   
physically and electrically interconnect the Large Generating Facility to the New York State   
Transmission System. Attachment Facilities are sole use facilities and shall not include Stand   
Alone System Upgrade Facilities, System Upgrade Facilities, System Deliverability Upgrades, or Jointly Owned Transmission Facilities.

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Base Case shall mean the base case power flow, short circuit, and stability data bases

used for the Interconnection Studies by NYISO, Connecting Transmission Owners or Developer; described in Section 30.2.3 of the Large Facility 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.

Byway shall mean all transmission facilities comprising the New York State

Transmission System that are neither Highways nor Other Interfaces. All transmission facilities in Zone J and Zone K are Byways.

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

Capacity Region shall mean one of three subsets of the Installed Capacity statewide

markets comprised of Rest of State (Zones A through I), Long Island (Zone K), and New York City (Zone J).

Capacity Resource Interconnection Service (“CRIS”) shall mean the service provided by NYISO to interconnect the Developer’s Large Generating Facility to the New York State Transmission System in accordance with the NYISO Deliverability Interconnection Standard, to enable the New York State Transmission System to deliver electric capacity from the Large Generating Facility, pursuant to the terms of the NYISO OATT.

Class Year Deliverability Study shall mean an assessment, conducted by the NYISO staff in cooperation with Market Participants, to determine the System Deliverability Upgrades required for each generation and merchant transmission project included in the Class Year Interconnection Facilities Study to interconnect to the New York State Transmission System in compliance with the NYISO Deliverability Interconnection Standard.

Clustering shall mean the process whereby a group of Interconnection Requests is

studied together, instead of serially, for the purpose of conducting the Interconnection System Reliability Impact Study.

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

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Commercial Operation Date of a unit shall mean the date on which the Large

Generating Facility commences Commercial Operation as agreed to by the Parties pursuant to Appendix E to this Agreement.

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

Connecting Transmission Owner shall mean a 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 at the Point of   
Interconnection, and (iii) is a Party to the Standard Large Interconnection Agreement. For   
purposes of this Agreement, (i) National Grid and NYSEG shall both be “Connecting   
Transmission Owners,” and (ii) except as expressly indicated otherwise in this Agreement, the   
term “National Grid” shall mean National Grid acting on behalf of both National Grid and   
NYSEG (collectively) pursuant to the Transmission Owners Agreement referenced in Appendix   
C, Section 2 of this Agreement (without limiting the effect of Section 29.6 of this Agreement).   
The Parties acknowledge that to the extent any Party is required by this Agreement to comply   
with a standard, specification, protocol, or similar requirement of National Grid, no NYSEG   
standard, specification, protocol, or similar requirement shall be applicable.

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

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

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

Deliverability Interconnection Standard shall mean the standard that must be met by   
any Large Generating Facility proposing to interconnect to the New York State Transmission

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System and become a qualified Installed Capacity Supplier. To meet the NYISO Deliverability   
Interconnection Standard, the Developer of the proposed Large Generating Facility must, in   
accordance with the rules in Attachment S to the NYISO OATT, fund or commit to fund the   
System Deliverability Upgrades identified for its project in the Class Year Deliverability Study.

Developer shall mean an Eligible Customer developing a Large Generating Facility, proposing to connect to the New York State Transmission System, in compliance with the NYISO Minimum Interconnection Standard.

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

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

Effective Date shall mean the date on which this Agreement becomes effective upon

execution by the Parties, subject to acceptance by the Commission, or if filed unexecuted, upon the date specified by the Commission.

Emergency State shall mean the condition or state that the New York State Power

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

Energy Resource Interconnection Service (“ERIS”) shall mean the service provided by NYISO to interconnect the Developer’s Large Generating Facility to the New York State Transmission System in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive Energy and Ancillary Services from the Large Generating Facility, pursuant to the terms of the NYISO OATT.

Engineering & Procurement (E&P) Agreement shall mean an agreement that

authorizes National Grid to begin engineering and procurement of long lead-time items

necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request.

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

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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.

Generating Facility shall mean Developer’s device for the production of electricity   
identified in the Interconnection Request, but shall not include the Developer’s Attachment   
Facilities.

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

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

Governmental Authority shall mean any federal, state, local or other governmental   
regulatory or administrative agency, court, commission, department, board, or other   
governmental subdivision, legislature, rulemaking board, tribunal, or other governmental   
authority having jurisdiction over any of the Parties, their respective facilities, or the respective   
services they provide, and exercising or entitled to exercise any administrative, executive, police,   
or taxing authority or power; provided, however, that such term does not include Developer,   
NYISO, Affected Transmission Owner, Connecting Transmission Owners, 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

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other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Highway shall mean 115 kV and higher transmission facilities that comprise the

following NYCA interfaces: Dysinger East, West Central, Volney East, Moses South, Central   
East/Total East, UPNY-SENY and UPNY-ConEd, and their immediately connected, in series,   
Bulk Power System facilities in New York State. Each interface shall be evaluated to determine   
additional “in series” facilities, defined as any transmission facility higher than 115 kV that (a) is   
located in an upstream or downstream zone adjacent to the interface and (b) has a power transfer   
distribution factor (DFAX) equal to or greater than five percent when the aggregate of generation   
in zones or systems adjacent to the upstream zone or zones which define the interface is shifted   
to the aggregate of generation in zones or systems adjacent to the downstream zone or zones

which define the interface. In determining “in series” facilities for Dysinger East and West

Central interfaces, the 115 kV and 230 kV tie lines between NYCA and PJM located in LBMP Zones A and B shall not participate in the transfer. Highway transmission facilities are listed in ISO Procedures.

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

In-Service Date shall mean the date upon which the Developer reasonably expects it will be ready to begin use of the Connecting Transmission Owner’s Attachment Facilities to obtain back feed power.

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

30.8 of the Standard Large Facility Interconnection Procedures.

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

Interconnection Feasibility Study shall mean a preliminary evaluation of the system impact and cost of interconnecting the Large Generating Facility to the New York State   
Transmission System, the scope of which is described in Section 30.6 of the Standard Large Facility Interconnection Procedures.

Interconnection Feasibility Study Agreement shall mean the form of agreement contained in Appendix 2 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection Feasibility Study.

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

Interconnection Study shall mean any of the following studies: the Interconnection

Feasibility Study, the Interconnection System Reliability Impact Study, and the Interconnection Facilities Study described in the Standard Large Facility Interconnection Procedures.

Interconnection System Reliability Impact Study (“SRIS”) shall mean an engineering   
study, conducted in accordance with Section 30.7 of the Large Facility Interconnection   
Procedures, that evaluates the impact of the proposed Large Generating Facility on the safety and   
reliability of the New York State Transmission System and, if applicable, an Affected System, to   
determine what Attachment Facilities and System Upgrade Facilities are needed for the proposed   
Large Generation Facility of the Developer to connect reliably to the New York State   
Transmission System in a manner that meets the NYISO Minimum Interconnection Standard.

Interconnection System Reliability Impact Study Agreement shall mean the form of agreement contained in Appendix 3 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection System Reliability Impact Study.

IRS shall mean the Internal Revenue Service.

Joint Use Facilities shall mean facilities and equipment which are identified as Joint Use Facilities in Appendix C, Section 4, which are owned by either National Grid or the Developer and which contribute to the operational reliability of the New York State Transmission System and are, therefore, operated jointly by National Grid and the Developer.

Jointly Owned Transmission Facilities shall mean existing transmission facilities

jointly owned by National Grid and NYSEG and located in the Scriba Substation at or beyond the Point of Interconnection as listed in Appendix C, Section 6 of this Agreement.

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

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

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

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

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

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

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

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.

NRC shall mean the Nuclear Regulatory Commission or any successor thereto.

NRC Maintenance Rule shall mean the NRC rules and regulations governing the   
maintenance of the Jointly Owned Transmission Facilities (as applicable), the Attachment   
Facilities (as applicable), and the Generating Facility, at 10 C.F.R. § 50.65, as amended or   
superseded.

NRC Requirements and Commitments shall mean all the requirements, obligations,   
duties, and commitments required to be followed and honored by the Developer pursuant to the   
Atomic Energy Act of 1954, the regulations of the NRC, the Generating Facility’s operating   
license and nuclear materials licenses, and all other laws, regulations, licenses, and commitments   
to which the Developer is or may become subject from time to time, as amended or superseded.

Nuclear Incident shall have the meaning defined in the Atomic Energy Act of 1954, as amended.

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

Off-site Power Supply Points shall mean the points at which off-site power is delivered by Connecting Transmission Owners to the Developer as indicated on a one-line diagram   
attached hereto in Appendix A.

Operating Committee shall have the meaning specified in Article 9.12 of this Agreement.

Operating Committee Members shall mean the Developer, National Grid, and NYSEG.

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

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

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

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

Point of Change of Ownership shall mean the point, as set forth in Appendix A to this Agreement, where the Developer’s Attachment Facilities connect to the Connecting   
Transmission Owner’s Attachment Facilities.

Point of Interconnection shall mean the point, as set forth in Appendix A to this   
Agreement, where the Attachment Facilities connect to the New York State Transmission   
System.

Queue Position shall mean the order of a valid Interconnection Request, relative to all

other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by NYISO.

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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Scoping Meeting shall mean the meeting between representatives of the Developer,

NYISO and Connecting Transmission Owners conducted for the purpose of discussing

alternative interconnection options, to exchange information including any transmission data and   
earlier study evaluations that would be reasonably expected to impact such interconnection   
options, to analyze such information, and to determine the potential feasible Points of   
Interconnection.

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.

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

Stand Alone System Upgrade Facilities shall mean System Upgrade Facilities that a Developer may construct without affecting day-to-day operations of the New York State   
Transmission System during their construction. NYISO, the Connecting Transmission Owners and the Developer must agree as to what constitutes Stand Alone System Upgrade Facilities and identify them in Appendix A to this Agreement.

Standard Large Facility Interconnection Procedures (“LFIP”) shall mean the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that are included in Attachment X of the NYISO OATT.

Standard Large Generator Interconnection Agreement (“LGIA”) shall mean this

Agreement, the form of interconnection agreement applicable to an Interconnection Request

pertaining to a Large Generating Facility, that is included in Attachment X of the NYISO OATT.

System Deliverability Upgrades 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 Byways and Highways and Other Interfaces on the existing New York State   
Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard at the requested level of Capacity Resource Interconnection Service.

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 Large Generating Facility and

(2) protect the Large Generating Facility from faults or other electrical system disturbances

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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.

System Upgrade Facilities shall mean the least costly configuration of commercially   
available components of electrical equipment that can be used, consistent with Good Utility   
Practice and Applicable Reliability Requirements, to make the modifications to the existing   
transmission system that are required to maintain system reliability due to: (i) changes in the   
system, including such changes as load growth and changes in load pattern, to be addressed in   
the form of generic generation or transmission projects; and (ii) proposed interconnections. In

the case of proposed interconnection projects, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum   
Interconnection Standard.

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

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

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 Owners shall promptly file this Agreement with FERC upon execution in accordance with Article 3.1.

2.2 Term of Agreement. Subject to the provisions of Article 2.3, this Agreement shall

remain in effect from the Effective Date until the Large Generating Facility permanently ceases Commercial Operations, subject to NRC Requirements and Commitments.

2.3 Termination.

2.3.1 Written Notice. This Agreement may be terminated by the Developer after   
 giving the NYISO and Connecting Transmission Owners ninety (90) Calendar   
 Days advance written notice, or by the NYISO and Connecting Transmission   
 Owners notifying FERC after the Large Generating Facility permanently ceases   
 Commercial Operations, subject to NRC Requirements and Commitments.

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

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Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement, which notice has been accepted for filing by FERC.

2.4 Termination Costs. If a Party elects to terminate this Agreement pursuant to Article

2.3.1 above, the terminating Party shall pay all costs incurred (including any cancellation   
costs relating to orders or contracts for Attachment Facilities and equipment) or charges   
assessed by the other Parties, as of the date of the other Parties’ receipt of such notice of   
termination, that are the responsibility of the terminating Party under this Agreement. In   
the event of termination by a Party, 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 Connecting Transmission Owner’s Attachment

Facilities that have not yet been constructed or installed, National Grid shall to the   
extent possible and with Developer’s authorization cancel any pending orders of,   
or return, any materials or equipment for, or contracts for construction of, such   
facilities; provided that in the event Developer elects not to authorize such   
cancellation, Developer shall assume all payment obligations with respect to such   
materials, equipment, and contracts, and National Grid shall deliver such material   
and equipment, and, if necessary, assign such contracts, to Developer as soon as   
practicable, at Developer’s expense. To the extent that Developer has already   
paid National Grid for any or all such costs of materials or equipment not taken   
by Developer, National Grid shall promptly refund such amounts to Developer,   
less any costs, including penalties incurred by National Grid to cancel any   
pending orders of or return such materials, equipment, or contracts.

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

2.4.2 National Grid may, at its option, retain any portion of such materials, equipment,

or facilities that Developer chooses not to accept delivery of, in which case

National Grid shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Attachment Facilities, and any other facilities

already installed or constructed pursuant to the terms of this Agreement,

Developer shall be responsible for all costs associated with the removal,

relocation or other disposition or retirement of such materials, equipment, or facilities.

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2.5 Disconnection. Upon termination of this Agreement, Developer and Connecting

Transmission Owners will take all appropriate steps to disconnect the Developer’s Large   
Generating Facility from the New York State Transmission System. All costs required to   
effectuate such disconnection shall be borne by the terminating Party, unless such   
termination resulted from the non-terminating Party’s Default of this Agreement or such   
non-terminating Party otherwise is responsible for these costs under 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; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit Developer and the   
Connecting Transmission Owners each to have access to the lands of the others pursuant to this Agreement or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

ARTICLE 3. REGULATORY FILINGS

3.1 Filing. NYISO and Connecting Transmission Owners shall file this Agreement (and any

amendment hereto) with the appropriate Governmental Authority, if required. Any

information related to studies for interconnection asserted by Developer to contain

Confidential Information shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT. If the Developer has executed this Agreement, or any amendment thereto, the Developer shall reasonably cooperate with NYISO and Connecting Transmission Owners with respect to such filing and to provide any   
information reasonably requested by NYISO and Connecting Transmission Owners   
needed to comply with Applicable Laws and Regulations.

ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE

4.1 Provision of Service. NYISO will provide Developer with interconnection service of the

following type for the term of this Agreement.

4.1.1 Product. NYISO will provide Energy Resource Interconnection Service and   
 Capacity Resource Interconnection Service to Developer at the Point of   
 Interconnection, subject to the requirements of Appendix A, Section 4.

4.1.2 Developer is responsible for ensuring that its actual Large Generating Facility   
 output matches the scheduled delivery from the Large Generating Facility to the   
 New York State Transmission System, consistent with the scheduling   
 requirements of the NYISO’s FERC-approved market structure, including   
 ramping into and out of such scheduled delivery, as measured at the Point of   
 Interconnection, consistent with the scheduling requirements of the NYISO   
 OATT and any applicable FERC-approved market structure.

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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   
NYISO OATT, and does not convey any right to deliver electricity to any specific   
customer or Point of Delivery. If Developer wishes to obtain Transmission Service on   
the New York State Transmission System, then Developer must request such   
Transmission Service in accordance with the provisions of the NYISO OATT.

4.3 No Other Services. The execution of this Agreement does not constitute a request for,

nor agreement to provide Energy, any Ancillary Services or Installed Capacity under the   
NYISO Market Administration and Control Area Services Tariff (“Services Tariff”). If   
Developer wishes to supply Energy, Installed Capacity or Ancillary Services, then   
Developer will make application to do so in accordance with the NYISO Services Tariff.

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT,   
 AND CONSTRUCTION

5.1 Options. Unless otherwise mutually agreed to by Developer and Connecting

Transmission Owners, Developer shall select the In-Service Date, Initial Synchronization   
Date, and Commercial Operation Date; and either Standard Option or Alternate Option   
set forth below for completion of the Connecting Transmission Owner’s Attachment   
Facilities and System Upgrade Facilities and System Deliverability Upgrades as set forth   
in Appendix A hereto, and such dates and selected option shall be set forth in Appendix   
B hereto.

5.1.1 Standard Option. National Grid shall design, procure, and construct the

Connecting Transmission Owner’s Attachment Facilities and System Upgrade   
Facilities and System Deliverability Upgrades, using Reasonable Efforts to   
complete the Connecting Transmission Owner’s Attachment Facilities and   
System Upgrade Facilities and System Deliverability Upgrades by the dates set   
forth in Appendix B hereto. National Grid 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 National Grid   
reasonably expects that it will not be able to complete the Connecting   
Transmission Owner’s Attachment Facilities and System Upgrade Facilities and   
System Deliverability Upgrades by the specified dates, National Grid shall   
promptly provide written notice to the other Parties, and shall undertake   
Reasonable Efforts to meet the earliest dates thereafter.

5.1.2 Alternate Option. If the dates designated by Developer are acceptable to

Connecting Transmission Owners, the Connecting Transmission Owners shall so   
notify Developer and NYISO within thirty (30) Calendar Days, and National Grid   
shall assume responsibility for the design, procurement and construction of the   
Connecting Transmission Owner’s Attachment Facilities by the designated dates.

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If National Grid subsequently fails to complete Connecting Transmission

Owner’s Attachment Facilities by the In-Service Date, to the extent necessary to   
provide back feed power; or fails to complete System Upgrade Facilities or   
System Deliverability Upgrades by the Initial Synchronization Date to the extent   
necessary to allow for Trial Operation at full power output, unless other   
arrangements are made by the Developer and Connecting Transmission Owners   
for such Trial Operation; or fails to complete the System Upgrade Facilities and   
System Deliverability Upgrades by the Commercial Operation Date, as such dates   
are reflected in Appendix B hereto; Connecting Transmission Owners shall pay   
Developer liquidated damages in accordance with Article 5.3, Liquidated   
Damages, provided, however, the dates designated by Developer shall be   
extended day for day for each day that NYISO refuses to grant clearances to   
install equipment.

5.1.3 Option to Build. If the dates designated by Developer are not acceptable to

Connecting Transmission Owners, the Connecting Transmission Owners shall so   
notify the Developer and NYISO within thirty (30) Calendar Days, and unless the   
Developer and Connecting Transmission Owners agree otherwise, Developer   
shall have the option to assume responsibility for the design, procurement and   
construction of Connecting Transmission Owner’s Attachment Facilities and   
Stand Alone System Upgrade Facilities on the dates specified in Article 5.1.2;   
provided that if an Attachment Facility or Stand Alone System Upgrade Facility is   
needed for more than one Developer’s project, Developer’s option to build such   
Facility shall be contingent on the agreement of all other affected Developers.   
NYISO, Connecting Transmission Owners and Developer must agree as to what   
constitutes Stand Alone System Upgrade Facilities and identify such Stand Alone   
System Upgrade Facilities in Appendix A hereto. Except for Stand Alone System   
Upgrade Facilities, Developer shall have no right to construct System Upgrade   
Facilities under this option.

5.1.4 Negotiated Option. If the Developer elects not to exercise its option under

Article 5.1.3, Option to Build, Developer shall so notify Connecting Transmission   
Owners and NYISO within thirty (30) Calendar Days, and the Developer and   
Connecting Transmission Owners shall in good faith attempt to negotiate terms   
and conditions (including revision of the specified dates and liquidated damages,   
the provision of incentives or the procurement and construction of a portion of the   
Connecting Transmission Owner’s Attachment Facilities and Stand Alone System   
Upgrade Facilities by Developer) pursuant to which National Grid is responsible   
for the design, procurement and construction of the Connecting Transmission   
Owner’s Attachment Facilities and System Upgrade Facilities and System   
Deliverability Upgrades. If the three Parties are unable to reach agreement on   
such terms and conditions, National Grid shall assume responsibility for the   
design, procurement and construction of the Connecting Transmission Owner’s   
Attachment Facilities and System Upgrades Facilities and System Deliverability   
Upgrades pursuant to 5.1.1, Standard Option.

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5.2 General Conditions Applicable to Option to Build. If Developer assumes

responsibility for the design, procurement and construction of the Connecting

Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities,

(1) Developer shall engineer, procure equipment, and construct the Connecting

Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by National Grid;

(2) Developer’s engineering, procurement and construction of the Connecting

Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities shall comply with all requirements of law to which National Grid would be subject in the engineering, procurement or construction of the Connecting Transmission Owner’s   
Attachment Facilities and Stand Alone System Upgrade Facilities;

(3) National Grid shall review and approve the engineering design, equipment acceptance tests, and the construction of the Connecting Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities;

(4) Prior to commencement of construction, Developer shall provide to Connecting   
Transmission Owners and NYISO a schedule for construction of the Connecting   
Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities,   
and shall promptly respond to requests for information from Connecting Transmission   
Owners or NYISO;

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

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

(7) Developer shall indemnify Connecting Transmission Owners and NYISO for claims arising from the Developer’s construction of Connecting Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities under procedures applicable to Article 18.1 Indemnity;

(8) Developer shall transfer control of Connecting Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities to National Grid;

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(9) Unless the Developer and Connecting Transmission Owners otherwise agree,   
Developer shall transfer ownership of Connecting Transmission Owner’s Attachment   
Facilities and Stand Alone System Upgrade Facilities to Connecting Transmission   
Owners;

(10) National Grid shall approve and accept for operation and maintenance the

Connecting Transmission Owner’s Attachment Facilities and Stand Alone System

Upgrade Facilities to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(11) Developer shall deliver to NYISO and Connecting Transmission Owners “as built” drawings, information, and any other documents that are reasonably required by NYISO or Connecting Transmission Owners to assure that the Attachment Facilities and Stand Alone System Upgrade Facilities are built to the standards and specifications   
required by Connecting Transmission Owners.

5.3 Liquidated Damages. The actual damages to the Developer, in the event the Connecting

Transmission Owner’s Attachment Facilities or System Upgrade Facilities or System

Deliverability Upgrades are not completed by the dates designated by the Developer and   
accepted by the Connecting Transmission Owners pursuant to subparagraphs 5.1.2 or

5.1.4, above, may include Developer’s fixed operation and maintenance costs and lost

opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Connecting   
Transmission Owners to the Developer in the event that National Grid does not complete any portion of the Connecting Transmission Owner’s Attachment Facilities or System   
Upgrade Facilities or System Deliverability Upgrades by the applicable dates, shall be an amount equal to 1/2 of 1 percent per day of the actual cost of the Connecting   
Transmission Owner’s Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades, in the aggregate, for which National Grid has assumed   
responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual   
cost of the Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades for which National Grid has assumed   
responsibility to design, procure, and construct. The foregoing payments will be made by the Connecting Transmission Owners to the Developer as just compensation for the   
damages caused to the Developer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a   
method to secure performance of this Agreement. Liquidated damages, when the   
Developer and Connecting Transmission Owners agree to them, are the exclusive remedy for National Grid’s failure to meet its schedule.

Further, Connecting Transmission Owners shall not pay liquidated damages to Developer   
if: (1) Developer is not ready to commence use of the Connecting Transmission Owner’s   
Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades to

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take the delivery of power for the Developer’s Large Generating Facility’s Trial

Operation or to export power from the Developer’s Large Generating Facility on the

specified dates, unless the Developer would have been able to commence use of the

Connecting Transmission Owner’s Attachment Facilities or System Upgrade Facilities or   
System Deliverability Upgrades to take the delivery of power for Developer’s Large   
Generating Facility’s Trial Operation or to export power from the Developer’s Large   
Generating Facility, but for National Grid’s delay; (2) National Grid’s failure to meet the   
specified dates is the result of the action or inaction of the Developer or any other   
Developer who has entered into a Standard Large Generator Interconnection Agreement   
with the Connecting Transmission Owners and NYISO, or action or inaction by any other   
Party, or any other cause beyond Connecting Transmission Owners’ reasonable control or   
reasonable ability to cure; (3) the Developer has assumed responsibility for the design,   
procurement and construction of the Connecting Transmission Owner’s Attachment   
Facilities and Stand Alone System Upgrade Facilities; or (4) the Connecting   
Transmission Owners and Developer have otherwise agreed.

In no event shall NYISO have any liability whatever to Developer for liquidated damages associated with the engineering, procurement or construction of Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades.

5.4 Power System Stabilizers. The Developer shall procure, install, maintain and operate

Power System Stabilizers in accordance with the requirements identified in the

Interconnection Studies conducted for Developer’s Large Generating Facility. NYISO   
and the Connecting Transmission Owners reserve the right to reasonably establish   
minimum acceptable settings for any installed Power System Stabilizers, subject to the   
design and operating limitations of the Large Generating Facility. If the Large   
Generating Facility’s Power System Stabilizers are removed from service or not capable   
of automatic operation, the Developer shall immediately notify National Grid and   
NYISO. The requirements of this paragraph shall not apply to wind generators.

5.5 Equipment Procurement. If responsibility for construction of the Connecting

Transmission Owner’s Attachment Facilities, the Developer’s Attachment Facilities,

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

5.5.1 NYISO and Connecting Transmission Owners have completed the

Interconnection Facilities Study pursuant to the Interconnection Facilities Study Agreement;

5.5.2 The NYISO has completed the required cost allocation analyses, and Developer   
has accepted his share of the costs for necessary System Upgrade Facilities and System

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Deliverability Upgrades in accordance with the provisions of Attachment S of the NYISO   
OATT;

5.5.3 National Grid has received written authorization to proceed with design and   
procurement from the Developer by the date specified in Appendix B hereto; and

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

5.6 Construction Commencement. National Grid shall commence construction of the

Connecting Transmission Owner’s Attachment Facilities, the Developer’s Attachment   
Facilities, System Upgrade Facilities and System Deliverability Upgrades for which it is   
responsible as soon as practicable after the following additional conditions are satisfied:

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

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

5.6.3 National Grid has received written authorization to proceed with construction   
 from the Developer by the date specified in Appendix B hereto; and

5.6.4 The Developer has provided security to National Grid in accordance with Article

11.5 by the dates specified in Appendix B hereto.

5.7 Work Progress. The Developer and National Grid will keep each other, and NYISO,

advised periodically as to the progress of their respective design, procurement and   
construction efforts. Any Party may, at any time, request a progress report from the   
Developer or National Grid. If, at any time, the Developer determines that the   
completion of the Connecting Transmission Owner’s Attachment Facilities will not be   
required until after the specified In-Service Date, the Developer will provide written   
notice to National Grid and NYISO of such later date upon which the completion of the   
Connecting Transmission Owner’s Attachment Facilities will be required.

5.8 Information Exchange. As soon as reasonably practicable after the Effective Date, the

Developer and National Grid shall exchange information, and provide NYISO the same information, regarding the design and compatibility of the Developer’s Attachment   
Facilities and Connecting Transmission Owner’s Attachment Facilities and compatibility of the Attachment Facilities with the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes.

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5.9 Limited Operation. If any of the Connecting Transmission Owner’s Attachment

Facilities or System Upgrade Facilities or System Deliverability Upgrades are not

reasonably expected to be completed prior to the Commercial Operation Date of the

Developer’s Large Generating Facility, NYISO shall, upon the request and at the expense of Developer, in conjunction with the Connecting Transmission Owners, perform   
operating studies on a timely basis to determine the extent to which the Developer’s   
Large Generating Facility and the Developer’s Attachment Facilities may operate prior to the completion of the Connecting Transmission Owner’s Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this   
Agreement. Connecting Transmission Owners and NYISO shall permit Developer to   
operate the Developer’s Large Generating Facility and the Developer’s Attachment   
Facilities in accordance with the results of such studies.

5.10 Developer’s Attachment Facilities (“DAF”). Developer shall, at its expense, design,

procure, construct, own and install the DAF, as set forth in Appendix A hereto.

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

5.10.2 No Warranty. The review of Developer’s final specifications by National Grid   
 and NYISO shall not be construed as confirming, endorsing, or providing a   
 warranty as to the design, fitness, safety, durability or reliability of the Large   
 Generating Facility, or the DAF. Developer shall make such changes to the DAF   
 as may reasonably be required by National Grid or NYISO, in accordance with   
 Good Utility Practice, to ensure that the DAF are compatible with the technical   
 specifications, operational control, and safety requirements of National Grid and   
 NYISO.

5.10.3 DAF Construction. The DAF shall be designed and constructed in accordance

with Good Utility Practice. Within one hundred twenty (120) Calendar Days after   
the Commercial Operation Date, unless the Developer and National Grid agree on   
another mutually acceptable deadline, the Developer shall deliver to National   
Grid and NYISO “as-built” drawings, information and documents for the DAF,   
such as: a one-line diagram, a site plan showing the Large Generating Facility and   
the DAF, plan and elevation drawings showing the layout of the DAF, a relay   
functional diagram, relaying AC and DC schematic wiring diagrams and relay

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settings for all facilities associated with the Developer’s step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the DAF, and the impedances (determined by factory tests) for the associated   
step-up transformers and the Large Generating Facility. The Developer shall   
provide to, and coordinate with, National Grid and NYISO with respect to   
proposed specifications for the excitation system, automatic voltage regulator,   
Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable.

5.11 Connecting Transmission Owner’s Attachment Facilities and Developer’s

Attachment Facilities Construction. The Connecting Transmission Owner’s

Attachment Facilities and the Developer’s Attachment Facilities shall be designed and

constructed in accordance with Good Utility Practice. Upon request, within one hundred   
twenty (120) Calendar Days after the Commercial Operation Date, unless National Grid   
and Developer agree on another mutually acceptable deadline, National Grid shall deliver   
to the Developer the following “as-built” drawings, information and documents for the   
Connecting Transmission Owner’s Attachment Facilities and the Developer’s Attachment   
Facilities: those “as-built” drawings, information and documents reasonably required by   
the Developer and related to the Connecting Transmission Owner’s Attachment Facilities   
and the Developer’s Attachment Facilities constructed by National Grid.

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

5.12 Access Rights. Upon reasonable notice and supervision by the Granting Party, and

subject to any required or necessary regulatory approvals, any one of the Connecting

Transmission Owners or the Developer (“Granting Party”) shall furnish to any of the

other two Parties (“Access Party”) at no cost any rights of use, licenses, rights of way and   
easements with respect to lands owned or controlled by the Granting Party, its agents (if   
allowed under the applicable agency agreement), or any Affiliate, that are necessary to   
enable the Access Party to obtain ingress and egress at the Point of Interconnection to   
construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove   
facilities and equipment to: (i) interconnect the Large Generating Facility with the New   
York State Transmission System; (ii) operate and maintain the Large Generating Facility,   
the Attachment Facilities and the New York State Transmission System; and (iii)   
disconnect or remove the Access Party’s facilities and equipment upon termination of this   
Agreement. In exercising such licenses, rights of way and easements, the Access Party   
shall not unreasonably disrupt or interfere with normal operation of the Granting Party’s   
business and shall adhere to the safety rules and procedures established in advance, as   
may be changed from time to time, by the Granting Party and provided to the Access   
Party. The Access Party shall indemnify the Granting Party against all claims of injury or   
damage from third parties resulting from the exercise of the access rights provided for   
herein.

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5.13 Lands of Other Property Owners. If any part of the Connecting Transmission Owner’s

Attachment Facilities and/or System Upgrade Facilities and/or System Deliverability   
Upgrades is to be installed on property owned by persons other than Developer or   
Connecting Transmission Owners, National Grid shall at 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 Connecting Transmission Owner’s Attachment Facilities and/or   
System Upgrade Facilities and/or System Deliverability Upgrades upon such property.

5.14 Permits. NYISO, Connecting Transmission Owners and the 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 Owners shall   
provide permitting assistance to the Developer comparable to that provided to the   
Connecting Transmission Owners’ own, or an Affiliate’s generation, if any.

5.15 Early Construction of Base Case Facilities. Developer may request National Grid to   
 construct, and National Grid shall construct, subject to a binding cost allocation   
 agreement reached in accordance with Attachment S to the NYISO OATT, including   
 Section 25.8.7 thereof, using Reasonable Efforts to accommodate Developer’s In-Service   
 Date, all or any portion of any System Upgrade Facilities or System Deliverability   
 Upgrades required for Developer to be interconnected to the New York State   
 Transmission System which are included in the Base Case of the Facilities Study for the   
 Developer, and which also are required to be constructed for another Developer, but   
 where such construction is not scheduled to be completed in time to achieve Developer’s   
 In-Service Date.

5.16 Suspension. Developer reserves the right, upon written notice to National Grid and

NYISO, to suspend at any time all work by National Grid associated with the

construction and installation of Connecting Transmission Owner’s Attachment Facilities   
and/or System Upgrade Facilities and/or System Deliverability Upgrades required for   
only that Developer 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 National Grid and NYISO.   
In such event, Developer shall be responsible for all reasonable and necessary costs   
and/or obligations in accordance with Attachment S to the NYISO OATT including those   
which National Grid (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 National Grid cannot reasonably avoid; provided,

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however, that prior to canceling or suspending any such material, equipment or labor contract, National Grid shall obtain Developer’s authorization to do so.

National Grid shall invoice Developer for such costs pursuant to Article 12 and shall use   
due diligence to minimize its costs. In the event Developer suspends work by National   
Grid required under this Agreement pursuant to this Article 5.16, and has not requested   
National Grid to recommence the work required under this Agreement on or before the   
expiration of three (3) years following commencement of such suspension, the Expansion   
Project, as defined in Appendix C of this Agreement, shall be deemed terminated, and

this Agreement shall be amended to reflect that termination. The three-year period shall begin on the date the suspension is requested, or the date of the written notice to National Grid and NYISO, if no effective date is specified.

5.17 Taxes.

5.17.1 Developer Payments Not Taxable. The Developer and Connecting

Transmission Owners intend that all payments or property transfers made by

Developer to Connecting Transmission Owners for the installation of the

Connecting Transmission Owner’s Attachment Facilities and the System Upgrade Facilities and the System Deliverability Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as   
contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

5.17.2 Representations and Covenants. In accordance with IRS Notice 2001-82 and

IRS Notice 88-129, Developer represents and covenants that (i) ownership of the   
electricity generated at the Large Generating Facility will pass to another party   
prior to the transmission of the electricity on the New York State Transmission   
System, (ii) for income tax purposes, the amount of any payments and the cost of   
any property transferred to the Connecting Transmission Owners for the   
Connecting Transmission Owner’s Attachment Facilities will be capitalized by   
Developer as an intangible asset and recovered using the straight-line method   
over a useful life of twenty (20) years, and (iii) any portion of the Connecting   
Transmission Owner’s Attachment Facilities that is a “dual-use intertie,” within   
the meaning of IRS Notice 88-129, is reasonably expected to carry only a de   
minimis amount of electricity in the direction of the Large Generating Facility.   
For this purpose, “de minimis amount” means no more than 5 percent of the total   
power flows in both directions, calculated in accordance with the “5 percent test”   
set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the   
relevant conditions that must be met to conform to IRS requirements for non-  
taxable treatment.

At the request of either Connecting Transmission Owner, Developer shall provide   
the requesting Connecting Transmission Owner with a report from an independent

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engineer confirming its representation in clause (iii), above. Connecting

Transmission Owners represent and covenant that the cost of the Connecting

Transmission Owner’s Attachment Facilities paid for by Developer will have no net effect on the base upon which rates are determined.

5.17.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed

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

Connecting Transmission Owners shall not include a gross-up for the cost

consequences of any current tax liability in the amounts charged to Developer   
under this Agreement unless (i) a Connecting Transmission Owner has   
determined, in good faith, that the payments or property transfers made by   
Developer to a Connecting Transmission Owner should be reported as income   
subject to taxation or (ii) any Governmental Authority directs a Connecting   
Transmission Owner to report payments or property as income subject to taxation;   
provided, however, that a Connecting Transmission Owner may require   
Developer to provide security, in a form reasonably acceptable to the Connecting   
Transmission Owner (such as a parental guarantee or a letter of credit), in an   
amount equal to the cost consequences of any current tax liability under this   
Article 5.17. Developer shall reimburse the Connecting Transmission Owner for   
such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within   
thirty (30) Calendar Days of receiving written notification from the Connecting   
Transmission Owner of the amount due, including detail about how the amount   
was calculated.

This indemnification obligation shall terminate at the earlier of (1) the expiration of the ten-year testing period and the applicable statute of limitation, as it may be extended by a Connecting Transmission Owner upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as   
contemplated by this Article 5.17.

5.17.4 Tax Gross-Up Amount. Developer’s liability for the cost consequences of any

current tax liability under this Article 5.17 shall be calculated on a fully grossed-  
up basis. Except as may otherwise be agreed to by the Developer and an affected   
Connecting Transmission Owner, this means that Developer will pay the affected   
Connecting Transmission Owner, in addition to the amount paid for the   
Attachment Facilities and System Upgrade Facilities and System Deliverability   
Upgrades, an amount equal to (1) the current taxes imposed on the affected

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Connecting Transmission Owner (“Current Taxes”) on the excess of (a) the gross   
income realized by the affected Connecting Transmission Owner as a result of   
payments or property transfers made by Developer to the affected Connecting   
Transmission Owner under this Agreement (without regard to any payments   
under this Article 5.17) (the “Gross Income Amount”) over (b) the present value   
of future tax deductions for depreciation that will be available as a result of such   
payments or property transfers (the “Present Value Depreciation Amount”), plus

(2) an additional amount sufficient to permit the affected 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 the affected

Connecting Transmission Owner’s composite federal and state tax rates at the

time the payments or property transfers are received and the affected 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 the affected Connecting   
Transmission Owner’s anticipated tax depreciation deductions as a result of such   
payments or property transfers by the affected Connecting Transmission Owner’s   
current weighted average cost of capital. Thus, the formula for calculating   
Developer’s liability to the affected Connecting Transmission Owner pursuant to   
this Article 5.17.4 can be expressed as follows: (Current Tax Rate x (Gross   
Income Amount - Present Value of Tax Depreciation))/(1 - Current Tax Rate).

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

5.17.5 Private Letter Ruling or Change or Clarification of Law. At Developer’s

request and expense, Connecting Transmission Owners shall file with the IRS a   
request for a private letter ruling as to whether any property transferred or sums   
paid, or to be paid, by Developer to Connecting Transmission Owners under this   
Agreement are subject to federal income taxation. Developer will prepare the   
initial draft of the request for a private letter ruling, and will certify under   
penalties of perjury that all facts represented in such request are true and accurate   
to the best of Developer’s knowledge. Connecting Transmission Owners and   
Developer shall cooperate in good faith with respect to the submission of such   
request.

Connecting Transmission Owners shall keep Developer fully informed of the

status of such request for a private letter ruling and shall execute either a privacy   
act waiver or a limited power of attorney, in a form acceptable to the IRS, that   
authorizes Developer to participate in all discussions with the IRS regarding such   
request for a private letter ruling. Connecting Transmission Owners shall allow   
Developer to attend all meetings with IRS officials about the request and shall

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permit Developer to prepare the initial drafts of any follow-up letters in connection with the request.

5.17.6 Subsequent Taxable Events. If, within 10 years from the date on which the   
 relevant Connecting Transmission Owner’s Attachment Facilities are placed in   
 service, (i) Developer Breaches the covenants contained in Article 5.17.2, (ii) a   
 “disqualification event” occurs within the meaning of IRS Notice 88-129, or (iii)   
 this Agreement terminates and Connecting Transmission Owners retain   
 ownership of the Attachment Facilities and System Upgrade Facilities and System   
 Deliverability Upgrades, the Developer shall pay a tax gross-up for the cost   
 consequences of any current tax liability imposed on Connecting Transmission   
 Owners, calculated using the methodology described in Article 5.17.4 and in   
 accordance with IRS Notice 90-60.

5.17.7 Contests. In the event any Governmental Authority determines that either of the   
 Connecting Transmission Owner’s receipt of payments or property constitutes   
 income that is subject to taxation, the affected Connecting Transmission Owner   
 shall notify Developer, in writing, within thirty (30) Calendar Days of receiving   
 notification of such determination by a Governmental Authority. Upon the timely   
 written request by Developer and at Developer’s sole expense, the affected   
 Connecting Transmission Owner may appeal, protest, seek abatement of, or   
 otherwise oppose such determination. Upon Developer’s written request and sole   
 expense, the affected Connecting Transmission Owner may file a claim for refund   
 with respect to any taxes paid under this Article 5.17, whether or not it has   
 received such a determination. Each Connecting Transmission Owner reserves   
 the right to make all decisions with regard to the prosecution of such appeal,   
 protest, abatement or other contest, including the selection of counsel and   
 compromise or settlement of the claim, but the affected Connecting Transmission   
 Owner shall keep Developer informed, shall consider in good faith suggestions   
 from Developer about the conduct of the contest, and shall reasonably permit   
 Developer or an Developer representative to attend contest proceedings.

Developer shall pay to the affected Connecting Transmission Owner on a periodic   
basis, as invoiced by the affected Connecting Transmission Owner, the affected   
Connecting Transmission Owner’s documented reasonable costs of prosecuting   
such appeal, protest, abatement or other contest. At any time during the contest,   
the affected Connecting Transmission Owner may agree to a settlement either   
with Developer’s consent or after obtaining written advice from nationally-  
recognized tax counsel, selected by the affected Connecting Transmission Owner,   
but reasonably acceptable to Developer, that the proposed settlement represents a   
reasonable settlement given the hazards of litigation. Developer’s obligation shall   
be based on the amount of the settlement agreed to by Developer, or if a higher   
amount, so much of the settlement that is supported by the written advice from   
nationally-recognized tax counsel selected under the terms of the preceding   
sentence. The settlement amount shall be calculated on a fully grossed-up basis to

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cover any related cost consequences of the current tax liability. Any settlement without Developer’s consent or such written advice will relieve Developer from any obligation to indemnify the affected Connecting Transmission Owner for the tax at issue in the contest.

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

(i) Any payment made by Developer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Developer to the Connecting   
Transmission Owner for such taxes which the Connecting Transmission   
Owner did not submit to the taxing authority, calculated in accordance   
with the methodology set forth in FERC’s regulations at 18 C.F.R.   
§35.19a(a)(2)(iii) from the date payment was made by Developer to the   
date the Connecting Transmission Owner refunds such payment to   
Developer, and

(iii) With respect to any such taxes paid by the Connecting

Transmission Owner, any refund or credit the 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 the Connecting Transmission Owner to any   
Governmental Authority resulting from an offset or credit); provided,   
however, that the Connecting Transmission Owner will remit such amount   
promptly to Developer only after and to the extent that the Connecting   
Transmission Owner has received a tax refund, credit or offset from any

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Governmental Authority for any applicable overpayment of income tax   
related to the Connecting Transmission Owner’s Attachment Facilities.

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

5.17.9 Taxes Other Than Income Taxes. Upon the timely request by Developer, and at

Developer’s sole expense, Connecting Transmission Owners shall appeal, protest,   
seek abatement of, or otherwise contest any tax (other than federal or state income   
tax) asserted or assessed against either Connecting Transmission Owner for which   
Developer may be required to reimburse Connecting Transmission Owners under   
the terms of this Agreement. Developer shall pay to Connecting Transmission   
Owners on a periodic basis, as invoiced by Connecting Transmission Owners,   
Connecting Transmission Owners’ documented reasonable costs of prosecuting   
such appeal, protest, abatement, or other contest. Developer and Connecting   
Transmission Owners shall cooperate in good faith with respect to any such   
contest. Unless the payment of such taxes is a prerequisite to an appeal or   
abatement or cannot be deferred, no amount shall be payable by Developer to   
Connecting Transmission Owners for such taxes until they are assessed by a final,   
non-appealable order by any court or agency of competent jurisdiction. In the   
event that a tax payment is withheld and ultimately due and payable after appeal,   
Developer will be responsible for all taxes, interest and penalties, other than   
penalties attributable to any delay caused by Connecting Transmission Owners.

5.18 Tax Status; Non-Jurisdictional Entities.

5.18.1 Tax Status. Each Party shall cooperate with the other Parties to maintain the   
 other Parties’ tax status. Nothing in this Agreement is intended to adversely   
 affect the tax status of any Party including the status of NYISO, or the status of   
 any Connecting Transmission Owner with respect to the issuance of bonds   
 including, but not limited to, Local Furnishing Bonds. Notwithstanding any other   
 provisions of this Agreement, LIPA, NYPA and Consolidated Edison Company   
 of New York, Inc. shall not be required to comply with any provisions of this   
 Agreement that would result in the loss of tax-exempt status of any of their Tax-  
 Exempt Bonds or impair their ability to issue future tax-exempt obligations. For   
 purposes of this provision, Tax-Exempt Bonds shall include the obligations of the   
 Long Island Power Authority, NYPA and Consolidated Edison Company of New   
 York, Inc., the interest on which is not included in gross income under the   
 Internal Revenue Code.

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5.18.2 Non-Jurisdictional Entities. LIPA and NYPA do not waive their exemptions,

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.

5.19 Modification.

5.19.1 General. Either the Developer or the Connecting Transmission Owners may

undertake modifications to their respective facilities covered by this Agreement.   
If either the Developer or the Connecting Transmission Owners plans to   
undertake a modification that reasonably may be expected to affect one of the   
other Parties’ facilities, that Party shall provide to the other Parties, and to   
NYISO, sufficient information regarding such modification so that the other   
Parties 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 flow of electricity from the Large Generating Facility. The Party   
desiring to perform such work shall provide the relevant drawings, plans, and   
specifications to the other Parties and NYISO at least ninety (90) Calendar Days   
in advance of the commencement of the work or such shorter period upon which   
the Parties may agree, which agreement shall not unreasonably be withheld,   
conditioned or delayed. The Connecting Transmission Owners and the Developer   
shall, through the Operating Committee, use Reasonable Efforts to mutually agree   
on the scheduling of a modification to minimize any adverse impact on the Large   
Generating Facility, the Attachment Facilities or the New York State   
Transmission System.

In the case of Large Generating Facility modifications that do not require

Developer to submit an Interconnection Request, the NYISO shall provide, within   
sixty (60) Calendar Days (or such other time as the Parties may agree), an   
estimate of any additional modifications to the New York State Transmission   
System, Connecting Transmission Owner’s Attachment Facilities or System   
Upgrade Facilities or System Deliverability Upgrades necessitated by such   
Developer modification and a good faith estimate of the costs thereof. The   
Developer shall be responsible for the cost of any such additional modifications,   
including the cost of studying the impact of the Developer modification.

5.19.2 Standards. Any additions, modifications, or replacements made to a Party’s

facilities shall be designed, constructed and operated in accordance with this

Agreement, NYISO requirements, Good Utility Practice and NRC Requirements and Commitments.

5.19.3 Modification Costs. Developer shall not be assigned the costs of any additions,   
 modifications, or replacements that the Connecting Transmission Owners make to   
 the Connecting Transmission Owner’s Attachment Facilities or the New York

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State Transmission System to facilitate the interconnection of a third party to the   
Connecting Transmission Owner’s Attachment Facilities or the New York State   
Transmission System, or to provide Transmission Service to a third party under   
the NYISO OATT, except in accordance with the cost allocation procedures in   
Attachment S of the NYISO OATT. Developer shall be responsible for the costs   
of any additions, modifications, or replacements to the Developer Attachment   
Facilities that may be necessary to maintain or upgrade such Developer

Attachment Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-Commercial Operation Date Testing and Modifications. Prior to the Commercial

Operation Date, National Grid shall test the Connecting Transmission Owner’s

Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades and Developer shall test the Large Generating Facility and the Developer Attachment   
Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Developer and National Grid shall each make any modifications to its   
facilities that are found to be necessary as a result of such testing. Developer shall bear   
the cost of all such testing and modifications. Developer shall generate test energy at the Large Generating Facility only if it has arranged for the injection of such test energy in   
accordance with NYISO procedures.

6.2 Post-Commercial Operation Date Testing and Modifications. Developer and

National Grid shall each at its own expense perform routine inspection and testing of the   
respective facilities and equipment of the Developer and the Connecting Transmission   
Owners in accordance with Good Utility Practice and Applicable Reliability Standards as   
may be necessary to ensure the continued interconnection of the Large Generating   
Facility with the New York State Transmission System in a safe and reliable manner.   
Developer and National Grid shall each have the right, upon advance written notice, to   
require reasonable additional testing of the other Parties’ facilities, at the requesting   
Party’s expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing. Developer and National Grid shall each notify the other

Party, and the NYISO, in advance of its performance of tests of its Attachment 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. Developer and National Grid 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, including Power System Stabilizers;   
(ii) review the settings of the other Party’s System Protection Facilities and other   
protective equipment; and (iii) review the other Party’s maintenance records relative to   
the Attachment Facilities, the System Protection Facilities and other protective   
equipment. NYISO shall have these same rights of inspection as to the facilities and

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equipment of Developer and National Grid. A Party may exercise these rights from time   
to time as it deems necessary upon reasonable notice to the other Party. The exercise or   
non-exercise by a Party of any such rights shall not be construed as an endorsement or   
confirmation of any element or condition of the Attachment Facilities or the System   
Protection Facilities or other protective equipment or the operation thereof, or as a   
warranty as to the fitness, safety, desirability, or reliability of same. Any information that   
a Party obtains through the exercise of any of its rights under this Article 6.4 shall be   
treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO   
OATT.

ARTICLE 7. METERING

7.1 General. Developer and National Grid shall each comply with applicable requirements

of NYISO and the New York Public Service Commission when exercising its rights and   
fulfilling its responsibilities under this Article 7. National Grid shall own and maintain   
Metering Equipment necessary for the interconnection of the Large Generating Facility to   
the New York State Transmission System in accordance with this Article 7. Unless   
otherwise agreed by National Grid and NYISO approved meter service provider and   
Developer, National Grid shall install Metering Equipment at the Point of Interconnection   
prior to any operation of the Large Generating Facility and shall own, operate, test and   
maintain such Metering Equipment. Net power flows including MW and MVAR,   
MWHR and loss profile data to and from the Large Generating Facility shall be measured   
at the Point of Interconnection. National Grid shall provide metering quantities, in   
analog and/or digital form, as required, to Developer or NYISO upon request. Where the   
Point of Interconnection for the Large Generating Facility is other than the generator   
terminal, the Developer shall also provide gross MW and MVAR quantities at the   
generator terminal. Developer shall bear all reasonable documented costs associated with   
the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Check Meters. Developer, at its option and expense, may install and operate, on its

premises and on its side of the Point of Interconnection, one or more check meters to   
check National Grid’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 check meters shall be subject at all   
reasonable times to inspection and examination by National Grid or its designee. The installation, operation and maintenance thereof shall be performed entirely by Developer in accordance with Good Utility Practice.

7.3 Standards. National Grid shall install, calibrate, and test revenue quality Metering

Equipment including potential transformers and current transformers in accordance with   
applicable ANSI and PSC standards as detailed in the NYISO Control Center   
Communications Manual and in the NYISO Revenue Metering Requirements Manual.

7.4 Testing of Metering Equipment. National Grid shall inspect and test all of its Metering

Equipment upon installation and at least once every two (2) years thereafter. If requested

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to do so by NYISO or Developer, National Grid shall, at Developer’s expense, inspect or   
test Metering Equipment more frequently than every two (2) years. National Grid shall   
give reasonable notice of the time when any inspection or test shall take place, and   
Developer and NYISO 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 Developer’s expense, in order to provide accurate metering, unless   
the inaccuracy or defect is due to National Grid’s failure to maintain, then National Grid   
shall pay. If Metering Equipment fails to register, or if the measurement made by   
Metering Equipment during a test varies by more than two percent from the measurement   
made by the standard meter used in the test, National Grid shall adjust the measurements   
by correcting all measurements for the period during which Metering Equipment was in   
error by using Developer’s check meters, if installed. If no such check meters are   
installed or if the period cannot be reasonably ascertained, the adjustment shall be for the   
period immediately preceding the test of the Metering Equipment equal to one-half the   
time from the date of the last previous test of the Metering Equipment. The NYISO shall   
reserve the right to review all associated metering equipment installation on the   
Developer’s or Connecting Transmission Owners’ property at any time.

7.5 Metering Data. At Developer’s expense, the metered data shall be telemetered to one or

more locations designated by National Grid, Developer and NYISO. Such telemetered   
data shall be used, under normal operating conditions, as the official measurement of the   
amount of energy delivered from the Large Generating Facility to the Point of   
Interconnection.

ARTICLE 8. COMMUNICATIONS

8.1 Developer Obligations. In accordance with applicable NYISO requirements, Developer

shall maintain satisfactory operating communications with National Grid and NYISO.   
Developer shall provide standard voice line, dedicated voice line and facsimile   
communications at its Large Generating Facility control room or central dispatch facility   
through use of either the public telephone system, or a voice communications system that   
does not rely on the public telephone system. Developer shall also provide the dedicated   
data circuit(s) necessary to provide Developer data to National Grid and NYISO as set   
forth in Appendix D hereto. The data circuit(s) shall extend from the Large Generating   
Facility to the location(s) specified by National Grid and NYISO. Any required   
maintenance of such communications equipment shall be performed by 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 Large

Generating Facility, a Remote Terminal Unit, or equivalent data collection and transfer   
equipment acceptable to the Parties, shall be installed by Developer, or by National Grid   
at Developer’s expense, to gather accumulated and instantaneous data to be telemetered   
to the location(s) designated by National Grid and NYISO through use of a dedicated

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point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by National Grid and NYISO. Instantaneous bidirectional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by National Grid and NYISO.

Each Party will promptly advise the appropriate other Parties if it detects or otherwise   
learns of any metering, telemetry or communications equipment errors or malfunctions   
that require the attention and/or correction by the other Parties. 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.

ARTICLE 9. OPERATIONS

9.1 General. Each Party shall comply with Applicable Laws and Regulations and

Applicable Reliability Standards including, without limitation, NRC Requirements and Commitments. Each Party shall provide to the other Parties all information that may reasonably be required by the other Parties to comply with Applicable Laws and   
Regulations and Applicable Reliability Standards.

9.2 NYISO and Connecting Transmission Owners Obligations. Connecting Transmission

Owners and NYISO shall cause the New York State Transmission System and the

Connecting Transmission Owner’s Attachment Facilities to be operated, maintained and   
controlled in a safe and reliable manner in accordance with this Agreement, the NYISO   
Tariffs, and, to the extent applicable, NRC Requirements and Commitments. National   
Grid and NYISO may provide operating instructions to Developer consistent with this   
Agreement, NYISO procedures and National Grid’s operating protocols and procedures   
as they may change from time to time. National Grid and NYISO will consider changes   
to their respective operating protocols and procedures proposed by Developer.

9.3 Developer Obligations. Developer shall at its own expense operate, maintain and

control the Large Generating Facility and the Developer Attachment Facilities in a safe and reliable manner and in accordance with this Agreement. Developer shall operate the Large Generating Facility and the Developer Attachment Facilities in accordance with NYISO and National Grid requirements, as such requirements are set forth or referenced in Appendix C hereto and the NRC Requirements and Commitments. 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.

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9.4 Start-Up and Synchronization. Consistent with the mutually acceptable procedures of

the Developer and National Grid, the Developer is responsible for the proper

synchronization of the Large Generating Facility to the New York State Transmission   
System in accordance with NYISO and National Grid procedures and requirements.

9.5 Real and Reactive Power Control.

9.5.1 Power Factor Design Criteria. Developer shall design the Large Generating   
 Facility to maintain an effective power delivery at demonstrated maximum net   
 capability at the Point of Interconnection at a power factor within the range   
 established by National Grid on a comparable basis, until NYISO has established   
 different requirements that apply to all generators in the New York Control Area   
 on a comparable basis.

The Developer shall design and maintain the plant auxiliary systems to operate safely throughout the entire real and reactive power design range.

National Grid shall not unreasonably restrict or condition the reactive power production or absorption of the Large Generating Facility in accordance with Good Utility Practice.

9.5.2 Voltage Schedules. Once the Developer has synchronized the Large

Generating Facility with the New York State Transmission System, NYISO   
shall require Developer to operate the Large Generating Facility to produce or   
absorb reactive power within the design capability of the Large Generating   
Facility set forth in Article 9.5.1 (Power Factor Design Criteria). NYISO’s   
voltage schedules shall treat all sources of reactive power in the New York   
Control Area in an equitable and not unduly discriminatory manner. NYISO   
shall exercise Reasonable Efforts to provide Developer with such schedules in

accordance with NYISO procedures, and may make changes to such schedules as necessary to maintain the reliability of the New York State Transmission   
System. Developer shall operate the Large Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within the design capability of the Large Generating Facility set forth in Article 9.5.1 (Power Factor Design Criteria) as directed by National Grid’s System Operator or the NYISO. If Developer is unable to maintain the specified voltage or   
power factor, it shall promptly notify NYISO.

9.5.3 Payment for Reactive Power. NYISO shall pay Developer for reactive power or   
 voltage support service that Developer provides from the Large Generating   
 Facility in accordance with the provisions of Rate Schedule 2 of the NYISO   
 Services Tariff.

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9.5.4 Governors and Regulators. Whenever the Large Generating Facility is operated   
 in parallel with the New York State Transmission System, the turbine speed   
 governors and automatic voltage regulators shall be in automatic operation at all   
 times. If the Large Generating Facility’s speed governors or automatic voltage   
 regulators are not capable of such automatic operation, the Developer shall   
 immediately notify NYISO, or its designated representative, and ensure that such   
 Large Generating Facility’s real and reactive power are within the design   
 capability of the Large Generating Facility’s generating unit(s) and steady state   
 stability limits and NYISO system operating (thermal, voltage and transient   
 stability) limits. Developer shall not cause its Large Generating Facility to   
 disconnect automatically or instantaneously from the New York State   
 Transmission System or trip any generating unit comprising the Large Generating   
 Facility for an under or over frequency condition unless the abnormal frequency   
 condition persists for a time period beyond the limits set forth in ANSI/IEEE   
 Standard C37.106, or such other standard as applied to other generators in the   
 New York Control Area on a comparable basis.

9.6 Outages and Interruptions.

9.6.1 Outages.

9.6.1.1 Outage Authority and Coordination. Developer and Connecting

Transmission Owners may each, in accordance with NYISO

procedures and Good Utility Practice and in coordination with the

other Parties, remove from service any of their respective Attachment   
Facilities or System Upgrade Facilities and System Deliverability   
Upgrades that may impact the other Parties’ facilities as necessary to   
perform maintenance or testing or to install or replace equipment.   
Absent an Emergency State, the Party scheduling a removal of such   
facility(ies) from service will use Reasonable Efforts to schedule such   
removal on a date and time mutually acceptable to both the Developer   
and National Grid. In all circumstances any Party planning to remove   
such facility(ies) from service shall use Reasonable Efforts to   
minimize the effect on the other Parties of such removal.

9.6.1.2 Outage Schedules. The Connecting Transmission Owners shall each

post scheduled outages of their transmission facilities on the NYISO   
OASIS. Developer shall submit its planned maintenance schedules for   
the Large Generating Facility to National Grid and NYISO for a   
minimum of a rolling thirty-six month period after such schedule is   
established in accordance with NRC Requirements and Commitments.   
Developer shall update its planned maintenance schedules as   
necessary. NYISO may direct, or National Grid may request,   
Developer to reschedule its maintenance as necessary to maintain the   
reliability of the New York State Transmission System. Compensation

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to Developer for any additional direct costs that the Developer incurs   
as a result of rescheduling maintenance, including any additional   
overtime, breaking of maintenance contracts or other costs above and   
beyond the cost the Developer would have incurred absent the request   
to reschedule maintenance, shall be in accordance with the NYISO   
OATT. Developer will not be eligible to receive compensation, if   
during the twelve (12) months prior to the date of the scheduled   
maintenance, the Developer had modified its schedule of maintenance   
activities other than at the direction of the NYISO or request of   
National Grid.

9.6.1.3 Outage Restoration. If an outage on the Attachment Facilities or

System Upgrade Facilities or System Deliverability Upgrades of the   
Connecting Transmission Owners or Developer adversely affects the   
other Parties’ operations or facilities, the Party that owns the facility   
that is out of service (or in the case of the Connecting Transmission   
Owners, National Grid) 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 (or in the case of the Connecting Transmission Owners,   
National Grid) shall provide the other Parties, to the extent such   
information is known, information on the nature of the Emergency   
State, an estimated time of restoration, and any corrective actions   
required. Initial verbal notice shall be followed up as soon as   
practicable with written notice explaining the nature of the outage.

9.6.2 Interruption of Service. If required by Good Utility Practice or Applicable

Reliability Standards to do so, the NYISO or National Grid may require

Developer to interrupt or reduce production of electricity if such production of   
electricity could adversely affect the ability of NYISO and National Grid to   
perform such activities as are necessary to safely and reliably operate and   
maintain the New York State Transmission System. The following provisions   
shall apply to any interruption or reduction permitted under this Article 9.6.2:

9.6.2.1 The interruption or reduction shall continue only for so long as

reasonably necessary under Good Utility Practice;

9.6.2.2 Any such interruption or reduction shall be made on an equitable, non-

discriminatory basis with respect to all generating facilities directly connected to the New York State Transmission System;

9.6.2.3 When the interruption or reduction must be made under circumstances

which do not allow for advance notice, NYISO or National Grid shall   
notify Developer by telephone as soon as practicable of the reasons for   
the curtailment, interruption, or reduction, and, if known, its expected

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duration. Telephone notification shall be followed by written notification as soon as practicable;

9.6.2.4 Except during the existence of an Emergency State, when the

interruption or reduction can be scheduled without advance notice,

NYISO or National Grid shall notify Developer in advance regarding   
the timing of such scheduling and further notify Developer of the   
expected duration. NYISO or National Grid shall coordinate with   
each other and the Developer using Good Utility Practice to schedule   
the interruption or reduction during periods of least impact to the   
Developer, National Grid and the New York State Transmission   
System;

9.6.2.5 The Parties shall cooperate and coordinate with each other to the

extent necessary in order to restore the Large Generating Facility,

Attachment Facilities, and the New York State Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

9.6.3 Under-Frequency and Over Frequency Conditions. The New York State

Transmission System is designed to automatically activate a load-shed program as   
required by the NPCC in the event of an under-frequency system disturbance.   
Developer shall implement under-frequency and over-frequency relay set points   
for the Large Generating Facility as required by the NPCC to ensure “ride   
through” capability of the New York State Transmission System. Large   
Generating Facility response to frequency deviations of predetermined   
magnitudes, both under-frequency and over-frequency deviations, shall be studied   
and coordinated with the NYISO and National Grid in accordance with Good   
Utility Practice. The term “ride through” as used herein shall mean the ability of   
a Generating Facility to stay connected to and synchronized with the New York   
State Transmission System during system disturbances within a range of under-  
frequency and over-frequency conditions, in accordance with Good Utility   
Practice and with NPCC Directory #12.

9.6.4 System Protection and Other Control Requirements.

9.6.4.1 System Protection Facilities. Developer shall, at its expense, install,

operate and maintain System Protection Facilities as a part of the   
Large Generating Facility or Developer Attachment Facilities.   
National Grid shall install at Developer’s expense any System   
Protection Facilities that may be required on the Connecting   
Transmission Owner’s Attachment Facilities or the New York State   
Transmission System as a result of the interconnection of the Large   
Generating Facility and Developer Attachment Facilities.

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9.6.4.2 The protection facilities of both the Developer and Connecting

Transmission Owners shall be designed and coordinated with other systems in accordance with Good Utility Practice and Applicable Reliability Standards.

9.6.4.3 The Developer and Connecting Transmission Owners shall each be

responsible for protection of their respective facilities consistent with Good Utility Practice and Applicable Reliability Standards.

9.6.4.4 The protective relay design of the Developer and Connecting

Transmission Owners 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 Developer’s Large Generating Facility.

9.6.4.5 The Developer and National Grid will each test, operate and maintain

System Protection Facilities in accordance with Good Utility Practice and NPCC criteria.

9.6.4.6 Prior to the In-Service Date, and again prior to the Commercial

Operation Date, the Developer and National Grid 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 Developer and National Grid 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.

9.6.5 Requirements for Protection. In compliance with NPCC requirements and

Good Utility Practice, Developer shall provide, install, own, and maintain relays,   
circuit breakers and all other devices necessary to remove any fault contribution   
of the Large Generating Facility to any short circuit occurring on the New York   
State Transmission System not otherwise isolated by Connecting Transmission   
Owners’ 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 Large Generating Facility and the New York State Transmission System at a   
site selected upon mutual agreement (not to be unreasonably withheld,   
conditioned or delayed) of the Developer and Connecting Transmission Owners.   
Developer shall be responsible for protection of the Large Generating Facility and

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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. Developer shall be solely responsible to disconnect the   
Large Generating Facility and Developer’s other equipment if conditions on the   
New York State Transmission System could adversely affect the Large   
Generating Facility.

9.6.6 Power Quality. Neither the facilities of Developer nor the facilities of

Connecting Transmission Owners shall cause excessive voltage flicker nor

introduce excessive distortion to the sinusoidal voltage or current waves as

defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric   
industry standard, ANSI Standard C84.1-1989, or the applicable superseding   
electric industry standard, shall control.

9.7 Switching and Tagging Rules. The Developer and National Grid 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.

9.8 Use of Attachment Facilities by Third Parties.

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

9.8.2 Third Party Users. If required by Applicable Laws and Regulations or if the

Parties mutually agree, such agreement not to be unreasonably withheld, to allow   
one or more third parties to use the Connecting Transmission Owner’s   
Attachment Facilities, or any part thereof, Developer will be entitled to   
compensation for the capital expenses it incurred in connection with the   
Attachment Facilities based upon the pro rata use of the Attachment Facilities by   
Connecting Transmission Owners, all third party users, and Developer, in   
accordance with Applicable Laws and Regulations or upon some other mutually-  
agreed upon methodology. In addition, cost responsibility for ongoing costs,   
including operation and maintenance costs associated with the Attachment   
Facilities, will be allocated between Developer and any third party users based   
upon the pro rata use of the Attachment Facilities by Connecting Transmission   
Owners, all third party users, and Developer, in accordance with Applicable Laws   
and Regulations or upon some other mutually agreed upon methodology. If the

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issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

9.9 Disturbance Analysis Data Exchange. The Parties will cooperate with one another and

the NYISO in the analysis of disturbances to either the Large Generating Facility 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.

9.10 NRC Requirements and Commitments for Voltage Limits

9.10.1 The Developer shall notify National Grid of the Developer’s required voltage

limits at the Off-site Power Supply Points which are required to supply auxiliary power and to ensure that emergency equipment fed from the auxiliary bus has suitable voltage to function in accordance with applicable NRC Requirements and Commitments. Promptly upon receipt of such notification from the Developer, National Grid shall communicate the Developer’s required voltage limits at the Scriba Substation to the NYISO as applicable.

9.10.2 National Grid will control, or communicate and coordinate with the NYISO or the

NPCC, as applicable, in order to control the voltage levels at the Off-site Power Supply Points within the Developer’s required limits.

9.10.3 National Grid and the Developer shall abide by the following notification protocol

with respect to the Developer’s required voltage levels at any and all substations that are the source of off-site power to the Off-site Power Supply Points:   
Whenever the voltage at such substations goes outside of or approaches the   
Developer’s high and low voltage limits, the Party making the determination that such condition exists shall notify the other Party, and National Grid will   
immediately notify the NYISO as applicable.

9.10.4 Annually, the Developer shall contact National Grid to determine from National

Grid if any changes have been made to the New York State Transmission System   
that may or could affect minimum and maximum voltages at the Off-site Power   
Supply Points. If necessary, National Grid will provide the Developer with new   
voltage values of the off-site power sources for applicable single contingency   
conditions.

9.11 Energy Management System Voltage Monitoring. National Grid agrees to monitor its

energy management system (“EMS) for a contingency alarm simulating a loss of coolant   
accident at the Large Generating Facility coincident with a trip of the Large Generating   
Facility’s generator; and National Grid will notify Developer’s plant operator upon

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receipt of the alarm and will inform the plant operator of post contingency voltage (the “EMS Service”).

9.11.1 For the EMS Service referenced above, Developer shall reimburse National Grid   
 $8,313.83 per year escalated annually at 3%. Reimbursement shall be paid by   
 Developer within 30 days after receipt of a National Grid invoice.

9.11.2 National Grid will not provide any hardware, software or software support

required by Developer to translate, edit, interpret or otherwise process or utilize the EMS Service.

9.11.3 National Grid will not be required to modify or otherwise alter the software   
 program in its EMS in any manner except to the extent required to provide   
 Developer the EMS Service.

9.11.4 If disputes arise regarding National Grid’s interpretation of whether a contingency   
 alarm is received, National Grid’s data will be utilized for determination of   
 whether Developer will be notified pursuant to this Section 9.11.

9.11.5 Planned and unplanned outages of National Grid’s EMS, EMS RTU, state

estimator, and outages of telephone company communication facilities will result   
in periodic loss of the EMS Service specified above. National Grid will provide   
Developer advance notice of scheduled outages, and with notice as soon as   
practical of unscheduled outages. Developer acknowledges that such outages will   
occur.

9.11.6 National Grid will make Reasonable Efforts to maintain its EMS equipment

within the accuracy specifications of that equipment. National Grid will

investigate and rectify legitimate issues related to data accuracy for its EMS

equipment. National Grid reserves the right to charge on an actual cost basis for investigating data accuracy problems.

9.11.7 Repair of the EMS hardware and other related equipment and/or software, which   
 results in the loss of the Service, will be completed during normal business hours.   
 Reasonable effort will be made to repair equipment and software in a timely   
 fashion as circumstances permit.

9.11.8 Notwithstanding anything in this Agreement to the contrary, neither the NYISO   
 nor NYSEG shall be liable to Developer, National Grid, or any third party in any   
 manner if National Grid or Developer breaches its obligations under this Section

9.11, whether or not such breach constitutes intentional misconduct or gross   
negligence. The provisions of this Section 9.11.8 shall survive termination,   
cancellation, suspension, completion or expiration of this Agreement.

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9.12 Operating Committee

9.12.1 Developer, National Grid, and NYSEG (collectively, “Operating Committee   
 Members”) shall each appoint one representative and one alternate to an   
 Operating Committee (“the Committee”). Each Operating Committee Member   
 shall notify the other Operating Committee Members of its appointment in   
 writing. Such appointments may be changed at any time by similar notice. The   
 Committee shall meet as necessary, but not less than once each calendar year, to   
 carry out the duties set forth herein. The Committee shall hold a meeting within   
 ten (10) calendar days of the request of any Operating Committee Member, at a   
 time and place agreed upon by the representative. Each representative and   
 alternate shall be a responsible person working in the day-to-day operations of   
 their respective electrical facilities. The Committee shall represent the Operating   
 Committee Members in all matters arising under this Agreement which may be   
 delegated to it by mutual agreement of the Operating Committee Members. The   
 duties of the Committee shall include, but are not limited to, the following:

a. Establish and maintain testing, control and operation procedures, including those pertaining to communication and information transfers between the Developer and the Connecting Transmission Owners.

b. Establish data requirements in accordance with the terms and conditions of this Agreement.

c. Review data acquisition equipment, protective equipment, and any other equipment or software requirements, standards, and procedures.

d. Review forecast maintenance and availability schedules of Connecting Transmission Owners’ and Developer’s facilities.

e. Ensure that appropriate information is being provided by each Operating Committee Member regarding equipment availability.

f. Ensure that appropriate coordination occurs regarding the operation of Joint Use Facilities.

g. Perform such other duties as specifically assigned under this Agreement or as   
may be conferred upon it by mutual agreement of the Operating Committee   
Members.

9.12.2 Each Operating Committee Member shall cooperate in providing to the

Committee all information required for the performance of the Committee’s   
duties. All decisions and agreements, if any, made by the Committee shall be

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evidenced in writing. The Committee shall have no power to amend or waive the provisions of this Agreement.

9.12.3 Nothing in this Section shall be construed to require the amendment or

modification of, or limitation in, the applicability of standards, practices and/or procedures of the Developer or the Connecting Transmission Owners.

9.13 Operation of Joint Use Facilities. Developer and National Grid shall, to ensure the

operational reliability of the New York State Transmission System, jointly operate the Joint Use   
Facilities listed in Section 4 of Appendix C of this Agreement in a safe and reliable manner in   
accordance with this Agreement, with NYISO tariffs and procedures, and with National Grid   
requirements as such requirements are set forth in Section 3 of Appendix C of this Agreement.

ARTICLE 10. MAINTENANCE

10.1 Connecting Transmission Owners Obligations. Connecting Transmission Owners

shall maintain their transmission facilities and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement.

10.2 Developer Obligations. Developer shall maintain its Large Generating Facility and

Attachment Facilities in a safe and reliable manner and in accordance with this

Agreement.

10.3 Coordination. The Developer and National Grid shall confer regularly to coordinate the

planning, scheduling and performance of preventive and corrective maintenance on the   
Large Generating Facility and the Attachment Facilities. The Developer and National   
Grid 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 Developer and National Grid shall each cooperate with the

other in the inspection, maintenance, and testing of control or power circuits that operate   
below 600 volts, AC or DC, including, but not limited to, any hardware, control or   
protective devices, cables, conductors, electric raceways, secondary equipment panels,   
transducers, batteries, chargers, and voltage and current transformers that directly affect   
the operation of Developer or Connecting Transmission Owners’ facilities and equipment   
which may reasonably be expected to impact the other Parties. The Developer and   
National Grid shall each provide advance notice to the other Party, and to the 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

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party and such third party pays for such expenses, Developer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating,   
maintaining, repairing, and replacing Developer Attachment Facilities; and (2) operation, maintenance, repair and replacement of Connecting Transmission Owner’s Attachment   
Facilities. In addition, Developer shall also be responsible for the incremental costs that are incurred by the Connecting Transmission Owners pursuant to Section 10.6 of this   
Agreement. The Connecting Transmission Owners shall be entitled to the recovery of   
incremental operating and maintenance expenses that they incur associated with System Upgrade Facilities and System Deliverability Upgrades if and to the extent provided for under Attachment S to the NYISO OATT.

10.6 NRC Maintenance Rule

10.6.1 Developer’s Obligations and Authority

10.6.1.1 In furtherance of Developer’s obligation to comply with the NRC   
 Maintenance Rule, the Connecting Transmission Owners agree that   
 Developer has the authority, control and obligation to: (1) review and   
 modify as appropriate the Connecting Transmission Owners’   
 identification of all facilities, components and functions covered under   
 the NRC Maintenance Rule, regardless of ownership, and require the   
 Connecting Transmission Owners to modify as appropriate the scope of   
 such facilities, components and functions so as to meet NRC   
 requirements; (2) in cooperation with the Connecting Transmission   
 Owners and in accordance with NRC guidance, to establish and approve   
 availability and reliability performance criteria and improvement goals   
 for all such facilities, components and functions, regardless of   
 ownership, to permit Developer to comply with the NRC Maintenance   
 Rule; and (3) in cooperation with the Connecting Transmission Owners   
 and in accordance with NRC guidance, to approve all improvements,   
 maintenance, inspections, monitoring, operational procedures, or any   
 other activity affecting such facilities, components and functions,   
 regardless of ownership, to permit Developer to comply with the NRC   
 Maintenance Rule.

10.6.1.2 The Connecting Transmission Owners agree that they will cooperate

with the Developer to assure the Developer’s compliance with the NRC   
Maintenance Rule as it applies to the facilities, components and   
functions of the Attachment Facilities and the New York State   
Transmission System. The Developer shall reimburse the Connecting   
Transmission Owners for the incremental costs incurred by the   
Connecting Transmission Owners pursuant to this Section 10.6 to assure   
compliance with the NRC Maintenance Rule. Such incremental costs   
shall be in addition to those costs assigned to the Developer pursuant to   
Section 10.5 of this Agreement.

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10.6.1.3 Any further incremental costs or expenses incurred by the Connecting   
 Transmission Owners as a result of a Developer request to the   
 Connecting Transmission Owners for additional or different action other   
 than those required under Section 10.6.1.2 above, or by the Connecting   
 Transmission Owners to assure Developer’s compliance with any   
 amendment or modification to, or any change in interpretation of, the   
 NRC Maintenance Rule after the Effective Date, shall also be borne by   
 Developer.

10.6.2 Schedule of Components. Section 5 of Appendix C to this Agreement sets forth

the Scriba Substation components that, as of the Effective Date, are necessary to   
fulfill those functions covered by the NRC Maintenance Rule. When required by   
the Developer pursuant to the NRC Maintenance Rule, Scriba Substation   
components will be maintained, inspected and tested in accordance with National   
Grid’s standard procedures for substation maintenance, inspection and testing. In   
the event the Developer and Connecting Transmission Owners agree that a   
component not identified in Section 5 of Appendix C should have been included   
in Section 5 of Appendix C, the Developer and Connecting Transmission Owners   
may, by their mutual agreement and agreement by the NYISO, add Scriba   
Substation components to Section 5 of Appendix C by amending this Agreement.   
In order to comply with the NRC Maintenance Rule, Developer may, in   
accordance with NRC Requirements and Commitments, add new Scriba   
Substation components to Section 5 of Appendix C, and also may change   
schedules for maintenance, inspection and testing of components identified in   
Section 5 of Appendix C, subject to the Developer’s payment of additional costs   
or expenses in accordance with Section 10.6.1.3.

10.6.3 Notice. To the extent National Grid becomes aware of any failure of any Scriba

Substation component identified in Section 5 of Appendix C, National Grid shall provide immediate notice thereof to the Developer and the other Connecting Transmission Owner.

10.6.4 Analysis. As required by the NRC Maintenance Rule, the Developer may, at its

discretion and with the Connecting Transmission Owners’ reasonable

cooperation, conduct an analysis of a failure of any Scriba Substation component   
identified in Section 5 of Appendix C, and any personnel error leading to the   
failure of any such component. The Connecting Transmission Owners will   
cooperate with the Developer and promptly, upon Developer’s request, provide   
Developer with all information under the Connecting Transmission Owners’   
control and consistent with Good Utility Practice necessary for Developer to: (1)   
determine whether the failure was a functional failure of equipment or the result   
of personnel error; (2) determine whether the failure, if a functional failure, was   
maintenance preventable; and (3) conduct root cause analyses of those failures as   
the Developer deems appropriate. At the request of Developer, and at   
Developer’s expense, the Connecting Transmission Owners shall assist in the   
performance of a root cause analysis for any Scriba Substation component failure

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identified in Section 5 of Appendix C and any personnel error leading to the failure of any such component, as Developer deems necessary.

10.6.5 Testing. As necessary, in accordance with Good Utility Practice, or at

Developer’s request, the Connecting Transmission Owners will arrange for

independent testing of any failed Scriba Substation component identified in

Section 5 of Appendix C subject to the Developer’s payment of additional costs or expenses in accordance with Section 10.6.1.3.

10.6.6 Performance Improvement Plan. Developer shall analyze data supplied by the

Connecting Transmission Owners concerning a failure of a Scriba Substation

component identified in Section 5 of Appendix C and any personnel error leading to the failure of any such component, and shall notify the Connecting   
Transmission Owners if a performance improvement plan is required in   
accordance with the NRC Maintenance Rule. The Developer and the Connecting Transmission Owners will cooperate to develop and implement any such   
performance plan, the cost of which shall be borne by Developer.

10.6.7 Records. For the term of this Agreement, the Connecting Transmission Owners

shall provide Developer with complete and accurate records concerning all

preventative and corrective maintenance activities performed by the Connecting Transmission Owners on all the Connecting Transmission Owners’ Scriba   
Substation components identified in Section 5 of Appendix C.

ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Developer Attachment Facilities. Developer shall design, procure, construct, install,

own and/or control the Developer Attachment Facilities described in Appendix A hereto, at its sole expense.

11.2 Connecting Transmission Owner’s Attachment Facilities. National Grid shall design,

procure, construct, install, own and/or control the Connecting Transmission Owner’s   
Attachment Facilities described in Appendix A hereto, at the sole expense of the   
Developer.

11.3 System Upgrade Facilities and System Deliverability Upgrades. National Grid shall

design, procure, construct, install, and own the System Upgrade Facilities and System   
Deliverability Upgrades described in Appendix A hereto. The responsibility of the   
Developer for costs related to System Upgrade Facilities and System Deliverability   
Upgrades shall be determined in accordance with the provisions of Attachment S to the   
NYISO OATT.

11.4 Special Provisions for Affected Systems. For the re-payment of amounts advanced to

Affected System Operator for System Upgrade Facilities or System Deliverability

Upgrades , the Developer and Affected System Operator shall enter into an agreement

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that provides for such re-payment, but only if responsibility for the cost of such System Upgrade Facilities or System Deliverability Upgrades is not to be allocated in accordance with Attachment S to the NYISO OATT. The agreement shall specify the terms   
governing payments to be made by the Developer to the Affected System Operator as well as the re-payment by the Affected System Operator.

11.5 Provision of Security. At least thirty (30) Calendar Days prior to the commencement of

the procurement, installation, or construction of a discrete portion of a Connecting

Transmission Owner’s Attachment Facilities and the Developer’s Attachment Facilities,   
Developer shall provide National Grid, at Developer’s option, a guarantee, a surety bond,   
letter of credit or other form of security that is reasonably acceptable to National Grid and   
is consistent with the Uniform Commercial Code of the jurisdiction identified in Article

14.2.1 of this Agreement. Such security for payment shall be in an amount sufficient to cover the cost for the Developer’s share of constructing, procuring and installing the applicable portion of Connecting Transmission Owner’s Attachment Facilities and   
Developer’s Attachment Facilities, and shall be reduced on a dollar-for-dollar basis for payments made to National Grid for these purposes.

In addition:

11.5.1 The guarantee must be made by an entity that meets the commercially reasonable   
 creditworthiness requirements of National Grid, and contains terms and   
 conditions that guarantee payment of any amount that may be due from   
 Developer, up to an agreed-to maximum amount.

11.5.2 The letter of credit must be issued by a financial institution reasonably acceptable   
 to National Grid and must specify a reasonable expiration date.

11.5.3 The surety bond must be issued by an insurer reasonably acceptable to National   
 Grid and must specify a reasonable expiration date.

11.5.4 Attachment S to the NYISO OATT shall govern the Security that Developer   
 provides for System Upgrade Facilities and System Deliverability Upgrades.

11.6 Developer Compensation for Emergency Services. If, during an Emergency State, the

Developer provides services at the request or direction of the NYISO or Connecting Transmission Owners, the Developer will be compensated for such services in   
accordance with the NYISO Services Tariff.

11.7 Line Outage Costs. Notwithstanding anything in the NYISO OATT to the contrary, the

Connecting Transmission Owners may propose to recover line outage costs associated   
with the installation of Connecting Transmission Owner’s Attachment Facilities or   
System Upgrade Facilities or System Deliverability Upgrades on a case-by-case basis.

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ARTICLE 12. INVOICE

12.1 General. The Developer and National Grid shall each submit to the other Party, on a

monthly basis, invoices of amounts due for the preceding month. Each invoice shall state   
the month to which the invoice applies and fully describe the services and equipment   
provided. The Developer and National Grid may discharge mutual debts and payment   
obligations due and owing to each other on the same date through netting, in which case   
all amounts one Party owes to the other Party under this Agreement, including interest   
payments or credits, shall be netted so that only the net amount remaining due shall be   
paid by the owing Party.

12.2 Final Invoice. Within six months after completion of the construction of the Connecting   
 Transmission Owner’s Attachment Facilities, the Developer’s Attachment Facilities, the   
 System Upgrade Facilities and System Deliverability Upgrades, National Grid shall   
 provide an invoice of the final cost of the construction of the Connecting Transmission   
 Owner’s Attachment Facilities, the Developer’s Attachment Facilities, the System   
 Upgrade Facilities and System Deliverability Upgrades, determined in accordance with   
 Attachment S to the NYISO OATT, and shall set forth such costs in sufficient detail to   
 enable Developer to compare the actual costs with the estimates and to ascertain   
 deviations, if any, from the cost estimates. National Grid shall refund to Developer any   
 amount by which the actual payment by Developer for estimated costs exceeds the actual   
 costs of construction within thirty (30) Calendar Days of the issuance of such final   
 construction invoice.

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

Appendix F hereto. The Party receiving the invoice shall pay the invoice within thirty

(30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices will not constitute a waiver of any rights or claims the paying Party may have under this Agreement.

12.4 Disputes. In the event of a billing dispute between National Grid and Developer,

National Grid shall continue to perform under this Agreement as long as Developer: (i)   
continues to make all payments not in dispute; and (ii) pays to National Grid or into an   
independent escrow account the portion of the invoice in dispute, pending resolution of   
such dispute. If Developer fails to meet these two requirements for continuation of   
service, then National Grid may provide notice to 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 the other Party shall pay the amount due with interest calculated in   
accord with the methodology set forth in FERC’s Regulations at 18 C.F.R. §

35.19a(a)(2)(iii).

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ARTICLE 13. EMERGENCIES

13.1 Obligations. Each Party shall comply with the Emergency State procedures of NYISO,

the applicable Reliability Councils, Applicable Laws and Regulations, including, without limitation, NRC Requirements and Commitments, and any emergency procedures agreed to by the NYISO Operating Committee.

13.2 Notice. NYISO or, as applicable, National Grid shall notify Developer promptly when it

becomes aware of an Emergency State that affects the Connecting Transmission Owner’s   
Attachment Facilities or the New York State Transmission System that may reasonably   
be expected to affect Developer’s operation of the Large Generating Facility or the   
Developer’s Attachment Facilities. Developer shall notify NYISO and National Grid   
promptly when it becomes aware of an Emergency State that affects the Large   
Generating Facility or the Developer Attachment Facilities that may reasonably be   
expected to affect the New York State Transmission System or the Connecting   
Transmission Owner’s Attachment Facilities. To the extent information is known, the   
notification shall describe the Emergency State, the extent of the damage or deficiency,   
the expected effect on the operation of Developer’s or Connecting Transmission Owners’   
facilities and operations, its anticipated duration and the corrective action taken and/or to   
be taken. The initial notice shall be followed as soon as practicable with written notice.

13.3 Immediate Action. Unless, in Developer’s reasonable judgment, immediate action is

required, Developer shall obtain the consent of National Grid, such consent to not be

unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Developer Attachment Facilities in response to an Emergency State either declared by NYISO, either of the Connecting Transmission Owners or   
otherwise regarding New York State Transmission System.

13.4 NYISO and Connecting Transmission Owner Authority.

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

NYISO and Connecting Transmission Owners shall use Reasonable Efforts to

minimize the effect of such actions or inactions on the Large Generating Facility   
or the Developer Attachment Facilities. NYISO or National Grid may, on the   
basis of technical considerations, require the Large Generating Facility to mitigate   
an Emergency State by taking actions necessary and limited in scope to remedy   
the Emergency State, including, but not limited to, directing Developer to shut-

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down, start-up, increase or decrease the real or reactive power output of the Large   
Generating Facility; implementing a reduction or disconnection pursuant to   
Article 13.4.2; directing the Developer to assist with blackstart (if available) or   
restoration efforts; or altering the outage schedules of the Large Generating   
Facility and the Developer Attachment Facilities. Developer shall comply with   
all of the NYISO and National Grid’s operating instructions concerning Large   
Generating Facility real power and reactive power output within the   
manufacturer’s design limitations of the Large Generating Facility’s equipment   
that is in service and physically available for operation at the time, in compliance   
with Applicable Laws and Regulations.

13.4.2 Reduction and Disconnection. NYISO or National Grid may reduce Energy

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

13.5 Developer Authority. Consistent with Good Utility Practice and this Agreement, the

Developer may take whatever actions or inactions with regard to the Large Generating   
Facility or the Developer Attachment Facilities during an Emergency State in order to (i)   
preserve public health and safety, (ii) preserve the reliability of the Large Generating   
Facility or the Developer Attachment Facilities, (iii) limit or prevent damage, and (iv)   
expedite restoration of service. Developer shall use Reasonable Efforts to minimize the   
effect of such actions or inactions on the New York State Transmission System and the   
Connecting Transmission Owner’s Attachment Facilities. NYISO and Connecting   
Transmission Owners shall use Reasonable Efforts to assist Developer in such actions.

13.6 Limited Liability. Except as otherwise provided in Article 11.6 of this Agreement, no

Party shall be liable to another Party for any action it takes in responding to an

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

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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 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.

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

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be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F hereto.

15.4 Operations and Maintenance Notice. Developer and National Grid 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 Force Majeure.

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 A Party shall not be responsible or liable, or deemed, in Default with respect to   
 any obligation hereunder, (including obligations under Article 4 of this   
 Agreement) , 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 Default.

17.1.1 General. No Breach shall exist where such failure to discharge an obligation   
 (other than the payment of money) is the result of Force Majeure as defined in   
 this Agreement or the result of an act or omission of the other Parties. Upon a   
 Breach, the non-Breaching Parties (or in the case of a Breach by a Connecting   
 Transmission Owner, the NYISO and Developer acting together) shall give   
 written notice of such to the Breaching Party. The Breaching Party shall have   
 thirty (30) Calendar Days from receipt of the Breach notice within which to cure   
 such Breach; provided however, if such Breach is not capable of cure within thirty

(30) Calendar Days, the Breaching Party shall commence such cure within thirty

(30) Calendar Days after notice and continuously and diligently complete such

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cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if   
cured within such time, the Breach specified in such notice shall cease to exist.

17.1.2 Right to Terminate. If a Breach is not cured as provided in this Article 17, or if   
 a Breach is not capable of being cured within the period provided for herein, the   
 non-Breaching Parties acting together (or in the case of a Breach by a Connecting   
 Transmission Owner, the NYISO and Developer 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, 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 commencement of any action or administrative or legal   
 proceeding or investigation as to which the indemnity provided for in Article 18.1

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may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party’s   
indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

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

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

18.2 No Consequential Damages. Other than the Liquidated Damages heretofore described

and the indemnity obligations set forth in Article 18.1, in no event shall any Party be

liable under any provision of this Agreement for any losses, damages, costs or expenses   
for any special, indirect, incidental, consequential, or punitive damages, including but not   
limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of   
temporary equipment or services, whether based in whole or in part in contract, in tort,   
including negligence, strict liability, or any other theory of liability; provided, however,   
that damages for which a Party may be liable to another Party under separate agreement   
will not be considered to be special, indirect, incidental, or consequential damages

hereunder.

18.3 Insurance and Indemnification for Nuclear Generating Unit. Developer covenants,

represents, and warrants:

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18.3.1 That it has entered into an agreement of indemnification with the NRC as   
provided under Section 170 of the Atomic Energy Act of 1954, as amended.

18.3.2 That it shall provide and maintain nuclear liability insurance in such amounts and forms as required by Section 170 of the Atomic Energy Act of 1954, as amended.

18.3.3 That is shall provide and maintain nuclear property insurance in an amount satisfactory to the NRC.

18.3.4 That it shall extend protection against a Nuclear Incident, as provided for in Sections 18.3.2 and 18.3.3 above, for the benefit of the Parties, their respective consultants, contractors, subcontractors, agents, invitees and employees.

18.3.5 Developer shall indemnify and hold harmless the other Parties, their respective

consultants, contractors, subcontractors, agents, invitees and employees from and against   
all losses, penalties, claims, demands, actions, proceedings, damages, expenses (including   
litigation costs and reasonable attorneys’ fees) and liabilities resulting from any Nuclear   
Incident.

In addition, Developer covenants, represents, and warrants that if the nuclear liability

protection system in effect on the effective date of this Agreement expires or is repealed, changed, or modified, it shall, without cost to the other Parties, maintain nuclear liability protection, to the extent that it is reasonably available, for the protection of the Parties through governmental indemnity, limitation of liability and/or insurance.

18.4 General Insurance. Developer and Connecting Transmission Owners shall each, at its

own expense, maintain in force throughout the period of this Agreement, and until

released by the other Parties, the following minimum insurance coverages, with insurers authorized to do business in the state of New York:

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

18.4.2 Commercial General Liability Insurance including premises and operations,

personal injury, broad form property damage, broad form blanket contractual

liability coverage (including coverage for the contractual indemnification)

products and completed operations coverage, coverage for explosion, collapse and   
underground hazards, independent contractors coverage, coverage for pollution to   
the extent normally available and punitive damages to the extent normally   
available and a cross liability endorsement, with minimum limits of One Million   
Dollars ($1,000,000) per occurrence/One Million Dollars ($1,000,000) aggregate   
combined single limit for personal injury, bodily injury, including death and   
property damage.

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18.4.3 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.

18.4.4 Excess Public Liability Insurance over and above the Employers’ Liability

Commercial General Liability and Comprehensive Automobile Liability

Insurance coverage, with a minimum combined single limit of Twenty Million   
Dollars ($20,000,000) per occurrence/Twenty Million Dollars ($20,000,000)   
aggregate.

18.4.5 The Commercial General Liability Insurance, Comprehensive Automobile

Insurance, and Excess Public Liability Insurance policies of Developer and

Connecting Transmission Owners shall name the other two Parties, their parents,   
associated and Affiliate companies and their respective directors, officers, agents,   
servants and employees (“Other Party Group”) as additional insured. All policies   
shall contain provisions whereby the insurers waive all rights of subrogation in   
accordance with the provisions of this 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.

18.4.6 The Commercial General Liability Insurance, Comprehensive Automobile

Liability Insurance, and Excess Public Liability Insurance policies shall contain   
provisions that specify that the policies are primary and shall apply to such extent   
without consideration for other policies separately carried and shall state that each   
insured is provided coverage as though a separate policy had been issued to each,   
except the insurer’s liability shall not be increased beyond the amount for which   
the insurer would have been liable had only one insured been covered. Developer   
and Connecting Transmission Owners shall each be responsible for their

respective deductibles or retentions.

18.4.7 The Commercial General Liability Insurance, Comprehensive Automobile

Liability Insurance, and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Developer and Connecting Transmission Owners.

18.4.8 The requirements contained herein as to the types and limits of all insurance to be

maintained by the Developer and Connecting Transmission Owners are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by those Parties under this Agreement.

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18.4.9 Within ten (10) days following execution of this Agreement, and as soon as   
 practicable after the end of each fiscal year or at the renewal of the insurance   
 policy and in any event within ninety (90) days thereafter, Developer and   
 Connecting Transmission Owners shall provide certification of all insurance   
 required in this Agreement, executed by each insurer or by an authorized   
 representative of each insurer.

18.4.10 Notwithstanding the foregoing, Developer and Connecting Transmission

Owners may each self-insure to meet the minimum insurance requirements of   
Articles 18.4.2 through 18.4.8 to the extent the Party 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 the Party’s self-insurance program meets   
the minimum insurance requirements of Articles 18.4.2 through 18.4.8. 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 18.4.2   
through 18.4.9. In the event that a Party is permitted to self-insure pursuant to   
this Article 18.4.10, it shall notify the other Parties that it meets the   
requirements to self-insure and that its self-insurance program meets the   
minimum insurance requirements in a manner consistent with that specified in   
Article 18.4.9.

18.4.11 Developer and Connecting Transmission Owners 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.

ARTICLE 19. ASSIGNMENT

19.1 Assignment. This Agreement may be assigned by a Party only with the written consent

of the other Parties; provided that a Party may assign this Agreement without the consent   
of the other Parties to any Affiliate of the assigning Party with an equal or greater credit   
rating and with the legal authority and operational ability to satisfy the obligations of the   
assigning Party under this Agreement; provided further that a Party may assign this   
Agreement without the consent of the other Parties in connection with the sale, merger,   
restructuring, or transfer of a substantial portion or all of its assets, including the   
Attachment Facilities it owns, so long as the assignee in such a transaction directly   
assumes in writing all rights, duties and obligations arising under this Agreement; and   
provided further that the Developer shall have the right to assign this Agreement, without   
the consent of the NYISO or Connecting Transmission Owners, for collateral security   
purposes to aid in providing financing for the Large Generating Facility, provided that the   
Developer will promptly notify the NYISO and Connecting Transmission Owners of any   
such assignment. Any financing arrangement entered into by the 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

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trustee or mortgagee will notify the NYISO and Connecting Transmission Owners of the   
date and particulars of any such exercise of assignment right(s) and will provide the   
NYISO and Connecting Transmission Owners with proof that it meets the requirements   
of Articles 11.5, 18.3 and 18.4. Any attempted assignment that violates this Article is   
void and ineffective. Any assignment under this Agreement shall not relieve a Party of   
its obligations, nor shall a Party’s obligations be enlarged, in whole or in part, by reason   
thereof. Where required, consent to assignment will not be unreasonably withheld,   
conditioned or delayed.

ARTICLE 20. SEVERABILITY

20.1 Severability. If any provision in this Agreement is finally determined to be invalid, void

or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision,   
agreement or covenant of this Agreement; provided that if the Developer (or any third   
party, but only if such third party is not acting at the direction of the Connecting   
Transmission Owners) seeks and obtains such a final determination with respect to any   
provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the rights and   
obligations of Developer and Connecting Transmission Owners shall be governed solely by the Standard Option (Article 5.1.1).

ARTICLE 21. COMPARABILITY

21.1 Comparability. The Parties will comply with all applicable comparability and code of

conduct laws, rules and regulations, as amended from time to time.

ARTICLE 22. CONFIDENTIALITY

22.1 Confidentiality. Certain information exchanged by the Parties during the term of this

Agreement shall constitute confidential information (“Confidential Information”) and shall be subject to this Article 22.

If requested by a Party receiving information, the Party supplying the information shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs   
associated with affording confidential treatment to its information.

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

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22.1.2 Confidential Information. The following shall constitute Confidential

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

22.1.3 Scope. Confidential Information shall not include information that the receiving   
 Party can demonstrate: (1) is generally available to the public other than as a   
 result of a disclosure by the receiving Party; (2) was in the lawful possession of   
 the receiving Party on a non-confidential basis before receiving it from the   
 disclosing Party; (3) was supplied to the receiving Party without restriction by a   
 third party, who, to the knowledge of the receiving Party after due inquiry, was   
 under no obligation to the disclosing Party to keep such information confidential;

(4) was independently developed by the receiving Party without reference to   
Confidential Information of the disclosing Party; (5) is, or becomes, publicly   
known, through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Article 22.1.8 of this   
Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Agreement.   
Information designated as Confidential Information will no longer be deemed   
confidential if the Party that designated the information as confidential notifies   
the other Party that it no longer is confidential.

22.1.4 Release of Confidential Information. No Party shall release or disclose

Confidential Information to any other person, except to its Affiliates (limited by   
FERC Standards of Conduct requirements), subcontractors, employees,   
consultants, or to parties who may be considering providing financing to or   
equity participation with Developer, or to potential purchasers or assignees of a   
Party, on a need-to-know basis in connection with this Agreement, unless such   
person has first been advised of the confidentiality provisions of this Article 22   
and has agreed to comply with such provisions. Notwithstanding the foregoing,   
a Party providing Confidential Information to any person shall remain primarily   
responsible for any release of Confidential Information in contravention of this   
Article 22.

22.1.5 Rights. Each Party retains all rights, title, and interest in the Confidential

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

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

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supplying Confidential Information, no Party obligates itself to provide any

particular information or Confidential Information to the other Parties nor to

enter into any further agreements or proceed with any other relationship or joint   
venture.

22.1.7 Standard of Care. Each Party shall use at least the same standard of care to

protect Confidential Information it receives as it uses to protect its own

Confidential Information from unauthorized disclosure, publication or

dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory   
requirements, including the NYISO 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 NYISO OATT.

22.1.8 Order of Disclosure. If a court or a Government Authority or entity with the

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

22.1.9 Termination of Agreement. Upon termination of this Agreement for any

reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other 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.

22.1.10 Remedies. The Parties agree that monetary damages would be inadequate to   
 compensate a Party for another Party’s Breach of its obligations under this   
 Article 22. Each Party accordingly agrees that the other 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

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herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.1.11 Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this

Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or   
its staff, during the course of an investigation or otherwise, requests information   
from one of the Parties that is otherwise required to be maintained in confidence   
pursuant to this Agreement or the NYISO 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.

22.1.12 Except as otherwise expressly provided herein, no Party shall disclose

Confidential Information to any person not employed or retained by the Party   
possessing the Confidential Information, except to the extent disclosure is (i)   
required by law; (ii) reasonably deemed by the disclosing Party to be required to   
be disclosed in connection with a dispute between or among the Parties, or the   
defense of litigation or dispute; (iii) otherwise permitted by consent of the other   
Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill   
its obligations under this Agreement, the NYISO 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.

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ARTICLE 23. ENVIRONMENTAL RELEASES

23.1 Developer and Connecting Transmission Owners Notice. Developer and the

Connecting Transmission Owners shall each notify the other Parties, first orally and then   
in writing, of the release of any Hazardous Substances, any asbestos or lead abatement   
activities, or any type of remediation activities related to the Large Generating Facility or   
the Attachment Facilities, each of which may reasonably be expected to affect the other   
Parties. 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   
Parties copies of any publicly available reports filed with any Governmental Authorities   
addressing such events.

ARTICLE 24. INFORMATION REQUIREMENT

24.1 Information Acquisition. National Grid and 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 by Connecting Transmission Owners. The initial

information submission by National Grid shall occur no later than one hundred eighty   
(180) Calendar Days prior to Trial Operation and shall include New York State   
Transmission System information necessary to allow the Developer to select equipment   
and meet any system protection and stability requirements, unless otherwise mutually   
agreed to by the Developer and National Grid. On a monthly basis National Grid shall   
provide Developer and NYISO a status report on the construction and installation of   
Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities,   
including, but not limited to, the following information: (1) progress to date; (2) a   
description of the activities since the last report; (3) a description of the action items for   
the next period; and (4) the delivery status of equipment ordered.

24.3 Updated Information Submission by Developer. The updated information submission

by the Developer, including manufacturer information, shall occur no later than one

hundred eighty (180) Calendar Days prior to the Trial Operation. Developer shall submit   
a completed copy of the Large Generating Facility data requirements contained in   
Appendix 1 to the Large Facility Interconnection Procedures. It shall also include any   
additional information provided to National Grid for the Interconnection Feasibility   
Study and Interconnection Facilities Study. Information in this submission shall be the   
most current Large Generating Facility design or expected performance data.   
Information submitted for stability models shall be compatible with NYISO standard   
models. If there is no compatible model, the Developer will work with a consultant   
mutually agreed to by the Parties to develop and supply a standard model and associated   
information.

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If the Developer’s data is different from what was originally provided to National Grid   
and NYISO pursuant to an Interconnection Study Agreement among the Connecting   
Transmission Owners, NYISO and 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 Interconnection Request, then   
NYISO will conduct appropriate studies to determine the impact on the New York State   
Transmission System based on the actual data submitted pursuant to this Article 24.3.   
Such studies will provide an estimate of any additional modifications to the New York   
State Transmission System, Connecting Transmission Owner’s Attachment Facilities, or   
System Upgrade Facilities or System Deliverability Upgrades based on the actual data   
and a good faith estimate of the costs thereof. The Developer shall not begin Trial   
Operation until such studies are completed. The Developer shall be responsible for the   
cost of any modifications required by the actual data, including the cost of any required   
studies.

24.4 Information Supplementation. Prior to the Commercial Operation Date, the Developer

and National Grid shall supplement their information submissions described above in this Article 24 with any and all “as-built” Large Generating Facility information or “as-  
tested” performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Developer shall conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit “step voltage” test on the Large Generating Facility to verify proper operation of the   
Large Generating Facility’s automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility   
at synchronous speed; (2) automatic voltage regulator on and in voltage control mode;   
and (3) a five percent change in Large Generating Facility terminal voltage initiated by a   
change in the voltage regulators reference voltage. Developer shall provide validated test   
recordings showing the responses of Large Generating Facility terminal and field   
voltages. In the event that direct recordings of these voltages is impractical, recordings of   
other voltages or currents that mirror the response of the Large Generating Facility’s   
terminal or field voltage are acceptable if information necessary to translate these   
alternate quantities to actual Large Generating Facility terminal or field voltages is   
provided. Large Generating Facility testing shall be conducted and results provided to   
National Grid and NYISO for each individual generating unit in a station. Subsequent to   
the Commercial Operation Date, the Developer shall provide National Grid and NYISO   
any information changes due to equipment replacement, repair, or adjustment. National   
Grid shall provide the Developer and NYISO any information changes due to equipment   
replacement, repair or adjustment in the directly connected substation or any adjacent   
Connecting Transmission Owners’ substation that may affect the Developer Attachment   
Facilities equipment ratings, protection or operating requirements. The Developer and   
National Grid shall provide such information no later than thirty (30) Calendar Days after   
the date of the equipment replacement, repair or adjustment.

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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 State. Any   
audit authorized by this Article shall be performed at the offices where such accounts and   
records are maintained and shall be limited to those portions of such accounts and records   
that relate to the Party’s performance and satisfaction of obligations under this

Agreement. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4 of this Agreement.

25.4 Audit Rights Periods.

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

Accounts and records related to the design, engineering, procurement, and

construction of Connecting Transmission Owner’s Attachment Facilities and

System Upgrade Facilities and System Deliverability Upgrades shall be subject to audit for a period of twenty-four months following National Grid’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

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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 Owners be liable   
for the actions or inactions of the Developer or its subcontractors with respect to   
obligations of the Developer under Article 5 of this Agreement. Any applicable   
obligation imposed by this Agreement upon the hiring Party shall be equally binding   
upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance. The obligations under this Article 26 will not be limited in

any way by any limitation of subcontractor’s insurance.

ARTICLE 27. DISPUTES

27.1 Submission. In the event any Party has a dispute, or asserts a claim, that arises out of or

in connection with this Agreement or its performance (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

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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, NYISO and Developer shall each choose one arbitrator and the   
Connecting Transmission Owners shall choose a third arbitrator mutually agreeable to   
both of them. 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 arbitrator(s), or the decision itself,   
violated the standards set forth in the Federal Arbitration Act or the Administrative   
Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC   
if it affects jurisdictional rates, terms and conditions of service, Attachment Facilities, or   
System Upgrade Facilities, or System Deliverability Upgrades.

27.4 Costs. Each Party shall be responsible for its own costs incurred during the arbitration

process. If the Parties agree on a single arbitrator, NYISO and Developer shall each pay   
one-third of the cost of the arbitrator and the Connecting Transmission Owners shall pay   
the remaining one-third of the cost of the arbitrator. If the Parties cannot agree on a   
single arbitrator, NYISO and Developer shall each pay the costs of the arbitrator chosen   
by that Party, and the Connecting Transmission Owners shall pay the cost of the third   
arbitrator mutually chosen by both of them. Any responsibility of Connecting   
Transmission Owners for arbitrator costs under this Section 27.4 shall be allocated as   
follows: National Grid shall be responsible for 87.13% of Connecting Transmission   
Owners’ arbitrator costs and NYSEG shall be responsible for 12.87% of Connecting   
Transmission Owners’ arbitrator costs.

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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 Large Generating Facility, Attachment Facilities and System   
Upgrade Facilities and System Deliverability Upgrades owned by such Party, as   
applicable, are located; and that it has the corporate power and authority to own   
its properties, to carry on its business as now being conducted and to enter into   
this Agreement and carry out the transactions contemplated hereby and perform   
and carry out all covenants and obligations on its part to be performed under and   
pursuant to this Agreement.

28.1.2 Authority. Such Party has the right, power and authority to enter into this

Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party,   
enforceable against such Party in accordance with its terms, except as the   
enforceability thereof may be limited by applicable bankruptcy, insolvency,   
reorganization or other similar laws affecting creditors’ rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

28.1.3 No Conflict. The execution, delivery and performance of this Agreement does   
 not violate or conflict with the organizational or formation documents, or bylaws   
 or operating agreement, of such Party, or any judgment, license, permit, order,   
 material agreement or instrument applicable to or binding upon such Party or   
 any of its assets.

28.1.4 Consent and Approval. Such Party has sought or obtained, or, in accordance   
 with this Agreement will seek or obtain, each consent, approval, authorization,   
 order, or acceptance by any Governmental Authority in connection with the   
 execution, delivery and performance of this Agreement, and it will provide to   
 any Governmental Authority notice of any actions under this Agreement that are   
 required by Applicable Laws and Regulations.

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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   
Large Facility Interconnection Procedures or such Appendix to the Large Facility   
Interconnection Procedures, as the case may be; (6) “hereunder”, “hereof’, “herein”,   
“hereto” and words of similar import shall be deemed references to this Agreement as a   
whole and not to any particular Article or other provision hereof or thereof; (7)   
“including” (and with correlative meaning “include”) means including without limiting   
the generality of any description preceding such term; and (8) relative to the   
determination of any period of time, “from” means “from and including”, “to” means “to   
but excluding” and “through” means “through and including”.

29.4 Compliance. Each Party shall perform its obligations under this Agreement in

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

circumstances.

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29.5 Joint and Several Obligations. Except as otherwise stated herein, the obligations of

NYISO, Developer and the Connecting Transmission Owners (collectively) 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 the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and permitted their assigns.

29.8 Waiver. The failure of a Party to this Agreement to insist, on any occasion, upon strict

performance of any provision of this Agreement will not be considered a waiver of any   
obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by   
either Party of its rights with respect to this Agreement shall not be deemed a continuing   
waiver or a waiver with respect to any other failure to comply with any other obligation,   
right, duty of this Agreement. Termination or Default of this Agreement for any reason   
by the Developer shall not constitute a waiver of the Developer’s legal rights to obtain

Capacity Resource Interconnection Service and Energy Resource Interconnection Service   
from the NYISO and Connecting Transmission Owners in accordance with the provisions   
of the NYISO OATT. Any waiver of this Agreement shall, if requested, be provided in   
writing.

29.9 Headings. The descriptive headings of the various Articles of this Agreement have been

inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

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

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

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

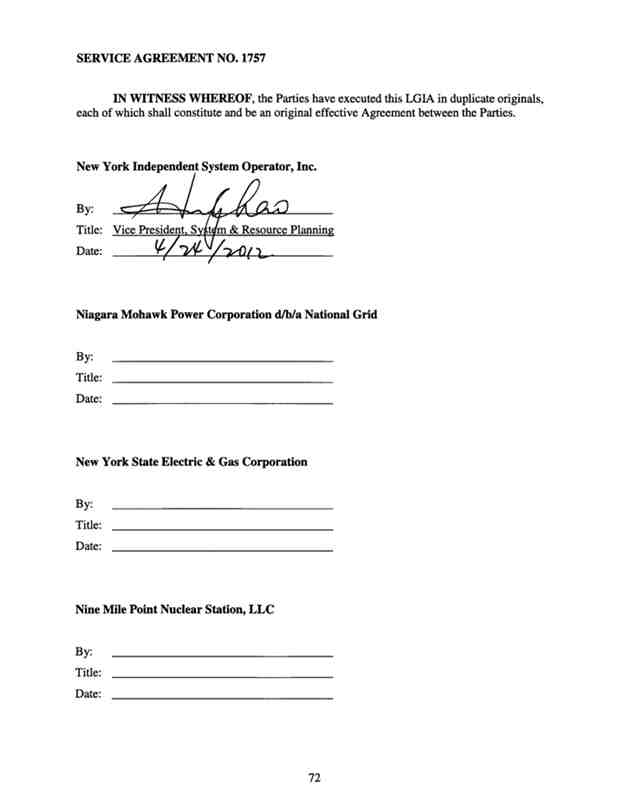
29.14 No Partnership. This Agreement shall not be interpreted or construed to create an

association, joint venture, agency relationship, or partnership among the Parties or to

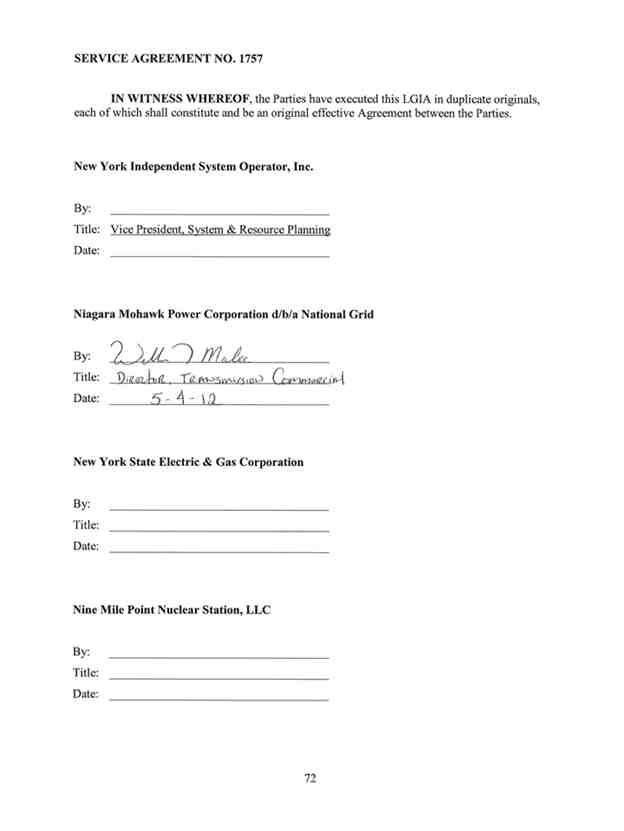
impose any partnership obligation or partnership liability upon any Party. No Party shall   
have any right, power or authority to enter into any agreement or undertaking for, or act   
on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any   
other Party.

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 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 System Upgrade Facilities and System Deliverability Upgrades.

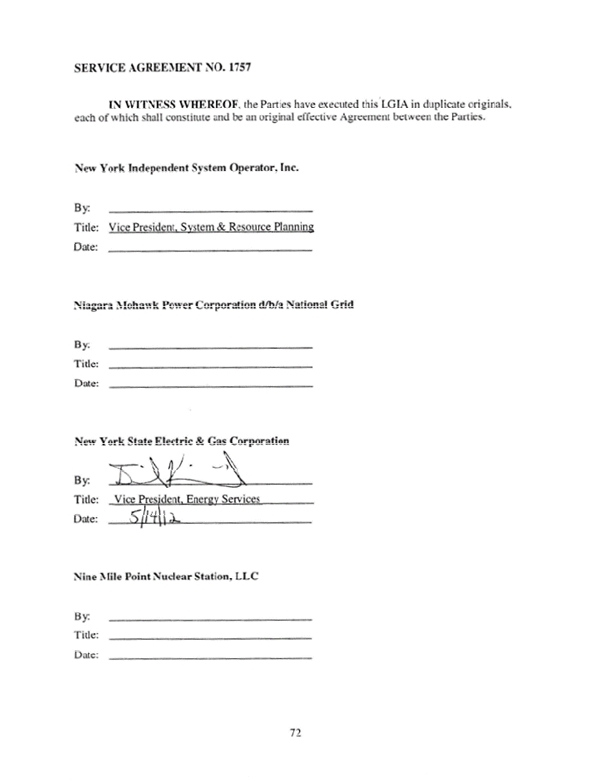
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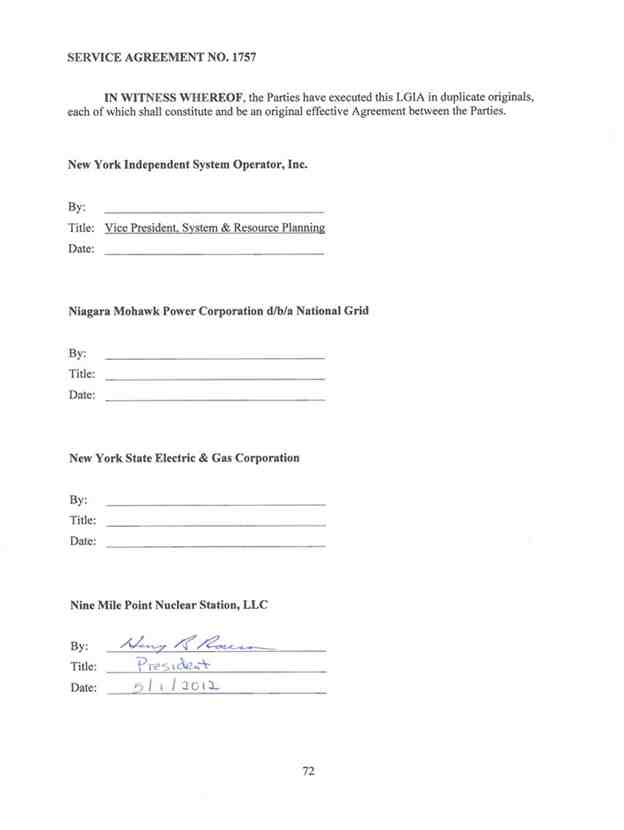
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Appendices

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Appendix A

Attachment Facilities and System Upgrade Facilities

1. Attachment Facilities:

(a) Developer’s Attachment Facilities:

i. Existing Developer Attachment Facilities

Nine Mile Point No. 2 345 kV Switchyard

• Four (4) Single-Phase Generator Step-Up Transformers, Delta/Wye,   
 408/457 MVA, OA/FOA, 202 kV - 24.3 kV (2MTX - XM1A through   
 XM1D) (1 unit is a spare);

• One (1) Three-Phase, Motor Operated, 345 kV Disconnect Switch,

(2YXC-MDS1), 3000 A Continuous, 1300 kV BIL, 100 kA Momentary (switch 233-N with ground switch 23G); and

• One (1) 345 kV Overhead Conductor, 1192.5 KCM ACSR, 45/7 (2 per

Ф), 0.5 mile, 2796 A Continuous (Line #23).

Scriba Station

• Two (2) 345 kV SF6 Gas Insulated Breakers (R230 and R925), 3000 A   
 Continuous, 372 kV Maximum, 1300 kV BIL, 50 kA Momentary;

• Two (2) Three-Phase, Motor Operated, 345 kV Air Break Disconnect

Switches (switches 231 & 232), 3000 A Continuous, 100 kA Momentary, 1300 kV BIL;

• One (1) Three-Phase, Motor Operated, 345 kV Air Break Disconnect

Switch (switch 233-S), with Ground Switch (23G), 3000 A Continuous, 100 kA Momentary (Main Switch), 120 kA Momentary (Ground Switch), 1300 kV BIL;

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• Three (3) Single-Phase, Free Standing Current Transformers for R230,

2000/2000/5A, 2000 A Continuous, 372 kV Maximum, 1300 kV BIL, 50 kA Momentary, Balteau TGX362;

• Three (3) Single-Phase, Free Standing Current Transformers for R925,

2000/2000/5A, 3000 A Continuous, 372 kV Maximum, 1300 kV BIL, 50 kA Momentary, Trench SAS 362;

• Three (3) 345 kV, Single-Phase, Capacitance Coupling Voltage

Transformers, Trench Type TEV-345 (collectively J8923);

• Three (3) Three-Phase, Motor Operated, 345 kV Air Break Disconnect

Switches (switches 926, 927, 991), 3000 A Continuous, 100 kA Momentary, 1300 kV BIL;

• Two (2) Three-Phase, 345 kV-120 kV/13.8 kV Auto-Transformers (TB-1

& TB-2), 224 MVA, FOA 65°C, 51 MVA Tertiary;

• Three (3) 345 kV, Single-Phase Metering Current Transformers, 2000-

1000/5 A, GE Type BR at TB1;

• Three (3) 345 kV, Single-Phase, Metering Current Transformers, 2000-

1000/5 A, GE Type BW at TB2;

• Two (2) Three-Phase, Motor Operated, 345 kV Air Break Disconnect

Switches (switches 18 & 28), 3000 A Continuous, 100 kA Momentary,

1300 kV BIL;

• Two (2) 23 kV Resistored Power Fuses (J5058 & J5128), 50E Amp Slow

Speed;

• Two (2) 115 kV, SF6 Gas Insulated Breakers (R115 & R225), 2000 A

Continuous, 121 kV Maximum, 550 kV BIL, 48 kA Momentary;

• Four (4) Three-Phase, Manually Operated, 115 kV Air Break Disconnect

Switches at Scriba (switches 118, 128, 218, 228), 2000 A Continuous, 100 kA Momentary, 550 kV BIL;

• One (1) 115 kV, Overhead Conductor 795 KCM ACSR, 36/1, 0.5 mile

(Line #5);

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• One (1) 115 kV, Overhead Conductor 795 KCM ACSR, 36/1, 0.9 mile   
 (Line #6);

• Two (2) 115 kV, SF6 Gas Insulated Breakers (R50 & R60), 2000 A   
 Continuous, 121 kV Maximum, 550 kV BIL, 48 kA Momentary;

• Seven (7) Three-Phase, Manually Operated, 115 kV Air Break Disconnect   
 Switches (switches 21, 27, 29, 51, 53, 61, 63), 2000 A Continuous, 550   
 kV BIL, 100 kA Momentary;

• Six (6) Single-Phase, 115 kV Bus “C” and Bus “D” Potential

Transformers (J9993 & J9994), Westinghouse Type APT 550, 115 kV; 550 kV BIL, Ratio 600/1000:1;

• 115 kV Bus “C” and 115 kV Bus “D”; and

• Six (6) 115 kV Bus “C” and 115 kV Bus “D” Surge Arresters.

Nine Mile Point No. 2 115 kV Switchyard

• Two (2) Three-Phase, Reserve Station Service Transformers (2RTX-

XSR1A and 2RTX-XSR1B), Wye/Delta/Wye, 42/56/70 MVA, 115

kV/13.8 kV/4.16 kV;

• One (1) Three-Phase, Auxiliary Boiler Service Transformer (2ABS-X1),   
 Wye/Delta/Wye, 16.6/22.08/27.56 MVA, 115 kV/13.8 kV/4.16 kV;

• Four (4) Three-Phase, Motor Operated, 115 kV Disconnect Switches (#53,   
 #63, #8106, and #8107), 1200 A Continuous;

• Three (3) 115 kV Circuit Switchers (circuit switchers 18, 28, 38) 1200 A   
 Continuous, 3000 A Switching; and

• Six (6) 115 kV Single-Phase, 115 kV Potential Transformers (2YUB-XP1   
 and XP2), Type EW 119.5 kV LL, 69 kV LN, 199V/115V/69V; 115V.

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ii. New Developer’s Attachment Facilities for Expansion Project

• The Balteau TGX362 Current Transformers at breaker R230 will be

reclassified, and the secondary wiring unparalleled and interfaced with   
National Grid’s Schneider ION 8600 or ION 8650 revenue meters; and

• The Trench SAS-362 Current Transformers at breaker R925 secondary

wiring will be unparalleled and interfaced with National Grid’s Schneider ION 8600 or ION 8650 revenue meters.

All engineering and procurement will be completed by National Grid.

Construction, installation, testing and commissioning will be completed by National Grid with partial oversight and assistance by the Developer.   
Orchestration of the construction will be completed as part of the final   
engineering process.

iii. Additional Developer’s Attachment Facilities Not Required for   
 Expansion Project

• The three (3) 345 kV, Single-Phase Metering Current Transformers, 2000-  
 1000/5 A, GE Type BR at TB1 will be reclassified; and

• The three (3) 345 kV, Single-Phase Metering Current Transformers, 2000-  
 1000/5 A, GE Type BW at TB2 will be reclassified.

All engineering and procurement will be completed by National Grid.

Construction, installation, testing and commissioning will be completed by National Grid with partial oversight and assistance by the Developer.   
Orchestration of the construction will be completed as part of the final   
engineering process.

(b) Connecting Transmission Owner’s Attachment Facilities:

i. Existing Connecting Transmission Owner’s Attachment Facilities

• Four (4) JEM meters;

• Four (4) MaxSys meters;

• Three (3) Metering Current Transformers at each TB5 and TB12; and

• RFL Equipment (NYISO owned; National Grid maintained).

With the exception of the RFL Equipment, National Grid owns the

existing Connecting Transmission Owner’s Attachment Facilities listed

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above. The JEM meters will be replaced as part of the Expansion Project (as defined in Appendix C).

ii. New Connecting Transmission Owner’s Attachment Facilities for

Expansion Project

• The read capability of the RFL equipment will be increased by   
 reprogramming at both the station and NYISO ends;

• Two (2) sets of three (3) 345 kV Potential Transformers (1 set on each   
 of the 345 kV “A” and “B” buses to replace the existing CCVTs   
 collectively denominated J9991 and J9992); and

• Four (4) Schneider ION 8600 or ION 8650 revenue meters as follows:

o Two (2) meters will be wired to the R230 Current

Transformers and interfaced to the new Potential Transformers on “A” bus; and

o Two (2) meters will be wired to the R925 Current

Transformers and interfaced to the new Potential Transformers on the “B” bus.

All engineering and procurement will be completed by National Grid.

Construction, installation, testing and commissioning will be completed by   
National Grid with partial oversight and assistance by the Developer.   
Orchestration of the construction will be completed as part of the final   
engineering process. National Grid will own the new Connecting   
Transmission Owner’s Attachment Facilities for the Expansion Project   
listed above.

iii. Additional Connecting Transmission Owner’s Attachment Facilities   
 Not Required for Expansion Project

• Addition of Station Service Metering on the line side of switches 21   
 and 27 for service provided from Line #2 consisting of:

o Six (6) 115 kV Ritz CTPT units; and

o Four (4) MaxSys meters.

• Modification to Station Service Metering at TB1 and TB2 consisting   
 of:

o Four (4) Schneider ION 8600 or ION 8650 revenue meters as   
 follows:

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▪ Two (2) meters will be wired to the TB 1 Current   
 Transformers and interfaced to the new Potential   
 Transformers on “A” bus; and

▪ Two (2) meters will be wired to the TB 2 Current   
 Transformers and interfaced to the new Potential   
 Transformers on “B” bus.

All engineering and procurement will be completed by National Grid.

Construction, installation, testing and commissioning will be completed by National Grid with partial oversight and assistance by the Developer.   
Orchestration of the construction will be completed as part of the final   
engineering process. National Grid will own the additional Connecting Transmission Owner’s Attachment Facilities not required for the   
Expansion Project listed above.

(c) Cost Estimates for Attachment Facilities

The following table provides the cost estimates for Connecting Transmission   
Owner’s Attachment Facilities, as well as for the work described in Sections   
1(a)(ii) and (iii) of this Appendix A to be performed by National Grid on the   
specified Developer’s Attachment Facilities. These cost estimates are from the   
Facilities Study Report - Part 1 Nine Mile Point 2 Uprate Project, Queue #216,   
dated October 14, 2009.

Description Estimated Costs

New Attachment Facilities and   
Related Work for Expansion   
Project

Additional New Attachment   
Facilities and Related Work   
Not Required for Expansion   
Project

Total

Revenue Metering Current Transformer $980,000 Reclassifications (Current Transformers at

R230 only), Line 23 Revenue Metering, and RFL Telemetry Equipment

Revenue Metering Current Transformer $826,000 Reclassifications (Current Transformers at

TB1 and TB2), 115 kV Station Service Revenue Metering EPC, and 345 kV Station Service Revenue Metering

$1,806,000

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2. System Upgrade Facilities:

(a) Stand Alone System Upgrade Facilities:

None.

(b) Other System Upgrade Facilities:

None.

3. System Deliverability Upgrades:

None.

4. Other Requirements

Developer’s Expansion Project, Queue position numbered 216, as described in Section 1 of   
Appendix C of this Agreement was included in Class Year 2008 for purposes of Energy   
Resource Interconnection Service (“ERIS”) cost allocation, and for Capacity Resource   
Interconnection Service (“CRIS”) cost allocation, under Attachment S to the NYISO OATT.   
Developer accepted its Project Cost Allocation for ERIS, but declined to accept its Project Cost Allocation for CRIS. Developer’s Existing Facility has 1148.3 MW of grandfathered Installed Capacity deliverability rights.

However, pursuant to Section 25.9.5 of Attachment S to the NYISO OATT, Developer

contracted with the owner of two existing facilities to transfer a total of 96.3 MW of Installed   
Capacity deliverability rights from the two existing facilities to the Developer’s Large   
Generating Facility. In accordance with Section 25.9.5 of Attachment S to the NYISO OATT,   
the NYISO evaluated the proposed transfer as a part of the 2009 Class Year Deliverability Study and found that the 96.3 MW of Installed Capacity deliverability rights could be transferred.   
Following this evaluation, the Developer provided timely notice to the NYISO that the transfer   
transaction had been finalized.

Pursuant to Section 25.9.5 of Attachment S to the NYISO OATT, when Developer's Large

Generating Facility becomes operational at the levels necessary to utilize the transferred rights, Developer's Large Generating Facility will acquire the 96.3 MW of transferred Installed   
Capacity deliverability rights and the NYISO will provide the Large Generating Facility with a total of 1244.6 MW of Capacity Resource Interconnection Service, as well as 1380 MW of Energy Resource Interconnection Service.

5. Operation and Maintenance Expenses

In accordance with Section 10.5 of this Agreement, Developer shall be responsible for all   
reasonable operation and maintenance expenses (“O&M Expenses”) associated with the

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operation, maintenance, repair and replacement of Connecting Transmission Owner’s

Attachment Facilities, as such Attachment Facilities are detailed in this Appendix A. In addition, Developer shall also be responsible for the incremental costs that are incurred by the Connecting Transmission Owners pursuant to Section 10.6 of this Agreement to assure compliance with the NRC Maintenance Rule. The Scriba Substation facilities covered by the NRC Maintenance Rule are listed in Section 5 of Appendix C of this Agreement.

Developer shall have the option to pay the O&M Expenses for which it is responsible under Section 10.5 of this Agreement by following either the procedure described in Option 1 or the procedure described in Option 2 below.

Option 1: Fixed On-Going Charge Payment

National Grid will invoice and Developer shall pay an annual payment to National Grid equal to the product of the Gross Plant Investment associated with the Connecting Transmission   
Owner’s Attachment Facilities and the Annual Transmission Ongoing Charge Factor, for the term of this Agreement.

All payments due to be made by Developer shall be made within thirty (30) days after receiving an invoice from National Grid.

The Project’s Gross Connecting Transmission Owner’s Attachment Facilities Plant Investment cost shall be established in writing by National Grid no later than 90 days following commercial operation.

The Annual On-Going Charge Factor shall be calculated annually each July based on

National Grid’s most recently filed FERC Form 1 data and will equal the sum of the Revenue   
Requirement Components as identified on O&M Attachment 1 divided by the Total Gross   
Plant of National Grid. Total Gross Plant shall equal the sum of Item Nos. A (1)(a)(b) and

(c) in O&M Attachment 1.

Option 2: Annual Actual O&M Expenses

Developer shall pay for all actual O&M Expenses incurred by National Grid, which expenses shall be billed by National Grid quarterly as accumulated during the calendar quarter for   
which they were incurred.

All payments due to be made by Developer shall be made within thirty (30) days after

receiving an invoice from National Grid, which invoice shall be issued after the end of each calendar quarter for the most recent quarter.

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Selection by Developer

Developer shall select which option for paying O&M Expenses by providing written notice to National Grid within thirty (30) days after receiving from National Grid the Gross   
Connecting Transmission Owner’s Attachment Facilities Plant Investment cost and the most recent Annual Transmission Ongoing Charge Factor. If Developer fails to provide timely notice to National Grid of the option selected, Developer will be deemed to have selected Option 2: Annual Actual O&M Expenses.

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O&M ATTACHMENT 1

Capitalized terms used in this calculation will have the following definitions:

Allocation Factors

1. General Plant Allocation Factor shall equal Electric General Plant divided by the sum of

Electric General Plant plus gas general plant as reported in the Annual Report filed with the New York State Public Service Commission.

2. Gross Transmission Plant Allocation Factor shall equal the total investment in

Transmission Plant in Service divided by the sum of the total Transmission Plant in

Service plus the total Distribution Plant in Service, excluding Intangible Plant, General Plant and Common Plant.

3. Transmission Wages and Salaries Allocation Factor shall equal the ratio of National

Grid’s Transmission-related direct electric wages and salaries including any direct wages   
or salaries charged to National Grid by a National Grid Affiliate to National Grid’s total   
electric direct wages and salaries including any wages charged to National Grid by a   
National Grid Affiliate excluding any electric administrative and general wages and   
salaries.

Ratebase and Expense items

1. Administrative and General Expense shall equal electric expenses as recorded in FERC

Account Nos. 920-935.

2. Amortization of Investment Tax Credits shall equal electric credits as recorded in FERC

Account No. 411.4.

3. Distribution Plant in Service shall equal the gross plant balance as recorded in FERC

Account Nos. 360 - 374.

4. Electric Common Plant shall equal the balance of Common Plant recorded in FERC

Account Nos. 389-399 multiplied by the General Plant Allocation Factor.

5. General Plant shall equal electric gross general plant balance recorded in FERC Account

Nos. 389-399.

6. Materials and Supplies shall equal electric materials and supplies balance as recorded in

FERC Account No. 154.

7. Payroll Taxes shall equal those electric payroll tax expenses as recorded in FERC

Account Nos. 408.100, 408.110, and 408.130.

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8. Prepayments shall equal electric prepayment balance as recorded in FERC Account No.

165.

9. Real Estate Tax Expenses shall equal electric transmission-related real estate tax expense

as recorded in FERC Account No. 408.140 and 408.180.

10. Transmission Operation and Maintenance Expense shall equal electric expenses as

recorded in FERC Account Nos. 560, 562-573.

11. Transmission Plant in Service shall equal the gross plant balance as recorded in FERC

Account Nos. 350-359.

12. Transmission Revenue Credits shall equal the revenue reported in Account 456

13. Transmission Related Bad Debt Expense shall equal Bad Debt Expense as reported in

Account 904 related to transmission billing.

14. Wholesale Metering Cost shall equal any costs associated with any Revenue or Remote

Terminal Unit (RTU) meters and associated equipment located at an internal or external tie at voltages equal to or greater than 23V. The cost shall be determined by multiplying the number of wholesale meters in FERC Account No. 370.3 by the average cost of the meters plus the average costs of installation.

In the event that the above-referenced FERC accounts are renumbered, renamed, or otherwise modified, the above sections shall be deemed amended to incorporate such   
renumbered, renamed, modified or additional accounts.

Revenue Requirement Components

The Revenue Requirement Component shall be the sum of National Grid’s (A) Return

and Associated Income Taxes, (B) Transmission Related Real Estate Tax Expense, (C)

Transmission Related Amortization of Investment Tax Credits, (D) Transmission Related Payroll   
Tax Expense, (E) Transmission Operation and Maintenance Expense, (F) Transmission Related   
Administrative and General Expenses, less (G) Revenue Credits, plus (H) Bad Debt Expense.

A. Return and Associated Income Taxes shall equal the product of the Transmission   
 Investment Base as identified in A(1) below and the Cost of Capital Rate.

1. Transmission Investment Base shall be defined as

Transmission Related General Plant plus Transmission Related Common Plant

plus Transmission Related Regulatory Assets plus Transmission Related

Prepayments plus Transmission Related Materials and Supplies plus Transmission Related Cash Working Capital.

(a) Transmission Plant in Service shall equal the balance of Total investment

in Transmission Plant plus Wholesale Metering Cost.

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(b) Transmission Related General Plant shall equal the balance of investment

in General Plant multiplied by the Transmission Wages and Salaries Allocation Factor.

(c) Transmission Related Common Plant shall equal Electric Common Plant

multiplied by the Gross Transmission Plant Allocation Factor and

multiplied by the Transmission Wages and Salaries Allocation Factor.

(d) Transmission Related Regulatory Assets shall equal balances in FERC

Account Nos. 182.3 and 254 for state and federal regulatory assets and

liabilities related to FAS109, and excess AFUDC multiplied by the Gross Transmission Plant Allocation Factor

(e) Transmission Related Prepayments shall equal the electric balance of

Prepayments multiplied by the Gross Transmission Plant Allocation

Factor.

(f) Transmission Related Materials and Supplies shall equal the balance of

Materials and Supplies assigned to Transmission added to the remainder   
of Material and Supplies not directly assigned to either Transmission or   
Distribution multiplied by the Gross Transmission Plant Allocation Factor.

(g) Transmission Related Cash Working Capital shall be a 12.5% allowance

(45 days/360 days) of the Transmission Operation and Maintenance

Expense (less FERC Account 565: Transmission of Electricity by Others) and Transmission-Related Administrative and General Expense.

2. Cost of Capital Rate

The Cost of Capital Rate shall equal the proposed Weighted Costs of Capital plus Federal Income Taxes and State Income Taxes.

(a) The Weighted Costs of Capital will be calculated for the Transmission

Investment Base using National Grid’s actual capital structure and will equal the sum of (i), (ii), and (iii) below:

(i) the long-term debt component, which equals the product of the

actual weighted average embedded cost to maturity of National Grid’s long-term debt then outstanding and the actual long-term debt capitalization ratio.

(ii) the preferred stock component, which equals the product of the

actual weighted average embedded cost to maturity of National Grid’s preferred stock then outstanding and the actual preferred stock capitalization ratio;

(iii) the return on equity component, shall be the product of the allowed

ROE of 11.9% plus a 50 basis point adder (per FERC Order 697

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and 697A) and National Grid’s actual common equity capitalization ratio.

(b) Federal Income Tax shall equal

A x Federal Income Tax Rate   
(1 - Federal Income Tax Rate)

where A is the sum of the preferred stock component and the return on equity component, each as determined in Sections 2.(a)(ii) and for the ROE set forth in 2.(a)(iii) above

(c) State Income Tax shall equal

(A + Federal Income Tax) x State Income Tax Rate   
 (1 - State Income Tax Rate)

Where A is the sum of the preferred stock component and the return on equity component as determined in A.2.(a)(ii) and A.2.(a)(iii) above and Federal income Tax is determined in 2.(b) above.

B. Transmission Related Real Estate Tax Expense shall equal the Real Estate Tax Expenses

multiplied by the Gross Plant Allocation Factor.

C. Transmission Related Amortization of Investment Tax Credits shall equal the electric

Amortization of Investment Tax Credits multiplied by the Gross Transmission Plant Allocation Factor.

D. Transmission Related Payroll Tax Expense shall equal Payroll Taxes multiplied by the

Transmission Wages and Salaries Allocation Factor.

E. Transmission Operation and Maintenance Expense shall equal the Transmission

Operation and Maintenance Expense as previously defined.

F. Transmission Related Administrative and General Expenses shall equal the sum of the

electric Administrative and General Expenses multiplied by the Transmission Wages and Salaries Allocation Factor.

G. Revenue Credits shall equal all Transmission revenue recorded in FERC account 456.

H. Transmission Related Bad Debt Expense shall equal Transmission Related Bad Debt

Expense as previously defined.

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Figure A-1

This page has been omitted from the Public version of this document as it contains   
Critical Energy Infrastructure Information Protected from Disclosure Pursuant to

18 C.F.R. § 388.107, 18 C.F.R. § 388.112, and 18 C.F.R. § 388.113

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Appendix B

1. Selected Option Pursuant to Article 5.1

The selected option under Article 5.1.1 of this Agreement is the Standard Option.

2. Milestones

Description Date Responsible Party

1. Issue written authorization to proceed with Completed Developer

engineering, design and procurement

2. Provide Security for Expansion Project Completed Developer

Attachment Facilities

3. Start engineering and procurement of Completed National Grid

Attachment Facilities

4. ID and review drawings impacted (e.g., Completed Developer/National Grid

revision comparison)

5. Complete engineering and procurement of Completed National Grid

Expansion Project Attachment Facilities

6. Issue written authorization to proceed with Completed Developer

construction of Expansion Project Attachment Facilities

7. Complete construction of Expansion Project 04/2012 Developer/National Grid

Attachment Facilities

8. Complete all functional tests and verifications 04/2012 Developer/National Grid

of Expansion Project Attachment Facilities

9. In Service - Expansion Project Attachment 06/2012 Developer/National Grid

Facilities

10. Facility Testing 06/2012 Developer

11. Commercial Operation Date of uprated Unit 2 06/2012 ALL

12. Expansion Project Attachment Facilities As 06/2012 Developer/National Grid

Builts completed

13. Expansion Project Attachment Facilities 08/2012 Developer/National Grid

Close Out

14a. Issue written authorization to proceed with 03/2013 Developer

engineering, design and procurement for the Additional Attachment facilities

14b. Provide Security for Additional Attachment 03/2013 Developer

Facilities

15. Complete engineering and procurement for 11/2013 National Grid

Additional Attachment Facilities

16. Issue written authorization to proceed with 04/2014 Developer

construction of Additional Attachment Facilities

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Description

17. Initiate and complete construction of

Additional Attachment Facilities

18. Complete all functional tests and verifications

of Additional Attachment Facilities

19. In Service - Additional Attachment Facilities

20. Additional Attachment Facilities As Builts

completed

21. Additional Attachment Facilities Close Out

Date Responsible Party

07/2014 Developer/National Grid

07/2014 Developer/National Grid

07/2014 Developer/National Grid

10/2014 Developer/National Grid   
12/2014 Developer/National Grid

3. Security to be Provided

Pursuant to Section 11.5 of this Agreement, Developer shall provide Security to National Grid (i) in the amount of $980,000 for the new Attachment Facilities required for the expansion project,   
and (ii) in the amount of $826,000 for the additional new Attachment Facilities not required for   
the expansion project, on or before the dates shown for the provision of such Security in the table of Milestones above.

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Appendix C

1. Description of Large Generating Facility and Other Interconnection Details

Developer operates the existing Nine Mile Point Unit 2 nuclear power plant (the

“Existing Facility”), which is located in Oswego, New York and which is co-owned by   
the Developer and the Long Island Lighting Company (d/b/a LIPA). The Existing   
Facility currently has a capacity of 1212 MW using a General Electric generator rated at

25 kV, 1399.22 MVA at 0.9 Power Factor. The Existing Facility has a 500 MVAR over-  
excited reactive power capability and a 50 MVAR under-excited reactive power   
capability. The generator step-up transformers for the Existing Facility are rated 202 kV-

24.3 kV, 408/457 MVA, to step-up generator voltage from 25 kV to 345 kV for interconnection to the New York State Transmission System through the Scriba Substation at the Existing Facility.

Developer is expanding the Existing Facility by 168 MW through an uprate project,

Queue Position 216 (the “Expansion Project”). The Expansion Project includes

replacement of the high pressure turbine of the Existing Facility, but not the generator or   
main transformer. The new Attachment Facilities required for the Expansion Project are   
described in Section 1.a.ii and Section 1.b.ii of Appendix A of this Agreement. The   
combined capacity of the Existing Facility and the Expansion Project (together the   
“Large Generating Facility”) will total 1380 MW at a nominal 0.986 Power Factor to   
maintain the generator within its rating. The over-excited reactive power capability of   
the Large Generating Facility will be reduced to 233 MVAR as a result of the Expansion   
Project. The under-excited reactive power capability of the Large Generating Facility   
will remain unchanged at 50 MVAR.

Figure A-1, in Appendix A on page A-13 of this Agreement, provides a one-line diagram   
of the interconnection of the Large Generating Facility in the Scriba Substation. Figure   
A-1 shows the Points of Interconnection on the “A” Bus and the “B” Bus of National   
Grid’s 345 kV transmission system, and differentiates between the Developer Attachment   
Facilities and Connecting Transmission Owner’s Attachment Facilities depicted in the   
diagram.

2. Other Agreements

National Grid began engineering and procurement work in connection with the new   
Attachment Facilities for the Expansion Project by means of an Engineering,   
Procurement & Construction Services Agreement (“EPC Agreement”) entered into by   
Niagara Mohawk Power Corporation (now d/b/a National Grid) and Nine Mile Point   
Nuclear Station, LLC (“Nine Mile”), dated March 11, 2011, and filed with the Federal   
Energy Regulatory Commission (“FERC”) as Service Agreement No. 1711 under the   
NYISO FERC Electric Tariff No. 1 in Docket No. ER11-3058-000. National Grid and   
Nine Mile entered into this agreement in accordance with Section 30.9 of the Standard   
Large Facility Interconnection Procedures in Attachment X of the NYISO OATT, which   
provides that prior to the execution of an interconnection agreement, the Developer and

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Connecting Transmission Owner may enter into an engineering and procurement

agreement for the Connecting Transmission Owner to begin the engineering and

procurement of long-lead time items necessary for the establishment of the

interconnection. The EPC Agreement terminated on the FERC-accepted Effective Date   
of Service Agreement 1757. Any payments made by the Developer to National Grid   
under the EPC Agreement reduced, on a dollar for dollar basis, the Developer’s security   
posting and payment obligations under this Agreement for the Expansion Project.

This Agreement covers the Large Generating Facility, and superseded the interconnection agreement that previously covered the Existing Facility among Niagara Mohawk Power Corporation (now d/b/a National Grid), New York State Electric & Gas Corporation and Nine Mile Point Nuclear Station, LLC, previously filed with and accepted by FERC in Docket No. ER02-1067 and designated as Second Revised Service Agreement No. 309 under the NYISO FERC Electric Tariff No. 1, as amended in Docket No. ER02-2494 and designated as Amendment No. 1 to Service Agreement No. 309. National Grid filed to request that FERC cancel Second Revised Service Agreement No. 309 under the NYISO FERC Electric Tariff No. 1which FERC accepted in Docket No. ER11- 4714 effective on the FERC-accepted Effective Date of Service Agreement 1757.

National Grid and NYSEG have designated between themselves their rights and

obligations for operating and maintaining the Scriba Substation and transmission

facilities associated with the Large Generating Facility by means of a Transmission

Owners Agreement (“TO Agreement”) entered into by Niagara Mohawk Power

Corporation (now d/b/a National Grid) and NYSEG, dated February 21, 2001, and

accepted by FERC as Niagara Mohawk Power Corporation FERC Electric Rate Schedule   
No. 300 in Docket No. ER01-1986-000. Solely as between National Grid and NYSEG,   
nothing in this Agreement should be read to modify or alter the respective rights and   
responsibilities of NYSEG and National Grid under the TO Agreement. National Grid   
and NYSEG agree that they shall not knowingly amend the TO Agreement in a manner   
inconsistent with this Agreement without corresponding amendments to this Agreement.   
National Grid and NYSEG shall provide the other Parties with at least thirty (30)   
Calendar Days’ prior notice of a proposed amendment to the TO Agreement before filing   
such amendment at FERC and shall consider in good faith any concerns relating to such   
proposed amendment raised by the other Parties. Nothing in this Agreement shall limit   
the rights of the Parties under Sections 205 or 206 of the Federal Power Act and FERC’s   
rules and regulations in relation to such proposed changes to the TO Agreement. Nothing   
herein shall limit the effect of Section 29.6 of this Agreement.

3. Developer Operating Requirements

(a) Developer must comply with all applicable NYISO tariffs and procedures, as

amended from time to time.

(b) Developer must comply with National Grid’s operating instructions and

requirements as referenced in Article 9.3 of this Agreement, which requirements   
shall include the dedicated data circuits, including system protection circuits, to   
be maintained by Developer in accordance with Article 8.1 of this Agreement.

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(c) Developer must comply with relevant provisions of National Grid’s Electric

System Bulletin 756, including appendices, as amended from time to time, to the   
extent not inconsistent with the terms of this Agreement or the NYISO OATT.

4. Operation of Joint Use Facilities

The Developer and National Grid shall, in accordance with Section 9.13 of this Agreement, jointly operate the Joint Use Facilities listed below.

a. Nine Mile Point Unit 2 115KV Switchyard:

• None

b. Nine Mile Point Unit 2 345KV Switchyard:

• None

c. Nine Mile Point Unit 2 Plant:

• Plant watt-hour meters and EMS transducers

• Plant potential and current transformers that support EMS-RTU metering data

• RTU and external RTU transducer power, as required

d. Scriba Station 345KV Switchyard:

• Ground switch 23G

• Motor Operated Disconnect switch 233

• Three capacitance coupling voltage transformers collectively denominated J8923

• Motor Operated Disconnect switch 232

• Circuit breaker R230

• Three (3) Free standing current transformers for R230

• Motor Operated Disconnect switch 231

• Motor Operated Disconnect switch 926

• Circuit breaker R925

• Three (3) Free standing current transformers for R925

• Motor Operated Disconnect switch 927

• Motor Operated Disconnect switch 991

• Bus “A” Potential Transformers at fuse J9991

• Bus “B” Potential Transformers at fuse J9992

e. Scriba Station 115KV Switchyard:

• Three (3) “C” Bus Potential Transformers on Fuse J9993

• Three (3) “D” Bus Potential Transformers on Fuse J9994

• “C” and “D” Bus emergency transmission Loop from LHH#2

• 224MVA, 345/120/13.8 kV Auto Transformer #1 and Tertiary Fuse J5058

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• 224MVA, 345/120/13.8 kV Auto Transformer #2 and Tertiary Fuse J5128

• Station Yard lighting

• Control House #1 Outside Lighting

• Control House #2 Outside Lighting

• Control House #1

• Control House #2

• NMP1\_MH#11-Scriba Station MH4 Duct Bank (Selected ducts)

• Scriba Station Switchyard - Scriba Station MH4 duct Bank (Selected ducts)

• Scriba Station MH4-Lake Road Substation MH duct bank (all ducts)

f. Scriba Station Equipment in Control Houses #1 & 2:

• Cable Tray System in Control House #1

• Cable Tray System in Control House #2

• Three (3) Line auxiliary current transformers EMS-RTU Future 115kV line metering

• Three (3) Line auxiliary current transformers EMS-RTU 115 kV Line #5 metering

• Three (3) Line auxiliary current transformers EMS-RTU 115 kV Line #6 metering

• Three (3) Line auxiliary current transformers EMS-RTU 345 kV Line #23 metering

• Three (3) Breaker R230 auxiliary current transformers EMS-RTU 345 kV metering

• Three (3) Breaker R925 auxiliary current transformers EMS-RTU 345 kV metering

• One (1) Watt/Var Meter on TB#1 Low Side

• One (1) Watt/Var Transducer on TB #1 High Side

• One (1) Watt/Var Meter on TB#2 Low Side

• One (1) Watt/Var Transducer on TB #2 High Side

• One (1) Isolation Transformer Cabinet (Line #23)

• 120/208 3-phase AC Power panels (ACPP) Numbers 1,2,3,4,5,6,7, and 8, for breaker

and transformer auxiliary equipment support, and station lighting

• AC Power Panel shared circuits:

o ACPP\_3, Ckt\_12, R210\_230-925\_CT\_Column Heaters

o ACPP\_3, Ckt\_10, R210\_230\_925 Lights & Receptacles

o ACPP\_3, Ckt\_17, 345/115 kV Switchboard Lights

o ACPP\_4, Ckt\_15, Ln21\_MOD Heaters & Receptacles

o ACPP\_4, Ckt\_13, Ln23\_MOD\_Heaters & Receptacles

o ACPP\_4, Ckt\_14, “A” & “C” Bus\_JB\_Heaters

o ACPP\_7, Ckt\_09, R100\_925\_Lights & Receptacles

o ACPP\_8, Ckt\_11, CCVTs\_JB\_Heaters

o ACPP\_8, Ckt\_10, MOD\_Heaters & Receptacles

• 125VDC Control Power Panels (DCPP) Numbers 11A, 11B, 11C, 12A, 12B, 21A,

21B, 22A, and 22B, for relay protection, breaker and motor operated disconnect

control

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• DC Power Panel shared circuits:

o DCPP\_11B, Ckt\_56, MOD\_93\_232\_937 Power

o DCPP\_11B, Ckt\_57, MOD\_91\_231\_936 Power

o DCPP\_12B, Ckt\_38, R230\_915\_BBU\_”B” Relays

o DCPP\_21B, Ckt\_47, MOD\_101\_927\_203\_Power

o DCPP\_21B, Ckt\_33, R925 & R100\_BBU\_”A” Relays

o DCPP\_21B, Ckt\_45, MOD\_103\_926\_202\_Power

o DCPP\_21B, Ckt\_49, MOD\_947\_992\_fut\_Power

o DCPP\_22B, Ckt\_33, R200 & R925\_BBU\_”B”Relays

• Control and Relay Panels in Control House #1

o 115 kV Duplex Switchboard #1:

▪ Panel 1-5F

▪ Panel 1-2R

▪ Panel 1-4R

o 115 kV Duplex Switchboard #2

▪ Panel 2-2F

▪ Panel 2-3F

▪ Panel 2-4F

▪ Panel 2-5F

o 345 kV Duplex Switchboard #1

▪ Panel 1-1F

▪ Panel 1-2F

o 345 kV Duplex Switchboard #2

▪ Panel 2-3F

▪ Panel 2-3R

• Control and Relay Panels in Control House #2

o 115 kV Duplex Switchboard #3

▪ Panel 3-1F

▪ Panel 3-2R

o 115 kV Duplex Switchboard #4

▪ Panel 4-1F

▪ Panel 4-2F

▪ Panel 4-3F

▪ Panel 4-4F

o 345 kV Duplex Switchboard #3

▪ Panel 3-7F

▪ Panel 3-8F

o 345 kV Duplex Switchboard #4

▪ Panel 4-5F

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5. Substation Components Covered by NRC Maintenance Rule, as Described in

Section 10.6 of this Agreement

a. Scriba Station 115 kV Switchyard:

• Power Transformer TB-1

• Manual Disconnect Switch #118

• Manual Disconnect Switch #128

• Power Circuit Breaker R115 and CCVT

• Manual Disconnect Switch #51

• Manual Disconnect Switch #53

• Power Circuit Breaker R50 and CCVT

• Bus “C” Metering & Protective Equipment

• Manual Disconnect Switch #27

• Manual Disconnect Switch #29

• Power Transformer TB-2

• Manual Disconnect Switch #218

• Manual Disconnect Switch #228

• Power Circuit Breaker R225

• Manual Disconnect Switch #61

• Manual Disconnect Switch #63

• Power Circuit Breaker R60 and CCVT

• Bus “D” Metering & Protective Equipment

• Manual Disconnect Switch #21

• Any associated supporting equipment related to the above listed equipment

b. Scriba Station 345 kV Switchyard:

• Motor Operated Disconnect Switch #18

• Motor Operated Disconnect Switch #28

• Motor Operated Disconnect Switch #233

• Grounding Switch #23G

• Motor Operated Disconnect Switch #231

• Power Circuit Breaker R230

• Current Transformers at R230 - (3) CT Columns

• Motor Operated Disconnect Switch #232

• CCVT Line #23 (3)

• Motor Operated Disconnect Switch #926

• Power Circuit Breaker R925

• Current Transformers at R925 - (3) CT Columns

• Motor Operated Disconnect Switch #927

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• Motor Operated Disconnect Switch #991

• Bus “A” Metering & Protective Equipment

• Bus “B” Metering & Protective Equipment

• Any associated supporting equipment related to the above listed equipment

6. Jointly Owned Transmission Facilities

National Grid and NYSEG jointly own the existing transmission facilities listed below   
that are located at or beyond the Point of Interconnection in the Scriba Substation. In   
addition, National Grid and NYSEG jointly own the land on which the Scriba Substation   
is located.

a. Station Control Buildings

• Control Buildings #1 and #2.

• Associated HVAC, lights, cable trays, grounding, conduit, cable, and miscellaneous   
 equipment located Control Buildings #1 and #2.

b. Station Equipment

• Ground switch 10G.

• Disconnect switch 103.

• One capacitance coupling voltage transformers collectively denominated J8910.

• Disconnect switch 101.

• Circuit breaker R100.

• Disconnect switch 102.

• Disconnect switch 937.

• Circuit breaker R935.

• Disconnect switch 936.

• Disconnect switch 212.

• Circuit breaker R210.

• Disconnect switch 211.

• Three capacitance coupling voltage transformers collectively denominated J9921.

• Ground switch 21G.

• Disconnect switch 213.

• Three capacitance coupling voltage transformers collectively denominated J8921.

• 345kV "A" Bus.

• Three potential voltage transformers collectively denominated J9991 located on "A"

Bus.

• Three surge arresters located on "A" Bus.

• Disconnect switch 18.

• 345kV "B" Bus.

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• Three potential voltage transformers collectively denominated J9992 located on "B"

Bus.

• Disconnect switch 28.

• Three surge arresters located on "B" Bus.

• Ground switch 9G.

• Disconnect switch 93.

• One capacitance coupling voltage transformers collectively denominated J8909.

• Disconnect switch 91.

• Circuit breaker R90.

• Disconnect switch 92.

• Disconnect switch 916.

• Circuit breaker R915.

• Disconnect switch 917.

• Disconnect switch 202.

• Circuit breaker R200.

• Disconnect switch 201.

• Three capacitance coupling voltage transformers collectively denominated J8920.

• Ground switch 20G.

• Disconnect switch 203.

• Three capacitance coupling voltage transformers collectively denominated J9920.

• AC station service including transformers, switchgear, emergency generator, switches,

panels and cable.

• DC station service including batteries, chargers, switches, panels, and cables.

• Duplex switchboard panels 1, 2, 3, 4, 7, 8 and 9 in 345kV switchboard #1 and duplex

switchboard panels 1, 2, 4 and 5 in 345kV switchboard #2 located in Control House   
#1; and switchboard panels 1, 2, 6, 7 and 8 in 345kV switchboard #3 and duplex   
switchboard panels 1, 2, 3, 4 and panel 5R in 345kV switchboard #4 located in Control   
House #2.

• Monitoring and communication equipment including DFR, tone, power line carrier

and cable.

• Associated grading, grounding, conduit, foundations, structures, conductor, yard

lighting, junction boxes, cable and miscellaneous equipment.

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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 Developers and all other Market Participants to comply with the recommendations offered by the President’s Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational   
security, including physical, operational, and cyber-security practices.

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Appendix E

Commercial Operation Date

[Date of Upgrade]

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

3890 Carman Road

Schenectady, NY 12303

[Connecting Transmission Owner Address]

Re: \_\_\_\_\_\_\_\_\_\_\_\_\_ Large Generating Facility

Dear \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:

On [Date] [Developer] has completed Trial Operation of Unit No. 2 Upgrade. This letter confirms that [Developer] commenced Commercial Operation of Unit No. 2 Upgrade at the   
Large Generating Facility, effective as of [Date plus one day].

Thank you.

[Signature]

[Developer Representative]

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Appendix F

Addresses for Delivery of Notices and Billings Notices:

NYISO:

Before commercial operation of the Large Generating Facility:

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) 356-7524

After commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.

Attn: Vice President, Operations

3890 Carman Road

Schenectady, NY 12303   
Phone: (518) 356-6000   
Fax: (518) 356-6118

Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid Attn: William Malee

Director, Transmission Commercial Services 300 Erie Boulevard W.

Syracuse, NY 13202   
(315) 428-5048   
(315) 428-5114

NYSEG:

New York State Electric & Gas Corporation

Attn: Manager Programs/Projects; Electric Transmission Services

18 Link Drive

Binghamton, NY 13902-5224 Phone: (607) 762-8073   
Fax: (607) 762-8666

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Developer:

Nine Mile Point Nuclear Station, LLC 100 Constellation Way

Suite 200C

Baltimore, MD 21201   
Attn: General Counsel   
Phone: 410-470-3312   
Fax: 443-213-3680

Billings and Payments:

Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid Attn: Douglas Fuess, Transmission Account Manager 300 Erie Boulevard W.

Syracuse, NY 13202

Developer:

Nine Mile Point Nuclear Station, LLC PO Box 63, Lake Road

Lycoming, NY 13093 Attn: Finance

Phone: 315-349-5217   
Fax: 315-349-1321

With a copy to:

Nine Mile Point Nuclear Station, LLC 100 Constellation Way

Suite 600C

Baltimore MD 21201   
Attn: Accounts Payable   
Phone: 410-495-4100   
Fax: 410-495-6651

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

NYISO:

Before commercial operation of the Large Generating Facility:

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) 356-7524

After commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.

Attn: Vice President, Operations

3890 Carman Road

Schenectady, NY 12303   
Phone: (518) 356-6000   
Fax: (518) 356-6118

Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid Attn: William Malee

Director, Transmission Commercial Services 300 Erie Boulevard W.

Syracuse, NY 13202   
(315) 428-5048   
(315) 428-5114

NYSEG:

New York State Electric & Gas Corporation

Manager Programs/Projects; Electric Transmission Systems

18 Link Drive

Binghamton, NY 13902-5224 Phone: (607) 762-8073   
Fax: (607) 762-8666

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SERVICE AGREEMENT NO. 1757

Developer:

Nine Mile Point Nuclear Station, LLC 100 Constellation Way

Suite 200C

Baltimore, MD 21201   
Attn: General Counsel   
Phone: 410-470-3312   
Fax: 443-213-3680

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APPENDIX G

INTERCONNECTION REQUIREMENTS FOR A WIND GENERATING PLANT

Appendix G sets forth requirements and provisions specific to a wind generating plant.

All other requirements of this LGIA continue to apply to wind generating plant interconnections.

A. Technical Standards Applicable to a Wind Generating Plant

i. Low Voltage Ride-Through (LVRT) Capability

A wind generating plant shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the standard below. The LVRT   
standard provides for a transition period standard and a post-transition period standard.

Transition Period LVRT Standard

The transition period standard applies to wind generating plants subject to FERC Order   
661 that have either: (i) interconnection agreements signed and filed with the Commission, filed   
with the Commission in unexecuted form, finally executed as conforming agreements, or filed   
with the Commission as non-conforming agreements between January 1, 2006 and December 31,   
2006, with a scheduled in-service date no later than December 31, 2007, or (ii) wind generating   
turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for   
delivery through 2007.

1. Wind generating plants are required to remain in-service during three-phase faults with

normal clearing (which is a time period of approximately 4 - 9 cycles) and single line to

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ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault   
voltage unless clearing the fault effectively disconnects the generator from the system.   
The clearing time requirement for a three-phase fault will be specific to the wind   
generating plant substation location, as determined by and documented by the Connecting   
Transmission Owner for the Transmission District to which the wind generating plant will   
be interconnected. The maximum clearing time the wind generating plant shall be   
required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15   
p.u., as measured at the high side of the wind generating plant step-up transformer (i.e. the   
transformer that steps the voltage up to the transmission interconnection voltage or   
“GSU”), after which, if the fault remains following the location-specific normal clearing   
time for three-phase faults, the wind generating plant may disconnect from the   
transmission system.

2. This requirement does not apply to faults that would occur between the wind generator

terminals and the high side of the GSU or to faults that would result in a voltage lower than 0.15 per unit on the high side of the GSU serving the facility.

3. Wind generating plants may be tripped after the fault period if this action is intended as

part of a special protection system.

4. Wind generating plants may meet the LVRT requirements of this standard by the

performance of the generators or by installing additional equipment (e.g., Static VAr Compensator, etc.) within the wind generating plant or by a combination of generator performance and additional equipment.

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5. Existing individual generator units that are, or have been, interconnected to the network

at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing   
generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

Post-transition Period LVRT Standard

All wind generating plants subject to FERC Order No. 661 and not covered by the transition period described above must meet the following requirements:

1. Wind generating plants are required to remain in-service during three-phase faults with

normal clearing (which is a time period of approximately 4 - 9 cycles) and single line to   
ground faults with delayed clearing, and subsequent post-fault voltage recovery to   
prefault voltage unless clearing the fault effectively disconnects the generator from the   
system. The clearing time requirement for a three-phase fault will be specific to the wind   
generating plant substation location, as determined by and documented by the Connecting   
Transmission Owner for the Transmission District to which the wind generating plant   
will be interconnected. The maximum clearing time the wind generating plant shall be   
required to withstand for a three-phase fault shall be 9 cycles after which, if the fault   
remains following the location-specific normal clearing time for three-phase faults, the   
wind generating plant may disconnect from the transmission system. A wind generating   
plant shall remain interconnected during such a fault on the transmission system for a   
voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.

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2. This requirement does not apply to faults that would occur between the wind generator

terminals and the high side of the GSU.

3. Wind generating plants may be tripped after the fault period if this action is intended as

part of a special protection system.

4. Wind generating plants may meet the LVRT requirements of this standard by the

performance of the generators or by installing additional equipment (e.g., Static VAr Compensator) within the wind generating plant or by a combination of generator performance and additional equipment.

5. Existing individual generator units that are, or have been, interconnected to the network

at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing   
generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

ii. Power Factor Design Criteria (Reactive Power)

A wind generating plant shall maintain a power factor within the range of 0.95 leading to

0.95 lagging, measured at the Point of Interconnection as defined in this LGIA, if the ISO’s

System Reliability Impact Study shows that such a requirement is necessary to ensure safety or reliability.

The power factor range standards can be met using, for example without limitation,   
power electronics designed to supply this level of reactive capability (taking into account any

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limitations due to voltage level, real power output, etc.) or fixed and switched capacitors if

agreed to by the Connecting Transmission Owner for the Transmission District to which the

wind generating plant will be interconnected, or a combination of the two. The Developer shall not disable power factor equipment while the wind plant is in operation. Wind plants shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the System Reliability Impact Study shows this to be required for system safety or reliability.

iii. Supervisory Control and Data Acquisition (SCADA) Capability

The wind plant shall provide SCADA capability to transmit data and receive instructions from the ISO and/or the Connecting Transmission Owner for the Transmission District to which the wind generating plant will be interconnected, as applicable, to protect system reliability. The Connecting Transmission Owner for the Transmission District to which the wind generating   
plant will be interconnected and the wind plant Developer shall determine what SCADA   
information is essential for the proposed wind plant, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and   
transmission system reliability in its area.

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Third Revised Service Agreement No. 1145

LARGE GENERATOR INTERCONNECTION AGREEMENT WITH

AG ENERGY L.P. (ALLIANCE ENERGY)

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**LARGE GENERATOR INTERCONNECTION AGREEMENT**

**THIS** **LARGE GENERATOR INTERCONNECTION AGREEMENT** ("Agreement") is made and entered into this 8th day of June, 2012 by and among AG ENERGY L.P. (ALLIANCE ENERGY) ("Developer" with a Large Generating Facility) and Niagara Mohawk Power Corporation d/b/a National Grid, a corporation organized and existing under the laws of the State of New York ("Transmission Owner"). Developer or Transmission Owner each may be referred to as a "Party" or collectively referred to as the "Parties."

**RECITALS**

**WHEREAS,** NYISO operates the Transmission System and Transmission Owner owns certain facilities included in the Transmission System; and

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

**WHEREAS,** Developer and Transmission Owner have agreed to enter into this Agreement for the purpose of interconnecting the Large Generating Facility with 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 inthis Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article I shall have the meanings specified in Section 1.0 or Attachment S of the NYISO OATT.

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

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

**Affiliate** shall mean, with respect to a 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.

**Ancillary Services** shall mean those services that are necessary to support the transmission of Capacity and Energy from resources to Loads while maintaining reliableoperation of the New York State Transmission System in accordance with Good Utility Practice.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental   
Authority, 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 Developer's Large Generating Facility 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 the applicability or validity of any requirement or guideline as applied to it in the context of this Agreement.

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

**Base** Case shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by NYISO, Transmission Owner or Developer; described in Section 2.3 of the Large Facility 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.

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

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

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

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

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

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

**Developer** shall mean an Eligible Customer developing a Large Generating Facility, proposing to connect to the New York State Transmission System, in compliance with the NYISO Minimum Interconnection Standard.

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

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

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

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

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

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

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

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

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

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

**Governmental Authority** shall mean any federal, state, local or other governmental  
regulatory or administrative agency, court, commission, department, board, or other

governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Developer, NYISO 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** shall mean the date upon which the Large Generating Facility is initially synchronized and upon which Trial Operation begins.

**In-Service Date** shall mean the date upon which the Developer reasonably expects it will  
be ready to begin use of the Transmission Owner's Attachment Facilities to obtain back feed power.

**Interconnection Facilities** Study shall mean a study conducted by NYISO or a third party consultant for the Developer to determine a list of facilities (including Transmission Owner's Attachment Facilities, and System Upgrade Facilities as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility with the New York State Transmission System. The scope of the study is defined in Section 8 of the Standard Large Facility Interconnection Procedures.

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

**Interconnection Feasibility Study** shall mean a preliminary evaluation of the system impact and cost of interconnecting the Large Generating Facility to the New York State Transmission System, the scope of which is described in Section 6 of the Standard Large Facility Interconnection Procedures.

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

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

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

**Interconnection System Reliability Impact Study ("SRIS")** shall mean an engineering study, conducted in accordance with Section 7 of the Large Facility Interconnection Procedures, that evaluates the impact of the proposed Large Generating Facility on the safety and reliability of the New York State Transmission System and, if applicable, an Affected System, to determine what Attachment Facilities and System Upgrade Facilities are needed for the proposed Large Generation Facility of the Developer to connect reliably to the New York State Transmission System in a manner that meets the NYISO Minimum Interconnection Standard.

**Interconnection System Reliability Impact Study Agreement** shall mean the form of agreement contained in Appendix 3 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection System Reliability Impact Study.

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

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

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

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

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

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

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

**Network Access Interconnection Service** shall mean the service provided by NYISO to interconnect the Developer's Large Generating Facility to the New York State Transmission System in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive electric energy and capacity from the Large Generating Facility at the Point of Interconnection, pursuant to the terms of this Agreement and the NYISO OATT.

**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.

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

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

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

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

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to this Agreement, where the Developer's Attachment Facilities connect to the Transmission Owner's Attachment Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to this Agreement, where the Attachment Facilities connect to the New York State Transmission System.

**Queue Position** shall mean the order of a valid Interconnection Request, relative to all   
other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by NYISO.

**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.

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

**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.

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

**Stand Alone System Upgrade Facilities** shall mean System Upgrade Facilities that a Developer may construct without affecting day-to-day operations of the New York State Transmission System during their construction. Transmission Owner and the Developer must agreeas to what constitutes Stand Alone System Upgrade Facilities and identify them in Appendix A to this Agreement.

**Standard Large Facility Interconnection Procedures** ("LFIP") shall mean the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that are included in Attachment X of the NYISO OATT.

**Standard Large Generator Interconnection Agreement ("LGIA")** shall mean this Agreement, the form of interconnection agreement applicable to an Interconnection Request pertaining to a Large Generating Facility, that is included in Attachment X of the NYISO OATT.

**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 Large Generating Facility and (2) protect the Large Generating Facility 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.

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

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

**Transmission Owner** shall mean the 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 at the Point of Interconnection, and (iii) is a Party to this Agreement.

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

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

**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. Transmission Owner shall promptly file this Agreement with FERC upon execution in accordance with Article 3.1.

2.2 **Term of Agreement.** Subject to the provisions of Article 2.3, this Agreement shall  
remain ineffect for a period of ten (10) years from the Effective Date or such other longer period as the Developer may request and shall be automatically renewed for each successive one-year period thereafter.

2.3 **Termination.**

**2.3.1** **Written Notice.** This Agreement may be terminated by the Developer after giving Transmission Owner ninety (90) Calendar Days advance written notice, or by Transmission Owner notifying FERC after the Large Generating Facility permanently ceases Commercial Operations.

**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 terminating Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for Attachment Facilities and equipment) or charges assessed by the other Parties, as of the date of the other Parties' receipt of such notice of termination, that are the responsibility of the terminating Party under this Agreement. In the event of termination by a Party, 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 Transmission Owner's Attachment Facilities that have not yet been constructed or installed, the Transmission Owner shall to the extent possible and with Developer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Developer elects not to authorize such cancellation, Developer shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Transmission Owner shall deliver such material and equipment, and, if necessary, assignsuch contracts, to Developer as soon as practicable, at Developer's expense. To the extent that Developer has already paid Transmission Owner for any or all such costs of materials or equipment not taken by Developer, Transmission Owner shall promptly refund such amounts to Developer, less any costs, including penalties incurred by the Transmission Owner to cancel any pending orders of or return such materials, equipment, or contracts.

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

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

**2.4.3** With respect to any portion of the Attachment Facilities, and any other facilities  
already installed or constructed pursuant to the terms of this Agreement, or previous interconnection agreements between Developer and Transmission Owner, 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, Developer and Transmission Owner will take all appropriate steps to disconnect the Developer's Large Generating Facility from the New York State Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under 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; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit Developer and Transmission Owner each to have access to the lands of the other pursuant to this Agreement or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

**ARTICLE 3. REGULATORY FILINGS**

**3.1 Filing.** 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 Developer to contain Confidential   
Information shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT. If the Developer has executed this Agreement, or any amendment thereto, the Developer shall reasonably cooperate with Transmission Owner with respect to such filing and to provide any information reasonably requested by Transmission Owner needed to comply with Applicable Laws and Regulations.

**ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE**

**4.1 Provision of Service.** NYISO will provide Developer with interconnection service of the following type for the term of this Agreement.

**4.1.1 Product.** NYISO will provide Network Access Interconnection Service to Developer at the Point of Interconnection.

**4.1.2 Developer** is responsible for ensuring that its actual Large Generating Facility output matches the scheduled delivery from the Large Generating Facility to the New York State Transmission System, consistent with the scheduling requirements of the NYISO's FERC-approved market structure, including ramping into and out of such scheduled delivery, as measured at the Point of Interconnection, consistent with the scheduling requirements of the NYISO OATT and any applicable FERC-approved market structure.

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 NYISO OATT, and does not convey any right to deliver electricity to any specific customer or Point of Delivery. If Developer wishes to obtain Transmission Service on the New York State Transmission System, then Developer must request such Transmission Service in accordance with the provisions of the NYISO OATT.

4.3 **No Other Services.** The execution of this Agreement does not constitute a request for, nor agreement to provide energy, any Ancillary Services or Installed Capacity under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff'). If Developer wishes to supply energy, Installed Capacity or Ancillary Services, then Developer will make application to do so in accordance with the NYISO Services Tariff.

**ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT,  
AND CONSTRUCTION**

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

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

**5.1.2 Alternate Option.** If the dates designated by Developer are acceptable to Transmission Owner, the Transmission Owner shall so notify Developer and NYISO within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Transmission Owner's Attachment Facilities by the designated dates.

If Transmission Owner subsequently fails to complete Transmission Owner's Attachment Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete System Upgrade Facilities by the Initial

Synchronization Date to the extent necessary to allow for Trial Operation at full  
power output, unless other arrangements are made by the Developer and Transmission Owner for such Trial Operation; or fails to complete the system Upgrade Facilities by the Commercial Operation Date, as such dates are reflected in Appendix B hereto; Transmission Owner shall pay Developer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by Developer shall be extended day for day for each day that NYISO refuses to grant clearances to install equipment.

**5.1.3 Option to Build.** If the dates designated by Developer are not acceptable to Transmission Owner, the Transmission Owner shall so notify the Developer and NYISO within thirty (30) Calendar Days, and unless the Developer and Transmission Owner agree otherwise, Developer shall have the option to assume responsibility for the design, procurement and construction of Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities on the dates specified in Article 5.1.2; provided that if an Attachment Facility or Stand Alone System Upgrade Facility is needed for more than one Developer's project, Developer's option to build such Facility shall be contingent on the agreement of all other affected Developers. NYISO, Transmission Owner and Developer must agree as to what constitutes Stand Alone System Upgrade Facilities and identify such Stand Alone System Upgrade Facilities in Appendix A hereto. Except for Stand Alone System Upgrade Facilities, Developer shall have no right to construct System Upgrade Facilities under this option.

**5.1.4 Negotiated Option.** If the Developer elects not to exercise its option under Article 5.1.3, Option to Build, Developer shall so notify Transmission Owner and NYISO within thirty (30) Calendar Days, and the Developer and Transmission Owner shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of the

Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities by Developer) pursuant to which Transmission Owner is responsible for the design, procurement and construction of the Transmission Owner's Attachment Facilities and System Upgrade Facilities. If the two Parties are unable to reach agreement on such terms and conditions, Transmission Owner shall assume responsibility for the design, procurement and construction of the Transmission Owner's Attachment Facilities and System Upgrades Facilities pursuant to 5.1.1, Standard Option.

5.2 **General Conditions Applicable to Option to Build.** If Developer assumes responsibility for the design, procurement and construction of the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities,

(1) Developer shall engineer, procure equipment, and construct the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Transmission Owner;

(2) Developer's engineering, procurement and construction of the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities shall comply with all requirements of law to which Transmission Owner would be subject in the engineering, procurement or construction of the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities;

(3) Transmission Owner shall review and approve the engineering design, equipment acceptance tests, and the construction of the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities;

(4) Prior to commencement of construction, Developer shall provide to Transmission Owner and NYISO a schedule for construction of the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities, and shall promptly respond to requests for information from Transmission Owner or NYISO;

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

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

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

(8) Developer shall transfer control of Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities to the Transmission Owner;

(9) Unless the Developer and Transmission Owner otherwise agree, Developer shall transfer ownership of Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities to Transmission Owner;

(10) Transmission Owner shall approve and accept for operation and maintenance the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(11) Developer shall deliver to NYISO and Transmission Owner "as built" drawings, information, and any other documents that are reasonably required by NYISO or Transmission Owner to assure that the Attachment Facilities and Stand Alone System Upgrade Facilities are built to the standards and specifications required by Transmission Owner.

5.3 **Liquidated Damages.** The actual damages to the Developer, in the event the Transmission Owner's Attachment Facilities or System Upgrade Facilities are not completed by the dates designated by the Developer and accepted by the Transmission Owner pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Developer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Transmission Owner to the Developer in the event that

Transmission Owner does not complete any portion of the Transmission Owner's Attachment Facilities or System Upgrade Facilities by the applicable dates, shall be an amount equal to 1/2 of 1 percent per day of the actual cost of the Transmission Owner's Attachment Facilities and System Upgrade Facilities, in the aggregate, for which Transmission Owner has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual  
cost of the Transmission Owner Attachment Facilities and System Upgrade Facilities for which the Transmission Owner has assumed responsibility to design, procure, and construct. The foregoing payments will be made by the Transmission Owner to the

Developer as just compensation for the damages caused to the Developer, which actual  
damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this Agreement. Liquidated damages, when the Developer and Transmission Owner agree to them, are the exclusive remedy for the Transmission Owner's failure to meet its schedule.

Further, Transmission Owner shall not pay liquidated damages to Developer if: (1) Developer is not ready to commence use of the Transmission Owner's Attachment Facilities or System Upgrade Facilities to take the delivery of power for the Developer's Large Generating Facility's Trial Operation or to export power from the Developer's Large Generating Facility on the specified dates, unless the Developer would have been able to commence use of the Transmission Owner's Attachment Facilities or System Upgrade Facilities to take the delivery of power for Developer's Large Generating Facility's Trial Operation or to export power from the Developer's Large Generating Facility, but for Transmission Owner's delay; (2) the Transmission Owner's failure to meet the specified dates is the result of the action or inaction of the Developer or any other Developer who has entered into a Standard Large Generator Interconnection Agreement with the Transmission Owner and NYISO, or action or inaction by any other Party, or any other cause beyond Transmission Owner's reasonable control or reasonable ability to cure; (3) the Developer has assumed responsibility for the design, procurement and construction of the Transmission Owner's Attachment Facilities and Stand Alone System Upgrade Facilities; or (4) the Transmission Owner and Developer have otherwise agreed.

In no event shall NYISO have any liability whatever to Developer for liquidated damages associated with the engineering, procurement or construction of Attachment Facilities or System Upgrade Facilities.

5.4 **Power System Stabilizers.** The Developer shall procure, install, maintain and operate Power System Stabilizers in accordance with the requirements identified in the Interconnection Studies conducted for Developer's Large Generating Facility. NYISO and Transmission Owner reserve the right to reasonably establish minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Developer shall immediately notify the Transmission Owner and NYISO. The requirements of this paragraph shall not apply to wind generators.

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

**5.5.1** NYISO and Transmission Owner have completed the Interconnection Facilities  
Study pursuant to the Interconnection Facilities Study Agreement;

**5.5.2** The NYISO has completed the required cost allocation analyses, and Developer  
has accepted his share of the costs for necessary System Upgrade Facilities in accordance with the provisions of Attachment S of the NYISO OATT;

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

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

5.6 **Construction Commencement.** The Transmission Owner shall commence construction of the Transmission Owner's Attachment Facilities and System Upgrade Facilities for which it is responsible as soon as practicable after the following additional conditions are satisfied:

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

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

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

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

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

5.8 **Information Exchange.** As soon as reasonably practicable after the Effective Date, the  
Developer and Transmission Owner shall exchange information, and provide NYISO  
the same information, regarding the design and compatibility of their respective Attachment Facilities and compatibility of the Attachment Facilities with the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.9 **Limited Operation.** If any of the Transmission Owner's Attachment Facilities or System Upgrade Facilities are not reasonably expected to be completed prior to the  
Commercial Operation Date of the Developer's Large Generating Facility, NYISO   
shall, upon the request and at the expense of Developer, in conjunction with the Transmission Owner, perform operating studies on a timely basis to determine the extent to which the Developer's Large Generating Facility and the Developer's Attachment Facilities may operate prior to the completion of the Transmission Owner's Attachment Facilities or System Upgrade Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this Agreement. Transmission Owner and NYISO shall permit Developer to operate the Developer's Large Generating Facility and the Developer's Attachment Facilities in accordance with the results of such studies.

5.10 **Developer's Attachment Facilities ("DAF").** Developer shall, at its expense, design, procure, construct, own and install the DAF, as set forth in Appendix A hereto.

**5.10.1 DAF Specifications.** Developer shall submit initial specifications for the DAF, including System Protection Facilities, to Transmission Owner and NYISO at  
 least one hundred eighty (180) Calendar Days prior to the Initial

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

**5.10.2 No Warranty.** The review of Developer's final specifications by Transmission Owner and NYISO shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the DAF. Developer shall make such changes to the DAF as may reasonably be required by Transmission Owner or NYISO, in accordance with Good Utility Practice, to ensure that the DAF are compatible with the technical specifications, operational control, and safety requirements of the Transmission Owner and NYISO.

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

5.11 **Transmission Owner's Attachment Facilities Construction.** The Transmission Owner's Attachment Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unle**ss** the Transmission Owner and Developer agree on another mutually acceptable deadline, the Transmission Owner shall deliver to the Developer the following "as-built" drawings, information and documents for the Transmission Owner's Attachment Facilities [include appropriate drawings and relay diagrams].

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

5.12 **Access** **Rights.** Upon reasonable notice and supervision by the Granting Party, and subject to any required or necessary regulatory approvals, either the Transmission Owner or Developer ("Granting Party") shall furnish to the other of those two Parties ("Access Party") at no cost

any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress at the Point of Interconnection to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the New York State Transmission System; (ii) operate and maintain the Large Generating Facility, the Attachment Facilities and the New York State Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this Agreement. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time,  
by the Granting Party and provided to the Access Party. The Access Party shall   
indemnify the Granting Party against all claims of injury or damage from third parties resulting from the exercise of the access rights provided for herein.

5.13 **Lands of Other Property Owners.** If any part of the Transmission Owner's Attachment Facilities and/or System Upgrade Facilities is to be installed on property owned by persons other than Developer or Transmission Owner, the Transmission Owner shall at 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 Transmission Owner's Attachment Facilities and/or System Upgrade Facilities upon such property.

5.14 **Permits.** NYISO, Transmission Owner and the 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, Transmission Owner shall provide permitting assistance to the Developer comparable to that provided to the Transmission Owner's own, or an Affiliate's generation, if any.

5.15 **Early Construction of Base Case Facilities.** Developer may request Transmission Owner to construct, and Transmission Owner shall construct, subject to a binding cost allocation agreement reached in accordance with Attachment S to the NYISO OATT, including Section IV.F.12 thereof, using Reasonable Efforts to accommodate Developer's In-Service Date, all or any portion of any System Upgrade Facilities required for Developer to be interconnected to the New York State Transmission System which are included in the Base Case of the Facilities Study for the Developer, and which also are required to be constructed for another Developer, but where such construction is not scheduled to be completed in time to achieve Developer's In-Service Date.

5.16 **Suspension.** Developer reserves the right, upon written notice to Transmission Owner and NYISO, to suspend at any time all work by Transmission Owner associated with the construction and installation of Transmission Owner's Attachment Facilities and/or System Upgrade Facilities required for only that Developer 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 Transmission Owner and NYISO. In such event, Developer shall be responsible for all reasonable and necessary costs and/or obligations in accordance with Attachment S to the NYISO OATT including those which 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 Transmission Owner cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Transmission Owner shall obtain Developer's authorization to do so.

Transmission Owner shall invoice Developer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Developer suspends work by Transmission Owner required under this Agreement pursuant to this Article 5.16, and has not requested Transmission Owner to recommence the work required under this Agreement on or before the expiration of three (3) years following commencement of  
 such suspension, this Agreement shall be deemed terminated. The three-year period shall  
begin on the date the suspension is requested, or the date of the written notice to Transmission Owner and NYISO, if no effective date is specified.

**5.17** **Taxes.**

**5.17.1** **Developer Payments Not Taxable.** The Developer and Transmission Owner intend that all payments or property transfers made by Developer to Transmission Owner for the installation of the Transmission Owner's Attachment Facilities and the System Upgrade Facilities shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not  
 be taxable as contributions in aid of construction or otherwise under the Internal   
Revenue Code and any applicable state income tax laws.

**5.17.2 Representations and Covenants.** In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Developer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the New York State Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Transmission Owner for the Transmission Owner's Attachment Facilities will be capitalized by Developer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Transmission Owner's Attachment Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" meansno more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

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

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

Transmission Owner shall not include a gross-up for the cost

consequences of any current tax liability in the amounts it charges Developer under this Agreement unless (i) Transmission Owner has determined, in good faith, that the payments or property transfers made by Developer to Transmission Owner should be reported as income subject to taxation or (ii) any Governmental Authority directs Transmission Owner to report payments or property as income subject to taxation; provided, however, that Transmission Owner may require Developer to provide security, in a form reasonably acceptable to Transmission Owner (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. Developer shall reimburse Transmission Owner for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Transmission Owner of the amount due, including detail about how the amount was calculated.

This indemnification obligation shall terminate at the earlier of (1) the expiration of the ten-year testing period and the applicable statute of limitation, as it may be extended by

the Transmission Owner upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

**5.17.4** **Tax Gross-Up Amount.** Developer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Developer will pay Transmission Owner, in addition to the amount paid for the Attachment Facilities and System Upgrade Facilities, an amount equal to (1) the current taxes imposed on Transmission Owner ("Current Taxes") on the excess of (a) the gross income realized by Transmission Owner as a result of payments or property transfers made by Developer to Transmission Owner under this Agreement (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the 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 Transmission Owner's composite federal and state tax rates at the time the  
payments or property transfers are received and 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 Transmission Owner's anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Owner's current weighted average cost of capital. Thus, the formula for calculating Developer's liability to Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount - Present Value of Tax Depreciation))/(1 - Current Tax Rate).

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

**5.17.5 Private Letter Ruling or Change or Clarification of Law.** At Developer's request and expense, Transmission Owner shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Developer to Transmission Owner under this Agreement are subject to federal income taxation. Developer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Developer's knowledge. Transmission Owner and Developer shall cooperate in good faith with respect to the submission of such request.

Transmission Owner shall keep Developer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Developer to participate in all discussions with the IRS regarding such request for a private letter ruling. Transmission Owner shall allow Developer to attend all meetings with IRS officials about the request and shall permit Developer to prepare the initial drafts of any follow-up letters in connection with the request.

**5.17.6 Subsequent Taxable Events.** If, within 10 years from the date on which the relevant Transmission Owner Attachment Facilities are placed in service, (i) Developer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or

(iii) this Agreement terminates and Transmission Owner retains ownership of the Attachment Facilities and System Upgrade Facilities, the Developer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on Transmission Owner, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

**5.17.7** **Contests.** In the event any Governmental Authority determines that Transmission Owner's receipt of payments or property constitutes income that is subject to taxation, Transmission Owner shall notify Developer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Developer and at Developer's sole expense, Transmission Owner may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Developer's written request and sole expense, Transmission Owner may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. Transmission Owner reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Owner shall keep Developer informed, shall consider in good faith suggestions from Developer about the conduct of the contest, and shall reasonably permit Developer or an Developer representative to attend contest proceedings.

Developer shall pay to Transmission Owner on a periodic basis, as invoiced by Transmission Owner, Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. At any time during the contest, Transmission Owner may agree to a settlement either with Developer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Owner, but reasonably acceptable to Developer, that the proposed settlement represents a

reasonable settlement given the hazards of litigation. Developer's obligation shall   
be based on the amount of the settlement agreed to by Developer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding sentence. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. Any settlement without Developer's consent or such written advice will relieve Developer from any obligation to indemnify Transmission Owner for the tax at issue in the contest.

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

(i) Any payment made by Developer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Developer to Transmission Owner for such taxes which Transmission Owner did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by Developer to the date Transmission Owner refunds such payment to Developer, and

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

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

**5.17.9** **Taxes Other Than Income Taxes.** Upon the timely request by Developer, and at Developer's sole expense, Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Transmission Owner for which Developer may be required to reimburse Transmission Owner under the terms of this Agreement. Developer shall pay to Transmission Owner on a periodic basis, as invoiced by Transmission Owner, Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Developer and Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Developer to Transmission Owner for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Developer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Transmission Owner.

5.18 **Tax Status; Non-Jurisdictional Entities.**

**5.18.1 Tax Status.** Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the tax status of any Party including the status of NYISO, or the status of any Transmission Owner with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds. Notwithstanding any other provisions of this Agreement, LIPA, NYPA and Consolidated Edison Company of New York, Inc. shall not be required to comply with any provisions of this Agreement that would result in the loss of tax-exempt status of any of their Tax­ Exempt Bonds or impair their ability to issue future tax-exempt obligations. For purposes of this provision, Tax-Exempt Bonds shall include the obligations of the Long Island Power Authority, NYPA and Consolidated Edison Company of New York, Inc., the interest on which is not included in gross income under the Internal Revenue Code.

**5.18.2** **Non-Jurisdictional Entities.** LIPA and NYPA do not waive their exemptions, 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.

5.19 **Modification.**

**5.19.1 General.** Either the Developer or Transmission Owner may undertake modifications to its facilities covered by this Agreement. If either the Developer or 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 flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party and NYISO at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Developer to submit an Interconnection Request, Transmission Owner shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the New York State Transmission System, Transmission Owner's Attachment Facilities or System Upgrade Facilities necessitated by such Developer modification and a good faith estimate of the costs thereof.

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

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

**ARTICLE 6. TESTING AND INSPECTION**

6.1 **Pre-Commercial Operation Date Testing and Modifications.** Prior to the Commercial Operation Date, the Transmission Owner shall test the Transmission Owner's Attachment Facilities and System Upgrade Facilities and Developer shall test the Large Generating Facility and the Developer Attachment Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Developer and Transmission Owner shall each make any modifications to its facilities that are

found to be necessary as a result of such testing. Developer shall bear the cost of all   
such testing and modifications. Developer shall generate test energy at the Large Generating Facility only if it has arranged for the injection of such test energy in accordance with NYISO procedures.

6.2 **Post-Commercial Operation Date Testing and Modifications.** Developer and 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 Large Generating Facility with the New York State Transmission System in a safe and reliable manner. Developer and 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.** Developer and Transmission Owner shall each notify the other Party, and the NYISO, in advance of its performance of tests of its Attachment 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.**  Developer and 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, including Power System Stabilizers; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Attachment Facilities, the System Protection Facilities and other protective

equipment. NYISO shall have these same rights of inspection as to the facilities and equipment of Developer and 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 Attachment Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be  
treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO   
OATT.

**ARTICLE 7. METERING**

7.1 **General.** Developer and Transmission Owner shall each comply with applicable requirements of NYISO and the New York Public Service Commission when exercising its rights and fulfilling its responsibilities under this Article 7. Unless otherwise agreed by the Transmission Owner and NYISO approved meter service provider and Developer, the Transmission Owner shall install Metering Equipment at the Point of Interconnection prior to any operation of the Large Generating Facility and shall own, operate, test and maintain such Metering [Equipment. Net](http://Equipment.Net) power flows including MW and MVAR, MWHR and loss profile data to and from the Large Generating Facility shall be measured at the Point of Interconnection. Transmission Owner shall provide  
 metering quantities, in analog and/or digital form, as required, to Developer or NYISO   
upon request. Where the Point of Interconnection for the Large Generating Facility is other than the generator terminal, the Developer shall also provide gross MW and MVAR quantities at the generator terminal. Developer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 **Check Meters.** Developer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check Transmission Owner'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 check meters shall be subject at all reasonable times to inspection and examination by Transmission Owner or its designee. The installation, operation and maintenance thereof shall be performed entirely by Developer in accordance with Good Utility Practice.

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

7.4 **Testing of Metering Equipment.** Transmission Owner shall inspect and test all of its Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by NYISO or Developer, Transmission Owner shall, at Developer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Transmission Owner shall give reasonable notice of the time when any inspection or test shall take place, and Developer and NYISO 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 Developer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Transmission Owner's failure to maintain, then Transmission Owner shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Transmission Owner shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Developer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment. The NYISO shall reserve the right to review all associated metering equipment installation on the Developer's or Transmission Owner's property at any time.

7.5 **Metering** **Data.** At Developer's expense, the metered data shall be telemetered to one or more locations designated by Transmission Owner, Developer and NYISO. Such  
telemetered data shall be used, under normal operating conditions, as the official   
measurement of the amount of energy delivered from the Large Generating Facility to the Point of Interconnection.

**ARTICLE 8. COMMUNICATIONS**

8.1 **Developer Obligations.** In accordance with applicable NYISO requirements, Developer shall maintain satisfactory operating communications with Transmission Owner and NYISO. Developer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. Developer shall also provide the dedicated data circuit(s) necessary to provide Developer data to Transmission Owner and NYISO as set forth in Appendix D hereto. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by Transmission Owner and NYISO. Any required maintenance of such communications equipment shall be performed by 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 Large Generating Facility, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Developer, or by Transmission Owner at Developer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by 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 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 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.

**ARTICLE 9. OPERATIONS**

9.1  **General.** Each Party shall comply with Applicable Laws and Regulations and Applicable Reliability Standards. Each Party shall provide to the other Parties all information that may reasonably be required by the other Parties to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 **NYISO and Transmission Owner Obligations.** Transmission Owner and NYISO shall  
cause the New York State Transmission System and the Transmission Owner's Attachment Facilities to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the NYISO Tariffs. Transmission Owner and NYISO may provide operating instructions to Developer consistent with this Agreement, NYISO procedures and Transmission Owner's operating protocols and procedures as they may change from time to time. Transmission Owner and NYISO will consider changes to their respective operating protocols and procedures proposed by Developer.

9.3 **Developer Obligations.** Developer shall at its own expense operate, maintain and control the Large Generating Facility and the Developer Attachment Facilities in a safe and reliable manner and in accordance with this Agreement. Developer shall operate the Large Generating Facility and the Developer Attachment Facilities in accordance with NYISO and 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 **Start-Up** **and Synchronization.** Consistent with the mutually acceptable procedures of the Developer and Transmission Owner, the Developer is responsible for the proper

synchronization of the Large Generating Facility to the New York State Transmission System in accordance with NYISO and Transmission Owner procedures and requirements.

9.5 **Reactive Power.**

**9.5.1 Power Factor Design Criteria.** Developer shall design the Large Generating Facility to maintain an effective power delivery at demonstrated maximum net capability at the Point of Interconnection at a power factor within the range established by the Transmission Owner on a comparable basis, until NYISO has established different requirements that apply to all generators in the New York Control Area on a comparable basis.

The Developer shall design and maintain the plant auxiliary systems to operate safely throughout the entire real and reactive power design range.

The Transmission Owner shall not unreasonably restrict or condition the reactive power production or absorption of the Large Generating Facility in accordance with Good Utility Practice.

**9.5.2** **Voltage Schedules.** Once the Developer has synchronized the Large

Generating Facility with the New York State Transmission System, NYISO   
shall require Developer to operate the Large Generating Facility to produce or absorb reactive power within the design capability of the Large Generating Facility set forth in Article 9.5.1 (Power Factor Design Criteria). NYISO's voltage schedules shall treat all sources of reactive power in the New York Control Area in an equitable and not unduly discriminatory manner. NYISO shall exercise Reasonable Efforts to provide Developer with such schedules in accordance with NYISO procedures, and may make changes to such schedules as necessary to maintain the reliability of the New York State Transmission System. Developer shall operate the Large Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within

the design capability of the Large Generating Facility set forth in Article 9.5.1(Power Factor Design Criteria) as directed by the Transmission Owner's System Operator or the NYISO. If Developer is unable to maintain the specified voltage or power factor, it shall promptly notify NYISO.

9.5.2.1 **Governors and Regulators.** Whenever the Large Generating Facility is operated in parallel with the New York State

Transmission System, the turbine speed governors and automatic voltage regulators shall be in automatic operation at all times. If the .Large Generating Facility's speed governors or automatic voltage regulators are not capable of such automatic operation, the Developer shall immediately notify NYISO, or its designated representative, and ensure that such Large Generating Facility's real and reactive power are within the design capability of the Large Generating Facility's generating unit(s) and steady state stability limits and NYISO system operating (thermal, voltage and transient stability) limits. Developer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the New York State Transmission System or trip any generating unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSUIEEE Standard C37.106, or such other standard as applied to other generators in the New York Control Area on a comparable basis.

**9.5.3 Payment for Reactive Power.** NYISO shall pay Developer for reactive power  
or voltage support service that Developer provides from the Large Generating

Facility in accordance with the provisions of Rate Schedule 2 of the NYISO Services Tariff.

9.6 **Outages and Interruptions.**

**9.6.1 Outages.**

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

**9.6.1.2 Outage Schedules.** The Transmission Owner shall post scheduled outages of its transmission facilities on the NYISO OASIS. Developer shall submit its planned maintenance schedules for the Large Generating Facility to Transmission Owner and NYISO for a

minimum of a rolling thirty-six month period. Developer shall   
update its planned maintenance schedules as necessary. NYISO may direct, or the Transmission Owner may request, Developer to reschedule its maintenance as necessary to maintain the reliability of the New York State Transmission System. Compensation to Developer for any additional direct costs that the Developer incurs as

a result of rescheduling maintenance, including any additional   
overtime, breaking of maintenance contracts or other costs above and beyond the cost the Developer would have incurred absent the request to reschedule maintenance, shall be in accordance with the NYISO OATT. Developer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Developer had modified its schedule of maintenance activities other than at the direction of the NYISO or request of the Transmission Owner.

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

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

**9.6.2.1** The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

**9.6.2.2** Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the New York State Transmission System;

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

**9.6.2.4** Except during the existence of an Emergency State, when the interruption or reduction can be scheduled without advance notice, NYISO or Transmission Owner shall notify Developer in advance regarding the timing of such scheduling and further notify Developer

of the expected duration. NYISO or Transmission Owner shall coordinate with each other and the Developer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Developer, the Transmission Owner and the New York State Transmission System;

**9.6.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Attachment Facilities, and the New York State Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

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

**9.6.4 System Protection and Other Control Requirements.**

**9.6.4.1 System Protection Facilities.** Developer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or Developer Attachment Facilities. Transmission Owner shall install at Developer's expense any System Protection Facilities that may be required on the Transmission Owner Attachment Facilities or the New York State Transmission System as a result of the interconnection of the Large Generating Facility and Developer Attachment Facilities.

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

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

**9.6.4.4** The protective relay design of the Developer and 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 Developer's Large Generating Facility.

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

**9.6.4.6** Prior to the In-Service Date, and again prior to the Commercial   
Operation Date, the Developer and 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 Developer and 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.

**9.6.5 Requirements for Protection.** In compliance with NPCC requirements and Good Utility Practice, Developer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the New York State Transmission System not otherwise isolated by 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 Large Generating Facility and the New York State Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Developer and Transmission Owner. Developer shall be responsible for protection of the Large Generating Facility and 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. Developer shall be solely responsible to disconnect the Large Generating Facility and Developer's other equipment if conditions on the New York State Transmission System could adversely affect the Large Generating Facility.

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

9.7 **Switching and Tagging Rules.** The Developer and 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.

9.8 **Use of Attachment Facilities by Third Parties.**

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

**9.8.2 Third Party Users.** If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Transmission Owner's Attachment Facilities, or any part thereof, Developer will be entitled to compensation for the capital expenses it incurred in connection with the Attachment Facilities based

upon the pro rata use of the Attachment Facilities by Transmission Owner, all third party users, and Developer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In

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

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

**ARTICLE 10. MAINTENANCE**

10.1 **Transmission Owner Obligations.** Transmission Owner shall maintain its transmission facilities and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement.

10.2  **Developer Obligations.** Developer shall maintain its Large Generating Facility and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement.

10.3 **Coordination.** The Developer and Transmission Owner shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Attachment Facilities. The Developer and 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 Interconnection Customer and Transmission Owner shall each cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of Developer or Transmission Owner's facilities and equipment which may reasonably be expected to impact the other Party. The Developer and 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, Developer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Developer Attachment Facilities; and (2) operation, maintenance, repair and replacement of Transmission Owner's Attachment Facilities. The Transmission Owner shall be entitled to the recovery of incremental operating and maintenance expenses that it incurs associated with System Upgrade Facilities if and to the extent provided for under Attachment S to the NYISO OATT.

**ARTICLE 11. PERFORMANCE OBLIGATION**

11.1 **Developer Attachment Facilities.** Developer shall design, procure, construct, install, own and/or control the Developer Attachment Facilities described in Appendix A hereto, at its sole expense.

11.2  **Transmission Owner's Attachment Facilities.** Transmission Owner shall design, procure, construct, install, own and/or control the Transmission Owner's Attachment Facilities described in Appendix A hereto, at the sole expense of the Developer.

11.3 **System Upgrade Facilities.** Transmission Owner shall design, procure, construct, install, and own the System Upgrade Facilities described in Appendix A hereto. The responsibility of the Developer for costs related to System Upgrade Facilities shall be determined in accordance with the provisions of Attachment S to the NYISO OATT.

11.4  **Special Provisions for Affected Systems.** For the re-payment of amounts advanced to Affected System Operator for System Upgrade Facilities, the Developer and Affected System Operator shall enter into an agreement that provides for such re-payment, but only if responsibility for the cost of such System Upgrade Facilities is not to be  
allocated in accordance with Attachment S to the NYISO OATT. The agreement shall   
specify the terms governing payments to be made by the Developer to the Affected System Operator as well as the re-payment by the Affected System Operator.

11.5 **Provision of Security.** At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of a discrete portion of a Transmission Owner's Attachment Facilities, Developer shall provide Transmission Owner, at Developer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Owner and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1 of this Agreement. Such security for payment shall be in an amount sufficient to cover the cost for the Developer's share of constructing, procuring and installing the applicable portion of Transmission Owner's Attachment Facilities, and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Owner for these purposes.

In addition:

**11.5.1** The guarantee must be made by an entity that meets the commercially reasonable creditworthiness requirements of Transmission Owner, and contains terms and conditions that guarantee payment of any amount that may be due from Developer, up to an agreed-to maximum amount.

**11.5.2** The letter of credit must be issued by a financial institution reasonably acceptable to Transmission Owner and must specify a reasonable expiration date.

**11.5.3** The surety bond must be issued by an insurer reasonably acceptable to Transmission Owner and must specify a reasonable expiration date.

**11.5.4** Attachment S to the NYISO OATT shall govern the Security that Developer provides for System Upgrade Facilities.

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

11.7 **Line Outage Costs.** Notwithstanding anything in the NYISO OATT to the contrary, the Transmission Owner may propose to recover line outage costs associated with the installation of Transmission Owner's Attachment Facilities or System Upgrade

Facilities on a case-by-case basis.

**ARTICLE 12. INVOICE**

12.1 **General.** The Developer and Transmission Owner shall each submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Developer and Transmission Owner may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts one Party owes to the other Party under this Agreement, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

12.2  **Final Invoice.** Within six months after completion of the construction of the Transmission Owner's Attachment Facilities and the System Upgrade Facilities, Transmission Owner shall provide an invoice of the final cost of the construction of the Transmission Owner's Attachment Facilities and the System Upgrade Facilities, determined in accordance with Attachment S to the NYISO OATT, and shall set forth such costs in sufficient detail to enable Developer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Transmission Owner shall refund to Developer any amount by which the actual payment by Developer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

12.3 **Payment.** Invoices shall be rendered to the paying Party at the address specified in Appendix F hereto. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices will not constitute a waiver of any rights or claims the paying Party may have under this Agreement.

12.4  **Disputes.** In the event of a billing dispute between Transmission Owner and Developer, Transmission Owner shall continue to perform under this Agreement as long as Developer: (i) continues to make all payments not in dispute; and (ii) pays to Transmission Owner or into an independent escrow account the portion of the invoice in

dispute, pending resolution of such dispute. If Developer fails to meet these two requirements for continuation of service, then Transmission Owner may provide notice to 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 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.

**13.2** **Notice.** NYISO or, as applicable, Transmission Owner shall notify Developer promptly when it becomes aware of an Emergency State that affects the Transmission Owner's Attachment Facilities or the New York State Transmission System that may reasonably be expected to affect Developer's operation of the Large Generating Facility or the Developer's Attachment Facilities. Developer shall notify NYISO and Transmission Owner promptly when it becomes aware of an Emergency State that affects the Large Generating Facility or the Developer Attachment Facilities that may reasonably be expected to affect the New York State Transmission System or the Transmission Owner's Attachment Facilities. To the extent information is known, the notification shall describe the Emergency State, the extent of the damage or deficiency, the expected effect on the operation of Developer's or Transmission Owner's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

**13.3 Immediate Action.** Unless, in Developer's reasonable judgment, immediate action is required, Developer shall obtain the consent of Transmission Owner, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Developer Attachment Facilities in response to an Emergency State either declared by NYISO, Transmission Owner or otherwise regarding New York State Transmission System.

**13.4**  **NYISO and Transmission Owner Authority.**

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

NYISO and Transmission Owner shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Developer Attachment Facilities. NYISO or Transmission Owner may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency State by taking actions necessary and limited in scope to remedy the Emergency State, including, but not limited to, directing Developer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.4.2; directing the Developer to assist with blackstart (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Developer Attachment Facilities. Developer shall comply with all of the NYISO and Transmission Owner's operating instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

**13.4.2 Reduction and Disconnection.** NYISO or Transmission Owner may reduce Network Access Interconnection Service or disconnect the Large Generating Facility or the Developer Attachment Facilities, when such, reduction or disconnection is necessary under Good Utility Practice due to an Emergency State. These rights are separate and distinct from any right of Curtailment of NYISO pursuant to the NYISO OATT. When NYISO or Transmission Owner can schedule the reduction or disconnection in advance, NYISO or

Transmission Owner shall notify Developer of the reasons, timing and expected duration of the reduction or disconnection. NYISO or Transmission Owner shall coordinate with the Developer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Developer and the New York State Transmission System. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Attachment Facilities, and the New York State Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

**13.5 Developer Authority.** Consistent with Good Utility Practice and this Agreement, the Developer may take whatever actions or inactions with regard to the Large Generating Facility or the Developer Attachment Facilities during an Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Developer Attachment Facilities, (iii) limitor prevent damage, and (iv) expedite restoration of service. Developer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the New York State Transmission System and the Transmission Owner's Attachment Facilities. NYISO and Transmission Owner shall use Reasonable Efforts to assist Developer in such actions.

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

**ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW**

**14.1 Regulatory Requirements.** Each Party's obligations under this Agreement shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall

in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this Agreement shall require Developer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935 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.

**15.3 Alternative Forms of Notice.** Any notice or request required or permitted to be given by a Party to the other Parties and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F hereto.

**15.4 Operations and Maintenance Notice.** Developer and 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 Force Majeure.**

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 A Party shall not be responsible or liable, or deemed, in Default with respect to any obligation hereunder, (including obligations under Article 4 of this Agreement) , 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 Default.**

**17.1.1 General.** No Breach shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Parties. Upon a Breach, the non-Breaching Parties shall give written notice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

**17.1.2 Right to Terminate.** If a Breach is not cured as provided in this Article 17, or if a Breach is not capable of being cured within the period provided for herein, the non-Breaching 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, 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 commencement of any action or administrative or legal

proceeding or investigation as to which the indemnity provided for in Article 18.1   
may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

Except as stated below, the Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action 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 Liquidated Damages heretofore described and the indemnity obligations set forth in Article 18.1, in no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under separate agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

**18.3 Insurance.** Developer and Transmission Owner shall each, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Parties, the following minimum insurance coverages, with insurers authorized to do business in the state of New York:

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

**18.3.2** Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars ($1,000,000) per occurrence/One Million Dollars ($1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

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

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

**18.3.5**  The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies of Developer and 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 insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Calendar days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

**18.3.6**  The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Developer and Transmission Owner shall each be responsible for its respective deductibles or retentions.

**18.3.7** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Developer and Transmission Owner.

**18.3.8** The requirements contained herein as to the types and limits of all insurance to be maintained by the Developer and Transmission Owner are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by those Parties under this Agreement.

**18.3.9** Within ten (10) days following execution of this Agreement, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, Developer and Transmission Owner shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.

**18.3.10** Notwithstanding the foregoing, Developer and Transmission Owner may each self-insure to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade, or better, by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is  
 rated at less than investment grade by Standard & Poor's, such Party shall   
comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

**18.3.11** Developer and 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.

**ARTICLE 19. ASSIGNMENT**

**19.1 Assignment.** This Agreement may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this Agreement without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; provided further that a Party may assign this

Agreement without the consent of the other Parties in connection with the sale, merger, restructuring, or transfer of a substantial portion or all of its assets, including the Attachment Facilities it owns, so long as the assignee in such a transaction directly assumes in writing all rights, duties and obligations arising under this Agreement; and

provided further that the Developer shall have the right to assign this Agreement, without the consent of the NYISO or Transmission Owner, for collateral security purposes to aid  
 in providing financing for the Large Generating Facility, provided that the Developer will promptly notify the NYISO and Transmission Owner of any such assignment. Any financing arrangement entered into by the 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 Transmission Owner of the date and particulars of any such exercise of assignment right(s) and will provide the NYISO and Transmission Owner with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

**ARTICLE 20. SEVERABILITY**

**20.1 Severability.** If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement; provided that if the Developer (or any third party, but only if such third party is not acting at the direction of the Transmission Owner) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the rights and obligations of Developer and Transmission Owner shall be governed solely by the Standard Option (Article 5.1.1).

**ARTICLE 21. COMPARABILITY**

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

**ARTICLE 22. CONFIDENTIALITY**

**22.1 Confidentiality.** Certain information exchanged by the Parties during the term of this Agreement shall constitute confidential information ("Confidential Information") and shall be subject to this Article 22.

If requested by a Party receiving information, the Party supplying the information shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

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

**22.1.2 Confidential Information.** The following shall constitute Confidential Information: (1) any non-public information that is treated as confidential by the

disclosing Party and which the disclosing Party identifies as Confidential Information in writing at the time, or promptly after the time, of disclosure; or (2) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F to the NYISO OATT.

**22.1.3 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after

due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Article 22.1.8 of this Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and  
obligations under this Agreement. Information designated as Confidential   
Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

**22.1.4 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be or considering providing financing to or equity participation with Developer, or to potential purchasers or assignees of a Party, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

**22.1.5 Rights.** Each Party retains allrights, 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.

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

**22.1.7 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements, including the NYISO 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 NYISO OATT.

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

**22.1.9 Termination of Agreement.** Upon termination of this Agreement for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other 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.

**22.1.10 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other 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.

**22.1.11 Disclosure to FERC, its Staff, or a State.** Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section Ib.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 NYISO 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.

**22.1.12** Except as otherwise expressly provided herein, no Party shall disclose Confidential Information to any person not employed or retained by the Party possessing the Confidential Information, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the

defense of litigation or dispute; (iii) otherwise permitted by consent of the other  
Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill  
its obligations under this Agreement, the NYISO 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. ENVIRONMENTAL RELEASES**

**23.1 Developer and Transmission Owner Notice.** Developer and 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 Large Generating Facility or the Attachment Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

**ARTICLE 24. INFORMATION REQUIREMENT**

**24.1 Information Acquisition.** Transmission Owner and 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 by Transmission Owner.** The initial information submission by Transmission Owner shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include New York State Transmission System information necessary to allow the Developer to select equipment and meet any system protection and stability requirements, unless otherwise mutually agreed to by the  
 Developer and Transmission Owner. On a monthly basis Transmission Owner shall   
provide Developer and NYISO a status report on the construction and installation of Transmission Owner's Attachment Facilities and System Upgrade Facilities, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

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

If the Developer's data is materially different from what was originally provided to Transmission Owner and NYISO pursuant to an Interconnection Study Agreement among Transmission Owner, NYISO and Developer, 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. The Developer shall not begin Trial Operation until such studies are completed.

**24.4 Information Supplementation.** Prior to the Commercial Operation Date, the Developer and Transmission Owner shall supplement their information submissions described above in this Article 24 with any and all "as-built" Large Generating Facility information or

"as-tested" performance information that differs from the initial submissions or,  
alternatively, written confirmation that no such differences exist. The Developer shall   
conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit "step voltage" test on the Large Generating Facility to verify proper operation of the Large Generating Facility's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent change in Large Generating Facility terminal voltage initiated by a change in the voltage regulators reference voltage. Developer shall provide validated test recordings showing the responses of Large Generating Facility terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Large Generating Facility's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Large Generating Facility terminal or field voltages is provided. Large Generating Facility testing shall be conducted and results provided to the Transmission Owner and NYISO for each individual generating unit in a station.

Subsequent to the Commercial Operation Date, the Developer shall provide Transmission Owner and NYISO any information changes due to equipment replacement, repair, or adjustment. Transmission Owner shall provide the Developer and NYISO any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Transmission Owner substation that may affect the Developer Attachment Facilities equipment ratings, protection or operating requirements. The Developer and 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 State. Any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to the Party's performance and satisfaction of obligations under this Agreement. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4 of this Agreement.

**25.4 Audit Rights Periods.**

**25.4.1 Audit Rights Period for Construction-Related Accounts and Records.** Accounts and records related to the design, engineering, procurement, and construction of Transmission Owner's Attachment Facilities and System UpgradeFacilities shall be subject to audit for a period of twenty-four months following 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 Transmission Owner be liable for the actions or inactions of the Developer or its subcontractors with respect to obligations of the Developer under Article 5 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

**26.3** **No Limitation by Insurance.** The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

**ARTICLE 27. DISPUTES**

**27.1 Submission.** In the event any Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance (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 three­member 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 arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Attachment Facilities, or System Upgrade Facilities.

**27.4 Costs.**  Each Party shall be responsible for its own costs incurred during the arbitration

process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by

the Party to sit on the three member panel; or (2) one-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 Large Generating Facility, Attachment Facilities and System Upgrade Facilities owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

**28.1.2 Authority.** Such Party has the right, power and authority to enter into this Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

**28.1.3 No Conflict.** The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

**28.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

**ARTICLE 29. MISCELLANEOUS**

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

**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, unlessa clear contrary intention appears,  
shall be construed and interpreted as follows: (1) the singular number includes the plural  
number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this Agreement or such Appendix to this Agreement, or such Section to the Large Facility Interconnection Procedures or such Appendix to the Large Facility Interconnection Procedures, as the case may be; (6) "hereunder", "hereof, "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

**29.4 Compliance.** Each Party shall perform its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, the NYISO 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 Developer and 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 the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and permitted their assigns.

**29.8 Waiver.** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by the Developer shall not constitute a waiver of the Developer's legal rights to obtain Network Access Interconnection Service from the NYISO and Transmission Owner in accordance with the provisions of the NYISO OATT. Any waiver of this Agreement shall, if requested, be provided in writing.

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

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

**29.11 Amendment.** The Parties may by mutual agreement amend this Agreement, by a written instrument duly executed by all 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.** Transmission Owner shall have the right to make unilateral filings with FERC to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and Developer shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by 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.

**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 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 System Upgrade Facilities.

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

**[Niagara Mohawk Power Corporation, d/b/a National grid]**

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

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**AG Energy L.P. ( Alliance Energy)**

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

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**Appendices**

**Appendix A**

Attachment Facilities and System Upgrade Facilities

**Appendix B**

Milestones

**Appendix C**

Interconnection Details

**Appendix D**

Security Arrangements Details

**Appendix E**

Commercial Operation Date

**Appendix F**

Addresses for Delivery of Notices and Billings

**Appendix G**

Interconnection Requirements For a Wind Generating Plant

**Appendix H**

Non-Applicable Pro-Forma LGIA Provisions

**Appendix A**

**Attachment facilities and System Upgrade Facilities**

**1. Attachment Facilities:**

**(a) [insert Developer's Attachment Facilities]:**

i. 13.8/115 kV Transformer

ii. Breaker (#10) and Switches 11 and 13A

iii. Delivery Point at bus tie of 115 kV line

iv. Transmission Owner’s Metering ties to Developer’s Attachment Facility on the bus at jaw-side of switch # 13A

**(b) [insert Transmission Owner's Attachment Facilities]:**

i. Approximately 1 mile long Single-circuit OEF- N. Ogdensburg #1 115kV transmission line from the Point of Change of Ownership to the Point of Interconnection.

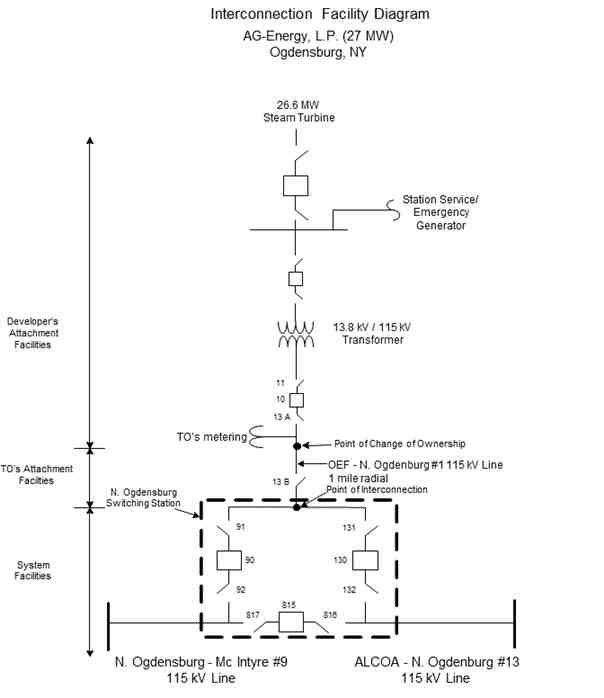
**2. System Upgrade Facilities:**

**(a) [insert Stand Alone System Upgrade Facilities]:**

**(b) [insert Other System Upgrade Facilities]:**

i. Breakers # 90, 130, and 815 and Switches # 91, 92, 131, 132, 816 and 817 and the associated buses in the three-breaker 115kV Ogdensburg Switching Station, located between Line 9 and Line 13 and associated bus.

ii. All associated control, protection, and communication equipment and facilities



**Appendix B**

**Milestones**

**Appendix C  
Interconnection Details**

Corporation NUG Interconnection Report for AG Energy L.P. Power 26.6 MW Cogeneration

Project

1. **Owner: AG-Energy L.P.**

**Project: North Ogdensburg**

**Point of Interconnection:** (refer to one-line diagram that should be attached in Appendix A)

2. **Electrical Equipment Requirements:** The installation of electrical equipment and operation of the facility must meet or exceed the requirements of Niagara Mohawk’s Electric System Bulletin No756-B.

3. **Metering Requirements:** Electricity transferred to the transmission system shall be measured by electric watt-hour meters of a type approved by the Public Service Commission of the State of New York. The meter and installation costs shall be borne by AG-Energy, L.P.. The meters shall be maintained with the rules set forth in 16 NYCRR Part 92.

4. **Reference:** Interconnection Study Entitled “Electrical Interconnection Plan and Estimates AG Energy/Sithe Energies Cogeneration Project” dated May, 1993

5. **Reference:** Special Protection System description for Ogdensburg Energy Facility (attached).

**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 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.

**Appendix E**

**Commercial Operation Date**

For purposes of this Agreement, the Commercial Operation Date shall be treated as June 30, 1998.

**Appendix F**

**Addresses for Delivery of Notices and Billings**

**Notices:**

NYISO:

New York Independent System Operator

Attn: Vice President, Operations

3890 Carman Rd.

Schenectady, NY 12303

Transmission Owner:

Bill Malee

Director, Transmission Commercial Services

National Grid

40 Sylvan Road

Waltham, MA 02451

Phone: (781) 907-2422

Email: william.malee@us.ngrid.com

Developer:

Greg Sharland

Regional Director of Operations for,

A.G. Energy L.P. (Alliance Energy)

21 Entrance Avenue

Ogdensburg, NY 13669

Phone: (585) 343-9200

Email: gsharland@aeny.us

**Billings and Payments:**

Transmission Owner:

Bill Malee

Director, Transmission Commercial Services

National Grid

40 Sylvan Road

Waltham, MA 02451

Phone: (781) 907-2422

Email: william.malee@us.ngrid.com

Developer:

A.G. Energy L.P. (Alliance Energy)

21 Entrance Avenue

Ogdensburg, NY 13669

Phone: (585) 343-9200

Email: gsharland@aeny.us

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

NYISO:

New York Independent System Operator

Attn: Vice President, Operations

3890 Carman Rd.

Schenectady, NY 12303

Transmission Owner:

Bill Malee

Director, Transmission Commercial Services

National Grid

40 Sylvan Road

Waltham, MA 02451

Phone: (781) 907-2422

Email: william.malee@us.ngrid.com

Developer:

A.G. Energy L.P. (Alliance Energy)

21 Entrance Avenue

Ogdensburg, NY 13669

Phone: (585) 343-9200

Email: gsharland@aeny.us

**APPENDIX G**

**INTERCONNECTION REQUIREMENTS FOR A WIND GENERATING PLANT**

Appendix G sets forth requirements and provisions specific to a wind generating plant. All

other requirements of this LGIA continue to apply to wind generating plant interconnections.

**A. Technical Standards Applicable to a Wind Generating Plant**

**i. Low Voltage Ride-Through (LVRT) Capability**

A wind generating plant shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the standard below. The LVRT standard provides for a transition period standard and a post-transition period standard.

Transition Period LVRT Standard

The transition period standard applies to wind generating plants subject to FERC Order 661  
that have either: (i) interconnection agreements signed and filed with the Commission, filed with the Commission in unexecuted form, finally executed as conforming agreements, or filed with the Commission as non-conforming agreements between January 1, 2006 and December 31, 2006, with a scheduled in-service date no later than December 31, 2007, or (ii) wind generating turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for delivery through 2007.

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 - 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault

voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the Transmission Owner for the Transmission District to which the wind generating plant will be interconnected. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15 p.u., as measured at the high side of the wind generating plant step-up transformer (i.e. the transformer that steps the voltage up to the transmission interconnection voltage or "GSU"), after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system.

2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU or to faults that would result in a voltage lower than 0.15 per unit on the high side of the GSU serving the facility.

3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.

4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator, etc.) within the wind generating plant or by a combination of generator performance and additional equipment.

5. Existing individual generator units that are, or have been, interconnected to the network at  
the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

**Post-transition Period LVRT Standard**

All wind generating plants subject to FERC Order No. 661 and not covered by the transition period described above must meet the following requirements:

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 - 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the Transmission Owner for the Transmission District to which the wind generating plant will be interconnected. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system. A wind generating plant shall remain interconnected during such a fault on the transmission system for a voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.

2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU.

3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.

4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator) within the wind generating plant or by a combination of generator performance and additional equipment.

5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

**ii. Power Factor Design Criteria (Reactive Power)**

A wind generating plant shall maintain a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this LGIA, if the ISO's System Reliability Impact Study shows that such a requirement is necessary to ensure safety or reliability.

The power factor range standards can be met using, for example without limitation, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors if agreed to by the Transmission Owner for the

Transmission District to which the wind generating plant will be interconnected, or a combination of the two. The Developer shall not disable power factor equipment while the wind plant is in operation. Wind plants shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the System Reliability Impact Study shows this to be required for system safety or reliability.

**iii. Supervisory Control and Data Acquisition (SCADA) Capability**

The wind plant shall provide SCADA capability to transmit data and receive instructions from the ISO and/or the Transmission Owner for the Transmission District to which the wind generating plant will be interconnected, as applicable, to protect system reliability. The Transmission Owner for the Transmission District to which the wind generating plant will be interconnected and the wind plant Developer shall determine what SCADA information is essential for the proposed wind plant, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability in its area.

**Appendix H**

**List of Non-Applicable Pro-Forma LGIA Provisions**

Transmission Owner and Developer are already interconnected, pursuant to a pre-existing interconnection agreement. Therefore, certain terms of the pro-forma New York ISO LGIA are not applicable to this LGIA, because they relate solely to new interconnections. The parties to this LGIA have nevertheless agreed to use the pro-forma New York ISO LGIA with almost no modifications, in accordance with FERC policy promoting the use of pro-forma interconnection agreements wherever possible. The parties, however, believe that the following provisions of the pro-forma New York ISO LGIA are not applicable to the current LGIA:

Section 5.1 (Option), including all subsections thereof

Section 5.2 (General Conditions Applicable to Option to Build)

Section 5.3 (Liquidated Damages)

Section 5.5 (Equipment Procurement), including all subsections thereof

Section 5.6 (Construction Commencement), including all subsections thereof

Section 5.7 (Work Progress)

Section 5.8 (Information Exchange)

Section 5.9 (Limited Operation)

Section 5.10 (Developer Attachment Facilities), including all subsections thereof

Section 5.11 (Transmission Owner Attachment Facilities), including all subsections thereof

Section 5.14 (Permits)

Section 5.15 (Early Construction of Base Case Facilities)

Section 6.1 (Pre Commercial Operation Date Testing and Modification)

Section 11.4 (Special Provisions for Affected Systems)

Section 11.5 (Provision of Security), including all subsections thereof

Section 12.2 (Final Invoice)

Section 24.1 (Information Acquisition)

Section 24.2 (Information Submission by Transmission Owner)

Section 24.3 (Updated Information Submission by Developer)

Section 24.4 (Information Supplementation)

Section 25.4.1 (Audit Rights Period for Construction Related Accounts)

Appendix B (Milestones)

Appendix G (Interconnection Requirements for a Wind Generating Plant)

Service Agreement No. 1168

This

Cost Reimbursement Agreement   
 has been superseded by a

Second Amended and Restated Small Generator Interconnection Agreement   
 and relocated within the Agreements Tariff

COST REIMBURSEMENT AGREEMENT

THIS COST REIMBURSEMENT AGREEMENT (the “Agreement”), made and   
entered into as of this 9th day of January 2012(the “Effective Date”), by and between the MM   
Albany Energy LLC ("Customer"), and Niagara Mohawk Power Corporation d/b/a National Grid   
(the "Company"), a corporation organized and existing under the laws of the State of New York.   
Customer and Company may be referred to hereunder, individually, as a “Party” or, collectively,   
as the “Parties”.

WITNESSETH

WHEREAS, Customer is interested in making certain modifications in regards to its Albany Landfill Small Generating Facility in Albany, New York (“Customer Facilities” or “Sites”); and

WHEREAS, the Parties have an existing Interconnection Agreement governing the interconnection dated December 6, 2007; and

WHEREAS, the Customer Facilities interconnect to the Interconnection Facility per the Interconnection Agreement; and

WHEREAS, the modifications to Customer Facilities will require modifications to the Interconnection Facilities; and

WHEREAS, Company will provide, at Customer’s sole cost and expense, certain work in connection with the Project (as such term is defined below) as described below; and

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

1.0 Definitions

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

"Agreement" means this Cost Reimbursement Agreement including all annexes,   
appendices, attachments, schedules and exhibits and any subsequent amendments,   
supplements, or modifications thereto, as mutually agreed to and executed by the Parties.

“Company Reimbursable Costs” means the actual costs and expenses incurred by   
Company and/or its affiliates in connection with performance of the Work (as defined   
below) or otherwise incurred by Company in connection with the Project or this

Agreement, and including, without limitation, any such costs that may have been incurred   
by Company 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 Work or otherwise in connection with the Project, all applicable   
overhead, all federal, state and local taxes incurred, all costs of outside experts,   
consultants, counsel and contractors, all other third-party fees and costs, and all costs of   
obtaining any required consents, releases, approvals, or authorizations.

“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.

"Dollars" and "$" mean United States of America dollars.

"Environment" shall mean soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, and ambient air.

"Environmental Law" shall mean any environmental or health-and-safety-related law,

regulation, rule, ordinance, or by-law at the federal, state, or local level, whether existing as of the date hereof, previously enforced or subsequently enacted, or any judicial or administrative interpretation thereof.

“Estimated Cost of Work” shall have the meaning set forth in Schedule A attached hereto.

“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. Good Utility Practice shall include, but not be   
limited to, NERC (defined below) criteria, rules, guidelines, and standards, NPCC   
(defined below) criteria, rules, guidelines, and standards, NYSRC (defined below)

criteria, rules, guidelines, and standards, and NYISO (defined below) 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. When applied to Customer, the term Good Utility Practice shall include standards applicable to a utility generator connecting to the distribution or transmission facilities or system of another utility.

“Hazardous Substances” means any pollutant, contaminant, toxic substance, hazardous   
material, hazardous waste, or hazardous substance, or any oil, petroleum, or petroleum   
product, as defined in or pursuant to the Federal Clean Water Act, as amended, the

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Comprehensive Environmental Response, Compensation and Liability Act, as amended,

42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901, et seq., or any other Environmental Law.

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

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

“NYISO” shall mean the New York Independent System Operator, Inc. “NYSRC” shall mean the New York State Reliability Council.

"Project Manager" means the respective representative of Customer and the Company appointed pursuant to Section 27.1 of this Agreement.

"Project" means the Work to be performed under this Agreement by the Company.

"Release" shall mean any releasing, spilling, leaking, contaminating, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping of any Hazardous Substances into the Environment.

"Threat of Release" shall mean a substantial likelihood of a Release that requires action   
to prevent or mitigate damage to the Environment that may result from such Release.

"Subcontractor" means any organization, firm or individual, regardless of tier, which Company retains in connection with the Agreement.

“Supplemental Conditions” means those terms and conditions, if included in the Agreement by mutual written agreement of the Parties, which add to or modify the Agreement and are incorporated by reference as if fully set forth in the Agreement. In the case of a conflict between the Supplemental Conditions and the Agreement, the Supplemental Conditions shall prevail.

“Work” shall have the meaning specified in Section 3.1 of this Agreement.

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 and final payment is made as contemplated by this Agreement.

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3.0 Scope of Work

3.1 The scope of work is set forth in Schedule A of this Agreement, attached hereto

and incorporated herein by reference (the “Work”).

3.2 Company shall use reasonable efforts to perform the Work in accordance with

Good Utility Practice. Prior to completion of the Work, Customer shall have the   
right to notify the Company of the need for correction of defective Work that does   
not meet the standards of this Section 3.2. If the Work is defective within the   
meaning of the prior sentence, the Company shall promptly complete, correct,   
repair or replace such defective Work, as appropriate, at no added cost to the   
Customer if the previously incurred total Company Reimbursable Costs are equal   
to or in excess of the Estimated Cost of Work. However, as long as the total   
Company Reimbursable Costs do not exceed the Estimated Cost of Work, then   
items of defective Work identified by the Customer prior to completion of the   
Work that Company reasonably determines need to be re-performed in order to   
comply with the standards in this Section 3.2 shall be completed or re-performed   
subject to reimbursement of all costs associated therewith as part of Company   
Reimbursable Costs. The remedy set forth in this Section is the sole and   
exclusive remedy granted to Customer for any failure of Company to meet the   
performance standards or requirements set forth in this Agreement.

4.0 Changes in the Work

4.1 Each Party shall inform the other at the start of Work in writing of the name and

contact information for the respective Project Manager per Section 25.1 of this Agreement;

4.2 If Customer requests a change in the Work, such request shall be submitted to the

Company in writing. If the Parties agree to a change in the Work, such agreed   
change will be set forth in writing, and the Work schedule shall be adjusted   
and/or extended as mutually agreed by the Parties. Any additional costs arising   
from such change shall be paid by the Customer as part of Company   
Reimbursable Costs when invoiced by the Company in accordance with Section

7.2 of this Agreement.

4.3 Notwithstanding the above, Company may make any reasonable changes in the

Work to ensure the completion of the Project, prevent delays in the schedule, or   
meet the requirements of governmental authorities, laws, regulations, ordinances,   
Good Utility Practice and/or codes. Company shall provide Customer with notice   
of the changes to the Work within fifteen (15) business days of such changes   
being implemented. The Work schedule shall be adjusted accordingly and any   
additional costs shall be paid by the Customer as part of Company Reimbursable   
Costs when invoiced by the Company in accordance with Section 7.2 of this   
Agreement.

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5.0 Performance and Schedule

5.1 The Company shall use commercially-reasonable efforts to attempt to have Work

performed by its direct employees performed during normal working hours. The foregoing notwithstanding, if Work is performed outside of normal working hours, Customer shall be responsible for paying all actual costs incurred in connection therewith, including, without limitation, applicable overtime costs.

5.2 If Customer requests, and the Company agrees, to work outside normal working

hours due to delays in the Project schedule or for other reasons, Company shall be   
entitled to recover all resulting costs as part of Company Reimbursable Costs.

5.3 The Projected Project Milestone Schedule is set forth in Schedule B, attached

hereto and incorporated herein by reference. The Projected Project Milestone

Schedule is an estimate only and subject to change.

6.0 Estimate Only; Customer Obligation to Pay Company Reimbursable Costs.

6.1 The Work Cost Estimate (as defined in Schedule A) is an estimate only.

Customer shall pay all Company Reimbursable Costs actually incurred by

Company.

7.0 Payment

7.1 Within thirty (30) Days following the Effective Date, the Company shall invoice

Customer for an initial prepayment of One Hundred Fifteen Thousand Dollars   
($115,000) ("Initial Prepayment") and Customer shall pay the Initial Prepayment   
to Company within five (5) Days of the invoice due date. Company shall not   
commence Work under this Agreement prior to receiving the Initial Prepayment.

7.2 Company may periodically invoice Customer for Company Reimbursable Costs

incurred. Company is not required to issue periodic invoices to Customer and   
may elect, in its sole discretion, to continue performance hereunder after the   
depletion of the Initial Prepayment or Second Prepayment, as applicable, and   
invoice Customer at a later date. Except as otherwise expressly provided for in   
this Agreement, all invoices shall be due and payable thirty (30) Days from date   
of invoice. If any payment due under this Agreement is not received within five

(5) days of the applicable invoice due date, the Customer shall pay to the   
Company interest on the unpaid amount at an annual rate equal to two percent   
(2%) above the prime rate of interest from time to time published under “Money   
Rates” in The Wall Street Journal (or if at the time of determination thereof, such   
rate is not being published in The Wall Street Journal, such comparable rate from   
a federally insured bank in New York, New York as the Company may   
reasonably determine), the rate to be calculated daily from and including the due   
date until payment is made in full. In addition to any other rights and remedies   
available to Company, if any payment due from Customer under this Agreement

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is not received within five (5) Days of the applicable invoice due date, Company   
may suspend any or all Work pending receipt of all amounts due from Customer.

7.3 Company’s invoices to Customer 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 Customer may designate upon written notice to the Company:

Name: Mr. Lewis Staley

Director; Fortistar

Address: 5087 Junction Road

Lock Port NY 14094

7.4 Payments to the Company shall be made by wire transfer to:

Wire Payment: JP Morgan Chase

ABA#.021000021

Credit: National Grid USA Account#.77149642

8.0 Final Payment

8.1 Following completion of the Work, the Company shall perform an overall

reconciliation of the total of all Company Reimbursable Costs to the invoiced   
costs previously paid to Company by Customer under this Agreement (“Total   
Payments Made”). If the total of all Company Reimbursable Costs is greater than   
the Total Payments Made, the Company shall provide a final invoice to Customer   
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, Company shall reimburse the difference to Customer   
(“Reimbursement Amount”). The Reimbursement 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   
Reimbursement Amount, as applicable, remaining unpaid after that time shall be   
subject to interest as calculated pursuant Section 7.2 of this Agreement.

9.0 Customer’s Responsibilities

9.1 The Customer’s responsibilities are set forth in Schedule C of this Agreement,

attached hereto and incorporated herein by reference.

9.2 Customer shall reasonably cooperate with Company as required to facilitate

Company’s performance of the Work.

9.3 Company shall have no responsibility or liability under this Agreement for any

delay in performance, defective performance or nonperformance to the extent

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such delay in performance, defective performance or nonperformance is caused   
by the inability or failure of (a) Customer to cooperate or to perform any tasks or   
responsibilities contemplated to be performed or undertaken by the Customer in   
Schedule C or elsewhere in this Agreement or (b) Customer and Company to   
reach agreement on any matter requiring their mutual agreement under the terms   
of this Agreement.

10.0 Meetings

10.1 Each Party’s Project Manager shall attend Project meetings at times and places

mutually agreed to by the Parties.

11.0 Disclaimers

11.1 THE COMPANY IS NOT IN THE BUSINESS OF PERFORMING DESIGN OR

CONSTRUCTION SERVICES FOR PROFIT AND IS NOT RECEIVING ANY   
FEE OR PROFIT (AS CONTRASTED WITH COST REIMBURSEMENT) FOR   
ITS PERFORMANCE OF THE WORK HEREUNDER. THE EXCLUSIVE   
REMEDY GRANTED TO CUSTOMER FOR ANY ALLEGED FAILURE OF   
COMPANY TO MEET THE PERFORMANCE STANDARDS OR   
REQUIREMENTS SET FORTH HEREIN IS AS SET FORTH IN SECTION

3.2. COMPANY MAKES NO WARRANTIES, REPRESENTATIONS, OR   
GUARANTEES IN CONNECTION WITH THE AGREEMENT, ANY   
PROJECT, OR ANY WORK OR SERVICES PERFORMED IN CONNECTION   
THEREWITH, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT   
LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY   
AND FITNESS FOR A PARTICULAR PURPOSE. THIS DISCLAIMER   
SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THE   
AGREEMENT. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY   
WARRANTIES PROVIDED BY ORIGINAL MANUFACTURERS,   
LICENSORS, OR PROVIDERS OF MATERIAL, EQUIPMENT OR OTHER   
ITEMS PROVIDED OR USED IN CONNECTION WITH THE WORK,   
INCLUDING ITEMS INCORPORATED IN THE WORK (“THIRD PARTY   
WARRANTIES”), ARE NOT TO BE CONSIDERED WARRANTIES OF THE   
COMPANY AND THE COMPANY MAKES NO REPRESENTATIONS,   
GUARANTEES, OR WARRANTIES AS TO THE APPLICABILITY OR   
ENFORCEABILITY OF ANY SUCH THIRD PARTY WARRANTIES.

11.2 Notwithstanding any other provision of this Agreement, this Article shall survive

the termination or expiration of this Agreement.

12.0 Liability and Indemnification

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12.1 To the fullest extent permitted by applicable law, Customer shall indemnify and   
 hold harmless, and at Company’s option, defend Company, its parents and   
 affiliates and their respective contractors, officers, directors, servants, agents,   
 representatives, and employees (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,   
economic damage, and claims brought by third parties for personal injury and/or   
property damage (collectively, “Damages”), incurred by any Indemnified Party to   
the extent caused by (i) any breach of this Agreement by Customer, its parents or   
affiliates, third-party contractors, or their respective officers, directors, servants,   
agents, representatives, or employees, or (ii) the negligence, unlawful act or

omission, or intentional misconduct of Customer, its parents or affiliates, third-  
party contractors, or their respective officers, directors, servants, agents,   
representatives, and employees, arising out of or in connection with this   
Agreement, the Project, or any Work, except to the extent such Damages are   
directly caused by the gross negligence, intentional misconduct or unlawful act of   
the Company or any person or entity for whom Company is legally responsible.

12.2 Customer shall defend, indemnify and save harmless Company, its parents and

affiliates and their respective contractors, officers, directors, servants, agents, representatives, and employees, from and against any and all liabilities, losses, costs, counsel fees, expenses, damages, judgments, decrees and appeals resulting from any charge or encumbrance in the nature of a laborer’s, mechanic’s or materialman’s lien asserted by any of Customer’s subcontractors or suppliers in connection with the Work or the Project.

12.3 The Company’s total cumulative liability to Customer 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 or the Work, shall not exceed the aggregate amount of all payments made to Company by Customer under this Agreement.

12.4 Neither Party shall be liable to the other Party for consequential, indirect, special,

incidental, multiple, or punitive damages (including, without limitation, attorney’s 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.

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12.5 Neither Party shall be liable to the other Party for claims of 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 any third party.

12.7 Notwithstanding any other provision of this Agreement, this Article shall survive

the termination or expiration of the Agreement.

13.0 Employee Claims; Insurance

13.1 The Company elects to self-insure to maintain the insurance coverage amounts set

forth in Schedule D of this Agreement.

13.2 Prior to commencing Work on the Project and during the term of the Agreement,

the Customer, at its own cost and expense, shall procure and maintain insurance in form and amounts set forth in Schedule D of this Agreement, or shall, at the Customer’s sole and absolute discretion, elect to self-insure provided that the Customer provides written notice to the Company prior to commencing any Work under this Agreement.

13.3 Prior to commencing the Work, the Customer, provided that that the Customer

does not elect to self insure, shall have its insurer, if any, furnish to the Company   
certificates of insurance, on forms approved by the Insurance Commissioner of   
the State of New York, evidencing the insurance coverage required by this Article

14.0.

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

14.0 Assignment and Subcontracting

14.1 Each Party may assign this Agreement or any part thereof to any affiliated entity

controlling, controlled by, or under common control with, the assigning Party   
provided such assignee shall be bound by the terms and conditions of this   
Agreement. For purposes of this Section, “control” of an entity shall mean the   
ownership of, with right to vote, fifty percent (50%) or more of the outstanding   
voting securities or equity of such entity. Any assignment of this Agreement in   
violation of the foregoing shall be voidable at the option of the non-assigning   
Party.

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15.0 Independent Contractor

15.1 Company and Customer shall be independent contractors, and neither Party shall

be deemed to be an agent of the other Party.

16.0 Examination, Inspection and Witnessing

16.1 Subject to Customer’s and its representatives’ compliance with Company’s

security and other access requirements, the Customer and/or its representatives shall have the right to inspect and examine the Work, from time to time, at Customer’s sole cost and expense, with reasonable prior notice to Company. Unless otherwise agreed between the Parties, such inspections, examinations and tests shall be scheduled during normal business hours.

16.2 Company shall inspect all Work and make or cause to be made all tests required

by Good Utility Practice at Customer’s sole cost and expense.

16.3 At times and places mutually agreed to by the Parties, Customer and Company, or

their respective designated representatives, shall be entitled to witness any test

contemplated by this Agreement.

17.0 Safety

17.1 Each Party shall be responsible for the safety and supervision of its respective

employees involved with the Work or on the Sites. In connection with the   
Project, both Parties shall, and shall require their respective representatives,   
contractors, and employees to, comply with all applicable Federal, state and local   
safety requirements, rules, regulations, laws and ordinances, including without   
limitation, compliance with the safety regulations adopted under the Occupational   
Safety and Health Act of 1970 (OSHA), as amended from time to time.

18.0 Approvals, Permits and Easements

18.1 The actual cost of obtaining all permits, licenses, permissions, or consents

obtained by Company necessary for the Project and the Work shall be paid for by Customer as part of Company Reimbursable Costs.

19.0 Environmental Protection; Hazardous Substances or Conditions

19.1 The Company shall in no event be liable to Customer, its affiliates or contractors,   
 their respective officers, directors, employees, agents, servants, or representatives,   
 or any third party with respect to, or in connection with, the presence of any   
 Hazardous Substances which may be present at or on any Customer or third party   
 owned, occupied, used, or operated property or facility (including, without

limitation, easements, rights-of-way, or other third-party property) or which the   
Company, its affiliates or contractors, their respective officers, directors,

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employees, agents, servants, or representatives may discover, release, or generate   
at or on such properties or facilities through no negligent or unlawful act of the   
Company. Customer agrees to hold harmless, defend, and indemnify the   
Company, its affiliates and contractors, and their respective directors, officers,   
agents, servants, employees and representatives from and against any and all   
claims and/or liability in connection with, relating to, or arising out of (i) the   
presence, discovery, release, threat of release or generation of Hazardous   
Substances, or (ii) the breach of any Federal, state, or local laws, rules,   
regulations, codes, or ordinances relating to the environment, including, without   
limitation, the Comprehensive Environmental Response, Compensation and   
Liability Act, as amended, 42 U.S.C. §§ 9601 et seq., the Resource Conservation   
and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq., except to the extent   
such presence, discovery, release, threat of release, generation or breach is or are   
directly and solely caused by the negligent or unlawful act of the Company or of   
any person or entity for whom the Company is legally responsible. The   
obligations under this Section shall not be limited in any way by any limitation on   
Customer’s insurance or by any limitation of liability or disclaimer provisions   
contained in this Agreement. The provisions of this Section shall survive the   
expiration or earlier termination of this Agreement.

19.2 Customer shall promptly inform the Company, in writing, of any Hazardous

Substances, or unsafe, dangerous, or potentially dangerous, conditions or   
structures, whether above-ground or underground, that are present on, under,   
over, or in Customer owned, occupied, used, or operated facilities or property   
(including, without limitation, easements, rights-of-way, or other third-party   
property) to be used or accessed in connection with the Work or the Project.   
Prior to commencement of the Work, Customer shall be obligated to use its best   
efforts (including, without limitation, the use of DIGSAFE or other similar   
services) to adequately investigate the presence and nature of any such Hazardous   
Substances, or unsafe, dangerous, or potentially dangerous, conditions or   
structures, and to promptly, fully, and in writing, communicate the results thereof   
to the Company. Customer’s provision to the Company of the information   
contemplated in this Section shall in no event give rise to any liability or   
obligation on the part of the Company, nor shall Customer’s obligations under   
this Agreement, or under law, be decreased or diminished thereby.

20.0 Suspension of Work

20.1 Subject to Section 21.2, below, Customer may interrupt, suspend, or delay the

Project upon written notice to the Company specifying the nature and expected duration of the interruption, suspension, or delay. Customer shall be responsible to pay Company for all costs incurred by Company that arise as a result of such interruption, suspension or delay.

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20.2 As a precondition to the Company resuming the Work following a suspension

under Section 21.1, the estimated schedule shall be revised as mutually agreed by the Parties to reflect the interruption, suspension, or delay. Adjustments to the Company Reimbursable Costs shall reflect any costs or expenses the Company incurs as a result of the interruption, suspension, or delay.

21.0 Right to Terminate Agreement

21.1 Notwithstanding any other provision of this Agreement, if either Party (a) fails to

comply with any of the material terms or conditions of the 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 benefit of its creditors, then the other Party shall have the right,   
without prejudice to any other right or remedy and after giving five (5) Days’   
written prior notice to the other 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, in whole or in part, and thereupon each Party shall   
immediately discontinue its performance hereunder to the extent feasible and   
make every reasonable effort to procure cancellation of existing commitments,   
orders and contracts upon terms that are reasonably expected to minimize all   
associated costs. However, nothing herein will restrict Company’s ability to   
complete aspects of the Work that Company must reasonably complete in order   
return its facilities and the Sites to a configuration in compliance with Good   
Utility Practice and all applicable laws, codes, regulations and standards.

21.2 If the event of any early termination or cancellation of the Work as contemplated

in this Agreement, Customer shall pay Company the Company Reimbursable

Costs for:

a. all Work completed on or before the effective date of termination or

cancellation;

b. other costs reasonably incurred by Company in connection with the Work prior to Company’s receipt of the termination or cancellation notice for materials, equipment, tools, construction equipment and machinery, engineering and other items, materials, assets or services which cannot reasonably be avoided, mitigated or cancelled;

c. costs reasonably incurred to unwind Work performed prior to Company’s receipt of the termination or cancellation notice to the extent reasonably necessary to return Company’s facilities and the Sites to a configuration in compliance with Good Utility Practice and all applicable laws, codes, regulations and standards, including, without limitation, applicable North American Electric Reliability Council and Northeast Power Coordinating Council protection; and

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d. reasonable demobilization expenses incurred by Company which

cannot be reasonably avoided or mitigated.

22.0 Delays; Unforeseen Difficulties

22.1 Any delays or failure of performance by Company shall not constitute a default

and shall be excused hereunder, if and to the extent such delays or failures of performance are caused by unforeseen conditions or occurrences beyond the reasonable control of the Company. The price and time for performance under this Agreement shall be adjusted accordingly.

23.0 Force Majeure

23.1 A “Force Majeure Event” shall include fire, flood, windstorm, adverse weather

conditions, emergencies, explosion, riot, war, sabotage, acts of God, strikes or   
labor slow-downs, court injunction or order, federal and/or state law or regulation,   
delays by governmental authorities in approving license and permit requests   
necessary in connection with the Work or Project, or order by any federal or state   
regulatory agency, or other similar causes 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 condition. 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, in whole or in part, with no   
further obligation or liability; provided, however, that, notwithstanding any such   
termination, Customer shall pay the Company all of the Company’s Company   
Reimbursable Costs incurred up to the effective date of such termination.

23.2 Within thirty (30) Days after the termination 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.

24.0 Extensions of Time

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24.1 Company may reasonably request an extension to the schedule for changes in the

Project, as contemplated by Article 4.0, and for events of Force Majeure, as

provided in Article 23.0.

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, as hereinafter defined, of the other   
Party. Proprietary Information shall include (i) all technical and other non-public   
or proprietary information which is furnished or disclosed by the Disclosing   
Party (as such term is defined below), or its affiliates (or its or its affiliates,   
agents, servants, contractors, or employees) to the Receiving Party or its   
Representatives (as such terms are defined below) in connection with the Project   
or the Work 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 any   
Party or any third party) and (iii) memoranda, notes, reports, files, copies,

extracts, inventions, discoveries, improvements, or any other thing prepared or   
derived by the Receiving Party or its Representatives from the information   
described in (i) or (ii) preceding. All Proprietary Information in tangible form of   
expression which has been delivered (or thereafter created by copy or

reproduction pursuant to this Agreement) shall be and remain the property of the   
Party which is disclosing such Proprietary Information (the “Disclosing Party”).

25.2 General Restrictions. Upon receiving Proprietary Information, the receiving Party

(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 Section to the extent caused by its Representatives. For   
purposes of this Section, the term “Representative(s)” shall mean the affiliates of   
the Receiving Party and the officers, directors, employees, contractors, and   
representatives of such Receiving Party and of its affiliates. Customer agrees that   
any Proprietary Information will be used solely for the Project and will not be   
used, either directly or indirectly, for the Customer's financial gain and/or   
commercial advantage or in violation of any applicable laws, rules or regulations.

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25.3 Additional Marking Requirements. In the event either Party discloses its

Proprietary Information to the other Party unmarked or in oral or visual form, the   
Disclosing Party shall notify the Receiving Party in writing that such Information   
is deemed proprietary within forty-eight (48) hours of its disclosure. Such

Proprietary Information shall be treated in the manner set forth above from the date such written notice is received.

25.4 Exceptions. The Receiving Party shall not be precluded from, nor liable for,

disclosure or use of any Proprietary Information if:

25.4.1 the Proprietary Information is in or enters the public domain, other than

by a breach of this Section; or

25.4.2 the Proprietary Information 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 prior to or subsequent to such disclosure without similar restrictions from a source other than the Disclosing Party, as evidenced by written records; or

25.4.3 the Proprietary Information is developed by the Receiving Party

or its Representatives independently of any disclosure under this Agreement as evidenced by written records; or

25.4.4 the Proprietary Information 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 ; or

25.4.5 the Disclosing Party consents to the disclosure or use of the

Proprietary Information; or

25.4.6 the Receiving Party or its Representatives has a reasonable belief

that disclosure of the Proprietary Information is necessary for public safety reasons and has attempted to provide as much advance notice of the disclosure to the Disclosing Party as is practicable under the circumstances.

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25.5 Anything in this Section 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 to obtain such protective   
 order.

26.0 Governing Law

26.1 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.

26.1.1 The Company and Customer agree to submit to the personal jurisdiction of the courts in the State of New York, or the Federal District courts in the State of New York, as permitted by law, with respect to any matter or dispute arising out of this Agreement.

27.0 Miscellaneous

27.1 Project Managers. Promptly following the Effective Date, each Party shall

designate a Project Manager and shall provide the other Party with a written   
notice containing the name and contact information of its Project Manager.   
Whenever either Party is entitled to approve a matter, the Project Manager for the   
Party responsible for the matter shall notify the Project Manager of the other   
Party of the nature of such matter. The Project Managers shall discuss such   
matter, and each Project Manager shall confer on such matter on behalf of his/her   
Party. The foregoing notwithstanding, in no event shall Project Managers be   
authorized to amend or modify the provisions of this Agreement.

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27.2 Dispute Resolution. Any dispute arising under this Agreement shall be the

subject of good-faith negotiations between the Parties. Each Party shall designate   
one or more representatives with the authority to negotiate the 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 sixty (60) 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 agreement   
of both Parties to participate in such an alternative dispute resolution process.   
During the pendency of any dispute, the Parties will continue to execute their   
obligations under the Agreement, except for disputed portions thereof, unless   
otherwise mutually agreed in writing.

27.3 Compliance with Law. Each Party shall comply, at all times, with, and procure

the compliance, at all times, by all of its subcontractors with, all applicable federal, state, and local laws, rules, codes, regulations, and ordinances in connection with this Agreement and performance of the 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.

27.4 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, (ii) upon acknowledgment of   
receipt if sent by facsimile, (iii) upon the expiration of the third (3rd) business Day   
after being deposited in the United States mails, postage prepaid, certified or   
registered mail, or (iv) upon the expiration of one (1) business 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.   
Each 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.

27.5 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.

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27.6 Additional Actions and Documents. Each Party hereby agrees to take or cause

to be taken such further actions, to execute, acknowledge, deliver and file, or cause to be executed, acknowledged, delivered and filed, such further documents and instruments, and to use its commercially reasonable efforts to obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms, and conditions of this Agreement, whether at or after the execution of this Agreement.

27.7 Headings. 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.

27.8 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 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.

27.9 Counterparts. This Agreement may be executed in several counterparts, each of

which shall be deemed an original, and all such counterparts together shall   
constitute but one and the same instrument. This Agreement may also be   
executed via counterpart facsimiles or in “PDF” format by electronic mail upon

(a) the telecopy or emailing by each Party of a signed signature page thereof to the other Party, with, in the case of facsimile, return receipt requested and received and (b) the Parties’ agreement that they will each concurrently post a fully executed original counterpart of this Agreement to the other Party.

27.10 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 the subject matter.   
 Each Party acknowledges that the other Party has not made any representations   
 other than those that are contained herein. 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 officer of the Party against whom the amendment,   
 modification, or waiver is sought to be enforced.

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27.11 Severability. Nothing contained in this Agreement shall be construed so as to   
 require the commission of any act contrary to law, and wherever there is any   
 conflict between any provision of this Agreement and any law, such law shall   
 prevail; provided, however, that in such event, the provisions of this Agreement   
 so affected shall be curtailed and limited only to the extent necessary to permit   
 compliance with the minimum legal requirement, and no other provisions of this   
 Agreement shall be affected thereby and all such other provisions shall continue   
 in full force and effect.

27.12 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.

27.13 No Third Party Beneficiaries. Nothing in this Agreement is intended to confer

on any person, other than the Parties, any rights or remedies under or by reason of this Agreement.

27.14 Validity; Required Regulatory Approvals. 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.

The obligations of each Party under this Agreement are expressly contingent upon

(i) each Party receiving all approvals, authorizations, consents, franchises,   
Permits, and licenses from any local, state, or federal regulatory agency or other   
governmental agency 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 Regulatory Approvals”) and (ii) each Required

Regulatory 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. If any application is made in connection with seeking any   
Required Regulatory 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 Customer’s obligation to pay Company for all Company Reimbursable Costs   
incurred through the effective termination date. All of the Company’s actual   
costs for obtaining Required Regulatory Approvals shall be included within the   
meaning of the term Company Reimbursable Costs and shall be paid for by   
Customer.

27.15 Notices. All formal notices, demands, or communications under this Agreement

shall be submitted in writing either by hand, registered or certified mail, or recognized overnight mail carrier to:

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To Customer : Mr. Lewis Staley

Director;Fortistar

5807 Junction Road   
Lock Port, NY.14094   
(716) 439-1006 x112

To Company: Mr. William Malee

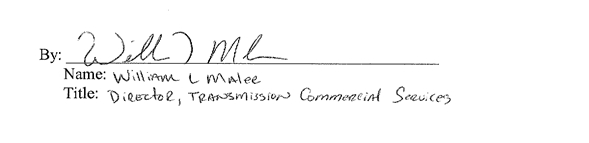
Director, Transmission Commercial Services

40 Sylvan Road

Waltham, MA 02451 (781) 907-2422

[Signatures are on following page.]

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

MM Albany Energy, LLC

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

Title:

NIAGARA MOHAWK POWER CORPORATION d/b/a National Grid

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Schedule A: Scope of Work

1.1 The Company’s scope of Work for the Project includes the following:

a) Engineering, including review of all relevant Customer drawings and specifications,   
design, construction and procurement required for commissioning of the SUF’s SASUF’s   
and CTO IF’s associated with the interconnection of the Project with no relocation of the   
PCO.

1.2 For the scope of Work, the estimated cost is $ $115,000 (the “Estimated Cost of

Work”). It should be noted, the estimated cost above is with no relocation of the PCO. This estimate includes the materials, engineering and design labor, construction and testing labor, project management, and all associated overheads and applicable taxes to complete the Work.

1.3 Generator Lead Line: currently consists of approximately 1 mile of overhead

34.5kv, 336.4Al,19 strandcable, and is owned by the connecting Transmission Owner. Note if ownership of the line changes the line shall be designed, constructed and maintained in accordance with Good Utility Practice.

1.4 Karner- Patroon Line tap: No modifications to the existing line tap are required

for the interconnection of the Plant 2 for Phase 1. If the interconnection proceeds with Phase 2 modifications to the line tap configuration may be required. These modifications are expected to be minimal, and shall be identified during Engineering and Design stage for Phase 2 metering and telecommunications. The metering current transformers are undersized and will require replacement to accommodate the interconnection of additional units in Phase 1.

1.5 In addition, the modifications associated with Phase 2 include: (1) removal of the

existing revenue metering and remote terminal unit (RTU); and engineering

procurement and construction of new revenue metering, RTU and associated equipment and structures at the new PCO.

• More Specifically, the CTO IF’s shall consist of:

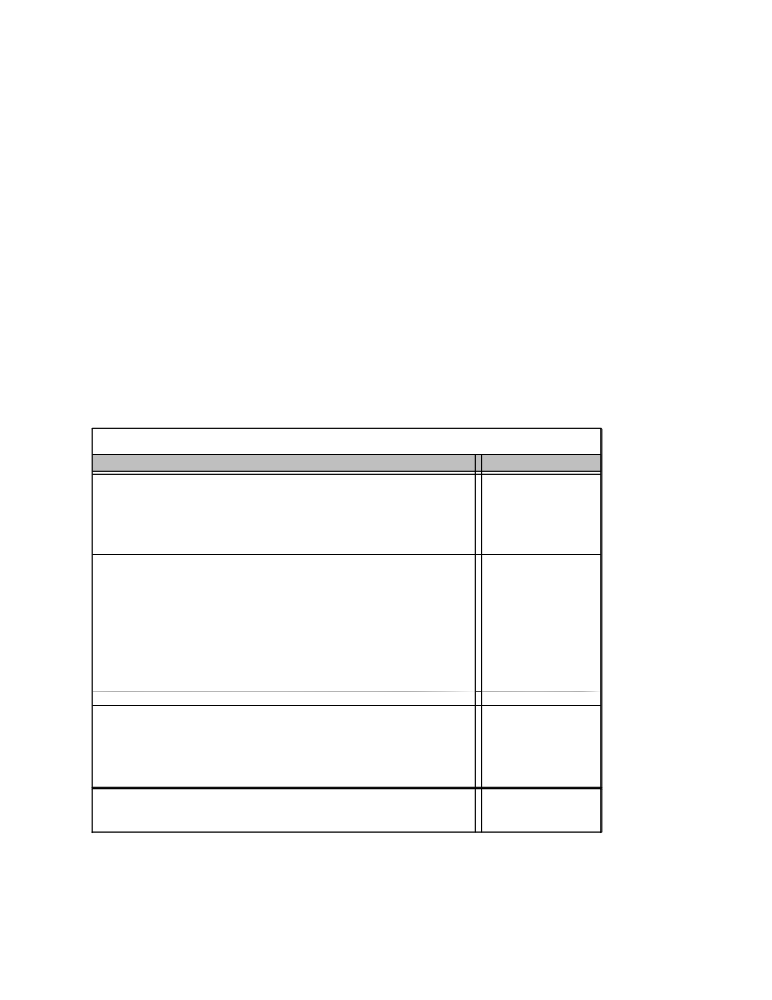
• Insulated, illuminated and heated secure utility structure and   
 associated foundations and poles for housing telecommunications   
 communications and metering requirements as well as AC service,   
 DC service and the battery backup system. Anticipated utility   
 structure dimensions are approximately 12x8x10 feet.   
 • 34.5kv revenue-grade metering instrument transformers for the   
 billing metering, with associated support structures, foundations   
 conduit, and wiring.

• Pole mounted transformers tapped from the 34.5kv line with surge   
 arrestors and over current protection and utility structure electric   
 service for equipment and utility structure power requirements.

• Bi -directional meter; and

• RTU and associated telecommunications equipment.

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• Any new ROW requirements for these facilities shall be obtained   
 by the Interconnection Customer or the City of Albany.

1.6 System Upgrade Facility (SUF’s)

1.7 Remote Substations ; The increase of generation added to the National Grid sub-

transmission line will require upgrading of the sub-transmission line prtotection   
equipment at the remote ends of the 34.5kv Karner -Patroon line # 5 to which the   
interconnection will be made. The change for both the Karner -Patroon

Substation shall include, but not limited to development, implementation and testing of new settings for the existing line protection relay packages for coordination.

1.8 It is estimated that the Engineering and procurement of the Project will be

completed in 12-14 weeks after Project start date. See the Milestone Schedule in “Schedule B”.

Albany LFGTE Expansion Facilties Study (No change to PCO) {Phase 1}

Description: Estimated Costs:

Interconnection Customer Interconnection Facilities (ICIFs):

Engineering review and acceptance of ICIFs, including, but not limited to:

ICIF drawings and equipment specs, ground grid system, system

protection and coordination study, andrelay settings. $69,000

SUFs:

Engineering, design, construction, testing and energization.

Remote Stations:

Station #1 Karner

Relay settings modifications. $4,000

Station #2 Patroon

Relay settings modifications $4,000

SUF Subtotal $8,000

CTO AFs:

$38,000

TOTAL $115,000

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\*COMPANY’s specifications for electrical requirements referenced for this Agreement include: ESB-750; ESB-752; ESB-755 and ESB-756, Appendix A as such may be amended, modified and superseded from time to time. See:

[https://www.nationalgridus.com/niagaramohawk/construction/3\_elec\_specs.asp](https://www.nationalgridus.com/niagaramohawk/construction/3_elec_specs.asp/)

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Schedule B: Project Milestone Schedule

MILESTONE SCHEDULE

Task   
 1.

2.

3.

4.

Milestone

Interconnection

Executed Agreement Written Authorization to proceed; Engineering and Procurement

Security provided,   
Engineering, design and procurement started   
Engineering and

procurement completed

Date Responsible Party

January 2012 Customer/Company

February 2012 Company

February 2012 Company

March 2012 Company

The dates above represent the Parties preliminary schedule, which is subject to adjustment, alteration, and extension in accordance with the terms of this Agreement.

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Schedule C: Customer’s Responsibilities

Customer shall provide:

1. If and to the extent applicable or under the control of the Customer, complete and accurate   
 information regarding requirements for Services, including, without limitation, constraints, space,   
 requirements, underground or hidden facilities and structures, and all applicable drawings and   
 specifications; and

2. Company access to the Site where services are to be performed and adequate parking for Company   
 vehicles; and.

3. Other responsibilities and access deemed necessary by COMPANY to facilitate performance of the   
 Services

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Schedule D

{INSURANCE REQUIREMENTS}

• Workers Compensation and Employers Liability Insurance as required by the State of

New York. If required, coverage shall include the U.S. Longshoremen's, Harbor Workers Compensation Act & the Jones Act.

• Public Liability (Including Contractual Liability), covering all activities and operations   
 to be performed by it under this Agreement, with following minimum limits:

(A) Bodily Injury - $1,000,000/$1,000,000

Property Damage - $1,000,000/$1,000,000   
OR

(B) Combined Single Limit - $1,000,000   
 OR

(C) Bodily Injury and Property Damage per Occurrence - $1,000,000   
 General Aggregate & Product Aggregate - $2,000,000 each

• Umbrella or Excess Liability, coverage with a minimum limit of $ 4,000,000.

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

To: National Grid c/o NIAGARA MOHAWK POWER CORPORATION

Attention: Risk Management, A-4

300 Erie Boulevard West   
Syracuse, NY 13202

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

To: Lew Staley- Fortistar

5807 Junction Rd

Lockport, NY 14094   
Attn: Plant Director

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.

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4. To the extent requested, both Parties shall furnish to each other with copies of any accidents report(s)   
 sent to the a party’s insurance carriers covering accidents or incidents occurring in connection with or   
 as a result of the performance of the Work for the Project 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 that it will have full   
 policy limits available and shall notify each other in writing when coverage's required herein have   
 been reduced as a result of claim payments, expenses, or both.

7. Customer shall name the Company as an additional insured for all coverage's except Workers   
 Compensation and Employers Liability Insurance in order to provide the Company with protection   
 from liability arising out of activities of Customer relating to the Project and associated Work.

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