The Narragansett Electric Company
d/b/a National Grid

Review of Power Purchase Agreements Pursuant to R.I. Gen. Laws § 39-26.1

Testimony and Schedules of Corinne M. DiDomenico

Book 1 of 2

Redacted

November 1 , 2017

RIPUC Docket No. _____

Submitted to:
Rhode Island Public Utilities Commission

Submitted by:
nationalgrid

Filing Letter
& Motion

Jennifer Brooks Hutchinson
Senior Counsel

November 1, 2017

VIA HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

RE: Review of Proposed Power Purchase Agreements
Pursuant to R.I. Gen. Laws § 39-26.1
Docket No._____

Dear Ms. Massaro:

Enclosed for filing with the Rhode Island Public Utilities Commission (PUC) are copies of eight 20-year Power Purchase Agreements entered into by National Grid[1] for the purchase of energy and environmental attributes from eligible renewable energy generation facilities (the PPAs). The Company seeks approval of the PPAs under the Long-Term Contracting Standard for Renewable Energy, R.I. Gen. Laws § 39-26.1.1 et seq. (LTC Standard) and the PUC's Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy (the Rules and Regulations) based on a finding that the PPAs will support newly developed renewable energy resources at commercially reasonable terms, and will provide energy and environmental attributes at below-market prices.

The Company selected the projects, which are the subject of the enclosed PPAs, following the New England Clean Energy Request for Proposals (RFP) issued on November 12, 2015, and approved by the PUC pursuant to the Affordable Clean Energy Security Act, R.I. Gen. Laws. § 39-31-1 (ACES) in Docket No. 4570.[2] The RFP was developed jointly by stakeholders in Rhode Island, Massachusetts, and Connecticut. The Company executed the PPAs following a joint solicitation, evaluation, selection, and negotiation process with the other soliciting parties to the RFP from Massachusetts and Connecticut, and in consultation and coordination with the Rhode Island Division of Public Utilities and Carriers (Division) and the Rhode Island Office of Energy Resources (OER).

To facilitate the PUC's review of the enclosed filing, the Company is providing an Executive Summary of the eight projects, the procurement process, and the PPAs as Attachment 1 to this filing letter.

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1 The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

2 See In re Solicitation for Proposals for Clean Energy Projects, Docket No. 4570 (March 23, 2016).

In support of this filing, the Company is submitting the pre-filed testimony and supporting schedules of Ms. Corinne M. DiDomenico. Ms. DiDomenico is the Manager of Environmental Transactions, Energy Procurement of National Grid. Her testimony demonstrates that: (1) the Company's procurement of PPAs with the eight projects satisfies the requirements of the LTC Standard relating to the solicitation of long-term contracts from renewable energy developers; (2) that the Company, together with the other soliciting parties, followed the provisions of the RFP; (3) that it is commercially reasonable to satisfy the Company's remaining LTC Standard contract capacity with the PPAs entered into as a result of this RFP; and (4) that the PPAs will provide the Company's customers and Rhode Island with eligible newly developed renewable energy generation at commercially reasonable terms and at pricing below the forecasted market price of energy and renewable energy certificates over the term of the PPAs. Ms. DiDomenico's testimony and supporting schedules describe the PPAs, and provides the supporting quantitative and qualitative analysis that led to the selection of each project.

Although the RFP was initially approved by the PUC as a voluntary, multi-state solicitation pursuant to ACES, the Company is seeking approval of the PPAs under the LTC Standard, not ACES for the reasons discussed further in this filing. During the solicitation process, the Company learned that a previously-approved PPA under the LTC Standard would not be fulfilled. The Bowers Wind project, which accounted for approximately 18.3 MW of the required 90 MW of long-term contracting capacity under the LTC Standard, failed to obtain a permit from the Maine Department of Environmental Protection. The permit was required to construct and operate the project by the critical milestone date of December 31, 2016, and the developer did not elect to further extend the critical milestone under the PPA. Therefore, the Company, in consultation and coordination with the Division and the OER, agreed to negotiate PPAs for eligible renewable energy resources identified through the RFP to backfill the Bowers Wind project capacity under the LTC Standard. Accordingly, the Company seeks the PUC's approval to backfill the Bowers Wind project capacity with the eight enclosed PPAs pursuant to R.I. Gen. Laws §§ 39-26.1-3(c)(2) and (f) and Section 5.3 of the PUC's Rules and Regulations.[3]

Approval of these PPAs to backfill the Company's obligations under the LTC standard is consistent with the directives of R.I. Gen. Laws §§ 39-26.1-3(c)(2) and (f) and Section 5.3 of the PUC's Rules and Regulations, and satisfies the intent of the LTC Standard to stabilize long-term energy prices, enhance environmental quality, and facilitate the financing of renewable energy generation. The RFP, although initially approved pursuant to ACES, provided a reasonable, open, and competitive procurement process, and resulted in PPAs for approximately 12.9 MW of contract capacity at below-market prices. As a result, the RFP satisfies the solicitation requirements of the LTC Standard. The RFP also satisfies the requirements of Section 4.2 of the

[3] Section 5.3 of the LTC Rules & Regulations provides that in the event a long-term contract is terminated, the Company "will not be found noncompliant … and ***it shall be required*** to make additional annual solicitation and to enter into additional Long-Term Contracts in order to replace the energy, capacity and/or NEPOOL GIS Certificates lost as a result of the termination." (Emphasis Added).

PUC's Rules and Regulations regarding the timetable and method for solicitation under the LTC Standard. [4] Accordingly, the PUC should accept the RFP as an approved method of solicitation under the LTC Standard.

In addition, the PUC should approve the PPAs submitted in this proceeding under the LTC Standard for the following reasons. First, as further explained in the testimony and supporting schedules of Ms. DiDomenico, the eight projects selected are the top projects after evaluation of all bids received in the competitive solicitation process. Also, the eight projects selected represent approximately 12.9 MW of contracting capacity, and are, in total, sized to meet a significant portion of the Company's remaining obligation under the LTC Standard.

Second, the cost of energy and RECs under the PPAs for each of the eight selected projects, based on commercial operation dates as reflected in the bids,[5] are, overall, less than forecasted market prices by a total of $70 million, nominal, over the life of the PPAs. Finally, the PPAs, if approved, will benefit customers and the State of Rhode Island because the PPA pricing for each of the eight projects is favorable relative to all of the bids received and evaluated in the robust, competitive solicitation process, and relative to the market forecast at the time of bid evaluation. Accordingly, the PPAs constitute a least-cost alternative for this type of renewable power that the Company can currently obtain.

For the reasons set forth herein, the Company respectfully requests that the PUC approve the PPAs pursuant to the LTC Standard as expeditiously as possible. The Company has consulted with the Division and OER with respect to this filing, and they have indicated their support.

This filing also includes a Motion for Protective Treatment in accordance with Rule 1.2(g) of PUC's Rules of Practice and Procedure and R.I. Gen. Laws § 38-2-2(4)(B), together with a Motion for a Waiver of Section 5.5 of the PUC's Rules and Regulations. [6] The Company

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[4] The PUC approved the Company's method of annual solicitation for the LTC Standard, with modification, first at its Open Meeting on June 12, 2012 in Docket No. 4316 and subsequently at its Open Meeting on May 30, 2014 in Docket No. 4491. The RFP, as approved under ACES, is similar in form and substance to the LTC Standard RFP.

[5] During negotiations, the commercial operation dates for certain projects were extended, which would alter the calculation of below-market savings slightly.

[6] Section 5.5 of the PUC's Rules and Regulations Governing Long-Term Contracting Standards For Renewable Energy requires that a copy of each executed Long-Term Contract between the Electric Distribution Company and the Renewable Energy Developer shall be filed with the PUC in its entirety, and that the entire contract shall be a public document. However, due to the competitive nature of several terms contained in the Everpower Wind Holdings and RES America Developments, Inc. PPAs, and in light of ongoing and future competitive procurements in other participating states, Everpower Wind Holdings and RES America Developments, Inc. have requested that portions of those PPAs be kept confidential. Accordingly, the Company is submitting a motion for a waiver of Section 5.5 and a motion for protective treatment of those PPAs. The Company and the contracting parties have limited the proposed redactions of the PPAs to the greatest extent possible.

seeks protection from public disclosure of certain highly sensitive and proprietary modeling and analysis provided by the Company's third-party consultants, as well as confidential bidder and pricing information. Accordingly, the Company has provided the PUC with one (1) complete, unredacted copy of the confidential documents in a sealed envelope marked **"Contains Highly Sensitive Confidential Information – Do Not Release,"** and has included redacted copies of these materials for the public filing.

Due to the volume and nature of the documents contained in Work Paper Support Tabs B and C, initial bid packages and bidder communications, respectively, the Company is providing those documents in confidential electronic format only. Public, redacted versions of the initial bids contained in WP Support Tab B are publicly available through the Clean Energy RFP website.

Please contact me at 401-784-7288 if you have any questions regarding this filing.

Very truly yours,

Jennifer Brooks Hutchinson

cc: Steve Scialabba, Division
Jon Hagopian, Esq.
Leo Wold, Esq.
Nick Ucci, Office of Energy Resources

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

Petition of Narragansett Electric Company d/b/a National Grid for Approval of Proposed Long-Term Contracts for Renewable Resources Pursuant to R.I. Gen. Laws § 39-26.1	)	Docket No. _____

NATIONAL GRID'S PETITION
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION

National Grid[1] hereby requests that the Rhode Island Public Utilities Commission (PUC) provide confidential treatment and grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by PUC Rule 1.2(g) and R.I.G.L. § 38-2-2(4)(B). As a condition of granting this request, National Grid requests that the PUC waive the requirements of Section 5.5 of the PUC's Rules and Regulations Governing Long-Term Contracting Standards For Renewable Energy, pursuant to PUC Rule 1.10(b)(1). Finally, National Grid requests that, pending entry of findings pursuant to these provisions, the PUC preliminarily grant National Grid's request for confidential treatment pursuant to Rule 1.2 (g)(2).

I. BACKGROUND

On November 1, 2017, National Grid is filing with the PUC its request for approval eight 20-year Power Purchase Agreements entered into by National Grid for the purchase of energy and environmental attributes from eligible renewable energy generation facilities (the PPAs), pursuant to the New England Clean Energy Request for Proposals (RFP) issued on November 12, 2015. In support of its request for approval, National Grid is submitting initial

[1] The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

testimony and supporting exhibits including a copy of the PPAs and the Company's analysis of all proposals submitted in response to the RFP, including proprietary modeling information and analysis provided by the Company's third-party consultants. For example, schedule CMD-10 provides detailed cost-benefit analysis related all bids prepared using proprietary forecasting modeling.

Specifically, the Company is seeking protective treatment for each of the following document submitted in support of its request for approval (together, the Confidential Information):

- Schedule CMD-1, Cassedaga Wind PPA;
- Schedule CMD-2, Scituate Solar PPA;
- Schedule CMD-3, Hope Farm Solar PPA;
- Schedule CMD-4, Woods Hill Solar PPA;
- Schedule CMD-10, Overall Bid Score Summary;
- Schedule CMD-12 Tabs A-F, ECI Transmission Reports;
- Schedule CMD-13, Levitan & Associates Report;
- WP Support Tab B, Initial Bid Packages;
- WP Support Tab C, Bidder Communications;
- WP Support Tab D, Qualitative Bid Evaluation;
- WP Support Tab E, Quantitative Scoring Sheet;
- WP Support Tab F, Qualitative Forecast Base Case; and
- WP Support Tab G, Redlines of PPAs to Model PPA.

The Company's affiliates Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, together with the other Massachusetts soliciting parties,

NSTAR Electric Company and Western Massachusetts Electric Company each d/b/a Eversource Energy, and Fitchburg Gas and Electric Light Company, d/b/a Unitil, have each filed a similar request for protective treatment of the Confidential Information with their respective petitions for approval of the PPAs with the Massachusetts Department of Public Utilities. The Connecticut Light & Power Company and The United Illuminating Company have similarly requested, and been granted, protective treatment of the PPAs and proprietary bid evaluation materials.

In this proceeding, the Company seeks protective treatment of the same information to ensure consistency across the jurisdictions of each soliciting state, and to ensure continued protection of the Confidential Information. As the PUC is aware, designation of information as confidential requires, in part, that such information not be available elsewhere in the public record. In the event that any one of the three jurisdictions reviewing the PPAs and related bid evaluation materials denies protective treatment, the information can no longer be protected in any other proceeding. To prevent the release of confidential information that has been granted protective treatment in Connecticut, and has been preliminarily protected in Massachusetts, the PUC should grant similar protective treatment here.

The Company is providing redacted and un-redacted version of these documents, with the exception of Schedule CMD-12, WP Support Tab B and WP Support Tab C. WP Support Tabs B and C are voluminous and are being provided on a confidential CD-ROM only. Therefore, National Grid requests that the PUC give the information contained in the un-redacted version of the documents confidential treatment.

II. LEGAL STANDARD

The PUC's Rule 1.2(g) provides that access to public records shall be granted in accordance with the Access to Public Records Act (APRA), R.I.G.L. §38-2-1 *et seq.*

Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a "public record," unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the PUC falls within one of the designated exceptions to the public records law, the PUC has the authority under the terms of APRA to deem such information to be confidential and to protect that information from public disclosure. In that regard, R.I.G.L. §38-2-2(4)(B) provides that the following types of records shall not be deemed public:

> Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The exception "protects persons who submit financial or commercial data to government agencies from the competitive disadvantages which would result from its publication." Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F.2d 871, 873 (D. D.C. Cir. 1992); see also Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I. 2001) (adopting Critical Mass). The Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would be likely to either: (1) impair the Government's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal, 774 A.2d at 47 (emphasis added).

The second prong of the Providence Journal test has been interpreted to not require "a sophisticated economic analysis of the likely effects of disclosure." New Hampshire Right to Life v. US Dept. of Health and Human Services, 778 F. 3d 43, 50 (1st. Cir. 2015) (quoting Pub. Citizen Health Research Grp., 704 F. 2d 1280, 1291 (1983)). The party opposing disclosure must establish "actual competition and a likelihood of substantial competitive injury" to bring

the information under the confidential exemption. Id. In determining whether information is confidential the court should not limit its assessment of bidding information in a singular ad-hoc manner, but rather should acknowledge the likelihood of additional bids in the future. Id., at 51. As discussed further below, the Confidential Information here should be protected because it is commercial or financial information that, if disclosed, would be likely to cause substantial harm to the competitive position of the persons from whom the information was obtained.

In the context of this proceeding, in addition to APRA, the PUC's Rules and Regulations are applicable, specifically to the PPAs. Section 5.5 of the PUC's Rules and Regulations Governing Long-Term Contracting Standards For Renewable Energy requires that a copy of each executed Long-Term Contract between the Electric Distribution Company and the Renewable Energy Developer shall be filed with the Commission in its entirety, and that the entire contract shall be a public document. However, Section 1.10(b)(1) of the PUC's Rules of Practice and Procedure allows petitions for the waiver of a rule by the PUC. Any such petition shall, in addition to the specific waiver requested, state in detail with citations to appropriate references, the reasons for the requested action.

III. BASIS FOR CONFIDENTIALITY

The information contained in the un-redacted versions of the Confidential Information contains confidential and proprietary bidder information, including pricing information and bid-evaluation information. Specifically, the Confidential Information contain references to: (1) bid terms that the Company received and reviewed as a result of the RFP; (2) contract pricing and related terms for the contracts that are subject to approval in this proceeding; and (3) proprietary reports provided to the Company by consultants for evaluation of the bids. Information contained in the following exhibits fall into these categories:

Bid Terms Received and Reviewed

- Schedule CMD-10 (Summary of Overall Bid Scoring Results);
- WP Support, Tab B (Initial bid package for bids received);
- WP Support, Tab C (Bidder communication);

Contract Price and Related Terms

- Schedules CMD-1 through CMD-4 (PPAs);
- WP Support, Tab G (Redline versions of PPAs)

Proprietary Reports

- Schedule CMD-12 (Electrical Consultants, Inc. Transmission Cost Report)
- Schedule CMD-13 (Levitan & Associates, Inc. Evaluation Report)
- WP Support, Tab D (Qualitative bid evaluation protocol);
- WP Support, Tab E (Qualitative scoring sheets for each project);
- WP Support, Tab F (Qualitative forecast base case)

A. The PUC Should Protect Bid Terms Received and Reviewed by the Company and the Contract Price and Price Terms in the Contracts Subject to Review in this Proceeding

The PUC should protect the bid information received by the Company as result of the RFP relating to this proceeding and the Company's analysis of those bids, as well as the contract prices and price terms in the contract subject to review in this proceeding. Schedule CMD-10 contains a summary of the bid evaluations, and includes information regarding the names of bidders responding to the Company's RFP, their respective bids, bid terms, and the Company's evaluation of such bids. WP Support, Tab C contains confidential bidder communications. WP Support, Tab B is a copy of each bid package as received from the bidder. Schedule CMD-1 through CMD-4 are copies of final contracts subject to review in this proceeding, for which the

contracting counter-parties have requested confidential treatment of pricing terms. Finally, WP Support Tab G is the executed PPAs redlined against the Model PPA showing changes from the Model PPA, which similarly contains pricing terms for which the contracting counterparties have requested confidential treatment. The PUC has allowed the Company to protect competitively sensitive contract terms when it has been demonstrated that disclosure of such terms could result in competitive disadvantages for the parties to such contracts. PUC Docket No. 4627 - In re: The Narragansett Electric Company d/b/a National Grid Request for Approval of a Gas Capacity Contract and Cost Recovery Pursuant to R.I. Gen. Laws § 39-31-1 to 9 (See August 16, 2016 Hearing on Company Motion for Protective Treatment and NextEra Energy Resources, LLC Motion to Compel)..

It is important that the above-referenced bid-related information and contract price terms be held confidential because its disclosure could financially harm the parties that participated in the RFP process, as well as the interests of the Company's customers in other competitive solicitations. The Company has treated the names of bidders, bid information and bid analysis as confidential throughout the RFP process. This information has been tightly controlled and has not been distributed outside of the Company or the Company's counsel and jurisdictional regulatory agencies that have executed non-disclosure agreements with the Company. All bidders were told that the RFP process would be conducted in a highly confidential manner. The process was designed this way to encourage participation, promote competition in the bidding process, and maximize the value of the bids received. Any disclosure now could significantly damage the RFP process.

Moreover, if the bid-related information or contract price terms are disclosed, the effectiveness and competitiveness of competitive solicitations for renewable generation will be

harmed substantially. Indeed, if the bid information in the Confidential Information is released, it may make bidders more reluctant to submit bids in future solicitations to the extent they wish to submit bids confidentially, or may inflate bids that might otherwise be submitted based on a respondent's review of the Company's bid information received to date. Thus, the release of the bid information at this time would potentially prejudice the continuing RFP process for renewable generation and ultimately harm the Company's customers.

B. Proprietary Information Regarding Market Forecast Information And Bid Evaluation Should Be Protected From Public Disclosure.

With regard to Schedule CMD-12, Schedule CMD-13, and WP Support Tabs D, E and F, the release of these exhibits to the public would compromise the ability of the Company to negotiate future purchase-power contracts because those exhibits contain proprietary and confidential information about the Company's market forecast and quantitative and qualitative evaluation of bids. The exhibits were used by the Company in the evaluation of bids received and are considered proprietary by the consultants that produced them. More importantly, however, these projections must be protected from public disclosure because the Company has used this information to evaluate bids associated with the RFP process described herein, and may continue to use this forecast, or similar forecasts, to evaluate future bids for renewable generation services. If other parties gain access to the details of Schedule CMD-12, Schedule CMD-13, or WP Support Tabs D, E and F, and the assumptions regarding future energy prices contained therein, the Company's ability to negotiate the best deals possible on behalf of customers would be compromised. Accordingly, the PUC should protect the energy forecast information in those documents from the public record.

IV. BASIS FOR REQUEST TO WAIVE SECTION 5.5

As noted, Section 5.5 of the PUC's Rules and Regulations Governing Long-Term

Contracting Standards For Renewable Energy requires that a copy of each executed Long-Term Contract between the Electric Distribution Company and the Renewable Energy Developer shall be filed with the Commission in its entirety, and that the entire contract shall be a public document. The PUC may waive that requirement pursuant to Section 1.10(b)(1) of the PUC's Rules of Practice and Procedure.

Schedules CMD-1 through CMD-4 contain contracts between National Grid and subsidiaries of Everpower Wind Holdings and RES America Developments, Inc. Everpower Wind Holdings and RES American Developments, Inc. have requested that certain competitively sensitive terms within the contracts be kept confidential. The parties have redacted only those terms which would present a risk of competitive harm if published, in order to allow as much of the contracts into the public record as possible. Accordingly, for the same reasons as discussed in Section III. A., above, it is necessary and appropriate to waive Section 5.5 of the PUC's Rules and Regulations Governing Long-Term Contracting Standards For Renewable Energy.

V. CONCLUSION

Accordingly, the Company requests that the PUC grant protective treatment above-listed Confidential Information.

WHEREFORE, the Company respectfully requests that the PUC grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

NATIONAL GRID

By its attorneys,

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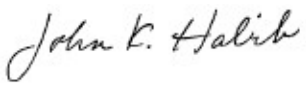

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Dated: November 1, 2017

Executive Summary

Attachment 1

REVIEW OF POWER PURCHASE AGREEMENTS

***PURSUANT TO R.I. GEN. LAWS* § 39-26.1**

Executive Summary Docket No. _____ November 1, 2017

Introduction

National Grid[1] is submitting a power purchase agreements (PPA) for each of eight projects in this proceeding pursuant to the New England Clean Energy Request for Proposals (RFP) issued on November 12, 2015. The Company seeks approval of the PPAs pursuant to the Long-Term Contracting Standard for Renewable Energy Act, R.I. Gen. Laws § 39-26.1.1 et seq. (LTC Standard) and the Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy (the Rules and Regulations) promulgated by the Public Utilities Commission. In total, the PPAs represent approximately 43.8 MW of nameplate capacity from renewable energy resources, with a resulting contract capacity, as defined in the LTC Standard, of approximately 12.9 MW, based on the respective capacity factors for each resource.

Overview of the Projects

The proposed PPAs include the following projects:

Table 1

PROJECT NAME	PRINCIPAL DEVELOPER	CONTRACT COUNTERPARTY	NAMEPLATE CAPACITY (MW)	RI share of Project
Cassadaga Wind Project	Everpower Wind Holdings	Cassadega Wind LLC	126.0	15%
Scituate Solar Project[2]	RES America Developments Inc.	Scituate RI Solar, LLC	10.0	50%
Hope Farm Solar Project	RES America Developments Inc.	Hope Farm Solar, LLC	10.0	50%
Woods Hill Solar	RES America Developments Inc.	Woods Hill Solar, LLC	20.0	7.5%
Sanford Airport Solar Project	NextEra Energy Inc.3	Sanford Airport Solar, LLC	49.36	7.5%
Chinook Solar Project	NextEra Energy Inc.	Chinook Solar, LLC	30.0	7.5%
Farmington Solar Project	NextEra Energy Inc.	Farmington Solar, LLC	49.36	7.5%
Quinebaug Solar Project	NextEra Energy Inc.	Quinebaug Solar, LLC	49.36	7.5%

[1] The Narragansett Electric d/b/a National Grid (National Grid or the Company).

[2] RES America Development Inc. submitted a single proposal for the Scituate Solar Project and Hope Farm Solar Project, with a combined capacity of 20 MW at a single interconnection point. The projects were split into two contracts during contract negotiation at the request of the developer.

[3] The NextEra projects were initially sponsored by Ranger Solar, LLC. During the PPA negotiation process, the Company was notified that NextEra had procured the rights to develop the projects.

REVIEW OF POWER PURCHASE AGREEMENTS

***PURSUANT TO R.I. GEN. LAWS* § 39-26.1**

Executive Summary Docket No. _____ November 1, 2017

Procurement Process

The RFP was developed jointly by stakeholders in Rhode Island, Massachusetts, and Connecticut. The PUC reviewed and approved the RFP pursuant to the Affordable Clean Energy Security Act, R.I. Gen. Laws. § 39-31-1 (ACES) in Docket No. 4570.[4] National Grid executed the PPAs following a joint solicitation, evaluation, selection, and negotiation process with the other soliciting parties to the RFP from Massachusetts and Connecticut.

The Company, together with the other participating states, jointly released the RFP to bidders on November 12, 2015. The RFP was distributed to approximately 600 individuals and entities with an interest in developing renewable energy projects from a list compiled by the Massachusetts distribution companies and the Massachusetts Department of Energy Resources. Three types of products were solicited under the RFP: (1) Qualified Clean Energy and/or RECs via a PPA; (2) Qualified Clean Energy and/or RECs via a PPA with a Transmission Project under a Tariff filed with the Federal Energy Regulatory Commission (FERC); and (3) Qualified Clean Energy via a Transmission Project under a Performance-Based Tariff containing a Qualified Clean Energy Delivery Commitment. Thirty-one sets of project proposals, not including bid variants, were submitted from solar, wind, hydro, fuel cell, and transmission developers. These bids accounted for more than 5,700 MW of Qualified Clean Energy resources. Developers submitted proposals for approximately 3,000 MW of wind power, 2,000 MW of hydro power and 600 MW of solar power. Six bids with significant transmission were submitted, and five of these were portfolio bids linked to PPAs. The remaining bid with significant transmission consisted of a Qualified Clean Energy Delivery Commitment proposal.

Bids were received and reviewed by an evaluation team comprised of the soliciting parties from each state, including the Company, the Massachusetts electric distribution companies (Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, Fitchburg Gas and Electric Light Company d/b/a Unitil, and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource), and The Connecticut Light & Power Company and The United Illuminating Company in Connecticut with the Connecticut Department of Energy and Environmental Protection acting as the soliciting party. In Rhode Island, the Company evaluated bids in consultation and coordination with the Rhode Island Division of Public Utilities and Carriers (Division) and the Rhode Island Office of Energy Resources (OER).

Bids were evaluated in a two-stage bid evaluation process. The first stage (Stage One) consisted of a review of whether the proposals satisfied specified eligibility, threshold and other minimum requirements. The second stage (Stage Two) consisted of quantitative and qualitative evaluation of proposals that passed the Stage One review. The results of the Stage Two

[4] See In re Solicitation for Proposals for Clean Energy Projects, Docket No. 4570 (March 23, 2016).

evaluation produced a relative ranking and scoring of all proposals based on a 100-point scale, with up to 75 points for quantitative factors and the remaining 25 points for qualitative factors. A "Selection Team" for each jurisdiction considered the results and rankings from the Evaluation Team, determined projects for selection, and worked collaboratively with the other jurisdictions to determine whether a portfolio of projects could be created to reduce costs to customers in each jurisdiction. The Selection Team for Rhode Island consisted of the Company in consultation and coordination with the Division and OER, subject to review and approval by the PUC.

Independent consultants were retained to assist with the quantitative evaluation of the proposals in Stage Two. Direct benefits were determined using a mark-to-market comparison of the bid prices of the offered products with projected market prices at the proposed delivery points with the project in service. Indirect benefits were determined based on the projected change that projects would produce in locational marginal prices and production costs. The benefits were projected using a nodal electric market simulation model known as Ventyx ProMod (ProMod), as detailed in the schedules provided in this filing. Benefits were then compared to costs and bids were ranked based on their benefit to cost ratios. The Quantitative Evaluation Committee then assigned a score to each evaluated project bid based on a maximum possible score of 75.

The qualitative evaluation was conducted by the evaluation team based on factors aligned with the requirements and goals set out by the implementing statutes and regulations to identify those projects that were the most likely to come to fruition and provide benefits to customers while being a cost effective means of delivering qualified clean energy. Proposals were scored based on the qualitative factors, up to a maximum possible score of 25.

Once the projects were evaluated as described above for both quantitative and qualitative factors, the points were added together and the projects were ranked based upon total awarded points. A Selection Team from each state then considered the evaluation results and rankings to make state-specific initial project selections. The Selection Teams from all three participating states then collaborated to create the final list of bids selected by each state to proceed to the contract negotiation stage of the process. The Selection Teams also agreed upon how the energy and/or RECs purchased from each project would be allocated among the states. On October 24, 2016, the Selection Teams sent notices to bidders informing them of the RFP results.

As discussed further in this filing, the Company initially intended to procure only proposals for qualified clean energy under a performance-based tariff, referred to in the RFP as the "Delivery Commitment Model." However, the participating states did not select any Delivery Commitment Model proposals for contract negotiation. As a result, the Selection Team was not able to enter contract negotiations for a project based on the Delivery Commitment Model.

REVIEW OF POWER PURCHASE AGREEMENTS

***PURSUANT TO R.I. GEN. LAWS* § 39-26.1**

Executive Summary Docket No. _____ November 1, 2017

The PPAs

As a result of the selection process and contract negotiations, the Company executed PPAs with three principal developers (Everpower Wind Holdings, RES America Developments, Inc., NextEra Energy Inc.), covering eight projects in all (one wind project and seven solar projects). The PPAs include terms for the purchase of energy and renewable energy credits, and also includes rights to other environmental attributes associated with the facility that may be recognized in the future, such as CO2 emission credits.

The LTC Standard requires that the proposed PPAs meet the following requirements:

(1) the renewable energy resource is newly developed such that it has not begun operation, nor have the developers of the units implemented investment or lending agreements necessary to finance the construction of the unit;

(2) the contract must be commercially reasonable, with terms and pricing that are reasonably consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources;

(3) pricing under the contracts must be below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation process reviewed by the PUC.

The PPAs meet the requirements of the LTC Standard. None of the selected projects have begun operation, nor, at the time of selection, none of the developers had implemented investments or lending agreements necessary to finance construction of the projects. Each PPA is commercially reasonable, as required by Rhode Island law. Finally, pricing under the contracts is forecasted to be below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation process reviewed by the PUC.

Testimony of
Corinne M. DiDomenico

The Narragansett Electric Company
d/b/a National Grid

Review of Power Purchase Agreements Pursuant to R.I. Gen. Laws § 39-26.1

November 1, 2017

RIPUC Docket No. _____

Submitted to:
Rhode Island Public Utilities Commission

Submitted by:

nationalgrid

THE NARRAGANSETT ELECTRIC COMPANY
d/b/a NATIONAL GRID
RIPUC DOCKET NO. _____
REVIEW OF POWER PURCHASE AGREEMENTS
PURSUANT TO R.I. GEN. LAWS § 39-26.1
WITNESS: CORINNE M. DIDOMENICO
November 1, 2017

DIRECT TESTIMONY

OF

CORINNE M. DIDOMENICO

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I. Introduction

Q. Ms. DiDomenico, please state your name and business address.

A. My name is Corinne M. DiDomenico. My business address is National Grid, 100 East Old Country Road, Hicksville, NY 11801

Q. By whom are you employed and in what capacity?

A. I am Manager of Environmental Transactions, Energy Procurement of National Grid. I am submitting this testimony on behalf of The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

Q. Please describe your present responsibilities.

A. I manage the competitive solicitations for renewable energy projects, including negotiations for power purchase agreements (PPAs) for renewable energy projects. This includes competitive solicitations to comply with the Long-Term Contracting Standard for Renewable Energy, R.I. Gen. Laws. § 39-26.1.1 et seq. (LTC Standard), procurements pursuant to the Affordable Clean Energy Security Act, R.I. Gen. Laws. § 39-31-1 (ACES) and enrollments under the Distributed Generation Standard Contracts Act, R.I. Gen. Laws § 39-26.2.1 et seq. I am also involved with the development of National Grid's renewable energy policies.

Q. Please describe your education and professional background.

A. I graduated from Drexel University in 2005 with a Bachelor of Science Degree in Civil Engineering. I received a Masters in Business Administration in Finance and Investments from Baruch College in May 2013. In July 2005, I joined KeySpan Corporation as an Engineer in Generation Operations. I was accepted into the Engineering Rotation Program and held various positions in Power Engineering, Generating Plant (Steam and Gas Turbine) Operations, and Maintenance Services. In November 2009, as part of a management development initiative, I joined Energy Portfolio Management as the technical advisor to the Senior Vice President. I was promoted to my current position in June 2011.

Q. Have you previously testified in proceedings before the Rhode Island Public Utilities Commission (PUC) or in other jurisdictions?

A. Yes. I have provided testimony before the PUC on renewable energy resource matters in Docket Nos. 4437 (Champlain Wind, LLC PPA), Docket No. 4319 (Black Bear Development Holdings, LLC PPA), and Docket No. 4573 (Copenhagen Wind Farm, LLC PPA). I also participated in technical sessions at the PUC in Docket Nos. 4277 and 4288 concerning the Distributed Generation Standard Contracts and in Docket No. 4536-A in connection with the Renewable Energy Growth Program. I have also submitted testimony and schedules on behalf of National Grid before the Massachusetts Department

of Public Utilities in D.P.U. 13-146/D.P.U. 13-147/D.P.U. 13-148/D.P.U. 13-149, seeking approval of long-term contracts for renewable resources.

Q. What is the Company proposing in this proceeding?

A. The Company is seeking PUC approval under the LTC Standard of eight 20-year PPAs, which the Company has entered into for the purchase of energy and environmental attributes from eligible renewable energy generation facilities, pursuant to the New England Clean Energy Request For Proposals (the RFP) issued on November 12, 2015.

Pursuant to the RFP, the Company, in participation with its Massachusetts affiliates, Massachusetts Electric Company and Nantucket Electric Company, together with the other electric distribution companies in Massachusetts, Fitchburg Gas and Electric Light Company, d/b/a Unitil (Unitil), NSTAR Electric Company, and Western Massachusetts Electric Company, d/b/a Eversource Energy (Eversource) (together, the Massachusetts Distribution Companies), and Eversource affiliate The Connecticut Light & Power Company (CL&P) and The United Illuminating Company (UI) in Connecticut with the Connecticut Department of Energy and Environmental Protection (CT DEEP) acting as the soliciting party, conducted a multi-state solicitation for eligible renewable energy resources and entered into individual contracts to acquire a share of the renewable energy output and renewable energy certificates (RECs) of eight proposed renewable energy

projects in New England over a term of 20 years. The eight projects and the principal developer/contract counterparty are as follows:

Table 1

PROJECT NAME	**PRINCIPAL DEVELOPER**	**CONTRACT COUNTERPARTY**	**NAMEPLATE CAPACITY (MW)**	**RI share of Project**
Cassadaga Wind Project	Everpower Wind Holdings	Cassadaga Wind LLC	126.0	15%
Scituate Solar Project[1]	RES America Developments Inc.	Scituate RI Solar, LLC	10.0	50%
Hope Farm Solar Project	RES America Developments Inc.	Hope Farm Solar, LLC	10.0	50%
Woods Hill Solar	RES America Developments Inc.	Woods Hill Solar, LLC	20.0	7.5%
Sanford Airport Solar Project	NextEra Energy Inc.[2]	Sanford Airport Solar, LLC	49.36	7.5%
Chinook Solar Project	NextEra Energy Inc.	Chinook Solar, LLC	30.0	7.5%
Farmington Solar Project	NextEra Energy Inc.	Farmington Solar, LLC	49.36	7.5%
Quinebaug Solar Project	NextEra Energy Inc.	Quinebaug Solar, LLC	49.36	7.5%

The Company is submitting a PPA for each of the above projects in this proceeding. In total, the PPAs represent approximately 43.8 MW of nameplate capacity from renewable

[1] RES America Development Inc. submitted a single proposal for the Scituate Solar Project and Hope Farm Solar Project, with a combined capacity of 20 MW at a single interconnection point. The projects were split into two contracts during contract negotiation at the request of the developer.

[2] The NextEra projects were initially sponsored by Ranger Solar, LLC. During the PPA negotiation process, the Company was notified that NextEra had procured the rights to develop the projects.

energy resources. The resulting contract capacity[3] from these resources is approximately 12.9 MW, based on the respective capacity factors for each resource.

Table 2

Project	Nameplate (MW)	Capacity Factor %	RI % Share of Project	Contract Capacity (MW)
Cassadaga Wind Project	126.0	43.02%	15%	8.1
Scituate Solar Project	10.0	19.42%	50%	1
Hope Farm Solar Project	10.0	19.42%	50%	1
Woods Hill Solar	20.0	18.9%	7.5%	0.3
Sanford Airport Solar Project	49.36	20.2%	7.5%	0.7
Chinook Solar Project	30.0	19.7%	7.5%	0.4
Farmington Solar Project	49.36	17.6%	7.5%	0.7
Quinebaug Solar Project	49.36	19.6%	7.5%	0.7
Total				**12.9**

[3] Section 39-26.1-2(7) of the LTC Standard provides that "the capacity under contract shall be adjusted by the capacity factor of each renewable generator as determined by the ISO-NE rules, as they may change from time to time."

Q. What is the purpose of your testimony?

A. My testimony will demonstrate that: (1) the Company's procurement of PPAs with the eight projects satisfies the requirements of the LTC Standard relating to the solicitation of long-term contracts from renewable energy developers, and that the Company, together with the other soliciting parties, followed the provisions of the RFP issued on November 12, 2015 and approved by the PUC in Docket No. 4570; (2) describe the Company's participation in the joint, collaborative clean energy competitive solicitation and the selection of the eight projects described in Table 1; and (3) explain the pricing and other key provisions of the PPAs.

Q. What schedules are you sponsoring in your testimony?

A. I am sponsoring 13 schedules, including*:*

- Schedule CMD-1 [CONFIDENTIAL], is the 20-year PPA executed by the Company applicable to the Cassadaga Wind Project;
- Schedule CMD-2 [CONFIDENTIAL], is the 20-year PPA executed by the Company applicable to the Scituate Solar Project;
- Schedule CMD-3 [CONFIDENTIAL], is the 20-year PPA executed by the Company applicable to the Hope Farm Solar Project;
- Schedule CMD-4 [CONFIDENTIAL], is the 20-year PPA executed by the Company applicable to the Woods Hill Solar Project;
- Schedule CMD-5 is the 20-year PPA executed by the Company applicable to the Sanford Airport Solar Project.
- Schedule CMD-6 is the 20-year PPA executed by the Company applicable to the Chinook Solar Project;

- Schedule CMD-7 is the 20-year PPA executed by the Company applicable to the Farmington Solar Project;
- Schedule CMD-8 is the 20-year PPA executed by the Company applicable to the Quinebaug Solar Project;
- Schedule CMD-9 is a copy of the Request for Proposals (RFP) approved in Docket No. 4570.
- Schedule CMD-10 [CONFIDENTIAL] summarizes the overall bid scoring results of the Distribution Companies' bid analysis.
- Schedule CMD-11 is the New England Clean Energy RFP Evaluation Report prepared by Navigant.
- Schedule CMD-12 [CONFIDENTIAL], Tabs A-F are the transmission cost review reports prepared by Electrical Consultants, Inc.
- Schedule CMD-13 [CONFIDENTIAL] is the final report of Levitan & Associates, Inc.

Also accompanying this filing are consolidated Distribution Company Work Papers (hereinafter WP Support) that contain the documentary support for the solicitation and subsequent bid evaluation process followed by the companies in this joint renewable energy competitive procurement. The WP Support is arranged as follows*:*

- Tab A - List of entities sent the RFP;
- Tab B - [CONFIDENTIAL – CD-ROM ONLY] initial bid package for bids received;
- Tab C - [CONFIDENTIAL – CD-ROM ONLY] bidder communications;
- Tab D - [CONFIDENTIAL] Qualitative Bid Evaluation Protocol;
- Tab E - [CONFIDENTIAL] Quantitative scoring sheets for each project;

- Tab F - [CONFIDENTIAL] Quantitative forecast base case;
- Tab G - [CONFIDENTIAL] redlines of executed PPAs against Draft PPA.

Q. Please describe how you have organized your testimony.

A. Section I of my testimony is an introduction. Section II of my testimony describes the RFP, and explains why the Company is seeking approval of the PPAs pursuant to the LTC Standard. This section also provides an overview of the LTC Standard and the requirements set forth in the PUC's Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy (LTC Rules & Regulations) regarding the review and approval of executed PPAs under the LTC Standard. Section III of my testimony describes and discusses the solicitation process, including bid scoring and project selection. Section IV of my testimony describes the specifics of each of the eight PPAs and discusses how they satisfy the requirements of the LTC Standard and the LTC Rules & Regulations.

Q. Do you have any introductory comments concerning the individual PPAs submitted for PUC review?

A. Yes. As previously indicated in Table 1, above, the Company has entered into contracts with three principal developers/sponsors of eight different projects. However, the PUC's review of the individual PPAs will be aided by an appreciation of how these agreements were negotiated and structured.

The companies from all three participating states jointly negotiated all contracts from a single model PPA. The model PPA was included with the final RFP when issued to prospective bidders. The companies pursued their joint negotiations with each of the principal project developers/sponsors separately, resulting in minor variations in terms among the model PPA, reflecting the terms and/or contract language that were most important to each developer and terms that were specific to the operation of each project. Included in the Company's WP Support accompanying this filing, Tab G, is a redline comparison of the PPAs executed for each project against the model PPA, which highlights the variations among counterparty "templates."

II. Overview of the RFP and LTC Standard Requirements

Q. Please describe the process of formulating the RFP, as approved by the PUC.

A. The RFP was developed jointly by the following stakeholders in Rhode Island, Massachusetts, and Connecticut: the Massachusetts Distribution Companies, the Massachusetts Department of Energy Resources (DOER), CT DEEP,[4] the Company and the Rhode Island Office of Energy Resources (OER). The Rhode Island Division of Public Utilities and Carriers (DPUC) also monitored the development of the RFP. Staff of the New England States Committee on Electricity (NESCOE) acted as a facilitator for

[4] The State of Connecticut does not require approval of the RFP pursuant to its clean energy statutes, Connecticut Public Act 13-303, §§ 6, 7.

the RFP development process. The RFP development process involved a careful consideration of a range of logistical and substantive issues relating to the creation of a standardized methodology for bid solicitation and evaluation. The Company submitted the RFP to the PUC for approval with the expectation that such approval would promote the transparency, consistency, and objectivity of the solicitation process, which in turn, would facilitate the PUC's subsequent review of individual contracts once executed and submitted by the Company for PUC review. The RFP was reviewed and approved by the PUC under ACES.[5]

Q. Is the Company seeking approval of the PPAs pursuant to ACES?

A. No. The Company is not seeking approval of the PPAs pursuant to ACES. In the RFP, the Company initially intended to procure only proposals under Section 2.2.3.3 for Qualified Clean Energy via Transmission Project Under a Performance-Based Tariff Containing a Qualified Clean Energy Delivery Commitment, referred to as the "Delivery Commitment Model." However, the participating states did not select any Delivery Commitment Model proposals for contract negotiation, because the only Delivery Commitment Model proposal that was received was not competitive when compared to all other proposals. As a result, the Selection Team was not able to enter contract negotiations for a project based on the Delivery Commitment Model.

[5] See In Re: Solicitation for Proposals for Clean Energy Projects, Docket No. 4570 (March 23, 2016).

Q. Why is the Company seeking approval of the PPAs under the LTC Standard?

A. During the solicitation process, the Company learned that a previously-approved contract under the LTC Standard would not be fulfilled. The Bowers Wind project, which accounted for approximately 18.3 MW of the required 90 MW of long-term contracting capacity under the LTC Standard, failed to obtain a permit from the Maine Department of Environmental Protection. The permit was required to construct and operate the project by the critical milestone date of December 31, 2016, and the developer did not elect to further extend the critical milestone under the PPA.

The 2014 amendments to the LTC Standard, R.I. Gen. Laws §§ 39-26.1-3(c)(2) and (f) required that the electric distribution company conduct solicitations at least once per year after December 2013 until 100% of the 90 MW requirement is met. In addition, Section 5.3 of the LTC Rules & Regulations provides that in the event a long-term contract is terminated, the Company "will not be found noncompliant . . . and ***it shall be required*** to make additional annual solicitation and to enter into additional Long-Term Contracts in order to replace the energy, capacity and/or NEPOOL GIS Certificates lost as a result of the termination." (Emphasis Added). In light of this legal requirement to backfill the lost capacity as a result of the termination of the Bowers Wind PPA, the Company, in consultation and coordination with the DPUC, and OER, agreed to negotiate PPAs for eligible renewable energy resources identified through the RFP to backfill the Bowers Wind project capacity under the LTC Standard.

Q. Prior to this solicitation, had the Company fulfilled its LTC Standard requirements?

A. Yes. As a result of a series of four competitive solicitations beginning in 2010, the Company fulfilled the requirements of the LTC Standard by executing contracts totaling approximately 94 MW of contract capacity, or 103.8% of the 90 MW requirement.[6]

Q. What is the Company's remaining obligation under the LTC Standard as a result of the termination of the Bowers Wind project?

A. With the termination of the Bowers Wind project, the Company needs to fulfill approximately 18.3 MW of the 90 MW requirement in order to satisfy its statutory obligations under the LTC Standard. Accordingly, the Company is seeking authorization to backfill a portion of this remaining capacity with the PPAs submitted in this proceeding.

[6] The 94 MW of contract capacity is inclusive of approximately 6.1 MW of contract capacity from distributed generation standard contracts enrolled under R.I. Gen. Laws § 39-26.2 *et seq.* See Long-Term Contracting Standards for Renewable Energy Summary Report on Fourth Solicitation, at 6 (filed July 31, 2014).

The PPAs submitted here represent long-term contracts for approximately 12.9 MW of contract capacity for newly developed renewable energy resources at commercially reasonable terms and pricing. Using these PPAs to backfill the reduction in long-term contract capacity is consistent with the intent of the LTC Standard to stabilize long-term energy prices, enhance environmental quality, and facilitate the financing of renewable energy generation. Although the Company did not contemplate when issuing the RFP that any contracts resulting from the solicitation would be eligible for approval under the LTC Standard, submitting such contracts to the PUC for approval under the LTC Standard is consistent with the goals and requirements of the LTC Standard and the LTC Rules & Regulations.

Q. Please explain the requirements for solicitations under the LTC Standard.

A. Under R.I. Gen. Laws § 39-26.1-3, the Company was required to annually solicit proposals from renewable-energy developers for long-term contracts beginning on or before July 1, 2010. The solicitation process had to include an annual solicitation, but could also include individual negotiations. As noted previously, the Company fulfilled those required annual solicitations.

The solicitation process under R.I. Gen. Laws §§ 39-26.1-3(b) must permit a reasonable amount of negotiating discretion for the parties to engage in commercially reasonable, arms-length negotiations over final contract terms. In addition, Section 4.2 of the LTC

Rules and Regulations require that the Company file its proposed timetable and method for solicitation with the PUC and explain: (1) the methods reviewed or selected; (2) the rationale for choosing the proposed method selected and for rejecting other methods; (3) set forth a clear timetable for each event that will occur prior to filing a contract for Commission review; (4) set forth the Company's intent for use of energy, capacity and other attributes procured; (5) set forth the criteria that will be used to evaluate responses to the solicitation, including the value of direct economic benefits to the State of Rhode Island when evaluating whether the pricing is consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources; (6) address how the Company will seek to fulfill its annual obligation in the event the annual solicitation does not result in the execution of commercially reasonable contracts; and (7) address how the Company may, at its option, seek to execute long-term contracts in excess of the given year's annual obligation in the event the annual solicitation results in proposals that could reasonably result in the execution of commercially reasonable contracts in excess of the annual obligation.

Q. Does the RFP meet the requirements for a solicitation under the LTC Standard?

A. Yes. Although the PUC approved the RFP under ACES, the solicitation requirements under ACES and the LTC Standard are very similar. ACES, like the LTC Standard, requires that a solicitation must be "reasonable, open, and competitive" and "shall permit a reasonable amount of negotiating discretion for the parties to engage in arms-length

negotiations over final contract terms." R.I. Gen. Laws § 39-31-6. In its review of the RFP pursuant to ACES, the PUC concluded that the proposed solicitation was reasonable, open and competitive. Moreover, the PUC's review of the RFP under ACES also encompassed many of the requirements under Section 4.2 of the LTC Rules and Regulations. As noted in the PUC's order in Docket No. 4570, the Company explained the selected method for solicitation, set forth a timetable for review of proposals and executing contracts, described how the Company will use energy, capacity and other attributes procured, and explained the method and criteria for evaluating proposals. The Company did not address items (6) and (7) above in the RFP, both of which relate to fulfilling the required 90 MW of capacity under LTC Standard because the Company had already contracted for 90 MW of capacity at the time it submitted the RFP for approval. Those criteria, however, do not relate to the method or timetable of solicitation and do not impact the conclusion that the RFP is reasonable, open, and competitive.

It is also worth noting that the RFP approved under ACES is similar in form and substance to the RFP that was previously approved by the PUC under the LTC Standard.[7] There are other synergies between the two statutes as well. Both statutes articulate a similar purpose, focusing on stable energy prices, economic growth, and protecting and

[7] The PUC approved the Company's method of annual solicitation, with modifications, first at its Open Meeting on June 12, 2012 in Docket No. 4316, and subsequently at its Open Meeting on May 30, 2014 in Docket No. 4491.

enhancing environmental quality.[8] For these reasons, The PUC can and should accept the RFP as an approved method of solicitation under the LTC Standard and should approve the PPAs submitted in this proceeding under the LTC Standard.

Q. Please describe the eligibility criteria under the LTC Standard for renewable energy projects.

A. Pursuant to the LTC Standard, an "eligible renewable energy resource" means a resource as defined in § 39-26-5 and any references therein, including but not limited to wind, solar and small hydro facilities.

In addition, the LTC Standard requires that:

(1) the renewable energy resource is newly developed such that it has not begun operation, nor have the developers of the units implemented investment or lending agreements necessary to finance the construction of the unit;

(2) the contract must be commercially reasonable, with terms and pricing that are reasonably consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources;

(3) pricing under the contracts must be below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation process reviewed by the PUC.

Q. Do the PPAs executed pursuant to the RFP meet these requirements?

A. Yes. As described in Section IV, herein, the PPAs meet each of the requirements of the LTC Standard. None of the selected projects have begun operation, nor, at the time of selection, none of the developers had implemented investments or lending agreements

[8] See R.I. Gen. Laws §§ 39-26.1-1; 39-31-2

necessary to finance construction of the projects. Each PPA is commercially reasonable, as required by Rhode Island law. Finally, pricing under the contracts is forecasted to be below the forecasted market price of energy and renewable energy certificates over the term of the proposed contract, using industry standard forecasting methodologies as have been used to evaluate pricing in the past solicitation process reviewed by the PUC.

III. Solicitation for Long-Term Renewable Contracts

Q. Please describe the solicitation process completed in accordance with the RFP.

A. The Company, together with the other participating states, jointly released the RFP to bidders on November 12, 2015. The RFP was distributed to approximately 600 individuals and entities with an interest in developing renewable energy projects from a list compiled by the Massachusetts Distribution Companies and the DOER. The list of entities to which the RFP was sent is provided in WP Support, Tab A.

Three types of products were solicited under the RFP: (1) Qualified Clean Energy and/or RECs via a PPA; (2) Qualified Clean Energy and/or RECs via a PPA with a Transmission Project under a Tariff filed with the Federal Energy Regulatory Commission (FERC); and (3) Qualified Clean Energy via a Transmission Project under a Performance-Based Tariff containing a Qualified Clean Energy Delivery Commitment. A bidder conference was held on December 3, 2015. Prospective bidders had an opportunity to submit written questions to the Evaluation Team pertaining to the RFP

before submitting bids. Approximately 130 questions were submitted, which the Evaluation Team responded to in writing. All questions and answers were posted on the public website for the RFP, www.cleanenergyrfp.com.

Q. How many bids were submitted in response to the RFP?

A. Thirty-one sets of project proposals, not including bid variants, were submitted from solar, wind, hydro, fuel cell, and transmission developers. These bids accounted for more than 5,700 MW of Qualified Clean Energy resources. Developers submitted proposals for approximately 3,000 MW of wind power, 2,000 MW of hydro power and 600 MW of solar power. Six bids with significant transmission were submitted, and five of these were portfolio bids linked to PPAs. The remaining bid with significant transmission consisted of a Qualified Clean Energy Delivery Commitment proposal. A copy of each bid package submitted to the Distribution Companies in response to the RFP is included in WP Support Tab B on CD-ROM [CONFIDENTIAL].

Q. Please describe the bid evaluation process, as outlined in the RFP.

A. Bids were received by an evaluation team comprised of the soliciting parties listed above (i.e., the Company, the Massachusetts Distribution Companies, and CT DEEP), and CL&P, UI, the Connecticut Procurement Manager; the Connecticut Office of Consumer Counsel, the Connecticut Office of Attorney General, and DOER (collectively, the

"Evaluation Team").[9] In Rhode Island, the Company evaluated bids in consultation and coordination with the DPUC and the OER.

The RFP proposed a two-stage bid evaluation process (RFP Section 2). The first stage (Stage One) consists of a review of whether the proposals satisfy specified eligibility, threshold, and other minimum requirements as described in Section 2.2 of the RFP. The second stage (Stage Two) consists of quantitative and qualitative evaluation of proposals that passed the Stage One review. The results of the Stage Two evaluation produced a relative ranking and scoring of all proposals based on a 100-point scale, with up to 75 points for quantitative factors and the remaining 25 points for qualitative factors (See RFP Section 2.3). A Selection Team for each jurisdiction considered the results and rankings from the Evaluation Team, determined projects for selection, and worked collaboratively with the other jurisdictions to determine whether a portfolio of projects could be created to reduce costs to customers in each jurisdiction. The Selection Team for Rhode Island consisted of the Company in consultation and coordination with the DPUC and OER, subject to review and approval by the PUC.

Both stages of bid evaluation described in the RFP and further discussed below were

[9] Electric distribution companies that are part of the Evaluation Team signed a Standard of Conduct document, attached to the RFP as Appendix J. The Standard of Conduct prohibits discussion of the RFP between electric distribution personnel participating on the Evaluation Team and electric distribution company personnel involved in the preparation of bids in response to the RFP.

conducted by the Evaluation Team. The Evaluation Team exercised its judgment, contributed its experience and expertise, and arrived at conclusions and assessments collaboratively and collectively. Accordingly, the Evaluation Team produced a single, consensus evaluation and scoring of each project and a single ranking of all bid proposals.

The Evaluation Team established a committee structure to facilitate review and ranking of bids. The Steering Committee provided overall management responsibility for the evaluation of bids and ranking of projects. Two technical committees, a Quantitative Committee and Transmission Committee, performed the detailed quantitative evaluation work and reported to the Steering Committee. The Quantitative Committee was responsible for estimating the potential benefits and costs of projects and for computing benefit to cost ratios. The Transmission Committee evaluated transmission projects for viability, technical feasibility, the reasonableness of bidders' cost estimates and the customer risk associated with projects. It provided input to the Quantitative Evaluation Committee with respect to the transmission topology that was used to model projects and estimate benefits, and provided input on transmission project feasibility and costs. The Qualitative Committee evaluated projects for qualitative factors and awarded points for non-price factors as provided in Schedule CMD-10 [CONFIDENTIAL].

Legal Committees were established to provide legal advice regarding transactional issues,

state regulatory issues, and FERC and federal law.

Q. Did the Evaluation Team retain independent consultants to assist with the evaluation?

A. Yes. Three independent consultants were retained to assist with the evaluation. Navigant Consulting, Inc. (Navigant) was retained as the Evaluation Team Consultant to develop and run a computer model used to quantify estimated benefits and develop benefit to cost ratios for projects. Navigant's work is described in detail in its report, included as Schedule CMD-11.

Electrical Consultants, Inc. (ECI) analyzed the reasonableness of the cost estimates provided by bidders in the transmission project bids. ECI also provided input on the cost risk to customers posed by uncertainty in the cost estimates. ECI produced a separate report for each of the transmission bids submitted in response to the RFP, included as Schedule CMD-12 [CONFIDENTIAL].

Peter Flynn, doing business as PeterGFlynn, LLC, assisted the Evaluation Team with process and workflow.

Three additional consultants retained by state agencies actively participated on the Evaluation Team. The Connecticut DEEP, the OER and the DPUC retained Levitan & Associates, Inc. (LAI) to assist with the evaluation, and the Massachusetts DOER retained New Energy Opportunities, Inc. and nFront Consulting LLC (under subcontracts to Peregrine Energy Group, Inc.). During the course of the evaluation process, LAI's participation was expanded to provide an independent review of Navigant's modeling results on behalf of the Evaluation Team. The Evaluation Team decided to engage LAI to conduct an independent review given the scale of financial commitments implicated by the transmission proposals. LAI's report is provided as Schedule CMD-13 [CONFIDENTIAL].

Q. Can you please elaborate on the elements of the first stage evaluation?

A. Stage One of the evaluation involved reviewing bids to determine whether they complied with the threshold requirement of Section 2.2 of the RFP. As set forth in the RFP, Section 2.2, Stage One criteria are designed to ensure that proposed projects comply with the requirements of the RFP, satisfy all relevant statutory criteria, and meet minimum

standards demonstrating project viability. The criteria are specified in Sections 2.2.1 through 2.2.15 of the RFP.

Q. Were any of the bids received disqualified under Stage One of the evaluation?

A. Yes. A total of three bids were disqualified under Stage One of the evaluation process. One bid, the Conowingo REC offer submitted by Exelon Generation Company, LLC, was disqualified because it did not meet the definition of Qualified Clean Energy, and did not pay the bid fee as required by the RFP. Two additional bids were subsequently rejected based on information learned during the evaluation process. Specifically, it was determined that EDP Renewables North America LLC's PPA-only bid for a proposed 248 MW wind project and EverPower Wind Holdings, Inc.'s PPA-only bid for a 250 MW wind farm failed to satisfy the threshold requirement that a bidder demonstrate the financial viability of the proposed project. Both of those proposed wind projects were to be located in Maine and involved significant interconnection and transmission costs, which the Evaluation Team ultimately determined were cost-prohibitive. In accordance with Section 2.2 of the RFP, the three projects identified above were disqualified from further review.

Q. Please describe the evaluation of the bids under Stage Two of the evaluation.

A. As described in Section 2.3 of the RFP, for each submission that passed the eligibility and threshold evaluation criteria of Stage One, the Evaluation Team conducted a

numerical scoring of both quantitative and qualitative factors. As specified in the RFP, quantitative factors were weighted at 75 percent of total bid score and qualitative factors were weighted at 25 percent.

Q. How was the quantitative evaluation conducted under Stage Two?

A. The first step of the quantitative evaluation involved a screening process where the Evaluation Team compared bids directly to determine whether one or more bids were not economically competitive when compared to other bids. Bids that proceeded past the screening process were evaluated based on a combination of their indirect economic benefits and direct contract price benefits where applicable.

Q. How was the reasonableness of bid estimates, including the production profiles and transmission cost estimates, determined?

A. The transmission bids were given to the transmission cost consultant, ECI, to determine the reasonableness of the original bid estimate. ECI did not evaluate the bids in terms of the reasonableness of the costs of unidentified upgrades. Given that generation was bid as a fixed price to be paid only when the unit produces products with no opportunity for passing on cost increases to consumers, the reasonableness of the costs of generation was determined by a comparison of the bids to each other. The reasonableness of the production profiles was reviewed by Navigant.

Q. Section 2.3.1 of the RFP noted that an objective benchmark would be established to judge the economic competitiveness of bids at this stage of the evaluation. Did the Evaluation Team establish such a benchmark?

A. No. After review of the bids the Evaluation Team determined that the bids were within a reasonable range of competitiveness and it was therefore not necessary to establish a benchmark to judge the economic competitiveness of the bids. Moreover, the Steering Committee decided that the quantitative evaluation would provide useful information concerning the economic competitiveness of bids, and that it was premature to disqualify any of the remaining bids in advance of the quantitative evaluation.

Q. Based on this decision, were any projects eliminated under the initial screening process of Stage Two?

A. No.

Q. Please describe the evaluation of indirect economic benefits and direct contract price benefits.

A. Direct benefits were determined using a mark-to-market comparison of the bid prices of the offered products with projected market prices at the proposed delivery points with the project in service. In other words, the direct contract price benefit analysis compares the contract costs to the forecasted market value of the energy and RECs delivered during the contract term. Indirect benefits were determined based on the projected change that

projects would produce in locational marginal prices and production costs. Put simply, the indirect benefits measure the impact the project has on wholesale electric prices and generator costs.

The method for conducting the quantitative evaluation and key assumptions are described in detail in Navigant's report, Schedule CMD-11. In summary, the benefits were projected using a nodal electric market simulation model known as Ventyx ProMod (ProMod). Navigant input into ProMod the expected New England grid topology exclusive of the bid projects to develop a so-called "Reference Case". The Evaluation Team worked closely with Navigant to ensure that the reference case reflected an informed, consensus view of the region's most probable energy future, in the absence of new resources procured through the RFP. The Reference Case was developed to be internally consistent with the ISO-NE Forecast Report of Capacity, Energy, Loads and Transmission for 2015, updated for ongoing changes in the market and incorporating input from Navigant and the Evaluation Team. Key assumptions for the Reference Case were developed by the Evaluation Team and Navigant during November 2015 to January 2016 and then refined in April and May 2016 to incorporate results of the February 2016 Forward Capacity Market auction and recent ISO-NE transmission interconnection studies. Schedule CMD-11 details the key assumptions used in the Reference Case.

As further described in the Navigant Report, smaller solar bids were evaluated using a proxy approach, and larger individual bids were separately compared to the reference case to model the impact that each bid would have on transmission flows, production costs and locational market prices. Direct benefits were comprised of the present value of the energy revenue of a PPA bid energy valued at the locational price at the bid injection point plus the value of the RECs provided, if any. Bid costs were the present value of the PPA charges for the bid energy and/or RECs, and the cost of any associated transmission. Load payment savings were calculated as the present value of the reduction in annual load payments, for the load zones comprising the participating states (i.e. Massachusetts, Connecticut and Rhode Island) and multiplied by the Distribution Company share of the load in these states. As further described in the Navigant Report, load payment savings for small PPA bids were very small and therefore not included in the calculation of indirect benefits for small PPA bids. Production cost savings were calculated as the present value of the reduction in ISO-NE production costs multiplied by the load ratio share for the Distribution Companies by state. Indirect benefits were comprised of a weighting of 70% load payment savings and 30% production cost savings. Direct and indirect benefits relative to the reference case were analyzed for bids, and these benefits were then compared to the cost of the bids to derive benefit/cost ratios for bids by state.

Levitan performed a similar analysis using a zonal market simulation model known as AURO-RAxmp, licensed by EPIS, LLC. Both models shared the same set of key input factors, such as fuel prices, resource buildout, plant retirements, and CO_2 allowance prices over the forecast period. The principal difference between AURORAxmp and the ProMod model used by Navigant is that ProMod produces nodal prices while AURORAxmp produces zonal prices. In light of this difference, the models, as expected, produced somewhat different projected prices, benefits and benefit/cost ratios. Nonetheless, the ProMod and AURORAxmp results produced similar relative rankings of projects against one another based on benefit/cost ratios, and thus the AURORAxmp results served as a useful check on the relative ranking of projects based on the ProMod results, as shown in Schedule CMD-13 [CONFIDENTIAL].

Benefits were then compared to costs and bids were ranked based on their benefit to cost ratios. The Quantitative Evaluation Committee then assigned a score to each evaluated project bid based on a maximum possible score of 75. The final benefit/cost ratios and quantitative evaluation scores for each of the bids are shown in Schedule CMD-10 [CONFIDENTIAL].[10]

[10] The quantitative score for each of the RES America projects, Scituate Solar, Hope Farm Solar, and Woods Hill Solar reflected in Schedule CMD-10 [CONFIDENTIAL] were calculated using the initial REC pricing submitted by RES America. In response to an Evaluation team request for RES America to correct the form of their bids to comply with Section 2.2.12.1 of the RFP, RES America provided conforming REC prices on March 10, 2016, which resulted in lower REC prices in each of its bids.

Q. What qualitative factors were assessed, and what weight was given to each factor?

A. Please refer to WP Support Tab D [CONFIDENTIAL] for a listing of the factors and the points assigned to each factor.

Q. What were the basis for the selection of the qualitative factors and the basis for the weight given to each factor?

A. The process for determining the qualitative factors that were used by the Evaluation Team was a collaborative one developed by the Company, the Massachusetts Distribution Companies and DOER. When developing the qualitative factors to be used in this RFP the Evaluation Team considered the requirements and goals set out by the implementing statutes and regulations to identify those projects that were the most likely to come to fruition and provide benefits to customers while being a cost effective means of delivering qualified clean energy. There were six main factors considered to meet those goals. The first four categories, Siting and Permitting, Project Development Status and Operational Viability, Experience and Capability of Bidder and Project Team, Financing, were designed to provide an indication of project feasibility, and ability to obtain financing in order to achieve commercial operation date (COD) and provide customer benefits. The next two categories Price Risk and Firmness, and Exceptions to Contract/PPA/Tariff: Contractual Allocation Risk were designed to provide a measure of how and if project costs and benefits could change over time. All categories were further broken down in a more granular fashion to assess specific progress and commitments

associated with the evaluation category and to advance projects that minimized risk and maximized value to customers. Please see WP Support Tab B for a full and complete set of criteria and points assigned to each category. The weighting assigned to each category and sub category was also determined collaboratively to provide the proper emphasis on each of the individual factors and criteria. The factors for all of the states involved in the RFP are identified in Section 2.3.2.1 of the RFP.

Q. Were there any bids with significant transmission considered in this evaluation?

A. Yes. There were six bids that included significant transmission offered in this solicitation. One utilized a delivery commitment model to build 1,090 MW of transmission into New England. There were also two transmission bids that combined with wind and hydro facilities that offered to bring in approximately 400 MW to Vermont and 600 MW to Western Massachusetts. Lastly, there were three separate bids that offered several combinations of wind, solar and battery storage to various locations north of the Surowiec South interface in Maine.

Q. Were all projects that passed Stage One evaluated on both price and non-price factors?

A. Yes, all projects that passed Stage One were evaluated on both quantitative and qualitative factors.

Q. What happened after the Evaluation Team assigned points for the quantitative and qualitative evaluation factors?

A. Once the projects were evaluated as described above for both quantitative and qualitative factors, the points were added together and the projects were ranked based upon total awarded points (Schedule CMD-10 [CONFIDENTIAL]). A Selection Team from each state then considered the evaluation results and rankings to make state-specific initial project selections. The Selection Teams from all three participating states then collaborated to create the final list of bids selected by each state to proceed to the contract negotiation stage of the process. The Selection Teams also agreed upon how the energy and/or RECs purchased from each project would be allocated among the states. On October 24, 2016, the Selection Teams sent notices to bidders informing them of the RFP results.

Q. Please explain the process used by Rhode Island, Massachusetts and Connecticut to determine whether the three states could create a desirable portfolio of projects.

A. The final portfolio of projects and allocation of capacity to Rhode Island is shown in Table 1, above. The final selection of the portfolio was made by the Selection Team from each state, based on the final bid ranking sheet, Schedule CMD-10

[CONFIDENTIAL].[11] The state agencies that participated in the selection of bids, DOER, Connecticut DEEP, Connecticut Office of Consumer Counsel, and the DPUC and OER (through consultation with Narragansett) took an active role in selecting the final portfolio of projects and allocating capacity amongst the states.

As discussed in Section II, *supra*, the RFP initially indicated that the Company did not intend to procure any energy or RECs under a PPA pursuant to ACES and was only seeking bids for Qualified Clean Energy through a Delivery Commitment Model. After determining that no bids for a Delivery Commitment Model were selected, Rhode Island decided to procure energy and RECs through PPAs pursuant to the LTC Standard for a share of eight of the selected projects, as noted in Table 1, above. Ultimately, Rhode Island only considered projects that had pricing that was forecasted to be below the market prices of energy and RECs as required by the LTC Standard, and as determined by the direct contract price benefit analysis.

Q. Which projects were selected by Rhode Island on October 24, 2016, for contract negotiation?

A. For Rhode Island, the projects selected on October 24, 2016 included each of the PPAs

[11] As noted above, in Massachusetts, the Selection Team consisted of the Distribution Companies, with DOER acting as an advisory participant. The selection team in Connecticut was the Connecticut DEEP, acting in consultation with the Connecticut Procurement Manager, the Connecticut Office of Consumer Counsel, and the Connecticut Office of the Attorney General. In Rhode Island, Narragansett selected projects in consultation and coordination with the DPUC and OER, subject to review and approval by the Rhode Island PUC.

submitted to the PUC in this proceeding for review and approval, as well as a project submitted by Antrim Wind and an additional solar project from NextEra.

Q. Why were no projects with significant transmission selected under the RFP?

A. As shown in Schedule CMD-10 [CONFIDENTIAL], three of the transmission projects that were bid into the RFP – Clean Energy Connect, Vermont Green Line, and Evergreen Express – achieved rankings in a potentially satisfactory range.

However, in regard to Evergreen Express, this project was located in a portion of the New England grid (Northern Maine) in which the existing transmission system falls far short of being able to accommodate all of the interconnection requests pending for that area. Evaluation of Evergreen Express was thus hampered by the limitations of the Maine transmission system, including uncertainty as to the extent and cost of needed future network upgrades, as well as the risk of future congestion (which would put downward price pressure on the value of energy delivered in Maine and likely lead to curtailments). In addition, Evergreen Express's position far back in ISO-NE's Maine interconnection queue behind many other projects, the substantial backlog in this queue, and the unavailability of definitive interconnection studies for Maine generally and Evergreen Express specifically further increased the challenges to reliable evaluation of the value of Evergreen Express to customers. Ultimately, the lack of certainty and the cost risks to customers associated with selecting Evergreen Express were considered too

great, especially considering the lack of any significant cost containment or other limits on potential network upgrade costs chargeable to customers under the Evergreen Express bid.

The Vermont Green Line and Clean Energy Connect projects were also thoroughly evaluated. However, these projects contemplated the Distribution Companies purchasing significant quantities of non-RPS Class 1 hydropower. While the RFP contemplated hydropower as a form of Qualified Clean Energy, and the authority to purchase hydropower was explicit with Connecticut, in the case of Massachusetts, the purchase of large hydropower is not explicit and there was no consensus among the states and the utilities on the ability to move forward with any of the hydropower-based transmission projects.

Q. Did the Company ultimately proceed to contracts with each of the selected projects?

A. No. Prior to contract negotiations, NextEra's predecessor lost site control for its Enfield solar project, and therefore did not move forward with a PPA. Additionally, during the contract negotiation process, Antrim Wind withdrew its bid.

IV. Description of the Contracts and Consistency with the LTC Standard and the PUC's Regulations

Q. Please provide an overview of the PPAs proposed for approval.

A. As a result of the contract negotiations, the Company executed PPAs with three principal

developers (Everpower Wind Holdings, RES America Developments, Inc., NextEra Energy Inc.), covering eight projects in all (one wind project and seven solar projects). The Company has signed a PPA with each of the eight projects and is submitting and sponsoring herein its own eight PPAs, for Rhode Island's allocated share of each project. However, under the terms of the PPAs, each party retains the right to terminate the PPA in the case that the PPA is not approved by each regulator in Rhode Island, Massachusetts, and Connecticut. Should that circumstance arise, the projects are unlikely to go forward. The PPAs include terms for the purchase of energy and RECs, as described below for each project. Each of the PPAs also includes rights to other environmental attributes associated with the facility that may be recognized in the future, such as CO_2 emission credits.

Q. Please describe the particulars of the PPAs executed by the Company for the eight projects.

A. The particulars of the PPAs are summarized in the table below.

Table 3

Project Name	Capacity [MW]	Type	Term [Years]	Products	Location
Scituate Solar	10	PV	20	Energy/RECs	RI
Hope Solar	10	PV	20	Energy/RECs	RI
Woods Hill Solar	20	PV	20	Energy/RECs	CT
Sanford Airport	49.36	PV	20	Energy/RECs	ME
Chinook Solar	30	PV	20	Energy/RECs	NH
Farmington Solar	49.36	PV	20	Energy/RECs	ME
Quinebaug Solar	49.36	PV	20	Energy/RECs	CT
Cassadaga Wind	126	Wind	20	Energy/RECs	NY

Q. Please describe the pricing in each PPA.

A. All of the PPAs have flat fixed pricing over their terms except for the PPAs for the Cassadaga Wind projects. Pursuant to the Cassadaga PPA, pricing for both energy and RECs escalate annually after the first year.

Q. Does the location of the Cassadaga Wind project outside of New England require that the PPA for that project contain terms and conditions that differ from the other PPAs?

A. Yes. Because the Cassadaga Wind project is located in Chautauqua County, New York, the energy will be imported into the ISO-NE control area. Additional changes to the Draft PPA reflect the fact that not all of the energy generated by the facility at the Interconnection Point (referred to as Metered Output) will be scheduled and delivered into the ISO-NE control area, primarily because of transmission congestion and

curtailments. It is not possible for the project to schedule all of the Metered Output over the ties to ISO-NE without incurring significant costs for over-scheduling. As a result, the Company' purchase obligation is limited to the lesser of the Metered Output or the amount of energy scheduled and delivered into ISO-NE (referred to as Scheduled Energy), in each case with a corresponding amount of RECs.

Q. Is an out-of-region project, such as the Cassadaga Wind Project, eligible for a PPA under the LTC Standard in Rhode Island?

A. Yes. The LTC Standard requires contracts for eligible renewable energy resources as defined in R.I. Gen. Laws § 39-26-5. This statute, together with the LTC Rules and Regulations, permit generation units located in an adjacent control area to be eligible to the extent the energy produced by the generation unit is actually delivered into the ISO-NE control area for consumption by New England customers. As discussed above, the Company' purchase obligation tied to actual delivery into the ISO-NE control area. The PUC previously approved an out-of-region PPA under the LTC Standard for the purchase of renewable power from the Copenhagen Wind Farm located in New York in Docket No. 4573.

Q. Please explain why the Company entered into two separate contracts for the Scituate Solar Project and Hope Farm Solar Project, which are each 10 MW facilities.

A. The RFP sought facilities with a minimum nameplate capacity of 20 MW, but allowed bidders to propose bids with two or more eligible facilities that have an aggregate capacity of at least 20 MW, provided that the bid included delivery to the same delivery point, at the same contract price, and allowed for the execution of one contract per distribution company. RES America submitted a combined bid for the Scituate Solar Project and Hope Farm Solar Project with an aggregate capacity of 20 MW, interconnecting and delivering at the same delivery point, at one contract price. The Evaluation Team determined that the combined or aggregate bid complied with the terms of the RFP and evaluated the Scituate and Hope projects as an aggregate bid. During the contract negotiation process, RES America requested that the Company execute separate PPAs for each project. The Company agreed to the request because doing so did not impact the evaluation or selection process and did not unfairly impact any other bidders.

Q. Do the RECs generated by these projects and included in the PPAs qualify under the Renewable Energy Standard (RES) program?

A. Each project qualifies as an "eligible renewable energy resource", as defined pursuant to the RES statute, R.I. Gen. Laws § 39-26-5 and the regulations promulgated thereunder.[12] The contract requires that the seller sell and the buyer buy RECs from the facilities only to the degree that they qualify as eligible renewable energy resources.

[12] See Section 5.0 Rules and Regulations Governing the Implementation of a Renewable Energy Standard.

Q. What are the Commercial Operation Dates associated with each project?

A. The expected Commercial Operation Dates for each facility are as follows:

Cassadaga Wind	December 31, 2020
Scituate Solar	December 31, 2019
Hope Farm Solar	December 31, 2019
Woods Hill Solar	December 31, 2019
Sanford Airport Solar	November 1, 2019
Chinook Solar	November 1, 2019
Farmington Solar	November 1, 2019
Quinebaug Solar	November 1, 2019

The Company considers these dates reasonable based on certain critical milestones for the construction of each of the projects and achievement of commercial operation as more particularly set forth in each respective PPA.

Q. Please describe how the Company determined that the proposed prices are commercially reasonable over the term of the contract.

A. The proposed prices in the PPAs for each of the projects were solicited through an open, robust competitive bid process. The RFP was widely distributed to a list of approximately 600 entities active in the renewable generation market in the Northeast and nationally. It was also posted on a web site set up by the soliciting parties. The RFP process addressed each of the requirements under Section 4.2 of the LTC Rules &

Regulations. The RFP process was fairly administered and the results were evaluated against a common market price forecast provided by Navigant.

Q. How do the costs for energy and RECs under each of the PPAs compare with the market price for energy and RECs?

A. Based on the analysis conducted at the time of the proposal evaluations, the aggregate costs for energy and RECs under the PPAs are less than the forecasted market price for energy and RECs during all years of the contracts. Overall, based on an analysis of the bid data, the cost of energy and RECs under the PPAs for each of the eight selected projects, based on commercial operation dates as reflected in the bids,[13] are less than forecasted market prices by a total of $70 million, nominal, over the life of the PPAs.

1. Cassadaga Wind Project is less than forecasted market prices by $45 million, nominal, over the life of the twenty (20) year contract.
2. The Hope and Scituate projects are less than forecasted market prices by $4 million, nominal, over the life of the twenty (20) year contracts.
3. Woods Hill Project is less than forecasted market prices by $1 million, nominal, over the life of the twenty (20) year contract.
4. Sanford Airport Project is less than forecasted market prices by $5 million, nominal, over the life of the twenty (20) year contract.
5. Chinook Solar Project is less than forecasted market prices by $3 million, nominal, over the life of the twenty (20) year contract.
6. Farmington Solar Project is less than forecasted market prices by $4 million, nominal, over the life of the twenty (20) year contract.

[13] During negotiations, the commercial operation dates for certain projects were extended, which would alter the calculation of below-market savings slightly.

7. Quinebaug Solar Project is less than forecasted market prices by $4 million, nominal, over the life of the twenty (20) year contract.

Q. How were the below-market costs derived?

A. Within the bid analysis spreadsheet model, provided as a working Excel file in WP Support Tab F, CD-ROM [CONFIDENTIAL], the cost of the estimated project output during the term of each contract at the contract price is calculated and compared to the market value of the energy and RECs based on the market forecast developed by Navigant. This analysis is referred to as the direct contract price benefit analysis.

Q. Do the Company's customers bear any risk of price increases if these projects fail to qualify for tax credits?

A. No, the seller is responsible for qualification of their project to obtain tax credits. Thus there is no adjustment to the contract price if they fail to do so.

Q. If any facility fails to qualify as an eligible renewable energy resource are the Company's customers still obligated to pay for the RECs?

A. No. The Company has no obligation under the PPAs to purchase RECs from any facility should the facility no longer qualify as an eligible renewable energy resource under the RES statute. However, the seller is required to use commercially reasonable efforts to maintain the facility's qualification as an eligible renewable energy resource.

Q. How does the approval of PPAs covering each project facilitate the financing of renewable energy generation?

A. Each PPA requires that the facility meet the definition of a Newly Developed Renewable Energy Resource under R.I. Gen. Laws § 39-26.1-2(6). In addition, each bidder was required to address the financing plan for their respective project and explain how the PPA obtained through this solicitation will facilitate obtaining financing. The complete response for each project may be found in the respective bid package, provided in WP Support Tab B [Confidential – CD-ROM Only]. Generally, each developer indicated that a long-term power purchase agreement is critical to obtain financing, and/or to obtain more favorable financing terms.

For Cassadaga Wind, EverPower indicated in its bid response that wind projects with long-term agreements are preferable from cash, equity, tax equity and debt perspectives when seeking financing. EverPower also represented that tax equity has been reluctant to fund fully merchant projects, and that overall, it expects more favorable financing terms for a project with a long-term offtake agreement.

For each of the projects proposed by RES Americas, Hope Farm Solar, Scituate Solar, and Woods Hill Solar, RES Americas indicated that a long-term PPA is necessary for long-term financing including, but not limited to, tax equity and debt/equity of the projects.

For each of the projects proposed by Ranger Solar, NextEra's predecessor – Sanford Airport Solar, Chinook Solar, Farmington Solar and Quinebaug Solar – Ranger's bid response indicated that a long-term offtake agreement frequently precipitates securing financing agreements, and stated that "obtaining a long term PPA through this solicitation will allow for project finance to occur since the Project will have long term contracted revenue on which they can finance and bring in sponsor and tax equity and debt financing to the project structure based on the projected revenues from the PPA with the EDCs."

Q. Do the PPAs provide economic benefit to Rhode Island?

A. Yes. The PPAs are forecasted over the entire term to result in the Company's customers paying less than the market price for energy and RECs, based on the market forecast at the time of bid evaluations. Additionally, because the projects selected are the top projects after evaluation of all bids received in the competitive solicitation process, each PPA constitutes a least-cost alternative for this type of renewable power purchase that the Company can currently obtain. Therefore, there is a projected cost savings to customers in Rhode Island as a result of the PPAs.

Q. Why does the Company support PUC approval of the PPAs under the LTC Standard?

A. The PPAs will benefit customers and the State of Rhode Island for the following reasons: (1) the PPA pricing for each of the eight projects is favorable relative to all of the bids received and evaluated in the robust, competitive solicitation process, and relative to the market forecast at the time of bid evaluation, as discussed above; (2) the eight projects selected are, in total, sized to meet a significant portion of the Company's remaining obligation under the LTC Standard; and (3) the PPAs otherwise satisfy the requirements of the LTC Standard, as discussed above.

Q. Does this conclude your testimony?

A. Yes, it does.

Schedules of
Corinne M. DiDomenico

Schedules of Corinne M. DiDomenico

- Schedule CMD-1 [REDACTED], is the 20-year PPA executed by the Company applicable to the Cassadaga Wind Project;
- Schedule CMD-2 [REDACTED], is the 20-year PPA executed by the Company applicable to the Scituate Solar Project;
- Schedule CMD-3 [REDACTED], is the 20-year PPA executed by the Company applicable to the Hope Farm Solar Project;
- Schedule CMD-4 [REDACTED], is the 20-year PPA executed by the Company applicable to the Woods Hill Solar Project;
- Schedule CMD-5 is the 20-year PPA executed by the Company applicable to the Sanford Airport Solar Project.
- Schedule CMD-6 is the 20-year PPA executed by the Company applicable to the Chinook Solar Project;
- Schedule CMD-7 is the 20-year PPA executed by the Company applicable to the Farmington Solar Project;
- Schedule CMD-8 is the 20-year PPA executed by the Company applicable to the Quinebaug Solar Project;
- Schedule CMD-9 is a copy of the Request for Proposals (RFP) approved in Docket No. 4570.
- Schedule CMD-10 [REDACTED] summarizes the overall bid scoring results of the Distribution Companies' bid analysis.
- Schedule CMD-11 is the New England Clean Energy RFP Evaluation Report prepared by Navigant.
- Schedule CMD-12 [REDACTED], Tabs A-F are the transmission cost review reports prepared by Electrical Consultants, Inc.
- Schedule CMD-13 [REDACTED] is the final report of Levitan & Associates, Inc.

Schedule CMD-1

Redacted

REDACTED

RPS CLASS I RENEWABLE GENERATION UNIT

POWER PURCHASE AGREEMENT

BETWEEN

THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
AS BUYER

AND

CASSADAGA WIND LLC
AS SELLER

As of May 25, 2017

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Exhibits

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (as amended from time to time in accordance with the terms hereof, this **"Agreement"**) is entered into as of May 25, 2017 (the **"Effective Date"**), by and between The Narragansett Electric Company d/b/a National Grid, a Rhode Island corporation (**"Buyer"**), and Cassadaga Wind LLC, a Delaware limited liability company (**"Seller"**). Buyer and Seller are individually referred to herein as a **"Party"** and are collectively referred to herein as the **"Parties"**.

WHEREAS, Seller is developing the Cassadaga Wind electric generation facility to be located in Chautauqua County, New York, which is more fully described in Exhibit A hereto (the **"Facility"**), from which the Buyer's Percentage Entitlement of the Products (as defined below) is to be delivered to Buyer pursuant to the terms of this Agreement; and

WHEREAS, the Facility is intended to be, and shall qualify as, a RPS Class I Renewable Generation Unit in the state of Rhode Island and is expected to be in commercial operation by December 31, 2020; and

WHEREAS, pursuant to R.I.G.L. § 39-26.1, Buyer is authorized to enter into certain long-term contracts for the purchase of energy or energy and renewable energy certificates from renewable generators meeting the requirements of R.I.G.L. § 39-26.-5; and

WHEREAS, Buyer and Seller desire to enter into this Agreement whereby Buyer shall purchase from Seller certain Scheduled Energy and RECs (each as defined herein) generated by or associated with the Facility;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in this Agreement and not defined herein shall have the same meaning as ascribed to such terms under the ISO-NE Practices and ISO-NE Rules.

"Actual Facility Size" shall mean the actual nameplate capacity of the Facility, as built, and as certified by an Independent Engineer, as provided in Section 3.4(b)(xiii).

"Adjusted Price" shall mean the purchase price(s) for Scheduled Energy referenced in Section 5.1 if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b)(ii) hereof.

"Adverse Determination" shall have the meaning set forth in Section 19.7(b).

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"Agreement" shall have the meaning set forth in the first paragraph of this Agreement.

"Alternative Compliance Payment Rate" means the rate per MWh paid by electricity suppliers under applicable Law for failure to supply RECs in accordance with the RPS.

"Article 10 Permit" means any approval to be obtained from NYDPS or any division thereof (including the State of New York Board on Electric Generation Siting and the Environment) in respect of the Facility that is necessary or required pursuant to Article 10 of the New York Public Service Law and the regulations promulgated pursuant thereto.

"Business Day" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"Buyer's Percentage Entitlement" shall mean 15 percent (15%). Buyer's Percentage Entitlement may be adjusted in accordance with Section 3.3(c).

"Buyer's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Capacity Deficiency" means, at the Commercial Operation Date, the amount (expressed in MW), if any, by which the Actual Facility Size is less than the proposed nameplate capacity of the Facility as set forth in Exhibit A.

"Cash" shall mean U.S. dollars held by or on behalf of a Party as Posted Collateral hereunder.

"Certificate" shall mean an electronic certificate created pursuant to the GIS Operating Rules or any successor thereto to represent certain Environmental Attributes of each MWh of Energy generated within the ISO-NE control area and the generation attributes of certain Energy imported into the ISO-NE control area.

"Collateral Account" shall have the meaning specified in Section 6.5(a)(iii)(B) hereof.

"Collateral Interest Rate" shall mean the rate published in *The Wall Street Journal* as the "Prime Rate" from time to time (or, if more than one such rate is published, the arithmetic mean of such rates), or, if such rate is no longer published, a successor rate agreed to by Buyer and Seller, in each case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties.

"Collateral Requirement" shall mean at any time the amount of Development Period Security or Operating Period Security required under this Agreement at such time.

"Commercial Operation Date" shall mean the date on which the conditions set forth in Section 3.4(b) have been satisfied, as set out in a written notice from Seller to Buyer.

"Contract Maximum Amount" shall mean 18.9 MWh per hour of Energy and a corresponding amount of RECs, as may be adjusted in accordance with Section 3.3(b).

"Contract Year" shall mean the twelve (12) consecutive calendar months starting on the first day of the calendar month following the Commercial Operation Date and each subsequent twelve (12) consecutive calendar month period; provided that the first Contract Year shall include the days in the prior month in which the Commercial Operation Date occurred.

"Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Cover Damages" shall mean, with respect to any Delivery Failure for a Contract Year, an amount equal to (a) the positive net amount, if any, by which the Replacement Price for Energy and/or RECs for that Contract Year exceeds the applicable Price for Energy and/or RECs that would have been paid pursuant to Section 5.1 hereof, multiplied by the amount (in MWh and/or RECs) by which the Scheduled Energy and/or quantity of Delivered RECs is less than the Minimum Required Deliveries during such Contract Year plus (b) any applicable penalties and other costs assessed by ISO-NE or any other Person against Buyer as a result of such Delivery Failure; provided, however, that so long as Seller pays Cover Damages as provided in this Agreement, the amount included in this clause (b) will not include any penalty for failing to satisfy Buyer's RPS requirements, including any payment made by Buyer at the Alternative Compliance Payment Rate due to such Delivery Failure. Buyer shall provide a statement for the applicable period explaining in reasonable detail the calculation of any Cover Damages.

"Credit Support" shall have the meaning specified in Section 6.2(d) hereof.

"Credit Support Delivery Amount" shall have the meaning specified in Section 6.3 hereof.

"Credit Support Return Amount" shall have the meaning specified in Section 6.4 hereof.

"Critical Milestones" shall have the meaning set forth in Section 3.1 hereof.

"Custodian" shall have the meaning specified in Section 6.5(a)(i) hereof.

"Day Ahead Energy Market" shall have the meaning set forth in the ISO-NE Rules.

"Default" shall mean any event or condition which, with the giving of notice or passage of time or both, could become an Event of Default.

"Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has occurred.

"Delay Damages" shall mean the damages assessed pursuant to Section 3.2(a) hereof.

"Deliver" or **"Delivery"** shall mean with respect to (i) Energy, to supply Energy into Buyer's ISO-NE account at the Delivery Point in accordance with the terms of this Agreement and the ISO-NE Rules, and (ii) RECs, to supply RECs in accordance with Section 4.7(e).

"Delivery Shortfall" shall mean the amount (in MWh) for each hour, or shorter settlement interval as required by ISO-NE, by which the Scheduled Energy is less than the Metered Output, and where such shortfall is not excused under Section 4.2(a).

"Delivery Failure" shall have the meaning set forth in Section 4.3 hereof.

"Delivery Point" shall mean the Node within the ISO-NE settlement system that is the proxy bus designated for the New York Interface by ISO-NE as Node ID 4011 - the I.Roseton 345 1 external node, or a proxy bus that serves as a successor proxy bus to Node ID 4011 - the I.Roseton 345 1 external node or such other location as ISO-NE designates from time to time for deliveries of Energy from New York, where Seller shall Deliver the Energy to Buyer within the ISO-NE control area; provided, that if (i) ISO-NE designates multiple locations for such deliveries and (ii) the I.Roseton 345 1 external node is not one of such locations or ISO-NE requires that some or all of the Scheduled Energy be Delivered at a location other than the I.Roseton 345 1 external node, then Seller and Buyer shall reasonably agree to the location for such deliveries consistent with ISO-NE Rules and ISO-NE Practices.

"Development Period Security" shall have the meaning set forth in Section 6.2(a) hereof.

"Dispute" shall have the meaning set forth in Section 11.1 hereof.

"Disputing Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Eastern Prevailing Time" shall mean either Eastern Standard Time or Eastern Daylight Savings Time, as in effect from time to time.

"Effective Date" shall have the meaning set forth in the first paragraph hereof.

"Eligible Renewable Energy Resource" shall mean resources as defined in R.I.G.L. § 39-26-5.

"Energy" shall mean electric "energy," as such term is defined in the ISO-NE Tariff, generated (or, for the purposes of Scheduled Energy Delivered to Buyer under this Agreement, deemed generated) by the Facility as measured in MWh in Eastern Prevailing Time, less such Facility's station service use, generator lead losses, transformer losses

and energy not otherwise delivered to the Interconnection Point, which quantity for purposes of this Agreement will never be less than zero.

"Environmental Attributes" shall mean any and all generation attributes under the RPS, and under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, to Buyer's Percentage Entitlement of the favorable generation or environmental attributes of the Facility or the Products produced by the Facility, up to and including the Contract Maximum Amount, during the Services Term including Buyer's Percentage Entitlement of: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility's generation using renewable technology or displacement of fossil-fuel derived or other conventional energy generation; (b) any Certificates issued pursuant to the GIS in connection with Energy generated by the Facility and any renewable energy certificates issued by NYGATS; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy by the Facility; provided, however, that Environmental Attributes shall not include: (i) any production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Facility; (iii) any state, federal or private grants, financing, guarantees or other credit support relating to the construction or ownership, operation or maintenance of the Facility or the output thereof; (iv) any tax credit or cash grant introduced after the Effective Date intended to supplement, replace or enhance the tax credits described in the foregoing clauses (i), (ii) or (iii); or (v) any depreciation deductions or other tax benefits permitted under the U. S. Internal Revenue Code, as amended, with respect to the Facility (including any bonus or accelerated depreciation).

"Event of Default" shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

"EWG" shall mean an exempt wholesale generator under 15 U.S.C. § 79z-5a, as amended from time to time.

"Facility" shall have the meaning set forth in the Recitals.

"FCM" shall mean the Forward Capacity Market described in the ISO-NE Tariff, which includes a mechanism for procuring capacity in the New England Control Area, or any successor thereto.

"Federal Funds Rate" shall mean the annualized interest rate for the applicable month as set forth in the statistical release designated as H.15, or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" shall mean the United States Federal Energy Regulatory Commission, and shall include its successors.

"Financial Closing Date" shall mean the date of the closing of the initial agreements for any Financing of the Facility and of an initial disbursement of funds under such agreements.

"Financing" shall mean indebtedness, whether secured or unsecured, loans, guarantees, notes, convertible debt, bond issuances adequate for the construction of the Facility

"Force Majeure" shall have the meaning set forth in Section 10.1(a) hereof.

"Generation Unit" shall mean a facility that converts a fuel or an energy resource into electrical energy.

"GIS" shall mean the NEPOOL Generation Information System or any successor thereto, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity generated or consumed within New England.

"GIS Operating Rules" are the NEPOOL Generation Information System Operating Rules effective as of the Effective Date, as amended, superseded, or restated from time to time.

"Good Utility Practice" shall mean compliance with all applicable laws, codes, rules and regulations, all ISO-NE Rules and ISO-NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric industry in New England or New York 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 is made, could have been expected to accomplish the desired result 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 is intended to include acceptable practices, methods and acts generally accepted in the electric industry in New England or New York.

"Governmental Entity" shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

"Guaranteed Commercial Operation Date" shall have the meaning set forth in Section 3.1(a)(v) hereof.

"Independent Engineer" shall mean a licensed Professional Engineer with expertise in the development of renewable energy projects using the same renewable energy technology as the Facility, reasonably selected by and retained by Seller in order to determine the as-built nameplate capacity of the Facility as provided in Section 3.4(b)(xiii) hereof.

"Interconnecting Utility" shall mean the utility (which may or may not be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the Transmission

System of that utility, which as of the Effective Date is Niagara Mohawk Power Corporation d/b/a National Grid.

"Interconnection Agreement" shall mean an agreement between Seller and the Interconnecting Utility (and NYISO, as applicable) regarding the interconnection of the Facility to the Transmission System of the Interconnecting Utility, as the same may be amended from time to time.

"Interconnection Point" shall mean the meter with a Point Identifier (PTID) number to be assigned by the NYISO, in Zone A, at the physical point of interconnection between the Facility and the Interconnecting Utility's transmission system as specified in the Interconnection Agreement.

"Interest Amount" shall mean with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (a) the amount of Cash held by such Party on that day (but excluding any interest previously earned on such Cash); multiplied by (b) the Collateral Interest Rate for that day; divided by (c) 360.

"Interest Period" shall mean the period from (and including) the last Business Day on which an Interest Amount was Transferred by Buyer (or if no Interest Amount has yet been Transferred by Buyer, the Business Day on which Cash was Transferred to Seller) to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

"ISO" or **"ISO-NE"** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

"ISO-NE Practices" shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Agreement, and any applicable successor practices and procedures.

"ISO-NE Rules" shall mean all rules and procedures adopted by NEPOOL, ISO-NE, or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

"ISO-NE Tariff" shall mean ISO-NE's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, superseded or restated from time to time.

"ISO Settlement Market System" shall have the meaning as set forth in the ISO-NE Tariff.

"Late Payment Rate" shall have the meaning set forth in Section 5.3 hereof.

"Law" shall mean all federal, state and local statutes, regulations, rules, orders, executive orders, decrees, policies, judicial decisions and notifications.

"Lender" shall mean, collectively, any party (a) providing Financing for the development and construction of the Facility, or any refinancing of that Financing, (b) providing debt financing for the ownership and operation of the Facility or (c) any equity investors (including tax equity investors) providing financing for the Facility, and in each of subclause (a) and (b) shall include any assignee or transferee of such a party and any trustee, collateral agent or similar entity acting on behalf of such a party.

"**Letter of Credit**" shall mean an irrevocable, non-transferable, standby letter of credit, issued by a Qualified Institution utilizing a form acceptable to the Party in whose favor such letter of credit is issued. All costs relating to any Letter of Credit shall be for the account of the Party providing that Letter of Credit.

"**Letter of Credit Default**" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events (a) the issuer of such Letter of Credit shall fail to be a Qualified Institution; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (c) the issuer of the Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (d) the Letter of Credit shall expire or terminate or have a Value of $0 at any time the Party on whose account that Letter of Credit is issued is required to provide Credit Support hereunder and that Party has not Transferred replacement Credit Support meeting the requirements of this Agreement; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be cancelled or returned in accordance with the terms of this Agreement.

"Locational Marginal Price" or **"LMP"** shall have the meaning set forth in the ISO-NE Rules.

"Meters" shall have the meaning set forth in Section 4.6(a) hereof.

"Metered Output" shall mean the instantaneous energy output, intermittent and variable within the hour, expressed in MWh, generated by the Facility and delivered to and measured at the Interconnection Point.

"Minimum Required Deliveries" shall mean, in any Contract Year, Scheduled Energy Delivered to Buyer equal to [redacted] of the Buyer's Percentage Entitlement of Metered Output in such Contract Year (in each case measured on an hourly basis) and a corresponding amount of RECs in such Contract Year.

"Moody's" shall mean Moody's Investors Service, Inc., and any successor thereto.

"MW" shall mean a megawatt AC.

"MWh" shall mean a megawatt-hour (one MWh shall equal 1,000 kWh).

"NEPOOL" shall mean the New England Power Pool and any successor organization.

"NEPOOL Agreement" shall mean the Second Amended and Restated New England Power Pool Agreement dated as of February 1, 2005, as amended or restated from time to time.

"NERC" shall mean the North American Electric Reliability Corporation and shall include any successor thereto.

"Network Upgrades" shall mean upgrades to the Transmission Provider's transmission and distribution systems, as determined and identified in the interconnection study approved in connection with construction of the Facility, necessary for Delivery of the Metered Output to the Interconnection Point, including those that are necessary for the Seller's satisfaction of the obligations under Section 7.4 of this Agreement.

"New England Control Area" shall have the meaning as set forth in the ISO-NE Tariff.

"**Newly Developed Renewable Energy Resource**" shall mean, pursuant to R.I.G.L. § 39-26.1-2(6), an electrical generation unit that uses exclusively an Eligible Renewable Energy Resource, and either (x) has neither begun operation, nor have the developers of the unit implemented investment or lending agreements necessary to finance the construction of the unit, as of January 1, 2009 or (y) is located within the state of Rhode Island and obtained project financing on or after January 1, 2009.

"Node" shall have the meaning set forth in ISO-NE Rules.

"Non-Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has not occurred.

"NYDPS" shall mean the New York State Department of Public Service and its successors.

"NYGATS" shall mean the New York Generation Attribute Tracking System or any successor thereto, which includes a generation information database and certificate system that accounts for generation attributes of electricity generated or consumed within New York.

"NYISO" shall mean New York Independent System Operator, the independent system operator established in accordance with the RTO arrangements for New York, or its successor.

"NYISO Rules" shall mean all rules, practices and procedures adopted by NYISO, and governing wholesale power markets and transmission in New York, as such rules may be amended from time to time, including but not limited to, the NYISO Tariff and the agreements, orders, manuals, procedures, practices and business process documents published by NYISO via its web site and/or by its e-mail distribution to its market participants, as amended, superseded or restated from time to time.

"NYISO Tariff" shall mean NYISO's Open Access Transmission Tariff and Market Services Tariff, as amended, superseded or restated from time to time.

"Obligations" shall have the meaning specified in Section 6.1 hereof.

"Operational Limitations" of the Facility are the parameters set forth in Exhibit A describing the physical limitations of the Facility, including the time required for start-up and the limitation on the number of scheduled start-ups per Contract Year.

"Operating Period Security" shall have the meaning set forth in Section 6.2(b) hereof.

"Other Agreements" shall mean (a) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and The United Illuminating Company, (b) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and NSTAR Electric Company d/b/a Eversource Energy, (c) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Western Massachusetts Electric Company d/b/a Eversource Energy, (d) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid, (e) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and The Connecticut Light & Power Company, d/b/a Eversource Energy, and (f) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Fitchburg Gas and Electric Light Company, d/b/a Unitil.

"Party" and **"Parties"** shall have the meaning set forth in the first paragraph of this Agreement.

"Peak Hours" shall mean the hours defined as peak hours in ISO-NE by FERC from time to time which as of the Effective Date are weekday hours 7 a.m. to 11 p.m Eastern Prevailing Time.

"Permits" shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law and the Delivery of the Products in accordance with this Agreement.

"Person" shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

"Planned Maintenance" shall mean all maintenance of the Facility or any portion thereof planned by Seller in advance of the time such maintenance is scheduled to be performed and excludes Forced Outages (as defined in the NYISO Rules).

"Pool Transmission Facilities" has the meaning given that term in the ISO-NE Rules.

"Posted Collateral" shall mean all Credit Support and all proceeds thereof that have been Transferred to or received by a Party under this Agreement and not Transferred to the Party providing the Credit Support or released by the Party holding the Credit Support. Any Interest Amount or portion thereof not Transferred will constitute Posted Collateral in the form of Cash.

"Price" shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on Exhibit D.

"Products" shall mean Energy and RECs; provided, however, that Energy and RECs generated by or associated with the Facility prior to the Commercial Operation Date, Energy and RECs generated by the Facility in excess of the Contract Maximum Amount or the Scheduled Energy in any hour, and RECs not purchased by Buyer under Section 4.1(b) shall not be deemed Products.

"PUC" shall mean the Rhode Island Public Utilities Commission and shall include its successors.

"QF" shall mean a cogeneration or small power production facility which meets the criteria as defined in Title 18, Code of Federal Regulations, §§ 292.201 through 292.207, as amended from time to time.

"Qualified Institution" shall mean a major U.S. commercial bank or trust company, the U.S. branch office of a foreign bank, or another financial institution, in any case, organized under the laws of the United States or a political subdivision thereof having assets of at least $10 billion and a credit rating of at least (A) "A3" from Moody's or "A-" from S&P, if such entity is rated by both S&P and Moody's or (B) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both.

"Real-Time Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Reference Market-Maker" shall mean a leading dealer in the relevant market that is selected in a commercially reasonable manner and is not an affiliate of either party.

"Regulatory Agencies" shall mean the Massachusetts Department of Public Utilities and its successors, the Connecticut Public Utilities Regulatory Authority and its successors and the Rhode Island Public Utilities Commission and its successors.

"Regulatory Approval" shall mean the PUC's approval of this Agreement without material modification or conditions pursuant to R.I.G.L. §§ 39-26.1-3 through 39-26.1-5 and the regulations promulgated thereunder, including the recovery by Buyer of its costs incurred under this Agreement and remuneration equal to two and three-quarters percent (2.75%) of Buyer's actual annual payments under this Agreement pursuant to R.I.G.L. § 39-26.1-4, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

"Rejected Purchase" shall have the meaning set forth in Section 4.4 hereof.

"Related Transmission" shall mean those transmission and distribution facilities to be used by Seller for delivery of the Scheduled Energy under this Agreement, as described in Exhibit E hereto.

"Related Transmission Approvals" shall mean those FERC filings, agreements, tariffs and approvals associated with service on the Related Transmission.

"Reliability Curtailment" shall mean any curtailment of Delivery of Scheduled Energy resulting from (i) an emergency condition as defined in the Interconnection Agreement or in the ISO-NE Tariff or the NYISO Tariff, or (ii) any other order or directive of the Interconnecting Utility or the Transmission Provider pursuant to an Interconnection Agreement or tariff.

"Renewable Energy Certificates" or **"RECs"** shall mean all of the Certificates and any and all other Environmental Attributes reflecting the Metered Output that is associated with the Scheduled Energy Delivered to Buyer, including, without limitation, all Certificates and any and all other Environmental Attributes, in each case which satisfy the RPS for a RPS Class I Renewable Generation Unit, and shall represent title to and claim over all Environmental Attributes associated with the specified MWh of Scheduled Energy Delivered from such RPS Class I Renewable Generation Unit.

"Replacement Agreements" shall have the meaning set forth in Section 2.2(d) hereof.

"Replacement Energy" shall mean Energy purchased by Buyer as replacement for any Delivery Failure relating to the Scheduled Energy to be provided hereunder.

"Replacement Price" shall mean, with respect to a Delivery Failure in any Contract Year, (a) for Energy, the average Real-Time LMP at the Delivery Point each hour, or shorter settlement period as required by ISO-NE, for such Contract Year, weighted by the proportion of the Delivery Shortfall for such hour or settlement interval to the total of all Delivery Shortfalls for such Contract Year, as reasonably calculated by Buyer and, (b) for RECs, the average market price of RECs for such Contract Year, as reasonably determined by Buyer.

"Replacement RECs" shall mean any generation or environmental attributes, including any Certificates or other certificates or credits related thereto reflecting generation by a

RPS Class I Renewable Generation Unit that are purchased by Buyer as replacement for any Delivery Failure.

"Request Date" shall have the meaning set forth in Section 6.6(a) hereof.

"Requesting Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Resale Damages" shall mean, with respect to any Rejected Purchase, an amount equal to (a) the positive net amount, if any, by which the applicable Price that would have been paid pursuant to Section 5.1 hereof for such Rejected Purchase, had it been accepted, exceeds the Resale Price(s) multiplied by the quantity (or applicable quantities) of that Rejected Purchase (in MWh and/or RECs, as applicable), plus (b) any applicable penalties assessed by ISO-NE, NYISO or any other Person against Seller as a result of Buyer's failure to accept such Products in accordance with the terms of this Agreement, plus (c) transaction, additional transmission, and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase that Seller would not have incurred but for the Rejected Purchase. Seller shall provide a written statement for the applicable period explaining in reasonable detail the calculation of any Resale Damages.

"Resale Price" shall mean the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase; provided, however, that in no event shall Seller be required to utilize or change its utilization of the Facility or its other assets, contracts or market positions in order to minimize Buyer's liability for such Rejected Purchase.

"Rounding Amount" shall have the meaning specified in Section 6.2(c) hereof.

"RPS" shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. and the regulations promulgated thereunder that require all retail electricity suppliers in Rhode Island to provide a minimum percentage of electricity from RPS Class I Renewable Generation Units, and such successor laws and regulations as may be in effect from time to time.

"RPS Class I Renewable Generation Unit" shall mean a Newly Developed Renewable Energy Resource that produces RECs that qualify for the RPS.

"RTO" shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC's Order No. 2000 and FERC's corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

"S&P" shall mean Standard & Poor's Financial Services LLC, and any successor thereto.

"Schedule" or "Scheduling" shall mean the actions of Seller and/or its designated representatives pursuant to Section 4.2 of notifying, requesting and confirming to NYISO and ISO-NE the quantity of Energy to be delivered on any given day or days (or in any given hour or hours) during the Services Term at the Delivery Point.

"Scheduled Energy" means the quantity of Energy during any hour, or shorter scheduling interval as applicable, expressed in MWh, that Seller (or Seller's designee) Schedules and confirms with NYISO and ISO-NE for delivery at the Delivery Point pursuant to Section 4.2(a).

"Services Term" shall have the meaning set forth in Section 2.2(b) hereof.

"Seller's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"State Forest Easement" shall mean an easement for an electric collection line for the Facility through the Boutwell Hill state forest to be obtained from the New York State Department of Environmental Conservation, in form and substance reasonably satisfactory to Seller, pursuant to New York Senate Bill 6005-A.

"Substitute Credit Support" shall have the meaning assigned in Section 6.5(e) hereof.

"Term" shall have the meaning set forth in Section 2.2(a) hereof.

"Termination Payment" shall have the meaning set forth in Section 9.3(b) hereof.

"Transfer" shall mean, with respect to any Posted Collateral or Interest Amount, and in accordance with the instructions of the Party entitled thereto:

(a) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the Party to whom such Cash is being delivered; and

(b) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the Party to whom such Letter of Credit is being delivered.

"Transfer Change Notice" shall have the meaning set forth in Section 4.2(a).

"Transmission Provider" shall mean (a) ISO-NE, its respective successor or Affiliates; (b) NYISO, its respective successor or Affiliates; (c) the Interconnecting Utility, (d) Buyer; and/or (d) such other third parties from whom transmission services are necessary for Seller to fulfill its performance obligations to Buyer hereunder, as the context requires.

"Transmission Provider Rules" shall mean the ISO-NE Rules, the ISO-NE Practices and the NYISO Rules.

"Transmission System" shall mean the transmission facilities operated by a Transmission Provider, now or hereafter in existence, which provide energy transmission service for the Scheduled Energy to or from the Delivery Point or for the Metered Output to the Interconnection Point.

"Unit Contingent" shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility operates, generates and delivers Products to the Interconnection Point.

"Valuation Agent" means the Requesting Party; provided, however, that in all cases, if an Event of Default has occurred and is continuing with respect to the Party designated as the Valuation Agent, then in such case, and for so long as the Event of Default continues, the other Party shall be the Valuation Agent.

"Valuation Date" shall mean each Business Day.

"Valuation Percentage" shall have the meaning specified in Section 6.2(d) hereof.

"Valuation Time" shall mean the close of business on the Business Day before the Valuation Date or date of calculation, as applicable.

"Value" shall mean, with respect to Posted Collateral or Credit Support, the Valuation Percentage multiplied by the amount of cash or the amount then available under the Letter of Credit to be unconditionally drawn by Buyer.

"Wind Turbine" shall mean those electric energy generating devices powered by the wind that are included in the Facility.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. Subject in all respects to Section 8.1and Section 8.2, this Agreement is effective as of the Effective Date.

2.2 Term.

(a) The **"Term"** of this Agreement is the period beginning on the Effective Date and ending upon the final settlement of all obligations hereunder after the expiration of the Services Term or the earlier termination of this Agreement in accordance with its terms.

(b) The **"Services Term"** is the period during which Buyer is obligated to purchase Products Delivered to Buyer by Seller commencing on the Commercial Operation Date and continuing for a period of twenty (20) years from the Commercial Operation Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

(c) In the event that (i) an "Adverse Determination" has occurred pursuant to Section 19.7 of any Other Agreement on or before September 30, 2017 and (ii) any purchaser of Energy and RECs under any such Other Agreement terminates such Other Agreement on or before December 31, 2018 as a result of such Adverse Determination, then Seller may terminate this Agreement by written notice to Buyer not later than fifteen (15) days after the termination of such Other Agreement, and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 12. Nothing set forth in this Section 2.2(c) shall limit or modify the rights and obligations of the Parties under Section 19.7 of this Agreement.

(d) In the event that Seller terminates one of the Other Agreements prior to the Commercial Operation Date due solely to a default by the purchaser of Energy and RECs under such Other Agreement and the Energy and RECs to be purchased under such Other Agreement represents more than five percent (5%) of the total Energy and RECs to be produced by the Facility, then Seller shall use commercially reasonable efforts to enter into one or more new agreements for the sale of the Energy and RECs that would have been sold under such Other Agreement on terms no more favorable to Seller than the terms of such Other Agreement (**"Replacement Agreements"**). If Seller is unable to execute one or more Replacement Agreements for the entire amount of the Energy and RECs that would have been sold under the terminated Other Agreement within six (6) months after the termination of such Other Agreement, then Seller may terminate this Agreement by written notice to Buyer within thirty (30) days after the expiration of such six-month period. Upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 12. All of the deadlines for the Critical Milestones not achieved prior to the termination of the Other Agreement as described herein will be extended on a day-for-day basis by the period of time between the termination of the Other Agreement and the sooner of the execution of the Replacement Agreement(s) or the termination of this Agreement under this Section 2.2(d).

(e) At the expiration of the Term or earlier termination of this Agreement pursuant to the terms hereof, the Parties shall no longer be bound by the terms and provisions hereof, except (i) to the extent necessary to make payments of any amounts owed to the other Party arising prior to or resulting from termination of, or on account of a breach of, this Agreement, (ii) to the extent necessary to enforce the rights and the obligations of the Parties arising under this Agreement before such expiration or termination, and (iii) the obligations of the Parties hereunder with respect to confidentiality and indemnification shall survive the expiration or termination of this Agreement.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Critical Milestones.

(a) Subject to the provisions of Section 3.1(d), commencing on the Effective Date, Seller shall develop the Facility in order to achieve the following milestones (**"Critical Milestones"**) on or before the dates set forth in this Section 3.1(a):

(i) except for the State Forest Easement, acquisition of all required real property rights necessary for construction and operation of the Facility and the interconnection of the Facility to the Interconnecting Utility in full and final form with all options and/or contingencies having been exercised demonstrating complete site control as set forth in Exhibit B by May 31, 2017;

(ii) receipt of all Permits necessary to construct the Facility, as set forth in Exhibit B, in final form, by June 30, 2018;

(iii) acquisition of the State Forest Easement by September 30, 2018;

(iv) closing of the Financing or other demonstration to Buyer's satisfaction of the financial capability to construct the Facility, including, as applicable, Seller's financial obligations with respect to interconnection of the Facility to the Interconnecting Utility and construction of the Network Upgrades by February 28, 2020; and

(v) achievement of the Commercial Operation Date by December 31, 2020 ("**Guaranteed Commercial Operation Date**").

(b) Seller shall provide Buyer with written notice of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Critical Milestone has been achieved. Seller acknowledges that Buyer will receive such notice solely to monitor progress toward the Commercial Operation Date, and Buyer shall have no responsibility or liability for the development, construction, operation or maintenance of the Facility.

(c) Seller may elect to extend all of the dates for the Critical Milestones not yet achieved by up to four six-month periods from the applicable dates set forth in Section 3.1(a) by posting additional Development Period Security in an amount equal to $94,500 for each such six-month period; provided, however, that in no event may Seller extend the date for the Critical Milestone in Section 3.1(a)(i). Any such election shall be made in a written notice delivered to Buyer on or prior to the first date for a Critical Milestone that has not yet been achieved (as such date may have previously been extended).

(d) To the extent a Force Majeure event pursuant to Section 10.1 has occurred that prevents the Seller from achieving the Critical Milestone date for the Commercial Operation Date (Section 3.1(a)(v) by the applicable Critical Milestone date, the Critical Milestone date(s) impacted by such Force Majeure event shall be extended for the duration of the Force Majeure event, but under no circumstances shall extensions of those Critical Milestone dates due to Force Majeure events exceed twelve (12) months beyond the applicable Milestone date, and further provided, that the Seller shall not have the right to declare a Force Majeure event related to the Site Control Critical Milestone (Section 3.1(a)(i), the Permits Critical Milestone (Section 3.1(a)(ii)) or the Financing Critical Milestone (Section 3.1(a)(iv)).

(e) The Parties agree that time is of the essence with respect to the Critical Milestones and is part of the consideration to Buyer in entering into this Agreement.

(f) If Seller fails to make material progress toward the Commercial Operation Date, as reasonably determined by either Buyer or the PUC based on Seller's progress with respect to the Critical Milestones set forth in Section 3.1(a), within three (3) years after the Effective Date, Buyer may terminate this Agreement by written notice to Seller delivered within sixty (60) days after the third anniversary of the Effective Date (which termination shall be effective upon delivery of such notice), and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 12.

3.2 Delay Damages.

(a) If the Commercial Operation Date is not achieved by the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) and 10.1), Seller shall pay to Buyer damages for each day from and after such date in an amount equal to $1,890, commencing on the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) and 10.1) and ending on the earlier of (i) the Commercial Operation Date, (ii) the date that Buyer exercises its right to terminate this Agreement under Section 9.3, or (iii) the date that is twelve (12) months after the Guaranteed Commercial Operation Date (**"Delay Damages"**). Delay Damages shall be due under this Section 3.2(a) without regard to whether Buyer exercises its right to terminate this Agreement pursuant to Section 9.3; provided, however, that if Buyer exercises its right to terminate this Agreement under Section 9.3, Delay Damages shall be due and owing to the extent that such Delay Damages were due and owing at the date of such termination. For purposes of illustration, an example calculation of Delay Damages is set forth on Exhibit F.

(b) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation Date by the Guaranteed Commercial Operation Date would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Notwithstanding the foregoing, this Article shall not limit the amount of damages payable to Buyer if this Agreement is terminated as a result of Seller's failure to achieve the Commercial Operation Date. Any such termination damages shall be determined in accordance with Article 9.

(c) By the tenth (10th) day following the end of the calendar month in which Delay Damages first become due and continuing by the tenth (10th) day of each calendar month during the period in which Delay Damages accrue (and the following months if applicable), Buyer shall deliver to Seller an invoice showing Buyer's computation of such damages and any amount due Buyer in respect thereof for the preceding calendar month. No later than ten (10) days after receiving such an invoice, Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. If Seller fails to pay such amounts when due, Buyer may draw upon the Development Period Security for payment of such Delay Damages, and Buyer may exercise any other remedies available for Seller's default hereunder.

3.3 Construction and Changes in Capacity.

(a) Construction of Facility. Seller shall construct the Facility as described in Exhibit A, in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility and all applicable requirements of the NYISO Rules for the delivery of the Buyer's Percentage Entitlement of the Products to Buyer. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction functions, so long as Seller maintains overall control over the construction of the Facility through the Term.

(b) Capacity Deficiency. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements for the Commercial Operation Date under Section 3.4(b) of this Agreement, but a Capacity Deficiency exists on the Commercial Operation Date as permitted by Section 3.4(b), then on the Commercial Operation Date, the Contract Maximum Amount shall be automatically and permanently reduced commensurate with the Capacity Deficiency, which reduced Contract Maximum Amount shall be stated in a notice from Buyer to Seller, which notice shall be binding absent manifest error.

(c) Increase in Facility Size. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements under Section 3.4(b) of this Agreement, if the Independent Engineer's certification provides that the Actual Facility Size exceeds the Proposed Facility Size as provided in Exhibit A, the Buyer's Percentage Entitlement will be recalculated and replaced by the percentage derived by dividing the Contract Maximum Amount by the Actual Facility Size.

(d) Progress Reports. Within ten (10) days of the end of each calendar quarter after the Effective Date and until the Commercial Operation Date, Seller shall provide Buyer with a progress report regarding Critical Milestones not yet achieved, including projected time to completion of the Facility, in accordance with the form attached hereto as Exhibit C, and shall provide, upon Buyer's request, such supporting documents regarding the same as are produced during the normal course of developing and constructing the Facility or are requested from Buyer by any Governmental Entity. Seller shall permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller.

(e) Site Access. Buyer and its representatives shall have the right but not the obligation, during business hours and upon reasonable notice to Seller, to inspect the Facility site and monitor the construction of the Facility, subject to Seller's reasonable Facility site safety and insurance requirements.

3.4 Commercial Operation.

(a) Seller's obligation to Deliver the Products and Buyer's obligation to pay Seller for such Products commences on the Commercial Operation Date; provided, that Energy and RECs generated by the Facility prior to the Commercial Operation Date shall not be deemed Products and shall not be purchased by Buyer under this Agreement.

(b) The Commercial Operation Date shall occur on the date on which the Facility as described in Exhibit A is completed (subject, if applicable, to a Capacity Deficiency so long as the Actual Facility Size on the Commercial Operation Date is at least ninety percent (90%) of the proposed nameplate capacity of the Facility as set forth in Exhibit A) and capable of regular commercial operation in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility, all requirements of the ISO-NE Rules, ISO-NE Practices and NYISO Rules for the delivery of the Products to the Buyer have been satisfied, and all performance testing for the Facility has been successfully completed, provided Seller has also satisfied the following conditions precedent as of such date:

(i) completion of all transmission and interconnection facilities and any Network Upgrades, including final acceptance and authorization to interconnect the Facility from the Transmission Provider at the Interconnection Point in accordance with the fully executed Interconnection Agreement;

(ii) all Related Transmission Facilities as set forth in Exhibit E are complete and in-service;

(iii) Seller has obtained and demonstrated possession of all Permits required for the lawful construction and operation of the Facility, for the interconnection of the Facility to the Interconnecting Utility at the Interconnection Point and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, all as set forth on Exhibit B;

(iv) Seller has obtained qualification by the applicable regulatory authority for the state of Rhode Island qualifying the Facility as a RPS Class I Renewable Generation Unit;

(v) All Related Transmission Approvals have been received;

(vi) Seller has acquired all real property rights needed to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility to construct the Network Upgrades (to the extent that it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement;

(vii) Seller has established all ISO-NE or NYISO-related accounts and entered into all ISO-NE or NYISO-related agreements required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect, including the registration of the Facility in the GIS and, to the extent required to Deliver RECs to Buyer, NYGATS;

(viii) Seller has taken all actions as are necessary to effect the transfer of Buyer's Percentage Entitlement of the Scheduled Energy to Buyer in the ISO Settlement Market System;

(ix) Seller has successfully completed all pre-operational testing and commissioning in accordance with manufacturer guidelines;

(x) Seller has satisfied all Critical Milestones that precede the Commercial Operation Date in Section 3.1;

(xi) no Default or Event of Default by Seller shall have occurred and remain uncured;

(xii) the Facility is owned or leased by, and under the care, custody and control of, Seller.

(xiii) Seller has delivered to Buyer:

(A) an Independent Engineer's certification stating (i) that the Facility has been completed in all material respects (excepting punchlist items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this Agreement, and (ii) the Actual Facility Size;

(B) certificates of insurance evidencing the coverages required under Section 3.5(i); and

(C) the Operating Period Security; and

(xiv) Seller has demonstrated that it can reliably transmit real time data and measurements to NYISO.

(xv) Seller has obtained a separate NYISO registered account and Point Identifier (PTID) for the Facility from NYISO.

3.5 Operation of the Facility.

(a) Compliance With Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; (ii) the Operational Limitations; and (iii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, NYISO, any Transmission Provider, NERC and/or any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under this Agreement (including obligations related to the generation, Scheduling, interconnection, and transmission of Energy, and the transfer of RECs), whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Owner and Generator Operator" of the Facility with NERC and any applicable regional reliability entities, including without limitation NYISO and ISO-NE.

(b) Permits. Seller shall maintain or cause to be maintained in full force and effect all Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility and all Related Transmission Approvals.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, construct, maintain and operate the Facility, or cause the Facility to be constructed, maintained and operated, in accordance with Good Utility Practice, the manufacturer's

guidelines for all material components of the Facility and Exhibit A to this Agreement. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete construction, operation and maintenance functions, so long as Seller maintains overall control over the construction, operation and maintenance of the Facility throughout the Term.

(d) Interconnection Agreement. Seller shall comply with the terms and conditions of the Interconnection Agreement.

(e) ISO-NE Status. Seller shall, at all times during the Services Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with an ISO-NE Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and this Agreement.

(f) NYISO Status. Seller shall, at all times during the Services term, either: (i) be a "Market Participant" pursuant to NYISO Market Services Tariff; or (ii) have entered into an agreement with a NYISO Market Participant that shall perform all of Seller's NYISO-related obligations in connection with the Facility and this Agreement.

(g) Forecasts. Commencing at least thirty (30) days prior to the anticipated Commercial Operation Date and continuing throughout the Term, Seller shall update and deliver to Buyer on an annual basis and in a form reasonably acceptable to Buyer, twelve (12) month rolling forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice based on historical performance, maintenance schedules, Seller's generation projections and other relevant data and considerations. Any notable changes from prior forecasts or historical energy delivery shall be noted and an explanation provided. The forecasts described in this Section 3.5(g) shall be non-binding, good faith estimates only. The provisions of this section are in addition to Seller's requirements under ISO-NE Rules, including ISO-NE Operating Procedure No. 5, any applicable NYISO Rules, and each Transmission Provider's rules and regulations.

(h) RPS Class I Renewable Generation Unit. At Seller's sole cost, Seller shall use commercially reasonable efforts to obtain qualification by the applicable regulatory authority for the state of Rhode Island qualifying the Facility as a RPS Class I Renewable Generation Unit as soon as practicable after the Effective Date, consistent with the applicable Law. Subject to Section 4.7(b), Seller shall be solely responsible at Seller's cost for maintaining such qualification throughout the Services Term. Seller shall take all actions necessary to register for and maintain participation in the GIS and, to the extent required to Deliver RECs to Buyer, NYGATS, to register, monitor, track, and transfer RECs. Seller shall provide such additional information as Buyer may request relating to such qualification and participation.

(i) Compliance Reporting. Within thirty (30) days following the end of each calendar quarter, Seller shall provide Buyer information pertaining to labor information and any other information to the extent required by Buyer to comply with the disclosure requirements contained under applicable law and any other such disclosure regulations which may be imposed upon Buyer during the Term, which information requirements will be provided to Seller by Buyer at least fifteen (15) days before the beginning of the calendar quarter for which the information is required. To the extent Buyer is subject to any other certification or compliance

reporting requirement with respect to the Products produced by Seller and delivered to Buyer hereunder, Seller shall provide any information in its possession (or, if not in Seller's possession, available to it and not reasonably available to Buyer) requested by Buyer to permit Buyer to comply with any such reporting requirement.

(j) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company (or any successor thereto) the insurance coverage and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Upon the execution of this Agreement, and at each subsequent policy renewal date thereafter, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications that may adversely affect Buyer, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

(k) Contacts. Each Party shall identify a principal contact or contacts, which contact(s) shall have adequate authority and expertise to make day-to-day decisions with respect to the administration of this Agreement.

(l) Compliance with Law. Without limiting the generality of any other provision of this Agreement, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of operational and environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE, NYISO or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with applicable requirements of Law.

(m) FERC Status. Seller shall be responsible for ensuring that it is in compliance with all FERC directives and requirements necessary for Seller to fulfill its obligations under this Agreement. As part of Seller's satisfaction of this responsibility, it shall maintain the Facility's status as a QF or EWG (to the extent Seller meets the criteria for such status) at all times after the Commercial Operation Date and shall obtain and maintain any requisite authority to sell the output of the Facility at market-based rates, including market-based rate authority to the extent applicable. If Seller certifies the Facility as a QF, for so long as this Agreement is in effect, Seller waives, and agrees not to assert, any rights Seller may have to require Buyer to purchase or transmit electric power or to pay a specified price for electric power by virtue of the status of the Facility as a QF.

(n) Maintenance. No later than (a) the Commercial Operation Date and (b) two months prior to the end of each calendar year thereafter during the Term, Seller shall submit to Buyer an expected schedule of Planned Maintenance for the following calendar year for the Facility. Throughout the Term, Seller shall coordinate all Planned Maintenance with NYISO, consistent with NYISO Rules, and shall promptly provide applicable information concerning scheduled outages, as determined by NYISO, to Buyer. To maximize the value of the Products, to the extent possible and consistent with NYISO Rules and the manufacturer's guidelines for all material components of the Facility, Seller shall not schedule Planned Maintenance of more than fifteen percent (15%) of the Wind Turbines at any one time during the months of January through February or June through September; provided, however, that planned maintenance may be scheduled during such period to the extent the failure to perform such planned maintenance is contrary to operation of the Facility in accordance with Good Utility Practice.

3.6 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, including the costs of the Network Upgrades, consistent with all standards and requirements set forth by the FERC, any other applicable Governmental Entity, NYISO and the Interconnecting Utility. Seller shall be responsible for procuring delivery service and all costs associated with it.

(b) Seller shall defend, indemnify and hold Buyer harmless against any and all liabilities, fees, costs and expenses, including but not limited to reasonable attorneys' fees incurred by Buyer arising due to Seller's performance or failure to perform under the Interconnection Agreement or any agreement for delivery service associated with Seller's performance of this Agreement.

4. DELIVERY OF PRODUCTS

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on the Commercial Operation Date and subject to Section 4.1(b), Seller shall sell and Deliver, and Buyer shall purchase and receive right, title and interest in and to, Buyer's Percentage Entitlement of the Products in accordance with the terms and conditions of this Agreement, up to and including the Buyer's Percentage Entitlement of Scheduled Energy in each hour, but in no event exceeding the lesser of (1) the Buyer's Percentage Entitlement of the total Metered Output in such hour or (2) the Contract Maximum Amount in such hour, in accordance with the terms and conditions of this Agreement. For the avoidance of doubt, (i) if the amount of Metered Output generated by the Facility during any hour is in excess of Scheduled Energy or the Contract Maximum Amount for that hour, the Products associated with such excess shall not be considered to be Products for such period for purposes of this Agreement, and (ii) if the amount of Scheduled Energy in any hour exceeds the Metered Output generated by the Facility in that hour or the Contract Maximum Amount for that hour, the Products associated with such excess shall not be considered to be Products for such period for purposes of this Agreement. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent and shall be subject to the operation of the Facility. To maximize the value of the Products, to the

extent possible and consistent with ISO-NE Rules, NYISO Rules and Good Utility Practice, Seller shall use commercially reasonable efforts to maximize the production and Delivery of Energy during the time periods of anticipated peak load and peak Energy prices in New England, consistent with the provisions of Sections 3.5(a) and recognizing that Sections 4.1(d) and 4.3 address curtailments and corresponding remedies.

(b) Buyer shall not be obligated to accept or pay for any REC which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, and, to the extent that Buyer does not purchase any such REC, Seller may, in its sole discretion, sell, transfer or otherwise dispose of that REC or comparable certificate, credit, attribute or other similar product. In the event that Buyer notifies Seller that it will not purchase any REC which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, then Buyer may resume purchasing such RECs upon thirty (30) days' prior written notice to Seller, unless otherwise agreed by Buyer and Seller.

(c) Seller shall Deliver Buyer's Percentage Entitlement of the Products produced by or associated with the Facility, up to and including an amount equal to the least of (i) the Buyer's Percentage Entitlement of the Metered Output, (ii) Buyer's Percentage Entitlement of the Scheduled Energy or (iii) the Contract Maximum Amount in any hour, exclusively to Buyer, and Seller shall not sell, divert, grant, transfer or assign such Products or any certificate or other attribute associated with such Products to any Person other than Buyer during the Term. Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

(d) Notwithstanding Section 4.1(c), Seller shall have the exclusive right, exercised in its sole discretion, to sell or convey any Energy and RECs to any Person (i) prior to the Services Term, (ii) that are not Products, (iii) in connection with Resale Damages, (iv) in connection with an exercise by Seller of its remedies under Section 9.3(a)(ii), or (v) during any period of curtailment by Seller that is permitted pursuant to this Agreement and periods of curtailment the remedy for which is set forth in Section 4.3.

4.2 Scheduling and Delivery.

(a) During the Services Term and in accordance with Section 4.1, Seller shall Schedule and transfer Deliveries of Energy hereunder with ISO-NE and NYISO within the defined Operational Limitations of the Facility and in accordance with this Agreement and all rules and regulations of each Transmission Provider, and all NYISO rules and regulations and ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall use commercially reasonable efforts, acting in good faith, to maximize the Metered Output of the Facility and Schedule such Metered Output in each hour that would not exceed the limits for Scheduled Energy in Section 4.1, subject to curtailment by Seller as permitted pursuant to this Agreement. Seller shall transfer Scheduled Energy to Buyer (i) in the Day Ahead Energy Market if the Scheduled Energy is offered by Seller and settled in the Day Ahead Energy Market and (ii) in the Real Time Energy Market if the Scheduled Energy is offered by Seller and settled in the Real Time Energy Market, in each case in accordance with all ISO-NE Practices and ISO-NE Rules. Seller shall determine

the portion of the Scheduled Energy that is offered and settled in the Day Ahead Energy Market and the portion of the Scheduled Energy that is offered and settled in the Real Time Energy Market, consistent with prevailing ISO-NE Rules and ISO-NE Practices at the time; provided, however that: (x) Seller must offer Scheduled Energy to Buyer in the Day Ahead Energy Market to the extent required in order to satisfy its obligations under Section 7.4; and (y) if a change in the NYISO Rules or ISO-NE Rules makes transfers in the Day Ahead Energy Market and/or the Real Time Energy Market impracticable for either Party, as reasonably determined by Buyer, then Seller will alter the portions of the Scheduled Energy being offered and settled in each of the Day Ahead Energy Market and the Real Time Energy Market to the extent required to make transfers of Scheduled Energy consistent with those revised NYISO Rules or ISO-NE Rules. In any event, Buyer shall have no obligation to pay for any Energy not transferred to Buyer in accordance with the foregoing or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system). If Buyer notifies Seller that the manner of the transfers of Scheduled Energy in the Day Ahead Energy Market and/or the Real Time Energy Market that are being undertaken by Seller at the time is having an adverse effect (financial or otherwise) on Buyer (a **"Transfer Change Notice"**), Buyer and Seller will negotiate in good faith to alter the manner in which those transfers are occurring. Buyer will use commercially reasonable efforts to coordinate any Transfer Change Notice under this Agreement with the purchasers of Energy and RECs under the Other Agreements. Any alterations to the portions of Scheduled Energy being offered and settled in, or the manner in which transfers of Scheduled Energy are being undertaken by Seller in respect of, the Day Ahead Energy Market and/or the Real Time Energy Market, in each case pursuant to this Section 4.2(a), shall be implemented in a reasonable timeframe determined by Seller. Notwithstanding any other provision of this Agreement, if during the Term of this Agreement the LMP at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable, is negative, or, in the reasonable opinion of Seller, is likely to become negative, then Seller may deliver to Buyer (via electronic mail) a written notice stating that such condition has occurred or is likely to occur and the period during which such condition has occurred or is likely to occur. Buyer and Seller hereby agree that in such event Seller shall be under no obligation to schedule or Deliver Products to the Delivery Point during such period. Seller shall provide Buyer with detailed information, including but not limited to, the start and stop times of such periods of curtailment under this Section 4.2(a) as well as the quantity curtailed, for all such periods of non-delivery during the preceding calendar month which information shall be provided prior to Seller's delivery of the invoice to Buyer.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable NYISO and Transmission Provider rules and regulations and ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Scheduled Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by noncompliance of Seller with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Services Term be designated as the "Lead Market Participant" (or any similar designation) for the Facility within

ISO-NE and NYISO and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or NYISO or under the ISO-NE Rules and ISO-NE Practices or any NYISO Rules with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE, NYISO, or applicable system costs or charges associated with transmission to and at the Delivery Point. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, (including amounts not credited to Buyer as described in Section 4.2(a)), Seller shall reimburse Buyer for the same.

4.3 Failure of Seller to Deliver Products. In the event that Seller fails to Deliver the Minimum Required Deliveries in any Contract Year, and such failure is not excused under the express terms of this Agreement (including, without limitation, Section 4.2(a)) (a **"Delivery Failure"**), Seller shall pay Buyer an amount for such Delivery Failure (measured in MWh and/or RECs) equal to the Cover Damages. Such payment shall be due no later than the date for Buyer's payment for the applicable month as set forth in Section 5.2 hereof. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a Delivery Failure would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Cover Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages. Notwithstanding any other provision of this Agreement, the payment of Cover Damages by Seller shall be Buyer's sole and exclusive remedy for a Delivery Failure except to the extent such a failure constitutes an Event of Default pursuant to Section 9.2(h). For purposes of illustration, an example calculation of Cover Damages is set forth on Exhibit F.

4.4 Failure by Buyer to Accept Delivery of Products. If Buyer fails to accept all or part of any of the Products to be purchased by Buyer hereunder, and such failure to accept (a) is not the result of Reliability Curtailment or (b) is not otherwise excused under the terms of this Agreement (a **"Rejected Purchase"**), then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such Rejected Purchase equal to the Resale Damages. Each Party agrees and acknowledges that (i) the damages that Seller would incur due to a Rejected Purchase would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Resale Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.5 Delivery Point.

(a) All Scheduled Energy shall be Delivered hereunder by Seller to Buyer at the Delivery Point. Seller shall be responsible for making all arrangements and paying all costs associated with delivering the Scheduled Energy to the Delivery Point, consistent with all standards and requirements set forth by the FERC, ISO-NE, NYISO, and any other applicable Governmental Entity or tariff.

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related Transmission Provider administrative fees, uplift, socialized charges, and all other charges in connection with the satisfaction of Seller's obligations hereunder, including without limitation the Delivery of

Scheduled Energy to and at the Delivery Point. Seller shall indemnify and hold harmless Buyer for any such charges, fees, or expenses imposed upon Buyer by operation of Transmission Provider Rules or otherwise in connection with Seller's performance of its obligations hereunder.

(c) Seller shall not be responsible for any transmission charges, service and delivery charges or any other Transmission Provider fees or charges incurred in connection with the transmission of Scheduled Energy after the Delivery Point.

4.6 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the **"Meters"**), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, NYISO, and ISO-NE; provided that each Meter shall be tested at Seller's expense once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Metered Output generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), (i) the measurement of Metered Output produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, the ISO-NE Tariff, or the NYISO Tariff, whichever is applicable, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Metered Output to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

(c) Inspection, Testing and Calibration. Buyer shall have the right to inspect and test (at its own expense) any of the Meters at the Facility at reasonable times and upon reasonable notice from Buyer to Seller. Buyer shall have the right to have a representative present during any testing or calibration of the Meters at the Facility by Seller. Seller shall provide Buyer with timely notice of any such testing or calibration.

(d) Audit of Meters. Buyer shall have access to the Meters and the right to audit all information and test data related to such Meters.

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Metered Output being produced by the Facility. If any Meter is found to be inaccurate by more than two percent (2%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to any requirements of Seller under the NYISO Rules and ISO-NE Rules and ISO-NE Practices, including ISO-NE Operating Procedure No. 18.

4.7 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to Buyer's Percentage Entitlement of the RECs during the Services Term in accordance with the terms of this Section 4.7. The amount of RECs transferred from Seller to Buyer under this Agreement for any hour (or shorter period to the extent that ISO-NE schedules Energy deliveries over a shorter period) will be the equivalent of the lesser of the Buyer's Percentage Entitlement of the Metered Output or Buyer's Percentage Entitlement of the Scheduled Energy during that hour (or such shorter period).

(b) Regarding the RPS:

(i) Except as provided in subsection (ii) of this Section 4.7(b), all Scheduled Energy provided by Seller to Buyer from the Facility under this Agreement shall meet the requirements for eligibility pursuant to the RPS, and Seller's failure to satisfy such requirements shall constitute an Event of Default pursuant to Section 9.1(c) of this Agreement except as provided in Section 4.7(b)(ii) below; and

(ii) If solely as a result of a change in Law, Scheduled Energy provided by Seller to Buyer from the Facility under this Agreement no longer meets the requirements for eligibility pursuant to the RPS, such will not constitute an Event of Default under Article 9, provided Seller promptly uses commercially reasonable efforts to ensure that qualification will continue after the change in Law. If, notwithstanding such commercially reasonable efforts and solely as a result of change in Law, the Facility does not qualify as a RPS Class I Renewable Generation Unit, then (A) Seller shall continue to sell, and Buyer shall continue to purchase Scheduled Energy under this Agreement at the Adjusted Price in accordance with Section 5.1 and (B) any purchases and sales of RECs shall be in accordance with Section 4.1(b).

(c) At Seller's sole cost, Seller shall also obtain and maintain throughout the Services Term qualification as a RPS Class I generation resource under the renewable portfolio standard or similar law of New York and the New England states of Connecticut, Maine, Massachusetts, and New Hampshire, to the extent the renewable energy technology used in, and other characteristics of (including location, transmission, environmental effects and operating characteristics), the Facility are and remain eligible under such renewable portfolio standard or similar law. At Buyer's request and at Seller's sole cost, Seller shall also obtain qualification under any federal renewable energy standard, to the extent the renewable energy technology used in, and other characteristics of (including location, transmission, environmental effects and operating characteristics), the Facility are and remain eligible under such renewable portfolio standard, renewable energy standard or similar law, and Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to maintain such qualification at all times during the Services Term unless otherwise agreed by Buyer. Notwithstanding the foregoing, nothing in this Section 4.7(c) shall require Seller to expend more than $100,000, in the aggregate, under this Agreement and all Other Agreements, during the Services Term and the term of such Other Agreements on any modifications to the Facility or the related characteristics to permit the Facility to qualify as a Class I generation resource under the renewable portfolio standard or similar law of New York and the New England states of Connecticut, Maine, Massachusetts, and New Hampshire and under any federal renewable energy standard. In the event that any such qualification(s) would require the expenditure of more than $100,000, in the aggregate, under this Agreement and all Other Agreements, during the Services Term or the term of such Other Agreements, then Buyer may require Seller to expend up to $100,000 for such qualification(s) so long as Buyer, either individually or together with one or more of the purchasers of Energy and RECs under the Other Agreements, agrees to expend, or reimburse Seller for the expenditures of, the amounts in excess of $100,000 that are required for such qualification(s). To the extent Seller qualifies the Facility as a RPS Class I generation resource pursuant to this Section 4.7(c), Seller shall submit to Buyer any information required by any state or federal agency with regard to administration of its rules regarding Environmental Attributes or its renewable energy standard or renewable portfolio standard or Seller's qualification under the foregoing.

(d) Seller shall comply with all GIS Operating Rules relating to the creation and transfer of all RECs to be purchased by Buyer under this Agreement and all other GIS Operating Rules to the extent required for Buyer to achieve the full value of the RECs associated with the Scheduled Energy Delivered hereunder. Seller shall also comply with all NYGATS rules and procedures to the extent required to Deliver RECs to Buyer under this Agreement. In addition, at Buyer's request, Seller shall use commercially reasonable efforts to register with and comply with the rules and requirements of any other tracking system or program that tracks, monetizes or otherwise creates or enhances value for Environmental Attributes, which compliance shall be at Seller's sole cost if such registration and compliance is requested in connection with Section 4.7(c) above and shall be at Buyer's sole cost in other instances.

(e) Prior to the Delivery of any Scheduled Energy hereunder, either (i) Seller shall cause Buyer to be registered in the GIS as the initial owner of all Certificates to be Delivered hereunder to Buyer or (ii) Seller and Buyer shall effect an irrevocable Forward Certificate Transfer (as defined in the GIS Operating Rules) of the Certificates to be Delivered hereunder to Buyer in the GIS for the Services Term; provided, however, that no payment shall

be due to Seller for any RECs until either (x) the Certificates are actually deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing, or (y) (i) Buyer and Seller enter such an irrevocable Forward Certificate Transfer of the Certificates to be Delivered to Buyer in the GIS, which Forward Certificate Transfer shall be denoted in the GIS as not being capable of rescission by Seller, and (ii) the Scheduled Energy with which such RECs are associated has been Delivered to Buyer.

(f) The Parties intend for the transactions entered into hereunder to be physically settled, meaning that the RECs are intended to be Delivered in the GIS account of Buyer or its designee as set forth in this Section 4.7.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products. All Products Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Price specified in Exhibit D; provided, however, that if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b), then all Scheduled Energy Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Adjusted Price specified in Exhibit D. Other than the (i) payment for the Products under this Section 5.1, (ii) payments related to Meter testing under Section 4.6(b), (iii) payments related to Meter malfunctions under Section 4.6(e), (iv) payment of any Resale Damages under Section 4.4, (v) payment of interest on late payments under Section 5.3, (vi) payments for reimbursement of Buyer's Taxes under Section 5.4(a), (vii) return of any Credit Support under Section 6.3, and (viii) payment of any Termination Payment due from Buyer under Section 9.3, Buyer shall not be required to make any other payments to Seller under this Agreement, and Seller shall be solely responsible for all costs and losses incurred by it in connection with the performance of its obligations under this Agreement. In the event that the LMP for the Scheduled Energy at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable pursuant to Section 4.2(a), is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to the product of (y) such Scheduled Energy Delivered in such hour and (z) the absolute value of the hourly Day Ahead LMP or Real Time LMP at the Delivery Point, as applicable pursuant to Section 4.2(a).

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all charges and payments under this Agreement. On or before the fifteenth (15th) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Scheduled Energy Delivered to Buyer in the preceding month, and any RECs deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days

from receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. All payments due under this Agreement shall be paid in immediately available funds. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

(i) All invoices rendered under this Agreement shall be subject to adjustment after the end of each month in order to true-up charges based on changes resulting from recent ISO-NE billing statements or revisions, if any, to previous ISO-NE billing statements. If ISO-NE resettles any invoice which relates to the Products sold under this Agreement and (a) any charges thereunder are the responsibility of the other Party under this Agreement or (b) any credits issued thereunder would be due to the other Party under this Agreement, then the Party receiving the invoice from ISO-NE shall in the case of (a) above invoice the other Party or in the case of (b) above pay the amount due to the other Party. Any invoices issued or amounts due pursuant to this Section shall be invoiced or paid as provided in this Section 5.2.

(ii) Within twelve (12) months of the issuance of an invoice the Seller may adjust any invoice for any arithmetic or computational error and shall provide documentation and information supporting such adjustment to Buyer. Within twelve (12) months of the receipt of an invoice (or an adjusted invoice), the Buyer may dispute any charges on that invoice. In the event of such a dispute, the Buyer shall give notice to the Seller and shall state the basis for the dispute. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Any claim for additional payment is waived unless the Seller issues an adjusted invoice within twelve (12) months of issuance of the original invoice. Any dispute of charges is waived unless the Buyer provides notice of the dispute to the Seller within twelve (12) months of receipt of the invoice (or adjusted invoice) including such charges.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under this Agreement on the

same date through netting of such monetary obligations, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Agreement, including any related damages calculated pursuant to this Agreement, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the "Money & Investing" section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties) plus 1% per cent, and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the **"Late Payment Rate"**).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products ("**Seller's Taxes**"). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer, or imposed on or associated with the purchase of such Products by Buyer (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) ("**Buyer's Taxes**"). In the event Seller shall be required by law or regulation to remit or pay any Buyer's Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller's Taxes, Seller shall reimburse Buyer for such payment, and Buyer may also elect to deduct any of the amount of any such Seller's Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks and retain all benefits, financial and otherwise, throughout the Term, associated with Seller's or the Facility's eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes, or to receive any other favorable tax or accounting right or benefit, or any grant or subsidy from a Governmental Entity or other Person. Seller's obligations under this Agreement shall be effective regardless of whether the Facility is eligible for or receives, or the transactions contemplated under this Agreement are eligible for or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment.

6. SECURITY FOR PERFORMANCE

6.1 Grant of Security Interest. Subject to the terms and conditions of this Agreement, Seller hereby pledges to Buyer as security for all outstanding obligations under this Agreement (other than indemnification obligations surviving the expiration of the Term) and any other

documents, instruments or agreements executed in connection therewith (collectively, the **"Obligations"**), and grants to Buyer a first priority continuing security interest, lien on, and right of set-off against all Posted Collateral delivered to or received by Buyer hereunder. Upon the return by Buyer to Seller of any Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without further action by either Party.

6.2 Seller's Support.

(a) Seller shall be required to post Credit Support with a Value of $472,500 to secure Seller's Obligations until the Commercial Operation Date (**"Development Period Security"**). $283,500 of the Development Period Security shall be provided to Buyer on the Effective Date, and the remaining $189,000 of the Development Period Security shall be provided to Buyer within fifteen (15) days after the receipt of the Regulatory Approval. Buyer shall return any undrawn amount of the Development Period Security to Seller within thirty (30) days after the later of (x) Buyer's receipt of an undisputed notice from Seller that the Commercial Operation Date has occurred or (y) Buyer's receipt of the full amount of the Operating Period Security.

(b) Beginning not later than three (3) days following the Commercial Operation Date, Seller shall provide Buyer with Credit Support to secure Seller's Obligations after the Commercial Operation Date through and including the date that all of Seller's Obligations are satisfied ("**Operating Period Security**"). The Operating Period Security shall have a Value of $378,000; provided that, if the Contract Maximum Amount is adjusted pursuant to Section 3.3(b), then the Operating Period Security shall be $20,000.00 multiplied by the Contract Maximum Amount, as adjusted in accordance with Section 3.3(b).

(c) The Credit Support Delivery Amount, as defined below, will be rounded up, and the Return Amount, as defined below, will be rounded down, in each case to the nearest integral multiple of $10,000 (**"Rounding Amount"**).

(d) The following items will qualify as "**Credit Support**" hereunder in the amount noted under "Valuation Percentage":

	"Valuation Percentage"
(A) Cash	100%
(B) Letters of Credit	100% unless either (i) a Letter of Credit Default shall have occurred and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be 0%.

(e) All calculations with respect to Credit Support shall be made by the Valuation Agent as of the Valuation Time on the Valuation Date.

6.3 Delivery of Credit Support.

On any Business Day during the Services Term on which (a) the undrawn amount of any Operating Period Security provided by Seller and held by Buyer is less than the amount required under Section 6.2(b), (b) no Event of Default has occurred and is continuing with respect to Buyer, and (c) no termination date has occurred or has been designated as a result of an Event of Default with respect to Buyer for which there exist any unsatisfied payment obligations with respect to Buyer, then Buyer may request, by written notice, that Seller Transfer to Buyer, or cause to be Transferred to Buyer, Credit Support for the benefit of Buyer, having a Value of at least the Collateral Requirement (**"Credit Support Delivery Amount"**). Such Credit Support shall be delivered to Buyer on the next Business Day if the request is received by the Notification Time; otherwise Credit Support is due by the close of business on the second Business Day after the request is received.

6.4 Reduction and Substitution of Posted Collateral.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Seller, (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment Obligations, and (c) the Posted Collateral posted by Seller exceeds the required Operating Period Security (rounding downwards for any fractional amount to the next interval of the Rounding Amount), then Seller may, at its sole cost, request that Buyer return Operating Period Security in the amount of such difference (**"Credit Support Return Amount"**) and Buyer shall be obligated to do so. Such Posted Collateral shall be returned to Seller by the close of business on the second Business Day after Buyer's receipt of such request. The Parties agree that if Seller has posted more than one type of Credit Support to Buyer, Seller can, in its sole discretion, select the type of Credit Support for Buyer to return; provided, however, that Buyer shall not be required to return the specified Credit Support if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Operating Period Security.

6.5 Administration of Posted Collateral.

(a) Cash. Posted Collateral provided in the form of Cash to Buyer hereunder shall be subject to the following provisions.

(i) So long as no Event of Default has occurred and is continuing with respect to Buyer, Buyer will be entitled to either hold Cash or to appoint an agent which is a Qualified Institution (a **"Custodian"**) to hold Cash for Buyer. In the event that an Event of Default has occurred and is continuing with respect to Buyer, then the provisions of Section 6.5(a)(ii) shall not apply with respect to Buyer and Cash shall be held in a Qualified Institution in accordance with the provisions of Section 6.5(a)(iii)(B). Upon

notice by Buyer to Seller of the appointment of a Custodian, Seller's Obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by Buyer for which the Custodian is acting. If Buyer or its Custodian fails to satisfy any conditions for holding Cash as set forth above, or if Buyer is not entitled to hold Cash at any time, then Buyer will Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Section 6.5(a)(iii)(B). Except as set forth in Section 6.5(c), Buyer will be liable for the acts or omissions of the Custodian to the same extent that Buyer would be held liable for its own acts or omissions.

(ii) Notwithstanding the provisions of applicable Law, if no Event of Default has occurred and is continuing with respect to Buyer and no termination date has occurred or been designated as a result of an Event of Default with respect to Buyer for which there exists any unsatisfied payment obligations with respect to Buyer, then Buyer shall have the right to sell, pledge, rehypothecate, assign, invest, use, comingle or otherwise use in its business any Cash that it holds as Posted Collateral hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.

(iii) Notwithstanding Section 6.5(a)(ii), if neither Buyer nor the Custodian is eligible to hold Cash pursuant to Section 6.5(a)(i) then:

(A) the provisions of Section 6.5(a)(ii) will not apply with respect to Buyer; and

(B) Buyer shall be required to Transfer (or cause to be Transferred) not later than the close of business within five (5) Business Days following the beginning of such ineligibility all Cash in its possession or held on its behalf to a Qualified Institution to be held in a segregated, safekeeping or custody account (the **"Collateral Account"**) within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for Buyer. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Article 6 and for the security interest of Buyer and execute such account control agreements as are necessary or applicable to perfect the security interest of Seller therein pursuant to Section 9-314 of the Uniform

Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of Seller. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of Buyer, subject to the approval of such instructions by Seller (which approval shall not be unreasonably withheld). Buyer shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with Seller's approval.

(iv) So long as no Event of Default with respect to Seller has occurred and is continuing, and no termination date has occurred or been designated for which any unsatisfied payment obligations of Seller exist as the result of an Event of Default with respect to Seller, in the event that Buyer or its Custodian is holding Cash, Buyer will Transfer (or cause to be Transferred) to Seller, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which shall be retained by Buyer), the Interest Amount. Interest on Cash shall accrue at the Collateral Interest Rate. Interest accrued during the previous month shall be paid by Buyer to Seller on the 3rd Business Day of each calendar month and on any Business Day that posted Credit Support in the form of Cash is returned to Seller, but solely to the extent that, after making such payment, the amount of the Posted Collateral will be at least equal to the required Development Period Security or Operating Period Security, as applicable. On or after the occurrence of an Event of Default with respect to Seller or a termination date as a result of an Event of Default with respect to Seller, Buyer or its Custodian shall retain any such Interest Amount as additional Posted Collateral hereunder until the Obligations of Seller under the Agreement have been satisfied in the case of a termination date or for so long as such Event of Default is continuing in the case of an Event of Default.

(b) Buyer's Rights and Remedies. If at any time an Event of Default with respect to Seller has occurred and is continuing, then, unless Seller has paid in full all of its Obligations that are then due, including those under Section 9.3(b) of this Agreement, Buyer may exercise one or more of the following rights and remedies: (i) all rights and remedies available to a secured party under applicable Law with respect to Posted Collateral held by Buyer, (ii) the right to set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or the cash equivalent of any Posted Collateral held by Buyer, or (iii) the right to liquidate any Posted Collateral held by Buyer and to apply the proceeds of such liquidation of the Posted Collateral to any amounts payable to Buyer with respect to the Obligations in such order as Buyer may elect. For purposes of this Section 6.5, Buyer may draw on the undrawn portion of any Letter of Credit from time to time up to the amount of the

Obligations that are due at the time of such drawing. Cash proceeds that are not applied to the Obligations shall be maintained in accordance with the terms of this Article 6. Seller shall remain liable for amounts due and owing to Buyer that remain unpaid after the application of Posted Collateral, pursuant to this Section 6.5.

(c) Letters of Credit. Credit Support provided in the form of a Letter of Credit shall be subject to the following provisions.

(i) As one method of providing increased Credit Support, Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.

(ii) Upon the occurrence of a Letter of Credit Default, Seller agrees to Transfer to Buyer either a substitute Letter of Credit or Cash, in each case on or before the first (1st) Business Day after the occurrence thereof (or the third (3rd) Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).

(iii) Notwithstanding Sections 6.3 and 6.4, (1) Buyer need not return a Letter of Credit unless the entire principal amount is required to be returned, (2) Buyer shall consent to a reduction of the principal amount of a Letter of Credit to the extent that a Credit Support Delivery Amount would not be created thereby (as of the time of the request or as of the last time the Credit Support Delivery Amount was determined), and (3) if there is more than one form of Posted Collateral when a Credit Support Return Amount is to be Transferred, the Secured Party may elect which to Transfer.

(d) Care of Posted Collateral. Buyer shall exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable Law, and in any event Buyer will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, Buyer will have no duty with respect to the Posted Collateral, including without limitation, any duty to enforce or preserve any rights thereto.

(e) Substitutions. Unless otherwise prohibited herein, upon notice to Buyer specifying the items of Posted Collateral to be exchanged, Seller may, on any Business Day, deliver to Buyer other Credit Support (**"Substitute Credit Support"**). On the Business Day following the day on which the Substitute Credit Support is delivered to Buyer, Buyer shall return to Seller the items of Credit Support specified in Seller's notice; provided, however, that Buyer shall not be required to return the specified Posted Collateral if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Development Period Security or Operating Period Security set forth in Sections 6.2(a) and 6.2(b), respectively.

6.6 Exercise of Rights Against Posted Collateral

(a) Disputes regarding amount of Credit Support. If either Party disputes the amount of Credit Support to be provided or returned (such Party the "**Disputing Party**"), then the Disputing Party shall (a) deliver the undisputed amount of Credit Support to the other Party (such Party, the "**Requesting Party**") and (b) notify the Requesting Party of the existence and nature of the dispute no later than 5:00 p.m. Eastern Prevailing Time on the Business Day that the request for Credit Support was made (the "**Request Date**"). On the Business Day following the Request Date, the Parties shall consult with each other in order to reconcile the two conflicting amounts. If the Parties are not able to resolve their dispute, the Credit Support shall be recalculated, on the Business Day following the Request Date, by each Party requesting quotations from two (2) Reference Market-Makers for a total of four (4) quotations. The highest and lowest of the four (4) quotations shall be discarded and the arithmetic average shall be taken of the remaining two (2), which shall be used in order to determine the amount of Credit Support required. On the same day the Credit Support amount is recalculated, the Disputing Party shall deliver any additional Credit Support required pursuant to the recalculation or the Requesting Party shall return any excess Credit Support that is no longer required pursuant to the recalculation.

(b) Further Assurances. Promptly following a request by a Party, the other Party shall use commercially reasonable efforts to execute, deliver, file, and/or record any financing statement, specific assignment, or other document and take any other action that may be necessary or desirable to create, perfect, or validate any Posted Collateral or other security interest or lien, to enable the requesting party to exercise or enforce its rights or remedies under this Agreement, or with respect to Posted Collateral, or accrued interest.

(c) Further Protection. Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding, or lien (other than a banker's lien in favor of the Custodian appointed by Buyer so long as no amount owing from Seller to such Custodian is overdue) that involves the Posted Collateral delivered to Buyer by Seller or that could adversely affect any security interest or lien granted pursuant to this Agreement.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

7.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of Rhode Island. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Due Authorization; No Conflicts. The execution and delivery by Buyer of this Agreement, and the performance by Buyer of its obligations hereunder, have been duly authorized by all necessary actions on the part of Buyer and do not and, under existing facts and Law, shall not: (i) contravene its certificate of incorporation or any other governing documents;

(ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) subject to receipt of the Regulatory Approval, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(c) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Buyer and, assuming the due execution hereof and performance hereunder by Seller and receipt of the Regulatory Approval, constitutes a legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(d) No Proceedings. Except to the extent relating to the Regulatory Approval, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Buyer or any of its properties (including, without limitation, this Agreement) which (i) relate in any manner to this Agreement or any transaction contemplated hereby, or (ii) Buyer reasonably expects to lead to a material adverse effect on (A) the validity or enforceability of this Agreement or (B) Buyer's ability to perform its obligations under this Agreement.

(e) Consents and Approvals. Except to the extent associated with the Regulatory Approval, the execution, delivery and performance by Buyer of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken or that shall be duly obtained, made or taken on or prior to the date required, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable as required under applicable Law.

(f) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Buyer and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(g) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Buyer, or, to Buyer's knowledge, threatened against it.

(h) No Default. As of the Effective Date, no Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Buyer of its obligations under this Agreement.

7.2 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer as follows:

(a) Organization and Good Standing; Power and Authority. Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware. Subject to the receipt of the Permits listed in Exhibit B and any Related Transmission Approvals, Seller has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds, or shall hold, prior to the date on which they are required, all rights and entitlements (including without limitation all transmission rights) necessary to construct, own and operate the Facility and to deliver the Products to the Buyer in accordance with this Agreement.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) assuming receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing. Seller will not be disqualified from or be materially adversely affected in the performance of any of its obligations under this Agreement by reason of market power or affiliate transaction issues under federal or state regulatory requirements.

(d) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Buyer and receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) No Proceedings. Except to the extent associated with the Permits listed on Exhibit B and any Related Transmission Approvals, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Seller or any of its properties (including, without limitation, this Agreement) which (i) relate in any manner to this Agreement or any transaction contemplated hereby or (ii) Seller reasonably expects to lead to a material adverse effect on (A) the validity or enforceability of this Agreement or (B) Seller's ability to perform its obligations under this Agreement.

(f) Consents and Approvals. Subject to the receipt of the Permits listed on Exhibit B on or prior to the date such Permits are required under applicable Law and subject to the receipt of the Related Transmission Approvals on or prior to the date such Related

Transmission Approvals are required under Applicable Law, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable. As of the Effective Date, Seller expects to receive the Permits listed in Exhibit B and the Related Transmission Approvals in due course and as required under applicable Law to the extent that those Permits have not previously been received.

(g) RPS Class I Renewable Generation Unit. The Facility shall be eligible to become qualified as a RPS Class I Renewable Generation Unit, and the Facility shall be qualified by the PUC as eligible to participate in the RPS program under Chapter 39-26 of the Rhode Island General Laws on the Commercial Operation Date.

(h) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under this Agreement, free and clear of all liens, charges and encumbrances. Except as permitted in this Agreement, Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under this Agreement.

(i) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Seller and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(j) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

(k) No Misrepresentations. The reports and other submittals by Seller to Buyer under this Agreement are not false or misleading in any material respect.

(l) No Default. As of the Effective Date, no Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under this Agreement.

(m) Site Control. As of the Effective Date, (A) other than with respect to the State Forest Easement and the easements related to transmission collection lines for the Facility, Seller either (i) has acquired all real property rights to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement or (ii) has an irrevocable option to acquire such real property rights and the only condition upon Seller's exercise of such option to acquire such real property rights is the payment of an amount that represents the fair market value of such real property rights, and (B) the terms of the authorizing legislation for the State Forest Easement are acceptable to Seller (including without limitation the price to be paid for the State Forest Easement) and Seller is not

aware of any impediment to obtaining the State Forest Easement on commercially reasonable terms.

7.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section are made as of the Effective Date and, unless any such representation or warranty is made as of the Effective Date or another specific date, are deemed made continually throughout the Term, subject to the removal of the references to the Regulatory Approval and Permits as and when the Regulatory Approval and Permits are obtained. If at any time during the Term, a Party obtains actual knowledge of any event or information which causes any of the representations and warranties in this Article 7 to be untrue or misleading, such Party shall provide the other Party with prompt written notice of the event or information, the representations and warranties affected, and the corrective action such Party shall take. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7.4 Forward Capacity Market Participation. Seller must take (i) all necessary and appropriate actions to qualify and participate; and (ii) commercially reasonable actions to be selected and compensated in every auction applicable to the Services Term, in any capacity market, including the Forward Capacity Market and any successor capacity market. Subject to Good Utility Practice and the manufacturer's guidelines for all material components of the Facility, Seller shall operate the Facility in a manner to maximize the Capacity Supply Obligation of the Facility. Seller shall use best efforts to make Network Upgrades such that the maximum output of the Facility shall be qualified to participate in the FCM. Seller shall provide documentation to the Buyer demonstrating the satisfaction of the foregoing obligations. Notwithstanding the foregoing, Seller shall have no obligation under this Section 7.4 unless and until Seller can participate in the FCM as provided in the ISO-NE Rules, as revised from time to time at materially no more cost or risk than would be incurred by a wind generating facility of comparable size within the ISO-NE control area under the ISO-NE Rules at that time. Notwithstanding the foregoing, nothing in this Agreement shall entitle Buyer to any capacity revenues related to the Facility.

8. REGULATORY APPROVAL

8.1 Receipt of Regulatory Approval. The obligations of the Parties to perform this Agreement, other than the Parties' obligations under Section 6.2, Section 8.2, and Section 12, are conditioned upon and shall not become effective or binding until the earlier of: (a) the receipt of the Regulatory Approval and the receipt of final approval of the Other Agreements from the other Regulatory Agencies, or (b) both (i) the receipt of the Regulatory Approval from the PUC, and (ii) Seller's delivery of written notice to Buyer that Seller elects to make this Agreement immediately effective and binding, which such notice may be delivered to Buyer at any time between the receipt of the Regulatory Approval from the PUC and fifteen (15) days after the other Regulatory Agencies issue final decisions with respect to the Other Agreements. Buyer shall (A) file for the Regulatory Approval within one hundred eighty (180) days of the Effective Date and (B) notify Seller within five (5) Business Days after receipt of the Regulatory Approval or receipt of any other order of the PUC regarding this Agreement. This Agreement may be terminated by either Buyer or Seller in the event that (1) Regulatory Approval is not received from the PUC within two hundred seventy (270) days after filing for the Regulatory Approval, or

(2) either (y) the final approval of the Other Agreements from the other Regulatory Agencies has not been received or (z) Seller has not given notice to Buyer that it elects to make this Agreement effective and binding, in the case of either subclause (y) or (z), within two hundred seventy (270) days after filing for the Regulatory Approval. Any such termination of this Agreement by either Buyer or Seller shall be without further liability to either Party, subject to the return of Credit Support as provided in Section 6.3.

8.2 Related Transmission Approvals. The obligation of the Parties to perform this Agreement is further conditioned upon the receipt of any Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law.

9. BREACHES; REMEDIES

9.1 Events of Default by Either Party. It shall constitute an event of default (**"Event of Default"**) by either Party hereunder if:

(a) Representation or Warranty. Any breach of any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement occurs and, with respect to the period after the Effective Date, such breach would materially and adversely affect the ability of such Party to perform its obligations under this Agreement, where such breach is not fully cured and corrected within thirty (30) days after the Non-Defaulting Party has provided written notice to the Defaulting Party; or

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than:

(i) a failure to Deliver Scheduled Energy and RECs as specified in Section 9.2(h),

(ii) a Delivery Failure (the sole remedy for which shall be the payment of Cover Damages as set forth in Section 4.3 except to the extent such Failure constitutes an Event of Default pursuant to Section 9.2(h)),

(iii) failure of the Facility to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date,

(iv) a failure to maintain the RPS eligibility requirements as a result of a change in Law (the remedies for which are set forth in Section 4.7(b)),

(v) a Rejected Purchase (the sole remedy for which shall be the payment of Resale Damages as set forth in Section 4.4), or

(vi) an Event of Default described in Section 9.1(a), 9.1(b), 9.1(d), 9.1(e) or 9.2,

such Party fails to perform, observe or otherwise to comply with any obligation hereunder and such failure continues for more than thirty (30) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; provided, however, that such period shall be extended for an additional period of up to sixty (60) days if the Defaulting Party is unable to cure within the initial thirty (30) day period so long as corrective action has been taken by the Defaulting Party within such initial 30-day period and such cure is diligently pursued by the Defaulting Party until such Default had been corrected, but in any event shall be cured within ninety (90) days of the notice from the Non-Defaulting Party; or

(d) Bankruptcy. Such Party (i) is adjudged bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy or reorganization petition against such Party under any such law, or (without limiting the generality of the foregoing) files a petition to reorganize pursuant to 11 U.S.C. § 101 or any similar statute applicable to such Party, as now or hereinafter in effect, (ii) makes an assignment for the benefit of creditors, or admits in writing an inability to pay its debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of such Party, or (iii) is subject to an order of a court of competent jurisdiction appointing a receiver or liquidator or custodian or trustee of such Party or of a major part of such Party's property, which is not dismissed within sixty (60) days; or

(e) Permit Compliance. Such Party fails to obtain and maintain or cause to be obtained and maintained in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under this Agreement, and such failure is not cured within thirty (30) days after Seller has obtained actual knowledge of such failure. Upon Seller obtaining actual knowledge of such failure to obtain or maintain any Permit, Seller shall provide prompt written notice to Buyer regarding such failure and Seller's intent to cure.

9.2 Events of Default by Seller. In addition to the Events of Default described in Section 9.1, each of the following shall constitute an Event of Default by Seller hereunder if:

(a) Taking of Facility Assets. Any asset of Seller that is material to the construction, operation or maintenance of the Facility or the performance by Seller of its obligations hereunder is taken upon execution or by other process of law directed against Seller, other than by condemnation or eminent domain, or any such asset is taken upon or subject to any attachment by any creditor of or claimant against Seller and such attachment is not disposed of within sixty (60) days after such attachment is levied; or

(b) Failure to Maintain Credit Support. The failure of Seller to provide, maintain and/or replenish the Development Period Security or the Operating Period Security as required pursuant to Article 6 of this Agreement, and such failure continues for more than five (5) Business Days after Buyer has provided written notice thereof to Seller; or

(c) Energy Output. The failure of the Facility to produce Metered Output or to Deliver Scheduled Energy for twelve (12) consecutive months during the Services Term for any reason other than Force Majeure; or

(d) Failure to Satisfy ISO-NE or NYISO Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or the NYISO Rules applicable to the Facility, or any other material obligation with respect to ISO-NE or NYISO, after giving effect to any applicable cure period thereunder, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under this Agreement and such failure is not cured within the later of (i) five (5) days of the occurrence of such failure by Seller and (ii) the lapse of any applicable cure period under the ISO-NE Rules, ISO-NE Practices or NYISO Rules, as applicable; or

(e) Failure to Meet Critical Milestones. The failure of Seller to satisfy any Critical Milestone by the date set forth therefor in Section 3.1(a), as the same may be extended in accordance with Section 3.1(c) and/or Section 2.2(d), as applicable; or

(f) Abandonment. On or after the Commercial Operation Date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a transfer permitted under this Agreement; or

(g) Assignment. The assignment of this Agreement by Seller, or Seller's sale or transfer of its interest (or any part thereof) in the Facility, except as permitted in accordance with Article 14; or

(h) Recurring Failure to Deliver Energy and RECs. Seller has Delivered no Scheduled Energy or RECs for ten (10) or more consecutive days, except to the extent such failure is due solely to Force Majeure or the unavailability of the transmission interface between the ISO-NE and NYISO control areas, without regard to the cost Seller would incur to Deliver Scheduled Energy; or

(i) Failure to Provide Status Reports. A failure to provide timely, accurate and complete status reports in accordance with this Agreement, and such failure continues for more than thirty (30) days after notice thereof is given by the Buyer; or

(j) Failure to Maintain RPS Eligibility. A failure to maintain RPS eligibility requirements set forth in Section 4.7(b) for any reason other than a change in Law.

9.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under this Agreement, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in this Agreement including, without limitation, the termination right set forth in Section 9.3(b), and, to the extent not inconsistent with the terms of this Agreement, such remedies available at law and in equity. In addition to the foregoing, except for breaches for

which an express remedy or measure of damages is provided herein, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under this Agreement.

(b) Termination and Termination Payment. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate this Agreement at its sole discretion by providing written notice of such termination to the Defaulting Party. If the Non-Defaulting Party terminates this Agreement, it shall be entitled to calculate and receive as its sole remedy for such Event of Default a **"Termination Payment"** as follows:

(i) *Termination by Buyer Prior to Commercial Operation Date*. If Buyer terminates this Agreement because of an Event of Default by Seller occurring prior to the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the sum of (x) all Delay Damages due and owing by Seller through the date of such termination plus (y) the full amount of any Development Period Security provided to Buyer by Seller (including the amount of any Development Period Security required to be replenished hereunder).

(ii) *Termination by Seller Prior to Commercial Operation Date*. If Seller terminates this Agreement because of an Event of Default by Buyer prior to the Commercial Operation Date, Seller shall only receive a Termination Payment if the Commercial Operation Date either occurs on or before the Guaranteed Commercial Operation Date or would have occurred by such date but for the Event of Default by Buyer giving rise to the termination of this Agreement. In such case, (x) if Seller terminates this Agreement because of an Event of Default by Buyer prior to the Financial Closing Date, the Termination Payment due to Seller shall be equal to the lesser of: (i) Buyer's Percentage Entitlement of Seller's out-of-pocket expenses reasonably incurred in connection with the development and construction of the Facility prior to such termination and for which Seller has provided adequate documentation to enable Buyer to verify the expense claimed, or (ii) the Termination Payment due to Seller as calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller; and (y) if Seller terminates this Agreement because of an Event of Default by Buyer on or after the Financial Closing Date, the Termination Payment due to Seller shall be calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller. For purposes of this Section 9.3(b)(ii), Seller's "out-of-pocket" expenses shall include all payments reasonably and actually made by Seller as of the termination date, including any down payments made to any third party equipment provider or the Interconnecting Utility, as well as

all re-stocking fees, termination or cancellation payments, breakage costs or similar payments under any agreements between Seller and any third party.

(iii) *Termination by Buyer On or After Commercial Operation Date.* If Buyer terminates this Agreement because of an Event of Default by Seller occurring on or after the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the greater of: (i) the security provided in accordance with Article 6, or (ii) the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the forward market price of Energy and Renewable Energy Credits, as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Buyer, for Replacement Energy and Replacement RECs, exceeds the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, multiplied by (ii) Buyer's Percentage Entitlement of the projected Scheduled Energy as determined by a recognized third party expert selected by Buyer, using a probability of exceedance basis of 50% and assuming no more than the Minimum Required Deliveries are Delivered; plus, (y) any costs incurred by Buyer as a result of the Event of Default and termination of the Agreement. All such amounts shall be determined by Buyer in good faith and in a commercially reasonable manner, and Buyer shall provide Seller with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iii).

(iv) *Termination by Seller On or After Commercial Operation Date.* If Seller terminates this Agreement because of an Event of Default by Buyer occurring on or after the Commercial Operation Date, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, exceeds the forward market price of Energy and Renewable Energy Credits as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Seller, for Replacement Energy and Replacement RECs, multiplied by (ii)

Buyer's Percentage Entitlement of the projected Scheduled Energy as determined by a recognized third party expert selected by Seller using a probability of exceedance basis of fifty percent (50%) and assuming no more than the Minimum Required Deliveries are Delivered; plus, (y) any costs incurred by Seller as a result of the Event of Default and termination of the Agreement. All such amounts shall be determined by Seller in good faith and in a commercially reasonable manner, and Seller shall provide Buyer with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iv).

(v) *Acceptability of Liquidated Damages.* Each Party agrees and acknowledges that (i) the damages that the Parties would incur due to an Event of Default would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Payment as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

(vi) *Payment of Termination Payment.* The Defaulting Party shall make the Termination Payment within ten (10) Business Days after such notice is effective, regardless whether the Termination Payment calculation is disputed. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall within ten (10) Business Days of receipt of the calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. If the Parties are unable to resolve the dispute within thirty (30) days, Article 11 shall apply.

(c) Set-off. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to withhold and set off any amounts owed by the Non-Defaulting Party to the Defaulting Party against any payments and any other amounts owed by the Defaulting Party to the Non-Defaulting Party, including any Termination Payment payable as a result of any early termination of this Agreement.

(d) Notice to Lenders. Seller shall provide Buyer with a notice identifying a single Lender (if any) to whom default notices are to be issued. Buyer shall provide a copy of the notice of any default of Seller under this Article 9 to that Lender, and Buyer shall afford such Lender the same opportunities to cure Events of Default under this Agreement as are provided to Seller hereunder.

(e) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE

EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10. FORCE MAJEURE

10.1 Force Majeure.

(a) The term **"Force Majeure"** means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under this Agreement. Under no circumstances shall Force Majeure include (v) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or design, manufacturing or other flaws in the equipment comprising the Facility or flaws in the installation of that equipment, unless such curtailment is caused by an Act of God such as a flood, hurricane or tornado, or by sabotage, terrorism or war, (w) any occurrence or event that solely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in this Agreement, or (z) Buyer's ability to procure the Products at a price lower than that set out in this Agreement. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval until final and non-appealable) or qualifications, any delay or failure in satisfying the Critical Milestone obligations specified in Section 3.1(a)(i) (Site Control), Section 3.1(a)(ii) (Permits) or Section 3.1(a)(iv) (Financing), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure or be the basis for a claim of Force Majeure. Neither Party may raise a claim of Force Majeure due to the failure of a third party to perform its obligations unless such failure itself would constitute Force Majeure under

this Agreement. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider or another failure or inability to obtain transmission service unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Metered Output to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined herein has occurred.

(b) Subject to Section 3.1(d), if either Party is unable, wholly or in part, by Force Majeure to perform obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing if, after the Commercial Operation Date, any Force Majeure prevents full or partial performance under this Agreement for a period of twelve (12) months or more, the Party whose performance is not prevented by Force Majeure shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse. If any Force Majeure prevents full or partial performance under this Agreement before the Commercial Operation Date, Section 3.1(d) will apply to such Force Majeure. In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this Agreement beyond its stated Term.

11. DISPUTE RESOLUTION

11.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a **"Dispute"**), in addition to any other remedies provided hereunder, the Parties shall attempt to resolve such Dispute through consultations between the Parties. If the Dispute has not been resolved within fifteen (15) Business Days after such consultations between the Parties, then either Party may seek to resolve such Dispute in the courts of Rhode Island in accordance with Section 11.3; provided, however, if the Dispute is subject to FERC's jurisdiction over wholesale power contracts, then either Party may elect to proceed with the mediation through FERC's Dispute Resolution Service; provided, however, that if one Party fails to participate in the negotiations as provided in this Section 11.1, the other Party can initiate mediation prior to the expiration of the thirty (30) Business Days. Unless otherwise agreed, the Parties will select a mediator from the FERC panel. The procedure specified herein shall be the sole and exclusive procedure for the resolution of Disputes. To the

fullest extent permitted by law, any mediation proceeding and any settlement shall be maintained in confidence by the Parties.

11.2 Allocation of Dispute Costs. The fees and expenses associated with mediation shall be divided equally between the Parties, and each Party shall be responsible for its own legal fees, including but not limited to attorney fees, associated with any Dispute. The Parties may, by written agreement signed by both Parties, alter any time deadline, location(s) for meeting(s), or procedure outlined herein or in FERC's rules for mediation.

11.3 Consent to Jurisdiction. Subject to Section 11.1, the Parties agree to the exclusive jurisdiction of the state and federal courts located in Rhode Island for any legal proceedings that may be brought by a Party arising out of or in connection with any Dispute.

11.4 Waiver of Jury Trial and Inconvenient Forum Claim. EACH PARTY HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT. BOTH PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE AS SET FORTH IN THIS ARTICLE 11 AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN ANY INCONVENIENT FORUM.

12. CONFIDENTIALITY

12.1 Nondisclosure. Buyer and Seller each agrees not to disclose to any Person and to keep confidential, and to cause and instruct its Affiliates, officers, directors, employees, partners and representatives not to disclose to any Person and to keep confidential, any non-public information relating to the terms and provisions of this Agreement, any financial statements delivered pursuant to Section 16.2, any information relating to the Products to be supplied by Seller hereunder, and such other non-public information that is designated as "Confidential." Notwithstanding the foregoing, any such information may be disclosed:

(a) to the extent Buyer determines it is appropriate in connection with efforts to obtain or maintain the Regulatory Approval or to seek rate recovery for amounts expended by Buyer under this Agreement;

(b) as required by applicable laws, regulations, filing requirements, rules or orders or by any subpoena or similar legal process of any Governmental Entity so long as the disclosing Party gives the non-disclosing Party written notice at least three (3) Business Days prior to such disclosure, if practicable;

(c) to the Affiliates of either Party and to the consultants, attorneys, auditors, financial advisors, lenders or potential lenders, investors or potential investors and their respective advisors of either Party or their Affiliates, but solely to the extent they have a need to know that information;

(d) in order to comply with any rule or regulation of any Transmission Provider stock exchange or similar Person or for financial disclosure purposes;

(e) to the extent the non-disclosing Party shall have consented in writing prior to any such disclosure;

(f) to the extent that the information was previously made publicly available other than as a result of a breach of this Section 12.1;

(g) by Seller to NYDPS in connection with obtaining the Article 10 Permit, including, without limitation, the terms and conditions of this Agreement;

provided, however, in each case, that the Party seeking such disclosure shall, to the extent practicable, use commercially reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this Section 12.1.

12.2 Public Statements. No public statement, press release or other voluntary publication regarding this Agreement or the transactions to be made hereunder shall be made or issued without the prior consent of the other Party.

13. INDEMNIFICATION

13.1 Indemnification Obligations. Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever in connection with or arising from Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to perform or satisfy any obligation or liability under this Agreement.

13.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of Seller contest, settle or pay such claim.

14. ASSIGNMENT AND CHANGE OF CONTROL

14.1 Prohibition on Assignments. Except as permitted under this Article 14, neither this Agreement, nor any portion hereof, may be assigned by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. The Party requesting the other Party's consent to an assignment of this Agreement will reimburse such other Party for all out-of-pocket costs and expenses such other Party incurs in connection with that consent, without regard to whether such consent is provided. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement (and shall not impair any Credit Support given by Seller hereunder) unless the other Party (or its successors or assigns) consents

in writing to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations thereunder.

14.2 Permitted Assignment by Seller. Seller may, without Buyer's prior written consent, pledge, encumber or assign the Facility, this Agreement or the accounts, revenues or proceeds under this Agreement to any Lender as security for financing in respect of the Facility. Notwithstanding the foregoing, in connection with any such a pledge, encumbrance or assignment, Buyer shall execute consents to assignment and estoppels that are in form and substance reasonably satisfactory to Buyer and such Lender that incorporates terms and conditions customary for a transaction of this type; provided, however, that Buyer shall not be obligated to enter into any consent which modifies the terms and conditions of this Agreement. Buyer shall not unreasonably withhold, condition or delay providing its consent to an assignment to a Lender. Seller may assign this Agreement to any Affiliate of Seller, upon Buyer's consent, which shall not be unreasonably withheld, conditioned or delayed. Seller will reimburse Buyer for all out-of-pocket costs and expenses incurred by Buyer in connection with such consent, without regard to whether such consent is provided.

14.3 Change in Control over Seller. Buyer's consent shall be required for any direct change in Control of Seller, which consent shall not be unreasonably withheld, conditioned or delayed and shall be provided if Buyer reasonably determines that such change in Control does not have a material adverse effect on Seller's creditworthiness or Seller's ability to perform its obligations under this Agreement. A change in Control in EverPower Wind Holdings, Inc. shall not require the consent of Buyer; provided that Seller provides written notice of such change to Buyer within thirty (30) days after such change.

14.4 Permitted Assignment by Buyer. Buyer shall have the right to assign this Agreement without consent of Seller (a) in connection with any merger or consolidation of the Buyer with or into another Person or any exchange of all of the common stock or other equity interests of Buyer or Buyer's parent for cash, securities or other property or any acquisition, reorganization, or other similar corporate transaction involving all or substantially all of the common stock or other equity interests in, or assets of, Buyer, or (b) to any substitute purchaser of the Products, so long as in the case of either clause (a) or clause (b) of this Section 14.4, either (1) the proposed assignee's credit rating is at least either BBB- from S&P or Baa3 from Moody's or (2) the proposed assignee's credit rating at the time of the proposed assignment is equal to or better than that of Buyer on the Effective Date, or (3) (i) such assignment, or in the case of clause (a) above the transaction associated with such assignment, has been required by legislative action or has been approved by the PUC and any other appropriate Government Entity, as applicable, as part of a larger transaction of Buyer, and (ii) if such assignment is not to an Affiliate of Buyer, or in the case of clause (a) above the counterparty to the transaction is not an Affiliate of Buyer, such assignee or counterparty shall have provided Seller with Credit Support in the amount of $378,000.

14.5 Prohibited Assignments. Any purported assignment of this Agreement not in compliance with the provisions of this Article 14 shall be null and void.

15. TITLE; RISK OF LOSS

Title to and risk of loss related to Buyer's Percentage Entitlement of the Energy shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Buyer's Percentage Entitlement of the RECs shall transfer to Buyer when the same are credited to Buyer's GIS account(s) or the GIS account(s) designated by Buyer to Seller in writing. Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

16. AUDIT

16.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under this Agreement, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement (including the determination of any Cover Damages or Resale Damages). If requested, a Party shall provide to the other Party additional information documenting the quantities of Products delivered or provided hereunder. If any such examination reveals any overcharge, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall include interest at the Late Payment Rate from the date the overpayment was made until credited or paid.

16.2 Access to Financial Information. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's written request financial information and statements applicable to Seller as well as access to financial personnel, so that Buyer may address any inquiries relating to Seller's financial resources.

17. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); or (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) delivered by fax or electronic mail (notices sent by fax or electronic mail shall be deemed given upon confirmation of delivery); or (4) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing:

If to Buyer: Attn: Renewable Contract Manager, Environmental Transactions
National Grid
100 East Old Country Road, Second Floor
Hicksville, NY 11801-4218
Email: RenewableContracts@nationalgrid.com
With a copy to: ElectricSupply@nationalgrid.com

With a copy to: Legal Department
Attn: Jennifer Brooks Hutchinson, Esq.
Senior Counsel
National Grid
280 Melrose Street
Providence, RI 02907
Email: Jennifer.Hutchinson@nationalgrid.com

If to Seller: Chief Commercial Officer
EverPower Wind Holdings, Inc.
1251 Waterfront Place, 3rd Floor
Pittsburgh, PA 15222
(412) 253-9400
(412) 578-9757 (fax)
E-mail: all-commercial@everpower.com

18. WAIVER AND MODIFICATION

This Agreement may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine in its sole discretion whether any amendment or waiver of the provisions of this Agreement shall require Regulatory Approval or PUC filing and/or approval. If Buyer determines that any such approval or filing is required, then such amendment or waiver shall not become effective unless and until Regulatory Approval or such other approval is received, or such PUC filing is made and any requested PUC approval is received.

19. INTERPRETATION

19.1 Choice of Law. Interpretation and performance of this Agreement shall be in accordance with, and shall be controlled by, the laws of the State of Rhode Island (without regard to its principles of conflicts of law).

19.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of this Agreement. The words “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

19.3 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a “forward contract” within the meaning of the United States Bankruptcy Code.

19.4 Standard of Review. The Parties acknowledge and agree that the standard of review for any avoidance, breach, rejection, termination or other cessation of performance of or changes to any portion of this integrated, non-severable Agreement (as described in Section 22) over which FERC has jurisdiction, whether proposed by Seller, by Buyer, by a non-party of, by FERC acting *sua sponte* shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Serv. Co., 350 U.S. 332 (1956) and Federal Power Comm'n v. Sierra Pac. Power Co., 350 U.S. 348 (1956), and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Public Utility Commission, 558 U.S. 527 (2010). The Parties, for themselves and their successors and assigns, expressly and irrevocably waive any rights they can or may have to the application of any other standard of review. Each Party agrees that if it seeks to amend any applicable power sales tariff during the Term, such amendment shall not in any way materially and adversely affect this Agreement without the prior written consent of the other Party. Each Party further agrees that it shall not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

19.5 Change in ISO-NE Rules and Practices. This Agreement is subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of this Agreement, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend or clarify this Agreement to embody the Parties' original intent regarding their respective rights and obligations under this Agreement, provided that neither Party shall have any obligation to agree to any particular amendment or clarification of this Agreement. The intent of the Parties is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the amount of any net payment to be made hereunder, including Seller's indemnification obligations or either Party's obligations to pay any costs or expenses of the other Party.

19.6 Dodd Frank Act Representations. The Parties agree that this Agreement (including all transactions reflected herein) is not a "swap" within the meaning of the Commodity Exchange Act ("CEA") and the rules, interpretations and other guidance of the Commodity Futures Trading Commission ("CFTC rules"), and that the primary intent of this Agreement is physical settlement (i.e., actual transfer of ownership) of the nonfinancial commodity and not solely to transfer price risk. In reliance upon such agreement, each Party represents to the other that:

(a) With respect to the commodity to be purchased and sold hereunder, it is a commercial market participant, a commercial entity and a commercial party, as such terms are used in the CFTC rules, and it is a producer, processor, or commercial user of, or a merchant handling, the commodity and it is entering into this Agreement for purposes related to its business as such;

(b) It is not registered or required to be registered under the CFTC rules as a swap dealer or a major swap participant;

(c) It has entered into this Agreement in connection with the conduct of its regular business and it has the capacity or ability to regularly make or take delivery of the commodity to be purchased and sold hereunder;

(d) With respect to the commodity to be purchased and sold hereunder, it intends to make or take physical delivery of the commodity;

(e) At the time that the Parties enter into this Agreement, any embedded volumetric optionality in this Agreement is primarily intended by the holder of such option or optionality to address physical factors or regulatory requirements that reasonably influence demand for, or supply of, the commodity to be purchased and sold hereunder;

(f) With respect to any embedded commodity option in this Agreement, such option is intended to be physically settled so that, if exercised, the option would result in the sale of the commodity to be purchased or sold hereunder for immediate or deferred shipment or delivery;

(g) The commodity to be purchased and sold hereunder is a nonfinancial commodity, and is also an exempt commodity or an agricultural commodity, as such terms are defined and interpreted in the CFTC rules. To the extent that reporting of any transactions related to this Agreement is required by the CFTC rules, the Parties agree that Seller shall be responsible for such reporting (the "Reporting Party"). The Reporting Party's reporting obligations shall continue until the reporting obligation has expired or has been terminated in accordance with CFTC rules. The Buyer, as the Party that is not undertaking the reporting obligations shall timely provide the Reporting Party all necessary information requested by the Reporting Party for it to comply with CFTC rules.

19.7 Change in Law or Buyer's Accounting Treatment, Subsequent Judicial or Regulatory Action.

(a) If, during the Term of this Agreement, there is a change in Law or accounting standards or rules or a change in the interpretation or applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with this Agreement or the amounts paid for Products purchased hereunder, the Buyer shall prepare an amendment to this Agreement to avoid or mitigate such impacts. Buyer shall prepare such amendment in a manner that is designed to be limited to changes required to avoid or mitigate the adverse balance sheet or creditworthiness impact. Buyer shall use commercially reasonable efforts to prepare such amendment in a manner that mitigates any material adverse effect(s) on Seller (as identified by Seller, acting reasonably) that could reasonably be expected to result from such amendment, but only to the extent that such mitigation can be accomplished in a manner that is consistent with the purpose of such amendment. Seller agrees to execute such amendment provided that such amendment does not (unless the Seller otherwise agrees) alter: (i) alter the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the

amount of any net payment to be made hereunder, including Seller's indemnification obligations or either Party's obligations to pay any costs or expenses of the other Party.

(b) Upon a determination by a court or regulatory body having jurisdiction (i) over this Agreement or any of the Parties hereto, or (ii) over the establishment and enforcement of any of the statutes or regulations or orders or actions of regulatory agencies (including the PUC) supporting this Agreement or the rights or (iii) over the rights or obligations of the Parties hereunder that any of the statutes or regulations supporting this Agreement or the rights or obligations of the Parties hereunder, or orders of or actions of regulatory agencies (including the PUC) implementing such statutes or regulations, or this Agreement on its face or as applied, in the reasonable determination by a Party, violates any Law (including the State or Federal Constitution) (an "**Adverse Determination**"), each Party shall have the right to suspend performance under this Agreement without liability. Seller may deliver and sell Products to a third party during any period of time for which Buyer suspends payments or purchases under this Section. Upon an Adverse Determination becoming final and non-appealable, Buyer shall make a good faith determination regarding whether the Adverse Determination does or may adversely affect the enforceability of any provision of this Agreement and/or Buyer's continued ability to recover its costs incurred under this Agreement and remuneration equal to two and three quarters percent (2.75%) and whether such adverse effect(s) of the Adverse Determination can reasonably be mitigated by amending the Agreement in a manner that allows the Agreement to continue with modification. If, in Buyer's sole reasonable judgment, such adverse effect(s) of the Adverse Determination cannot be reasonably mitigated by amending the Agreement, Buyer shall have the right to terminate the Agreement. If Buyer determines that such effect(s) can be so mitigated, it shall promptly prepare an amendment to this Agreement designed to be limited to changes required to avoid or mitigate such effect(s). Thereafter, Buyer and Seller shall negotiate the terms of such amendment in good faith; provided, however, that neither Buyer nor Seller will be required to agree to any particular amendment. If Seller and Buyer cannot reach agreement on such amendment within sixty (60) days after Buyer delivers to Seller the first draft thereof, then either Party may terminate this Agreement by written notice to the other Party delivered within thirty (30) days after such sixty (60) day period. Upon a termination pursuant to this section, Seller shall: (a) prepare a final invoice to Buyer for Products delivered to Buyer, which Buyer shall pay in the normal course pursuant to Section 5.2(b); and (b) have no further obligations or liabilities to Buyer and Seller shall have the right to sell Energy, RECs and capacity to third parties and Seller and Buyer shall have no further obligations or liabilities to the other Party under this Agreement.

19.8 Joint Preparation. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

20. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of this Agreement may be executed, and each shall have the same force and effect as an original. Facsimile signatures hereon or on any notice or other instrument delivered under this Agreement shall have the same force and effect as original signatures.

21. NO DUTY TO THIRD PARTIES

Except as provided in any consent to assignment of this Agreement, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement.

22. SEVERABILITY

If any term or provision of this Agreement or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of this Agreement and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law so long as all essential terms and conditions of this Agreement for both Parties remain valid, binding and enforceable and have not been declared to be unenforceable, illegal or invalid by a Governmental Entity of competent jurisdiction. The Parties acknowledge and agree that essential terms and conditions of this Agreement for each Party include, without limitation, all pricing and payment terms and conditions of this Agreement, and that the essential terms and conditions of this Agreement for Buyer also include, without limitation, the terms and conditions of Section 19.7 of this Agreement.

23. INDEPENDENT CONTRACTOR

Nothing in this Agreement shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of this Agreement, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby. Nothing in this Agreement shall be construed as creating any relationship between Buyer and the Interconnecting Utility.

24. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement and understanding between the Parties hereto and shall supersede all prior agreements and communications.

[Signature page follows]

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID

By: _____

Name: John V. Vaughn
Title: Authorized Signatory

CASSADAGA WIND LLC

By: _____

Name:
Title:

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID

By: _____
Name: John V. Vaughn
Title: Authorized Signatory

CASSADAGA WIND LLC

By: _____
Name:
Title:

James Spencer
President & CEO

REDACTED

EXHIBIT A

DESCRIPTION OF FACILITY

Facility: Cassadaga Wind Project

Technology: Wind

Site Location: Chautauqua County, New York (Latitude 42.284°, Longitude -79.301°)

Nameplate Capacity: 126 MW

Expected Maximum Output: 126 MW per hour

Interconnection Point: National Grid / Niagara Mohawk Moon Road 115 kV switching station

Delivery Point: NY Import-Roseton 345 kV (ISO-NE 4011)

Minimum/Maximum Operating Criteria: Turbine cut-in minimum wind speed and turbine cut-out maximum wind speed to be designated by Seller

Subject to all other provisions of this Agreement, Seller may modify the site layout of, the model of Wind Turbines and any other equipment used in, and any other characteristics of, the Facility from time to time prior to the Commercial Operation Date; provided that such modifications do not result in a change to the Interconnection Point or Delivery Point.

EXHIBIT B

PART 1: PERMITS REQUIRED FOR FACILITY CONSTRUCTION

Agency	Description of Permit/Approval
Federal	
Federal Aviation Administration	Determination of potential hazards to air navigation
U.S. Army Corps of Engineers	Section 404 or Nationwide permit for placement of fill in Federal jurisdictional waters/wetlands of the U.S.
United States Fish and Wildlife Service	Informal consultation pursuant to Section 7 of the Endangered Species Act associated with the U.S. Army Corps of Engineers permit issuance
State	
New York State Board on Electric Generation Siting and the Environment	Certificate of Environmental Compatibility and Public Need pursuant to Article 10
New York State Department of Environmental Conservation	Water Quality Certification, Section 401 of the Clean Water Act; SPDES General Permit for Construction Activity; Article 24 permit for impacts to freshwater wetlands; Article 15 permit for impacts to protected streams
Local	
Town of Arkwright	Host Community Agreement containing provisions for road use and approval of building plans
Town of Charlotte	Host Community Agreement containing provisions for road use and approval of building plans
Town of Cherry Creek	Host Community Agreement containing provisions for road use and approval of building plans
Chautauqua County	Use of County Highway Right-of-Way

PART 2: REAL ESTATE RIGHTS

Owner	Agreement Type	Land Use	Acreage
Allenbrand, Anthony	Wind Energy Lease	Turbine, Transmission	97.6
Bauer Family Limited	Wind Energy Lease	Turbine, Transmission	364.6
Blakely, Pamela	Easement	Transmission	15.6
Boutwell Hill State Forest	Easement	Transmission	2,950.0
Burkholder, John	Wind Energy Lease	Turbine, Transmission	159.9
Carlstrom, Darren	Wind Energy Lease	Turbine, Transmission	203.9
Carlstrom, Heather	Wind Energy Lease	Turbine, Transmission	140.2
Case, James	Wind Energy Lease	Turbine, Transmission	67.5
Charrington Creek Inc	Wind Energy Lease	Turbine, Transmission	363.2
Deering, Kevin	Wind Energy Lease	Turbine, Transmission	28.7
Egleston, Marc	Easement	Transmission	4.0
Emke, Dennis	Wind Energy Lease	Turbine, Transmission	449.1
Frost, Robert & Wendy	Easement	Transmission	5.2
Frost, Wendy	Easement	Transmission	31.7
Gassman, Jennifer	Easement	Transmission	14.6
Genovese, Jason	Easement	Transmission	97.4
Gierlinger, Frank	Wind Energy Lease	Turbine, Transmission	119.3
Graber, Thomas	Wind Energy Lease	Turbine, Transmission	100.5
Hall, Grant	Easement	Transmission	117.0
Hamrick, Cynthia	Easement	Transmission	16.3
Herb, Donald	Wind Energy Lease	Turbine, Transmission	109.6
Higgs, Gary	Wind Energy Lease	Turbine, Transmission	130.6
Hoelzle, Timothy	Wind Energy Lease	Turbine, Transmission	92.0
Isula, Michael	Easement	Transmission	71.4
Johnson, Deborah	Easement	Transmission	17.7
Johnson, Jason	Easement	Transmission	158.7
Johnson, Robert	Easement	Transmission	126.4
Kelly, Patrick	Easement	Transmission	33.2
Mark R. Mansfield, LLC	Easement	Transmission	107.7
McMillan, Allan	Easement	Transmission	27.2
Milliman, Lee	Wind Energy Lease	Turbine, Transmission	139.8
Morley, Donald	Easement	Transmission	45.2
Perez, Paula	Easement	Transmission	14.3
Rettig, Robert	Wind Energy Lease	Turbine, Transmission	233.5
Reynolds, Thomas	Wind Energy Lease	Turbine, Transmission	552.8
Rice-Altemus, Lisa	Easement	Transmission	8.7
Rodgers, Clyde	Wind Energy Lease	Turbine, Transmission	209.8
Rodgers, Robert	Easement	Transmission	3.9

Rowan Trust, Nicholas	Easement	Transmission	83.5
Stec, Charles	Easement	Transmission	23.4
Torgalski, Darryl	Easement	Transmission	48.6
Vanrensselaer, Robert	Easement	Transmission	41.9
Weber, Karl	Wind Energy Lease	Turbine, Transmission	243.9
Williams, Scott	Easement	Transmission	38.3
Yusczyk, John	Easement	Transmission	117.4

Seller shall have the right to obtain additional real property rights to further optimize the site layout of the Facility and to modify the Facility in accordance with the terms of this Agreement.

REDACTED

EXHIBIT C

FORM OF PROGRESS REPORT

For the Quarter Ending:_____

Milestones Achieved:

Milestones Pending:

Status of Progress toward achievement of Milestones during the quarter:

Status of permitting and Permits obtained during the quarter:

Status of Financing for Facility:

Current projection for Financial Closing Date:

Events expected to result in delays in achievement of any Milestones:

Critical Milestones not yet achieved and projected date for achievement:

Current projection for Commercial Operation Date:

REDACTED

EXHIBIT D

PRODUCTS AND PRICING

Price for Buyer's Percentage Entitlement of Products up to the Contract Maximum Amount. The Price for the Buyer's Percentage Entitlement of Delivered Products up to the Contract Maximum Amount in nominal dollars shall be as follow:

(a) Commencing on the Commercial Operation Date, the Price per MWh for the Products shall be equal to Price set forth below.

Year	Price (Peak Hours) ($/MWh)	Price (non-Peak Hours) ($/MWh)
1	[redacted]	[redacted]
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

The Price per MWh for each billing period shall be allocated between Scheduled Energy and RECs as follows:

(i) Scheduled Energy = The $/MWh price of Scheduled Energy for the applicable month shall be equal to the weighted average of the **Real-Time or Day Ahead** Locational Marginal Price (as applicable consistent with Section 4.2(a))in that month (also on a $/MWh basis) for the Delivery Point.

(ii) RECs = The Price less the Scheduled Energy allocation determined above for the applicable billing period, expressed in $/MWh.

(b) The Adjusted Price for Scheduled Energy shall be equal to the Adjusted Price set forth below.

Year	Adjusted Price (Peak Hours) ($/MWh)	Adjusted Price (non-Peak Hours) ($/MWh)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

If the market price at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable pursuant to Section 4.2(a), for Scheduled Energy Delivered by Seller is negative in any hour, the payment to Seller for deliveries of Scheduled Energy shall be reduced by the difference

between the absolute value of the hourly LMP at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable, and $0.00 per MWh for that Scheduled Energy for each such hour. Each monthly invoice shall reflect a reduction for all hours in the applicable month in which the LMP for the Scheduled Energy at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable, is less than $0.00 per MWh.

Examples. If delivered Scheduled Energy equals 1 MWh and Price equals $50.00/MWh:

LMP at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable, equals (or is greater than) $0.00/MWh

Buyer payment of Price to Seller $50.00

Seller credit/reimbursement for negative LMP to Buyer $0.00

Net Result: Buyer pays Seller $50 for that hour

LMP at the Delivery Point in the Day Ahead Energy Market and/or the Real Time Energy Market, as applicable, equals -$150.00/MWh

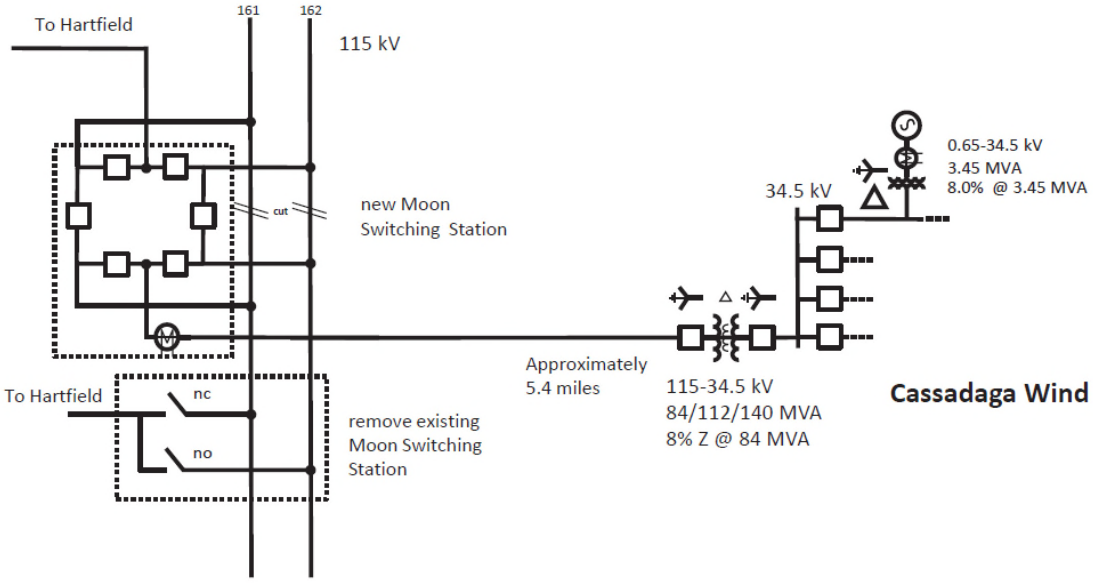
Buyer payment of Price to Seller $50.00

Seller credit/reimbursement for negative LMP to Buyer $150.00

Net Result: Seller credits or reimburses Buyer $100 for that hour

EXHIBIT E

RELATED TRANSMISSION FACILITIES



REDACTED

Exhibit F

EXAMPLE CALCULATIONS

Cover Damages Calculation

Hour	Net Metered Output (MWh)	Delivered Energy (MWh)	Shortfall (MWh)	Shortfall Weighting	Real-Time LMP	LMP Weight
1	77	77			$ 72.00	$
2	64	64			$ 55.00	$
3	51	40			$ 62.00	$
4*	57	33			$ (10.00)	$
5	70	45			$ 66.00	$
6	61	61			$ 110.00	$
7	52	52			$ 85.00	$
8	83	75			$ 91.00	$
9	89	60			$ 55.00	$
10	65	45			$ 60.00	$
	(Total Output MWh)	**(Total Delivered Energy MWh)**	**(Total Shortfall MWh)**			
	669	**552**				

*no shortfall MWhs or delivery failure if Delivery Point LMP is negative

Shortfall Weighting = Shortfall MWh in Hour / Total Shortfall MWh
LMP Weight = Shortfall Weighting * Real-Time LMP

Tolerance %		<-- 100% less Minimum Delivery requirement
Tolerance MWh		
Shortfall (MWh)		
Delivery Failure (MWh)		<-- Delivery failure applies to MWh shortfall in excess of the tolerance
Energy Replacement Price		<--Sum of LMP weightings
REC Replacement Price		
Total Replacement Price		← Sum of Energy Replacement Price + REC Replacement Price
Contract Price		<-- Contract Price
Difference, if positive		
Cover Damages		

Delay Damages Calculation

Guaranteed COD	12/31/2020	
Actual COD	01/10/2021	
# of Days Delayed	10 Days	
Contract Maximum Amount	126 MW	
Damage Rate (Per MWh/hour)	$100	
Total Payment	$126,000	(=10 Days * 126 MW * $100)

Schedule CMD-2

Redacted

REDACTED

RPS CLASS I RENEWABLE GENERATION UNIT

POWER PURCHASE AGREEMENT

BETWEEN

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

AND

SCITUATE RI SOLAR, LLC

As of May 25, 2017

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Exhibits

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (as amended from time to time in accordance with the terms hereof, this **"Agreement"**) is entered into as of May 25, 2017 (the **"Effective Date"**), by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation (**"Buyer"**), and Scituate RI Solar, LLC, a Delaware limited liability company (**"Seller"**). Buyer and Seller are individually referred to herein as a **"Party"** and are collectively referred to herein as the **"Parties"**.

WHEREAS, Seller is developing the solar electric generation facility to be located in Scituate, RI, which is more fully described in Exhibit A hereto (the **"Facility"**), from which the Buyer's Percentage Entitlement of the Products (as defined below) is to be delivered to Buyer pursuant to the terms of this Agreement; and

WHEREAS, the Facility is, and shall qualify as a RPS Class I Renewable Generation Unit in the state of Rhode Island and which is expected to be in commercial operation by November 1, 2019; and

WHEREAS, pursuant to R.I.G.L. § 39-26.1, Buyer is authorized to enter into certain long-term contracts for the purchase of energy or energy and renewable energy certificates from renewable generators meeting the requirements of R.I.G.L. § 39-26.-5; and

WHEREAS, Buyer and Seller desire to enter into this Agreement whereby Buyer shall purchase from Seller certain Energy and RECs (each as defined herein) generated by or associated with the Facility;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in this Agreement and not defined herein shall have the same meaning as ascribed to such terms under the ISO-NE Practices and ISO-NE Rules.

"Actual Facility Size" shall mean the actual nameplate capacity of the Facility, as built, and as certified by an Independent Engineer, as provided in Section 3.4(b)(xiii).

"Adjusted Price" shall mean the purchase price(s) for Energy referenced in Section 5.1 if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b) hereof.

"Adverse Determination" shall have the meaning set forth in Section 19.7.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"Agreement" shall have the meaning set forth in the first paragraph of this Agreement.

"Alternative Compliance Payment Rate" means the rate per MWh paid by electricity suppliers under applicable Law for failure to supply RECs in accordance with the RPS.

"Business Day" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"Buyer's Percentage Entitlement" shall mean Buyer's rights to 50% of the Products. Buyer's Percentage Entitlement may be adjusted in accordance with Section 3.3(c).

"Buyer's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Capacity Deficiency" means, at the Commercial Operation Date, the amount (expressed in MW), if any, by which the Actual Facility Size is less than the proposed nameplate capacity of the Facility as set forth in Exhibit A.

"Cash" shall mean U.S. dollars held by or on behalf of a Party as Posted Collateral hereunder.

"Certificate" shall mean an electronic certificate created pursuant to the GIS Operating Rules or any successor thereto to represent certain Environmental Attributes of each MWh of Energy generated within the ISO-NE control area and the generation attributes of certain Energy imported into the ISO-NE control area.

"Collateral Account" shall have the meaning specified in Section 6.5(a)(iii)(B) hereof.

"Collateral Interest Rate" shall mean the rate published in *The Wall Street Journal* as the "Prime Rate" from time to time (or, if more than one such rate is published, the arithmetic mean of such rates), or, if such rate is no longer published, a successor rate agreed to by Buyer and Seller, in each case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties.

"Collateral Requirement" shall mean at any time the amount of Development Period Security or Operating Period Security required under this Agreement at such time.

"Commercial Operation Date" shall mean the date on which the conditions set forth in Section 3.4(b) have been satisfied, as set out in a written notice from Seller to Buyer.

"Contract Maximum Amount" shall mean 5 MW_{AC} and a corresponding portion of all other Products, as may be adjusted in accordance with Section 3.3(b).

"Contract Year" shall mean the twelve (12) consecutive calendar months starting on the first day of the calendar month following the Commercial Operation Date and each subsequent twelve (12) consecutive calendar month period; provided that the first Contract Year shall include the days in the prior month in which the Commercial Operation Date occurred.

"Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Cover Damages" shall mean, with respect to any Delivery Failure, an amount equal to (a) the positive net amount, if, any, by which the Replacement Price exceeds the applicable Price that would have been paid for the Products pursuant to Section 5.1 hereof, multiplied by the quantity of that Delivery Failure, plus (b) any applicable penalties and other costs assessed by ISO-NE against Buyer as a result of Seller's failure to deliver such Products in accordance with the terms of this Agreement, to the extent not already accounted for in the calculation of the Replacement Price. Buyer shall provide a statement for the applicable period explaining in reasonable detail the calculation of any Cover Damages.

"Credit Support" shall have the meaning specified in Section 6.2(d) hereof.

"Credit Support Delivery Amount" shall have the meaning specified in Section 6.3 hereof.

"Credit Support Return Amount" shall have the meaning specified in Section 6.4 hereof.

"Critical Milestones" shall have the meaning set forth in Section 3.1 hereof.

"Custodian" shall have the meaning specified in Section 6.5(a)(i) hereof.

"Day Ahead Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Default" shall mean any event or condition which, with the giving of notice or passage of time or both, could become an Event of Default.

"Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has occurred.

"Delay Damages" shall mean the damages assessed pursuant to Section 3.2(a) hereof.

"Deliver" or **"Delivery"** shall mean with respect to (i) Energy, to supply Energy at the Delivery Point in accordance with the terms of this Agreement and the ISO-NE Rules, and (ii) RECs, to supply RECs in accordance with Section 4.7(e).

"Delivery Failure" shall have the meaning set forth in Section 4.3 hereof.

"Delivery Point" shall mean the specific location where Seller shall Deliver its Energy to Buyer, as set forth in Exhibit A hereto.

"Development Period Security" shall have the meaning set forth in Section 6.2(a) hereof.

"Dispute" shall have the meaning set forth in Section 11.1 hereof.

"Disputing Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Eastern Prevailing Time" shall mean either Eastern Standard Time or Eastern Daylight Savings Time, as in effect from time to time.

"Effective Date" shall have the meaning set forth in the first paragraph hereof.

"Eligible Renewable Energy Resource" means resources as defined in R.I.G.L. § 39-26-5.

"Energy" shall mean electric "energy," as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time, less such Facility's station service use, generator lead losses and transformer losses, which quantity for purposes of this Agreement will never be less than zero.

"Environmental Attributes" shall mean any and all generation attributes under the RPS laws and regulations of the State of Rhode Island, and under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, to Buyer's Percentage Entitlement to the favorable generation or environmental attributes of the Facility or the Products produced by the Facility, up to and including the Contract Maximum Amount, during the Services Term including Buyer's Percentage Entitlement to: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility's generation using renewable technology or displacement of fossil-fuel derived or other conventional energy generation; (b) any Certificates issued pursuant to the GIS in connection with Energy generated by the Facility; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy by the Facility; provided, however, that Environmental Attributes shall not include: (i) any production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Facility; or (iii) any state, federal or private grants, financing, guarantees or other credit support relating to the construction or ownership, operation or maintenance of the Facility or the output thereof.

"Event of Default" shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

"EWG" shall mean an exempt wholesale generator under 15 U.S.C. § 79z-5a, as amended from time to time.

"Facility" shall have the meaning set forth in the Recitals.

"Federal Funds Rate" shall mean the annualized interest rate for the applicable month as set forth in the statistical release designated as H.15, or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" shall mean the United States Federal Energy Regulatory Commission, and shall include its successors.

"Financial Closing Date" shall mean the date of the closing of the initial agreements for any Financing of the Facility and of an initial disbursement of funds under such agreements.

"Financing" shall mean indebtedness, whether secured or unsecured, loans, guarantees, notes, convertible debt, bond issuances adequate for the construction of the Facility

"Force Majeure" shall have the meaning set forth in Section 10.1(a) hereof.

"Generation Unit" shall mean a facility that converts a fuel or an energy resource into electrical energy.

"GIS" shall mean the NEPOOL Generation Information System or any successor thereto, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity generated or consumed within New England.

"GIS Operating Rules" are the NEPOOL Generation Information System Operating Rules effective as of the Effective Date, as amended, superseded, or restated from time to time.

"Good Utility Practice" shall mean compliance with all applicable laws, codes, rules and regulations, all ISO-NE Rules and ISO-NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric industry in New England 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 is made, could have been expected to accomplish the desired result 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 is intended to include acceptable practices, methods and acts generally accepted in the electric industry in New England.

"Governmental Entity" shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

"Guaranteed Commercial Operation Date" shall have the meaning set forth in Section 3.1(a)(iv) hereof.

"I.3.9 Confirmation" refers to the ISO-NE Tariff Section I.3.9 pertaining to ISO-NE's approval of proposed plans as specified therein.

"Independent Engineer" shall mean a licensed Professional Engineer with expertise in the development of renewable energy projects using the same renewable energy technology as the Facility, reasonably selected by and retained by Seller in order to determine the as-built nameplate capacity of the Facility as provided in Section 3.4(b)(xiii) hereof.

"Interconnecting Utility" shall mean the utility (which may or may not be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the Transmission System of that utility.

"Interconnection Agreement" shall mean an agreement between Seller and the Interconnecting Utility and ISO-NE, as applicable, regarding the interconnection of the Facility to the Transmission System of the Interconnecting Utility, as the same may be amended from time to time.

"Interconnection Point" shall have the meaning set forth in the Interconnection Agreement.

"Interest Amount" shall mean with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (a) the amount of Cash held by such Party on that day (but excluding any interest previously earned on such Cash); multiplied by (b) the Collateral Interest Rate for that day; divided by (c) 360.

"Interest Period" shall mean the period from (and including) the last Business Day on which an Interest Amount was Transferred by Buyer (or if no Interest Amount has yet been Transferred by Buyer, the Business Day on which Cash was Transferred to Seller) to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

"ISO" or **"ISO-NE"** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

"ISO-NE Practices" shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Agreement, and any applicable successor practices and procedures.

"ISO-NE Rules" shall mean all rules and procedures adopted by NEPOOL, ISO-NE, or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE

Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the ISO –NE Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

"ISO-NE Tariff" shall mean ISO-NE's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, superseded or restated from time to time.

"ISO Settlement Market System" shall have the meaning as set forth in the ISO-NE Tariff.

"Late Payment Rate" shall have the meaning set forth in Section 5.3 hereof.

"Law" shall mean all federal, state and local statutes, regulations, rules, orders, executive orders, decrees, policies, judicial decisions and notifications.

"Lender" shall mean a party providing Financing for the development and construction of the Facility, or any refinancing of that Financing, and receiving a security interest in the Facility, and shall include any assignee or transferee of such a party and any trustee, collateral agent or similar entity acting on behalf of such a party.

"**Letter of Credit**" shall mean an irrevocable, non-transferable, standby letter of credit, issued by a Qualified Institution utilizing a form acceptable to the Party in whose favor such letter of credit is issued. All costs relating to any Letter of Credit shall be for the account of the Party providing that Letter of Credit.

"**Letter of Credit Default**" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events (a) the issuer of such Letter of Credit shall fail to be a Qualified Institution; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (c) the issuer of the Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (d) the Letter of Credit shall expire or terminate or have a Value of $0 at any time the Party on whose account that Letter of Credit is issued is required to provide Credit Support hereunder and that Party has not Transferred replacement Credit Support meeting the requirements of this Agreement; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be cancelled or returned in accordance with the terms of this Agreement.

"Locational Marginal Price" or "LMP" shall have the meaning set forth in the ISO-NE Rules.

"Market Price" shall mean the price received by Buyer by selling the Energy into either the ISO-NE-administered Day-Ahead or Real-Time Markets, as applicable.

"Meters" shall have the meaning set forth in Section 4.6(a) hereof.

"Moody's" shall mean Moody's Investors Service, Inc., and any successor thereto.

"MW" shall mean a megawatt AC.

"MWh" shall mean a megawatt-hour (one MWh shall equal 1,000 kWh).

"NEPOOL" shall mean the New England Power Pool and any successor organization.

"NERC" shall mean the North American Electric Reliability Corporation and shall include any successor thereto.

"Network Upgrades" shall mean upgrades to the Pool Transmission Facilities and the Transmission Provider's transmission and distribution systems, as determined and identified in the interconnection study approved in connection with construction of the Facility necessary for Delivery of the Energy to the Delivery Point, including those that are necessary for the Seller's satisfaction of the obligations under Section 7.4 of this Agreement.

"New England Control Area" shall have the meaning as set forth in the ISO-NE Tariff.

"Newly Developed Renewable Energy Resource" shall mean, pursuant to R.I.G.L. § 39-26.1-2(6), an electrical generation unit that uses exclusively an Eligible Renewable Energy Resource, and either (x) has neither begun operation, nor have the developers of the unit implemented investment or lending agreements necessary to finance the construction of the unit or (y) is located within the state of Rhode Island and obtained project financing on or after January 1, 2009.

"Node" shall have the meaning set forth in ISO-NE Rules.

"Non-Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has not occurred.

"Obligations" shall have the meaning specified in Section 6.1 hereof.

"Operational Limitations" of the Facility are the parameters set forth in Exhibit A describing the physical limitations of the Facility, including the time required for start-up and the limitation on the number of scheduled start-ups per Contract Year.

"Operating Period Security" shall have the meaning set forth in Section 6.1(b) hereof.

"Other Agreements" shall mean

(w) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and NSTAR Electric Company d/b/a Eversource Energy;

(x) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid;

(y) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Western Massachusetts Electric Company d/b/a Eversource Energy;

(z) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Fitchburg Gas and Electric Light Company d/b/a Unitil;

"Party" and **"Parties"** shall have the meaning set forth in the first paragraph of this Agreement.

"Permits" shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law and the Delivery of the Products in accordance with this Agreement.

"Person" shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

"Pool Transmission Facilities" has the meaning given that term in the ISO-NE Rules.

"Posted Collateral" shall mean all Credit Support and all proceeds thereof that have been Transferred to or received by a Party under this Agreement and not Transferred to the Party providing the Credit Support or released by the Party holding the Credit Support. Any Interest Amount or portion thereof not Transferred will constitute Posted Collateral in the form of Cash.

"Price" shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on Exhibit D.

"Products" shall mean Energy and RECs; provided, however, that Energy and RECs generated by or associated with the Facility during the Test Period and RECs not purchased by Buyer under Section 4.1(b) shall not be deemed Products.

"PUC" shall mean the Rhode Island Public Utilities Commission and shall include its successors.

"QF" shall mean a cogeneration or small power production facility which meets the criteria as defined by FERC in Title 18, Code of Federal Regulations, §§ 292.201 through 292.207, as amended from time to time.

"Qualified Institution" shall mean a major U.S. commercial bank or trust company, the U.S. branch office of a foreign bank, or another financial institution, in any case, organized under the laws of the United States or a political subdivision thereof having assets of at least $10 billion and a credit rating of at least (A) "A3" from Moody's or "A-" from S&P, if such entity is rated by both S&P and Moody's or (B) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both.

"Real-Time Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Reference Market-Maker" shall mean a leading dealer in the relevant market that is selected in a commercially reasonable manner and is not an affiliate of either party.

"Regulatory Agencies" shall mean the Massachusetts Department of Public Utilities and its successors ("MDPU"), the Connecticut Public Utilities Regulatory Authority and its successors ("PURA") and the Rhode Island Public Utilities Commission and its successors ("PUC").

"Regulatory Approval" shall mean the PUC's approval of this Agreement without material modification or conditions pursuant to R.I.G.L. §§ 39-26.1-3 through 39-26.1-5 and the regulations promulgated thereunder, including the recovery by Buyer of its costs incurred under this Agreement and remuneration equal to two and three-quarters percent (2.75%) of Buyer's actual annual payments under this Agreement pursuant to R.I.G.L. § 39-26.1-4, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

"Rejected Purchase" shall have the meaning set forth in Section 4.4 hereof.

"Related Transmission Facilities" shall mean those transmission and distribution facilities to be used by Seller for Delivery of Energy under this Agreement, as described in Exhibit E hereto.

"Related Transmission Approvals" shall mean those FERC filings, agreements, tariffs and approvals associated with service on the Related Transmission.

"Reliability Curtailment" shall mean any curtailment of Delivery of Energy resulting from (i) an emergency condition as defined in the Interconnection Agreement or the ISO-NE Tariff, or (ii) any other order or directive of the Interconnecting Utility or the Transmission Provider pursuant to an Interconnection Agreement or tariff.

"Renewable Energy Certificates" or **"RECs"** shall mean all of the Certificates and any and all other Environmental Attributes associated with the Products or otherwise produced by the Facility which satisfy the RPS for a RPS Class I Renewable Generation Unit, and shall represent title to and claim over all Environmental Attributes associated with the specified MWh of generation from such RPS Class I Renewable Generation Unit.

"Replacement Energy" shall mean energy purchased by Buyer as replacement for any Delivery Failure relating to the Energy to be provided hereunder.

"Replacement Price" shall mean the price at which Buyer, acting in a commercially reasonable manner, (A) purchases Replacement Energy and/or Replacement RECs plus (i) costs incurred by Buyer in purchasing such Replacement Energy and/or Replacement RECs, (ii) additional transmission charges, if any, incurred by Buyer to transmit Replacement Energy to the Delivery Point, and (iii) any other costs and losses incurred by Buyer as a result of the Delivery Failure; provided, however, that in no event shall Buyer be required to utilize or change its utilization of its owned or controlled assets, contracts or market positions to minimize Seller's liability, or (B) elects in its sole discretion not to purchase Replacement Energy and/or Replacement RECs, the market value of Energy and/or the Alternative Compliance Payment Rate as of the date and the time of the Delivery Failure plus any other costs and losses incurred by Buyer as a result of the Delivery Failure will replace the price at which Buyer purchases Replacement Energy and/or Replacement RECs in the calculation of the Replacement Price relating to the Energy and/or RECs to be purchased and sold hereunder.

"Replacement RECs" shall mean any generation or environmental attributes, including any Certificates or other certificates or credits related thereto reflecting generation by a RPS Class I Renewable Generation Unit that are purchased by Buyer as replacement for any Delivery Failure.

"Request Date" shall have the meaning set forth in Section 6.6(a) hereof.

"Requesting Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Resale Damages" shall mean, with respect to any Rejected Purchase, an amount equal to (a) the positive net amount, if any, by which the applicable Price that would have been paid pursuant to Section 5.1 hereof for such Rejected Purchase, had it been accepted, exceeds the Resale Price multiplied by the quantity of that Rejected Purchase (in MWh and/or RECs, as applicable), plus (b) any applicable penalties assessed by ISO-NE against Seller as a result of Buyer's failure to accept such Products in accordance with the terms of this Agreement. Seller shall provide a written statement for the applicable period explaining in reasonable detail the calculation of any Resale Damages.

"Resale Price" shall mean the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase, plus transaction and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase that Seller would not have incurred but for the Rejected Purchase; provided, however, that in no event shall Seller be required to utilize or change its utilization of the Facility or its other assets, contracts or market positions in order to minimize Buyer's liability for such Rejected Purchase.

"Rounding Amount" shall have the meaning specified in Section 6.2(c) hereof.

"RPS" shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. and the regulations promulgated thereunder that require all retail electricity suppliers in Rhode Island to provide a minimum percentage of electricity from RPS Class I Renewable Generation Units, and such successor laws and regulations as may be in effect from time to time.

"RPS Class I Renewable Generation Unit" shall mean a Newly Developed Renewable Energy Resource that produces RECs that qualify for the RPS.

"RTO" shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC's Order No. 2000 and FERC's corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

"S&P" shall mean Standard & Poor's Financial Services LLC, and any successor thereto.

"Schedule" or "Scheduling" shall mean the actions of Seller and/or its designated representatives pursuant to Section 4.2, of notifying, requesting and confirming to ISO-NE the quantity of Energy to be delivered on any given day or days (or in any given hour or hours) during the Services Term at the Delivery Point.

"Services Term" shall have the meaning set forth in Section 2.2(b) hereof.

"Seller's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Substitute Credit Support" shall have the meaning assigned in Section 6.5(e) hereof.

"Term" shall have the meaning set forth in Section 2.2(a) hereof.

"Termination Payment" shall have the meaning set forth in Section 9.3(b) hereof.

"Test Energy" shall have the meaning set forth in Section 4.8 hereof.

"Test Period" shall have the meaning set forth in Section 3.4(a) hereof.

"Transfer" shall mean, with respect to any Posted Collateral or Interest Amount, and in accordance with the instructions of the Party entitled thereto:

(a) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the Party to whom such Cash is being delivered; and

(b) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the Party to whom such Letter of Credit is being delivered.

"Transmission Provider" shall mean (a) ISO-NE, its respective successor or Affiliates; (b) Buyer; and/or (c) such other third parties from whom transmission services are

necessary for Seller to fulfill its performance obligations to Buyer hereunder, as the context requires.

"Transmission System" shall mean the transmission facilities operated by a Transmission Provider, now or hereafter in existence, which provide energy transmission service for the Energy to or from the Delivery Point.

"Unit Contingent" shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating Energy.

"Valuation Agent" means the Requesting Party; provided, however, that in all cases, if an Event of Default has occurred and is continuing with respect to the Party designated as the Valuation Agent, then in such case, and for so long as the Event of Default continues, the other Party shall be the Valuation Agent.

"Valuation Date" shall mean each Business Day.

"Valuation Percentage" shall have the meaning specified in Section 6.2(d) hereof.

"Valuation Time" shall mean the close of business on the Business Day before the Valuation Date or date of calculation, as applicable.

"Value" shall mean, with respect to Posted Collateral or Credit Support, the Valuation Percentage multiplied by the amount then available under the Letter of Credit to be unconditionally drawn by Buyer.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. Subject in all respects to Section 8.1and Section 8.2, this Agreement is effective as of the Effective Date.

2.2 Term.

(a) The **"Term"** of this Agreement is the period beginning on the Effective Date and ending upon the final settlement of all obligations hereunder after the expiration of the Services Term or the earlier termination of this Agreement in accordance with its terms.

(b) The **"Services Term"** is the period during which Buyer is obligated to purchase Products Delivered to Buyer by Seller (not including Energy and RECs Delivered during the Test Period under Section 4.8) commencing on the Commercial Operation Date and continuing for a period of twenty (20) years from the Commercial Operation Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

(c) At the expiration of the Term or earlier termination of this Agreement pursuant to the terms hereof, the Parties shall no longer be bound by the terms and provisions hereof, except (i) to the extent necessary to make payments of any amounts owed to the other Party arising prior to or resulting from termination of, or on account of a breach of, this Agreement, (ii) to the extent necessary to enforce the rights and the obligations of the Parties

arising under this Agreement before such expiration or termination, and (iii) the obligations of the Parties hereunder with respect to confidentiality and indemnification shall survive the expiration or termination of this Agreement.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Critical Milestones.

(a) Subject to the provisions of Section 3.1(d), commencing on the Effective Date, Seller shall develop the Facility in order to achieve the following milestones (**"Critical Milestones"**) on or before the dates set forth in this Section 3.1(a):

(i) receipt of all Permits necessary to construct the Facility, as set forth in Exhibit B, in final form, by [redacted];

(ii) acquisition of all required real property rights necessary for construction and operation of the Facility and the interconnection of the Facility to the Interconnecting Utility in full and final form with all options and/or contingencies having been exercised demonstrating complete site control as set forth in Exhibit B, by [redacted]

(iii) closing of the Financing or other demonstration to Buyer's satisfaction of the financial capability to construct the Facility, including, as applicable, Seller's financial obligations with respect to interconnection of the Facility to the Interconnecting Utility and construction of the Network Upgrades by [redacted]; and

(iv) achievement of the Commercial Operation Date by [redacted] ("Guaranteed Commercial Operation Date").

(b) Seller shall provide Buyer with written notice of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Critical Milestone has been achieved. Seller acknowledges that Buyer will receive such notice solely to monitor progress toward the Commercial Operation Date, and Buyer shall have no responsibility or liability for the development, construction, operation or maintenance of the Facility.

(c) In addition to any extension to a date for a Critical Milestone as a result of Force Majeure under Section 10.1, Seller may elect to extend all of the dates for the Critical Milestones not yet achieved by up to four six-month periods from the applicable dates set forth in Section 3.1(a) by posting additional Development Period Security in an amount equal to $25,000.00 for each such six-month period. Any such election shall be made in a written notice delivered to Buyer on or prior to the first date for a Critical Milestone that has not yet been achieved (as such date may have previously been extended).

(d) To the extent a Force Majeure event pursuant to Section 10.1 has occurred that prevents the Seller from achieving the Critical Milestone date for acquisition of real property rights and interconnection (Section 3.1(a)(ii)) or the Commercial Operation Date (Section 3.1(a)(iv) by the applicable Milestone date, the Critical Milestone Date(s) impacted by such Force Majeure event shall be extended for the duration of the Force Majeure event, but under no circumstances shall extensions of those Critical Milestone dates due to Force Majeure events exceed twelve (12) months beyond the applicable Milestone date, and further provided, that the Seller shall not have the right to declare a Force Majeure event related to the Permits Critical Milestone (Section 3.1(a)(i)) or the Financing Critical Milestone (Section 3.1(a)(iii)).

(e) The Parties agree that time is of the essence with respect to the Critical Milestones and is part of the consideration to Buyer in entering into this Agreement.

(f) If Seller fails to make material progress toward the Commercial Operation Date, as reasonably determined by either Buyer or the PUC based on Seller's progress with respect to the milestones set forth in Section 3.1(a), within three (3) years after the Effective Date, Buyer may terminate this Agreement by written notice to Seller delivered within sixty (60) days after the third anniversary of the Effective Date (which termination shall be effective upon delivery of such notice), and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 13.

3.2 Delay Damages.

(a) If the Commercial Operation Date is not achieved by the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) -(d) and 10.1), Seller shall pay to Buyer damages for each day from and after such date in an amount equal to $500.00 per day, commencing on the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c)-(d) and 10.1) and ending on the earlier of (i) the Commercial Operation Date, (ii) the date that Buyer exercises its right to terminate this Agreement under Section 9.3, or (iii) the date that is twelve (12) months after the Guaranteed Commercial Operation Date (**"Delay Damages"**). Delay Damages shall be due under this Section 3.2(a) without regard to whether Buyer exercises its right to terminate this Agreement pursuant to Section 9.3; provided, however, that if Buyer exercises its right to terminate this Agreement under Section 9.3, Delay Damages shall be due and owing to the extent that such Delay Damages were due and owing at the date of such termination.

(b) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation Date by the Guaranteed Commercial Operation Date would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Notwithstanding the foregoing, this Article shall not limit the amount of damages payable to Buyer if this Agreement is terminated as a result of Seller's failure to achieve the Commercial Operation Date. Any such termination damages shall be determined in accordance with Article 9.

(c) By the tenth (10th) day following the end of the calendar month in which Delay Damages first become due and continuing by the tenth (10th) day of each calendar month during the period in which Delay Damages accrue (and the following months if applicable), Buyer shall deliver to Seller an invoice showing Buyer's computation of such damages and any amount due Buyer in respect thereof for the preceding calendar month. No later than ten (10) days after receiving such an invoice, Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. If Seller fails to pay such amounts when due, Buyer may draw upon the Development Period Security for payment of such Delay Damages, and Buyer may exercise any other remedies available for Seller's default hereunder.

3.3 Construction and Changes in Capacity.

(a) Construction of Facility. Seller shall construct the Facility as described in Exhibit A, in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility and all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to Buyer. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction functions, so long as Seller maintains overall control over the construction of the Facility through the Term.

(b) Capacity Deficiency. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements for the Commercial Operation Date under Section 3.4(b) of this Agreement, but a Capacity Deficiency exists on the Commercial Operation Date as permitted by Section 3.4(b), then on the Commercial Operation Date, the Contract Maximum Amount shall be automatically and permanently reduced commensurate with the Capacity Deficiency, which reduced Contract Maximum Amount shall be stated in a notice from Buyer to Seller, which notice shall be binding absent manifest error.

(c) Increase in Facility Size. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements under Section 3.4(b) of this Agreement, if the Independent Engineer's certification provides that the Actual Facility Size exceeds the Proposed Facility Size as provided in Exhibit A, the Buyer's Percentage Entitlement will be recalculated and replaced by the percentage derived by dividing the Contract Maximum Amount by the Actual Facility Size.

(d) Progress Reports. Within ten (10) days of the end of each calendar quarter after the Effective Date and until the Commercial Operation Date, Seller shall provide Buyer with a progress report regarding Critical Milestones not yet achieved, including projected time to completion of the Facility, in accordance with the form attached hereto as Exhibit C, and shall provide supporting documents and detail regarding the same upon Buyer's request. Seller shall permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller.

(e) Site Access. Buyer and its representatives shall have the right but not the obligation, during business hours and upon reasonable notice to Seller, to inspect the Facility site and view the construction of the Facility.

3.4 Commercial Operation.

(a) Seller's obligation to Deliver the Products and Buyer's obligation to pay Seller for such Products commences on the Commercial Operation Date; provided, that Energy and RECs generated by the Facility prior to the Commercial Operation Date (the **"Test Period"**) shall not be deemed Products.

(b) The Commercial Operation Date shall occur on the date on which the Facility as described in Exhibit A is completed (subject, if applicable, to a Capacity Deficiency so long as the Actual Facility Size on the Commercial Operation Date is (1) at least ninety percent (90%) of the proposed nameplate capacity of the Facility as set forth in Exhibit A, and (2) not more than ten (10) MW less than the proposed nameplate capacity of the Facility set forth in Exhibit A) and capable of regular commercial operation in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility, all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to the Buyer have been satisfied, and all performance testing for the Facility has been successfully completed, provided Seller has also satisfied the following conditions precedent as of such date:

(i) completion of all transmission and interconnection facilities and any Network Upgrades necessary for Seller to satisfy its obligations under this Agreement, including final acceptance and authorization to interconnect the Facility from ISO-NE or the Interconnecting Utility in accordance with the fully executed Interconnection Agreement;

(ii) all Related Transmission Facilities as set forth in Exhibit E are complete and in-service;

(iii) Seller has obtained and demonstrated possession of all Permits required for the lawful construction and operation of the Facility, for the interconnection of the Facility to the Interconnecting Utility (including any Network Upgrades) and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, all as set forth on Exhibit B;

(iv) Seller has obtained qualification by the PUC qualifying the Facility as a RPS Class I Renewable Generation Unit;

(v) All Related Transmission Approvals have been received;

(vi) Seller has acquired all real property rights needed to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent that it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement;

(vii) Seller has established all ISO-NE-related accounts and entered into all ISO-NE-related agreements required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect, including the registration of the Facility in the GIS;

(viii) Seller has provided to Buyer I.3.9 Confirmation from ISO-NE regarding approval of generation entry, has submitted the Asset Registration Form (as defined in ISO-NE Practices) for the Facility to ISO-NE and has taken such other actions as are necessary to effect the Delivery of the Energy to Buyer in the ISO Settlement Market System;

(ix) Seller has successfully completed all pre-operational testing and commissioning in accordance with manufacturer guidelines;

(x) Seller has satisfied all Critical Milestones that precede the Commercial Operation Date in Section 3.1;

(xi) no Default or Event of Default by Seller shall have occurred and remain uncured;

(xii) the Facility is owned or leased by, and under the care, custody and control of, Seller.

(xiii) Seller has delivered to Buyer:

(A) an Independent Engineer's certification stating (i) that the Facility has been completed in all material respects (excepting punchlist items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this Agreement, and (ii) the Actual Facility Size;

(B) certificates of insurance evidencing the coverages required under Section 3.5(i); and

(C) the Operating Period Security; and

(xiv) Seller has demonstrated that it can reliably transmit real time data and measurements to ISO-NE.

3.5 Operation of the Facility.

(a) Compliance With Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; (ii) the Operational Limitations; and

(iii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under this Agreement (including obligations related to the generation, Scheduling, interconnection, and transmission of Energy, and the transfer of RECs), whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Owner and Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain or cause to be maintained in full force and effect all Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility and all Related Transmission Approvals.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, construct, maintain and operate the Facility in accordance with Good Utility Practice and in accordance with Exhibit A to this Agreement. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete construction, operation and maintenance functions, so long as Seller maintains overall control over the construction, operation and maintenance of the Facility throughout the Term.

(d) Interconnection Agreement. Seller shall comply with the terms and conditions of the Interconnection Agreement.

(e) ISO-NE Status. Seller shall, at all times during the Services Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and this Agreement.

(f) Forecasts. Commencing at least thirty (30) days prior to the anticipated Commercial Operation Date and continuing throughout the Term, Seller shall update and deliver to Buyer on an annual basis and in a form reasonably acceptable to Buyer, twelve (12) month rolling forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice based on historical performance, maintenance schedules, Seller's generation projections and other relevant data and considerations. Any notable changes from prior forecasts or historical energy delivery shall be noted and an explanation provided. The provisions of this section are in addition to Seller's requirements under ISO-NE Rules and ISO-NE Practices, including ISO-NE Operating Procedure No. 5.

(g) RPS Class I Renewable Generation Unit. Subject to Section 4.7(b), Seller shall be solely responsible at Seller's cost for qualifying the Facility as a RPS Class I Renewable Generation Unit and maintaining such qualification throughout the Services Term. Seller shall take all actions necessary to register for and maintain participation in the GIS to register, monitor, track, and transfer RECs. Seller shall provide such additional information as Buyer may request relating to such qualification and participation.

(h) Compliance Reporting. Within thirty (30) days following the end of each calendar quarter, Seller shall provide Buyer information pertaining to emissions, fuel types, labor information and any other information to the extent required by Buyer to comply with the disclosure requirements contained under applicable law and any other such disclosure regulations which may be imposed upon Buyer during the Term, which information requirements will be provided to Seller by Buyer at least fifteen (15) days before the beginning of the calendar quarter for which the information is required. To the extent Buyer is subject to any other certification or compliance reporting requirement with respect to the Products produced by Seller and delivered to Buyer hereunder, Seller shall provide any information in its possession (or, if not in Seller's possession, available to it and not reasonably available to Buyer) requested by Buyer to permit Buyer to comply with any such reporting requirement.

(i) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company (or any successor thereto) the insurance coverage and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Upon the execution of this Agreement, and at each subsequent policy renewal date thereafter, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications that may adversely affect Buyer, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

(j) Contacts. Each Party shall identify a principal contact or contacts, which contact(s) shall have adequate authority and expertise to make day-to-day decisions with respect to the administration of this Agreement.

(k) Compliance with Law. Without limiting the generality of any other provision of this Agreement, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of operational and environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with applicable requirements of Law.

(l) FERC Status. Seller shall be responsible for ensuring that it is in compliance with all FERC directives and requirements necessary for Seller to fulfill its obligations under this Agreement. As part of Seller's satisfaction of this responsibility, it shall maintain the Facility's status as a QF or EWG (to the extent Seller meets the criteria for such

status) at all times after the Commercial Operation Date and shall obtain and maintain any requisite authority to sell the output of the Facility at market-based rates, including market-based rate authority to the extent applicable. If Seller certifies the Facility as a QF, for so long as this Agreement is in effect, Seller waives, and agrees not to assert, any rights Seller may have to require Buyer to purchase or transmit electric power or to pay a specified price for electric power by virtue of the status of the Facility as a QF.

(m) Maintenance. No later than (a) the Commercial Operation Date and (b) two months prior to the end of each calendar year thereafter during the Term, Seller shall submit to Buyer a schedule of planned maintenance for the following calendar year for the Facility. Throughout the Term, Seller shall coordinate all planned maintenance with ISO-NE, consistent with ISO-NE Rules, and shall promptly provide applicable information concerning scheduled outages, as determined by ISO-NE, to Buyer. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules, Seller shall not schedule maintenance of the Facility during the months of January through February or June through September, and shall operate the Facility so as to maximize energy production during the hours of anticipated peak load and Energy prices in New England; provided, however, that planned maintenance may be scheduled during such period to the extent the failure to perform such planned maintenance is contrary to operation of the Facility in accordance with Good Utility Practice or as is required in order to maintain warranties associated with the Facility or its equipment.

3.6 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, including the costs of the Network Upgrades, consistent with all standards and requirements set forth by the FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility. Seller shall be responsible for procuring delivery service and all costs associated with it.

(b) Seller shall defend, indemnify and hold Buyer harmless against any and all liabilities, fees, costs and expenses, including but not limited to reasonable attorneys' fees arising due to Seller's performance or failure to perform under the Interconnection Agreement or any agreement for delivery service associated with Seller's performance of this Agreement.

4. DELIVERY OF PRODUCTS

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on the Commercial Operation Date and subject to Section 4.1(b), Seller shall sell and Deliver, and Buyer shall purchase and receive all right, title and interest in and to, Buyer's Percentage Entitlement of the Products in accordance with the terms and conditions of this Agreement. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent and shall be subject to the operation of the Facility. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules and Good

Utility Practice, Seller shall use commercially reasonable efforts to maximize the production and Delivery of Energy during the time periods of anticipated peak load and peak Energy prices in New England.

(b) Buyer shall not be obligated to accept or pay for any REC or comparable certificate, credit, attribute or other similar product produced by or associated with the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, and, to the extent that Buyer does not purchase any such REC or comparable certificate, credit, attribute or other similar product associated with the Facility, Seller may, in its sole discretion, sell, transfer or otherwise dispose of that REC or comparable certificate, credit, attribute or other similar product. In the event that the Buyer notifies Seller that it will not purchase any REC or comparable certificate, credit, attribute or other similar product produced by the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, then Buyer, upon thirty (30) days' prior written notice to Seller, may resume purchasing such RECs or comparable certificates, credits, attributes or other similar products produced by the Facility after such thirty (30) day period, unless otherwise agreed by Buyer and Seller.

(c) Seller shall Deliver Buyer's Percentage Entitlement of the Products produced by or associated with the Facility, up to and including the Contract Maximum Amount, exclusively to Buyer, and Seller shall not sell, divert, grant, transfer or assign such Products or any certificate or other attribute associated with such Products to any Person other than Buyer during the Term. Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Services Term and in accordance with Section 4.1, Seller shall Schedule and transfer Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with this Agreement and all ISO-NE Practices and ISO-NE Rules. Seller shall transfer the Energy to Buyer in the Real Time Energy Market or the Day Ahead Energy Market, as reasonably agreed from time to time by Buyer and Seller and consistent with ISO-NE Rules and ISO-NE practices at the time. Buyer shall have no obligation to pay for any Energy not Delivered to Buyer in accordance with the foregoing. Notwithstanding any other provision of this Agreement, if during the Term of this Agreement the LMP at the Delivery Point is negative, or, in the reasonable opinion of Seller, is likely to become negative, then Seller may deliver to Buyer a written notice stating that such condition has occurred or is likely to occur and the period during which such condition has occurred or is likely to occur. Buyer and Seller hereby agree that in such event Seller shall be under no obligation to schedule or Deliver Products to the Delivery Point during such period. Seller shall provide Buyer with detailed information, including but not limited to, the start and stop times of such periods of curtailment under this Section 4.2(a) as well as the quantity curtailed, for all such periods of non-delivery during the preceding calendar month which information shall be provided prior to Seller's delivery of the invoice to Buyer.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Services Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission up to and at the Delivery Point. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, (including amounts not credited to Buyer as described in Section 4.2(a)), Seller shall reimburse Buyer for the same.

4.3 Failure of Seller to Deliver Products. In the event that Seller fails to satisfy any of its obligations to Deliver any of the Products or any portion of the Products hereunder in accordance with Section 4.1, Section 4.2 and Section 4.7, and such failure is not excused under the express terms of this Agreement (a **"Delivery Failure"**), Seller shall pay Buyer an amount for such Delivery Failure (measured in MWh and/or RECs) equal to the Cover Damages. Such payment shall be due no later than the date for Buyer's payment for the applicable month as set forth in Section 5.2 hereof. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a Delivery Failure would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Cover Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.4 Failure by Buyer to Accept Delivery of Products. If Buyer fails to accept all or part of any of the Products to be purchased by Buyer hereunder, and such failure to accept (a) is not the result of Reliability Curtailment or (b) is not otherwise excused under the terms of this Agreement (a **"Rejected Purchase"**), then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such Rejected Purchase equal to the Resale Damages. Each Party agrees and acknowledges that (i) the damages that Seller would incur due to a Rejected Purchase would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Resale Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.5 Delivery Point.

(a) All Energy shall be Delivered hereunder by Seller to Buyer at the Delivery Point. Seller shall be responsible for the costs of delivering its Energy to the Delivery Point consistent with all standards and requirements set forth by the FERC, ISO-NE, and any other applicable Governmental Entity or tariff.

(b) Seller shall be responsible for all applicable charges associated with transmission and interconnection service and delivery charges, including all related ISO-NE administrative fees, uplift, socialized charges, and all other charges in connection with the satisfaction of Seller's obligations hereunder, incurred for the Delivery of Energy to and at the Delivery Point. Seller shall indemnify and hold harmless Buyer for any such charges, fees, or expenses imposed upon Buyer by operation of ISO-NE rules or otherwise in connection with Seller's performance of its obligations hereunder.

(c) Buyer shall be responsible for all applicable charges associated with transmission and delivery of the Energy from and after the Delivery Point, provided that Buyer shall have no responsibility or liability for any Network Upgrade.

4.6 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the **"Meters"**), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility or the ISO-NE Tariff, whichever is applicable, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

(c) Inspection, Testing and Calibration. Buyer shall have the right to inspect and test (at its own expense) any of the Meters at the Facility at reasonable times and upon reasonable notice from Buyer to Seller. Buyer shall have the right to have a representative present during any testing or calibration of the Meters at the Facility by Seller. Seller shall provide Buyer with timely notice of any such testing or calibration.

(d) Audit of Meters. Buyer shall have access to the Meters and the right to audit all information and test data related to such Meters.

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than two percent (2%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

4.7 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to Buyer's Percentage Entitlement of the Facility's Environmental Attributes, including the RECs, generated by, or associated with, the Facility during the Services Term in accordance with the terms of this Section 4.7.

(b) Regarding the RPS:

(i) Except as provided in subsection (ii) of this Section 4.7(b), all Energy provided by Seller to Buyer from the Facility under this Agreement shall meet the requirements for eligibility pursuant to the RPS, and Seller's failure to satisfy such requirements shall constitute an Event of Default pursuant to Section 9.1 (c) of this Agreement except as provided in Section 4.7(b)(ii), below; and

(ii) If solely as a result of change in Law, Energy provided by Seller to Buyer from the Facility under this Agreement no longer meets the requirements for eligibility pursuant to the RPS, such will not constitute an Event of Default under Article 9, provided Seller promptly uses commercially reasonable efforts to ensure that qualification will continue after the change in Law. If, notwithstanding such commercially reasonable efforts and solely as a result of change in Law, the Facility does not qualify as a RPS Class I Renewable Generation Unit, then (A) Seller shall continue to sell, and Buyer shall continue to purchase Energy under this Agreement at the Adjusted Price in accordance with Section 5.1 and (B) any purchases and sales of RECs shall be in accordance with Section 4.1(b).

(c) At Seller's sole cost, Seller shall also obtain and maintain throughout the Services Term qualification as a RPS Class I generation resource under the renewable portfolio standard or similar law of the New England states of Connecticut, Maine, Massachusetts, and New Hampshire, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard or similar law. At Buyer's request and at Seller's sole cost, Seller shall also obtain qualification under the renewable portfolio standard or similar law of New York and/or any federal renewable energy standard, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard, renewable energy standard or similar law, and Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to maintain such qualifications at all times during the Services Term unless otherwise agreed by Buyer. Seller shall also submit to Buyer or as directed by Buyer any information required by any state or federal agency with regard to administration of its rules regarding Environmental Attributes or its renewable energy standard or renewable portfolio standard or Seller's qualification under the foregoing.

(d) Seller shall comply with all GIS Operating Rules relating to the creation and transfer of all RECs to be purchased by Buyer under this Agreement and all other GIS Operating Rules to the extent required for Buyer to achieve the full value of the RECs. In addition, at Buyer's request, Seller shall use commercially reasonable efforts to register with and comply with the rules and requirements of any other tracking system or program that tracks, monetizes or otherwise creates or enhances value for Environmental Attributes, which compliance shall be at Seller's sole cost if such registration and compliance is requested in connection with Section 4.7(c) above and shall be at Buyer's sole cost in other instances.

(e) Prior to the delivery of any Energy hereunder (including any Energy Delivered during the Test Period), either (i) Seller shall cause Buyer to be registered in the GIS as the initial owner of all Certificates to be Delivered hereunder to Buyer or (ii) Seller and Buyer shall effect an irrevocable Forward Certificate Transfer (as defined in the GIS Operating Rules) of the Certificates to be Delivered hereunder to Buyer in the GIS for the Test Period and the Services Term; provided, however, that no payment shall be due to Seller for any RECs until either (x) the Certificates are actually deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing; or (y) (i) Buyer and Seller enter such an irrevocable Forward Certificate Transfer of the Certificates to be Delivered to Buyer in the GIS, which Forward Certificate Transfer shall be denoted in the GIS as not being capable of rescission by Seller, and (ii) the Energy with which such RECs are associated has been Delivered to Buyer..

(f) The Parties intend for the transactions entered into hereunder to be physically settled, meaning that the RECs are intended to be Delivered in the GIS account of Buyer or its designee as set forth in this Section 4.7.

4.8 Deliveries During Test Period. During the Test Period, Seller shall sell and Deliver, and Buyer shall purchase and receive Buyer's Percentage Entitlement of any Energy ("**Test Energy**") and RECs produced by or associated with the Facility. Notwithstanding the provisions of Section 5.1, payment for Test Energy Delivered during the Test Period and RECs associated with such Test Energy shall be equal to one hundred percent (100%) of the product of (x) the Test Energy Delivered (in MWh) and (y) the lesser of (i) the Adjusted Price determined in accordance with Section 1(a) of Exhibit D for Year 1, or (ii) the Real Time LMP at such

Delivery Point. In the event that the Real Time LMP for the Test Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to one hundred percent (100%) of the product of (i) such Test Energy delivered in such hour and (ii) the absolute value of the hourly Real Time LMP at the Delivery Point. In no event shall the Test Period extend beyond **six (6)** months, except due to Force Majeure.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products. All Products Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Price specified in Exhibit D; provided, however, that if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b), then all Energy Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Adjusted Price only, as specified in Exhibit D. Other than the (i) payment for the Products under this Section 5.1, (ii) payments related to Meter testing under Section 4.6(b), (iii) payments related to Meter malfunctions under Section 4.6(e), (iv) payment for Energy and RECs during the Test Period in accordance with Section 4.8, (v) payment of any Resale Damages under Section 4.4, (vi) payment of interest on late payments under Section 5.3, (vii) payments for reimbursement of Buyer's Taxes under Section 5.4(a), (viii) return of any Credit Support under Section 6.3, and (ix) payment of any Termination Payment due from Buyer under Section 9.3, Buyer shall not be required to make any other payments to Seller under this Agreement, and Seller shall be solely responsible for all costs and losses incurred by it in connection with the performance of its obligations under this Agreement. In the event that the LMP for the Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to the product of (i) such Energy delivered in such hour and (ii) the absolute value of the hourly LMP at the Delivery Point.

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all charges and payments under this Agreement. On or before the fifteenth (15th) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month, and any RECs deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days from receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late

Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

(i) All invoices rendered under this Agreement shall be subject to adjustment after the end of each month in order to true-up charges based on changes resulting from recent ISO-NE billing statements or revisions, if any, to previous ISO-NE billing statements. If ISO-NE resettles any invoice which relates to the Products sold under this Agreement and (a) any charges thereunder are the responsibility of the other Party under this Agreement or (b) any credits issued thereunder would be due to the other Party under this Agreement, then the Party receiving the invoice from ISO-NE shall in the case of (a) above invoice the other Party or in the case of (b) above pay the amount due to the other Party. Any invoices issued or amounts due pursuant to this Section shall be invoiced or paid as provided in this Section 5.2.

(ii) Within twelve (12) months of the issuance of an invoice the Seller may adjust any invoice for any arithmetic or computational error and shall provide documentation and information supporting such adjustment to Buyer. Within twelve (12) months of the receipt of an invoice (or an adjusted invoice), the Buyer may dispute any charges on that invoice. In the event of such a dispute, the Buyer shall give notice to the Seller and shall state the basis for the dispute. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Any claim for additional payment is waived unless the Seller issues an adjusted invoice within twelve (12) months of issuance of the original invoice. Any dispute of charges is waived unless the Buyer provides notice of the dispute to the Seller within twelve (12) months of receipt of the invoice (or adjusted invoice) including such charges.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting of such monetary obligations, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Agreement, including any related damages calculated pursuant to this Agreement, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party

shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the "Money & Investing" section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties) plus 1% per cent, and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the **"Late Payment Rate"**).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or the Products prior to and at Delivery of such Products to Buyer ("**Seller's Taxes**"). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer, and imposed on or associated with the purchase of such Products by Buyer (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) ("**Buyer's Taxes**"). In the event Seller shall be required by law or regulation to remit or pay any Buyer's Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller's Taxes, Seller shall reimburse Buyer for such payment, and Buyer may also elect to deduct any of the amount of any such Seller's Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller's or the Facility's eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes, or to receive any other favorable tax or accounting right or benefit, or any grant or subsidy from a Governmental Entity or other Person. Seller's obligations under this Agreement shall be effective regardless of whether the Facility is eligible for or receives, or the transactions contemplated under this Agreement are eligible for or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment.

6. SECURITY FOR PERFORMANCE

6.1 Grant of Security Interest. Subject to the terms and conditions of this Agreement, Seller hereby pledges to Buyer as security for all outstanding obligations under this Agreement (other than indemnification obligations surviving the expiration of the Term) and any other documents, instruments or agreements executed in connection therewith (collectively, the **"Obligations"**), and grants to Buyer a first priority continuing security interest, lien on, and right of set-off against all Posted Collateral delivered to or received by Buyer hereunder. Upon the return by Buyer to Seller of any Posted Collateral, the security interest and lien granted

hereunder on that Posted Collateral will be released immediately and, to the extent possible, without further action by either Party.

6.2 Seller's Support.

(a) Seller shall be required to post Credit Support with a Value of at least $100,000.00 to secure Seller's Obligations until the Commercial Operation Date (**"Development Period Security"**). Fifty percent (50%) of the Development Period Security shall be provided to Buyer on the Effective Date, and the remaining fifty percent (50%) of the Development Period Security shall be provided to Buyer within fifteen (15) days after this Agreement becomes effective and binding pursuant to Section 8.1(a). Buyer shall return any undrawn amount of the Development Period Security to Seller within thirty (30) days after the later of (x) Buyer's receipt of an undisputed notice from Seller that the Commercial Operation Date has occurred or (y) Buyer's receipt of the full amount of the Operating Period Security.

(b) Beginning not later than three (3) days following the Commercial Operation Date, Seller shall provide Buyer with Credit Support to secure Seller's Obligations after the Commercial Operation Date through and including the date that all of Seller's Obligations are satisfied ("**Operating Period Security**"). The Operating Period Security shall have a Value of at least $100,000.00, as adjusted in accordance with Section 3.3(b).

(c) The Credit Support Delivery Amount, as defined below, will be rounded up, and the Return Amount, as defined below, will be rounded down, in each case to the nearest integral multiple of $10,000 (**"Rounding Amount"**).

(d) The following items will qualify as "**Credit Support**" hereunder in the amount noted under "Valuation Percentage":

	"Valuation Percentage"
(A) Cash	100%
(B) Letters of Credit	100% unless either (i) a Letter of Credit Default shall have occurred and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be 0%.

(e) All calculations with respect to Credit Support shall be made by the Valuation Agent as of the Valuation Time on the Valuation Date.

6.3 Delivery of Credit Support.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Buyer, and (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Buyer for which there exist any unsatisfied payment obligations with respect to Buyer, then Buyer may request, by written notice, that Seller Transfer to Buyer, or cause to be Transferred to Buyer, Credit Support for the benefit of Buyer, having a Value of at least the Collateral Requirement (**"Credit Support Delivery Amount"**). Such Credit Support shall be delivered to Buyer on the next Business Day if the request is received by the Notification Time; otherwise Credit Support is due by the close of business on the second Business Day after the request is received.

6.4 Reduction and Substitution of Posted Collateral.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Seller, (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment Obligations, and (c) the Posted Collateral posted by Seller exceeds the required Operating Period Security (rounding downwards for any fractional amount to the next interval of the Rounding Amount), then Seller may, at its sole cost, request that Buyer return Operating Period Security in the amount of such difference (**"Credit Support Return Amount"**) and Buyer shall be obligated to do so. Such Posted Collateral shall be returned to Seller by the close of business on the second Business Day after Buyer's receipt of such request. The Parties agree that if Seller has posted more than one type of Credit Support to Buyer, Seller can, in its sole discretion, select the type of Credit Support for Buyer to return; provided, however, that Buyer shall not be required to return the specified Credit Support if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Operating Period Security.

6.5 Administration of Posted Collateral.

(a) Cash. Posted Collateral provided in the form of Cash to Buyer hereunder shall be subject to the following provisions.

(i) So long as no Event of Default has occurred and is continuing with respect to Buyer, Buyer will be entitled to either hold Cash or to appoint an agent which is a Qualified Institution (a **"Custodian"**) to hold Cash for Buyer. In the event that an Event of Default has occurred and is continuing with respect to Buyer, then the provisions of Section 6.5(a)(ii) shall not apply with respect to Buyer and Cash shall be held in a Qualified Institution in accordance with the provisions of Section 6.5(a)(iii)(B). Upon notice by Buyer to Seller of the appointment of a Custodian, Seller's Obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by Buyer for which the Custodian is acting. If Buyer or its Custodian fails to satisfy any conditions for holding Cash as set forth above, or if Buyer is not entitled to hold Cash at any time, then Buyer will

Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Section 6.5(a)(iii)(B). Except as set forth in Section 6.5(c), Buyer will be liable for the acts or omissions of the Custodian to the same extent that Buyer would be held liable for its own acts or omissions.

(ii) Notwithstanding the provisions of applicable Law, if no Event of Default has occurred and is continuing with respect to Buyer and no termination date has occurred or been designated as a result of an Event of Default with respect to Buyer for which there exists any unsatisfied payment obligations with respect to Buyer, then Buyer shall have the right to sell, pledge, rehypothecate, assign, invest, use, comingle or otherwise use in its business any Cash that it holds as Posted Collateral hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.

(iii) Notwithstanding Section 6.5(a)(ii), if neither Buyer nor the Custodian is eligible to hold Cash pursuant to Section 6.5(a)(i) then:

(A) the provisions of Section 6.5(a)(ii) will not apply with respect to Buyer; and

(B) Buyer shall be required to Transfer (or cause to be Transferred) not later than the close of business within five (5) Business Days following the beginning of such ineligibility all Cash in its possession or held on its behalf to a Qualified Institution to be held in a segregated, safekeeping or custody account (the **"Collateral Account"**) within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for Buyer. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Article 6 and for the security interest of Buyer and execute such account control agreements as are necessary or applicable to perfect the security interest of Seller therein pursuant to Section 9-314 of the Uniform Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of Seller. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of Buyer, subject to the approval of such instructions by Seller (which approval shall not be unreasonably withheld). Buyer shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with Seller's approval.

(iv) So long as no Event of Default with respect to Seller has occurred and is continuing, and no termination date has occurred or been designated for which any unsatisfied payment obligations of Seller exist as the result of an Event of Default with respect to Seller, in the event that Buyer or its Custodian is holding Cash, Buyer will Transfer (or cause to be Transferred) to Seller, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which shall be retained by Buyer), the Interest Amount. Interest on Cash shall accrue at the Collateral Interest Rate. Interest accrued during the previous month shall be paid by Buyer to Seller on the 3rd Business Day of each calendar month and on any Business Day that posted Credit Support in the form of Cash is returned to Seller, but solely to the extent that, after making such payment, the amount of the Posted Collateral will be at least equal to the required Development Period Security or Operating Period Security, as applicable. On or after the occurrence of an Event of Default with respect to Seller or a termination date as a result of an Event of Default with respect to Seller, Buyer or its Custodian shall retain any such Interest Amount as additional Posted Collateral hereunder until the Obligations of Seller under the Agreement have been satisfied in the case of a termination date or for so long as such Event of Default is continuing in the case of an Event of Default.

(b) Buyer's Rights and Remedies. If at any time an Event of Default with respect to Seller has occurred and is continuing, then, unless Seller has paid in full all of its Obligations that are then due, including those under Section 9.3(b) of this Agreement, Buyer may exercise one or more of the following rights and remedies: (i) all rights and remedies available to a secured party under applicable Law with respect to Posted Collateral held by Buyer, (ii) the right to set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or the cash equivalent of any Posted Collateral held by Buyer, or (iii) the right to liquidate any Posted Collateral held by Buyer and to apply the proceeds of such liquidation of the Posted Collateral to any amounts payable to Buyer with respect to the Obligations in such order as Buyer may elect. For purposes of this Section 6.5, Buyer may draw on the undrawn portion of any Letter of Credit from time to time up to the amount of the Obligations that are due at the time of such drawing. Cash proceeds that are not applied to the Obligations shall be maintained in accordance with the terms of this Article 6. Seller shall remain liable for amounts due and owing to Buyer that remain unpaid after the application of Posted Collateral, pursuant to this Section 6.5.

(c) Letters of Credit. Credit Support provided in the form of a Letter of Credit shall be subject to the following provisions.

(i) As one method of providing increased Credit Support, Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.

(ii) Upon the occurrence of a Letter of Credit Default, Seller agrees to Transfer to Buyer either a substitute Letter of Credit or Cash, in each case on or before the first (1st) Business Day after the occurrence thereof (or the third (3rd) Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).

(iii) Notwithstanding Sections 6.3 and 6.4, (1) Buyer need not return a Letter of Credit unless the entire principal amount is required to be returned, (2) Buyer shall consent to a reduction of the principal amount of a Letter of Credit to the extent that a Credit Support Delivery Amount would not be created thereby (as of the time of the request or as of the last time the Credit Support Delivery Amount was determined), and (3) if there is more than one form of Posted Collateral when a Credit Support Return Amount is to be Transferred, the Secured Party may elect which to Transfer.

(d) Care of Posted Collateral. Buyer shall exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable Law, and in any event Buyer will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, Buyer will have no duty with respect to the Posted Collateral, including without limitation, any duty to enforce or preserve any rights thereto.

(e) Substitutions. Unless otherwise prohibited herein, upon notice to Buyer specifying the items of Posted Collateral to be exchanged, Seller may, on any Business Day, deliver to Buyer other Credit Support (**"Substitute Credit Support"**). On the Business Day following the day on which the Substitute Credit Support is delivered to Buyer, Buyer shall return to Seller the items of Credit Support specified in Seller's notice; provided, however, that Buyer shall not be required to return the specified Posted Collateral if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Development Period Security or Operating Period Security set forth in Sections 6.2(a) and 6.2(b), respectively.

6.6 Exercise of Rights Against Posted Collateral

(a) Disputes regarding amount of Credit Support. If either Party disputes the amount of Credit Support to be provided or returned (such Party the "**Disputing Party**"), then the Disputing Party shall (a) deliver the undisputed amount of Credit Support to the other Party (such Party, the "**Requesting Party**") and (b) notify the Requesting Party of the existence and nature of the dispute no later than 5:00 p.m. Eastern Prevailing Time on the Business Day that the request for Credit Support was made (the "**Request Date**"). On the Business Day following the Request Date, the Parties shall consult with each other in order to reconcile the two conflicting amounts. If the Parties are not able to resolve their dispute, the Credit Support shall be recalculated, on the Business Day following the Request Date, by each Party requesting quotations from two (2) Reference Market-Makers for a total of four (4)

quotations. The highest and lowest of the four (4) quotations shall be discarded and the arithmetic average shall be taken of the remaining two (2), which shall be used in order to determine the amount of Credit Support required. On the same day the Credit Support amount is recalculated, the Disputing Party shall deliver any additional Credit Support required pursuant to the recalculation or the Requesting Party shall return any excess Credit Support that is no longer required pursuant to the recalculation.

(b) Further Assurances. Promptly following a request by a Party, the other Party shall use commercially reasonable efforts to execute, deliver, file, and/or record any financing statement, specific assignment, or other document and take any other action that may be necessary or desirable to create, perfect, or validate any Posted Collateral or other security interest or lien, to enable the requesting party to exercise or enforce its rights or remedies under this Agreement, or with respect to Posted Collateral, or accrued interest.

(c) Further Protection. Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding, or lien (other than a banker's lien in favor of the Custodian appointed by Buyer so long as no amount owing from Seller to such Custodian is overdue) that involves the Posted Collateral delivered to Buyer by Seller or that could adversely affect any security interest or lien granted pursuant to this Agreement.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

7.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Rhode Island. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Due Authorization; No Conflicts. The execution and delivery by Buyer of this Agreement, and the performance by Buyer of its obligations hereunder, have been duly authorized by all necessary actions on the part of Buyer and do not and, under existing facts and Law, shall not: (i) contravene its certificate of incorporation or any other governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) subject to receipt of the Regulatory Approval, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(c) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Buyer and, assuming the due execution hereof and performance hereunder by Seller and receipt of the Regulatory Approval, constitutes a legal, valid and binding obligation

of Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(d) No Proceedings. As of the Effective Date, except to the extent relating to the Regulatory Approval, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Buyer or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Buyer reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Buyer's ability to perform its obligations under this Agreement.

(e) Consents and Approvals. Except to the extent associated with the Regulatory Approval, the execution, delivery and performance by Buyer of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken or that shall be duly obtained, made or taken on or prior to the date required, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable as required under applicable Law.

(f) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Buyer and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(g) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Buyer, or, to Buyer's knowledge, threatened against it.

(h) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Buyer of its obligations under this Agreement.

7.2 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer as of the Effective Date as follows:

(a) Organization and Good Standing; Power and Authority. Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of Delaware. Subject to the receipt of the Permits listed in Exhibit B and any Related Transmission Approvals, Seller has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to construct, own

and operate the Facility and to deliver the Products to the Buyer in accordance with this Agreement.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) assuming receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing. Seller is qualified to perform as a Market Participant under the ISO-NE Tariff, or is qualified to transact through another Market Participant under the ISO-NE Tariff. Seller will not be disqualified from or be materially adversely affected in the performance of any of its obligations under this Agreement by reason of market power or affiliate transaction issues under federal or state regulatory requirements.

(d) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Buyer and receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) No Proceedings. Except to the extent associated with the Permits listed on Exhibit B and any Related Transmission Approvals and as otherwise set forth on Exhibit B, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Seller or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Seller reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Seller's ability to perform its obligations under this Agreement.

(f) Consents and Approvals. Subject to the receipt of the Permits listed on Exhibit B on or prior to the date such Permits are required under applicable Law and subject to the receipt of the Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable. To Seller's knowledge, Seller shall be able to receive the Permits listed in Exhibit B and the Related Transmission Approvals in due course and as required under applicable Law to the extent that those Permits have not previously been received.

(g) RPS Class I Renewable Generation Unit. The Facility shall be a RPS Class I Renewable Generation Unit, qualified by the PUC as eligible to participate in the RPS program, under R.I.G.L. § 39-26-1, *et seq.* (subject to Section 4.7(b) in the event of a change in Law affecting such qualification as a RPS Class I Renewable Generation Unit) and shall have a Commercial Operation Date, as verified by the Buyer.

(h) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under this Agreement, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under this Agreement.

(i) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Seller and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(j) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

(k) No Misrepresentations. The reports and other submittals by Seller to Buyer under this Agreement are not false or misleading in any material respect.

(l) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under this Agreement.

(m) Site Control. As of the Effective Date, Seller either (i) has acquired all real property rights to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement or (ii) has an irrevocable option to acquire such real property rights and the only condition upon Seller's exercise of such option to acquire such real property rights is the payment of monies to acquire such real property rights.

7.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section are made as of the Effective Date and , except for the representations and warranties set forth in Section 7.2(e), deemed made continually throughout the Term, subject to the removal of the references to the Regulatory Approval and Permits as and when the Regulatory Approval and Permits are obtained. If at any time during the Term, a Party has knowledge of any event or information which causes any of the representations and warranties in this Article 7 to be untrue or misleading, such Party shall provide the other Party with prompt written notice of the event or information, the representations and warranties affected, and the corrective action such Party shall take. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

8. REGULATORY APPROVAL

8.1 Receipt of Regulatory Approval. The obligations of the Parties to perform this Agreement, other than the Parties' obligations under Section 6.1, Section 6.2, Section 8.2, and Section 12, are conditioned upon and shall not become effective or binding until the earlier of: (i) the receipt of the Regulatory Approval from the PUC and the receipt of final approval of the Other Agreements from the other Regulatory Agencies, or (ii) both (A) the receipt of the Regulatory Approval from the PUC, and (B) Seller's delivery of written notice to Buyer that Seller elects to make this Agreement immediately effective and binding, which such notice may be delivered to Buyer at any time between the receipt of the Regulatory Approval from the PUC and fifteen (15) days after the other Regulatory Agencies issue final decisions with respect to the Other Agreements. Buyer shall notify Seller within five (5) Business Days after receipt of the Regulatory Approval or receipt of an order of the PUC regarding this Agreement. This Agreement may be terminated by either Buyer or Seller in the event that Regulatory Approval is not received within 270 days after filing, without liability as a result of such termination, subject to the return of Credit Support as provided in Section 6.3. The Parties acknowledge and agree that the Seller shall not be obligated to amend this Agreement on account of any condition or requirement stipulated in the Regulatory Approval.

8.2 Related Transmission Approvals. The obligation of the Parties to perform this Agreement is further conditioned upon the receipt of any Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law.

9. BREACHES; REMEDIES

9.1 Events of Default by Either Party. It shall constitute an event of default (**"Event of Default"**) by either Party hereunder if:

(a) Representation or Warranty. Any breach of any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement occurs where such breach is not fully cured and corrected within thirty (30) days after the Non-Defaulting Party has provided written notice to the Defaulting Party; or

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than:

(i) a Delivery Failure not exceeding ten (10) days,

(ii) failure of the Facility to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date,

(iii) a failure to maintain the RPS eligibility requirements set forth in Section 4.7(b),

(iv) a Rejected Purchase, or

(v) an Event of Default described in Section 9.1(a), 9.1(b), 9.1(d), 9.1(e) or 9.2,

such Party fails to perform, observe or otherwise to comply with any obligation hereunder and such failure continues for more than thirty (30) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; provided, however, that period shall be extended for an additional period of up to thirty (30) days if the Defaulting Party is unable to cure within the initial thirty (30) day period so long as such cure is diligently pursued by the Defaulting Party until such Default had been corrected, but in any event shall be cured within sixty (60) days of the notice from the Non-Defaulting Party; or

(d) Bankruptcy. Such Party (i) is adjudged bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy or reorganization petition against such Party under any such law, or (without limiting the generality of the foregoing) files a petition to reorganize pursuant to 11 U.S.C. § 101 or any similar statute applicable to such Party, as now or hereinafter in effect, (ii) makes an assignment for the benefit of creditors, or admits in writing an inability to pay its debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of such Party, or (iii) is subject to an order of a court of competent jurisdiction appointing a receiver or liquidator or custodian or trustee of such Party or of a major part of such Party's property, which is not dismissed within sixty (60) days; or

(e) Permit Compliance. Such Party fails to obtain and maintain or cause to be obtained and maintained in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under this Agreement.

9.2 Events of Default by Seller. In addition to the Events of Default described in Section 9.1, each of the following shall constitute an Event of Default by Seller hereunder if:

(a) Taking of Facility Assets. Any asset of Seller that is material to the construction, operation or maintenance of the Facility or the performance of its obligations hereunder is taken upon execution or by other process of law directed against Seller, or any such asset is taken upon or subject to any attachment by any creditor of or claimant against Seller and such attachment is not disposed of within sixty (60) days after such attachment is levied; or

(b) Failure to Maintain Credit Support. The failure of Seller to provide, maintain and/or replenish the Development Period Security or the Operating Period Security as required pursuant to Article 6 of this Agreement, and such failure continues for more than five (5) Business Days after Buyer has provided written notice thereof to Seller; or

(c) Energy Output. The failure of the Facility to produce Energy for **twelve (12)** consecutive months during the Services Term for any reason, including due in whole or in part to a Force Majeure; or

(d) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under this Agreement or on Buyer or Buyer's ability to receive the benefits under this Agreement; provided, however, if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under this Agreement, Seller shall have the opportunity to cure such failure within thirty (30) days of its occurrence; or

(e) Failure to Meet Critical Milestones. The failure of Seller to satisfy any Critical Milestone by the date set forth therefor in Section 3.1(a), as the same may be extended in accordance with Section 3.1(c) and (d); or

(f) Abandonment. On or after the Commercial Operation Date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a transfer permitted under this Agreement; or

(g) Assignment. The assignment of this Agreement by Seller, or Seller's sale or transfer of its interest (or any part thereof) in the Facility, except as permitted in accordance with Article 14; or

(h) Recurring Delivery Failure. A Delivery Failure of ten (10) continuous days or more; or

(i) Failure to Provide Status Reports. A failure to provide timely, accurate and complete status reports in accordance with this Agreement, and such failure continues for more than five (5) days after notice thereof is given by the Buyer; or

(j) Failure to Maintain RPS Eligibility. A failure to maintain RPS eligibility requirements set forth in Section 4.7(b).

9.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under this Agreement, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in this Agreement including, without limitation, the termination right set forth in Section 9.3(b), and, to the extent not inconsistent with the terms of this Agreement, such remedies available at law and in equity. In addition to the foregoing, except for breaches for which an express remedy or measure of damages is provided herein, the Non-Defaulting Party

shall retain its right of specific performance to enforce the Defaulting Party's obligations under this Agreement.

(b) Termination and Termination Payment. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate this Agreement at its sole discretion by providing written notice of such termination to the Defaulting Party. If the Non-Defaulting Party terminates this Agreement, it shall be entitled to calculate and receive as its sole remedy for such Event of Default a **"Termination Payment"** as follows:

(i) *Termination by Buyer Prior to Commercial Operation Date*. If Buyer terminates this Agreement because of an Event of Default by Seller occurring prior to the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the sum of (x) all Delay Damages due and owing by Seller through the date of such termination plus (y) the full amount of any Development Period Security provided to Buyer by Seller.

(ii) *Termination by Seller Prior to Commercial Operation Date*. If Seller terminates this Agreement because of an Event of Default by Buyer prior to the Commercial Operation Date, Seller shall only receive a Termination Payment if the Commercial Operation Date either occurs on or before the Guaranteed Commercial Operation Date or would have occurred by such date but for the Event of Default by Buyer giving rise to the termination of this Agreement. In such case, (x) if Seller terminates this Agreement because of an Event of Default by Buyer prior to the Financial Closing Date, the Termination Payment due to Seller shall be equal to the lesser of: (i) Buyer's Percentage Entitlement to Seller's out-of-pocket expenses incurred in connection with the development and construction of the Facility prior to such termination and for which Seller has provided adequate documentation to enable Buyer to verify the expense claimed, or (ii) the Termination Payment due to Seller as calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller; and (y) if Seller terminates this Agreement because of an Event of Default by Buyer on or after the Financial Closing Date, the Termination Payment due to Seller shall be calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller.

(iii) *Termination by Buyer On or After Commercial Operation Date.* If Buyer terminates this Agreement because of an Event of Default by Seller occurring on or after the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the greater of: (i) the security provided in accordance with Article 6, or (ii) the amount, if positive, calculated according to the following formula:

(x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the forward market price of Energy and Renewable Energy Credits, as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Buyer, for Replacement Energy and Replacement RECs, exceeds the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, multiplied by (ii) Buyer's Percentage Entitlement of the projected Energy output of the Facility as determined by a recognized third party expert selected by Buyer, using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Buyer as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Buyer in good faith and in a commercially reasonable manner, and Buyer shall provide Seller with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iii).

(iv) *Termination by Seller On or After Commercial Operation Date.* If Seller terminates this Agreement because of an Event of Default by Buyer occurring on or after the Commercial Operation Date, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, exceeds the forward market price of Energy and Renewable Energy Credits as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Seller, for Replacement Energy and Replacement RECs, multiplied by (ii) Buyer's Percentage Entitlement to the projected Energy output of the Facility as determined by a recognized third party expert selected by Seller using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Seller as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Seller in good faith and in a commercially reasonable manner, and Seller shall provide Buyer with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iv).

(v) *Acceptability of Liquidated Damages.* Each Party agrees and acknowledges that (i) the damages and losses (including without limitation the loss of environmental, reliability and economic benefits contemplated under this Agreement) that the Parties would incur due to an Event of Default would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Payment as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

(vi) *Payment of Termination Payment.* The Defaulting Party shall make the Termination Payment within ten (10) Business Days after such notice is effective, regardless whether the Termination Payment calculation is disputed. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall within ten (10) Business Days of receipt of the calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. If the Parties are unable to resolve the dispute within thirty (30) days, Article 11 shall apply.

(c) Set-off. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to withhold and set off any amounts owed by the Non-Defaulting Party to the Defaulting Party against any payments and any other amounts owed by the Defaulting Party to the Non-Defaulting Party, including any Termination Payment payable as a result of any early termination of this Agreement.

(d) Notice to Lenders. Seller shall provide Buyer with a notice identifying a single Lender (if any) to whom default notices are to be issued. Buyer shall provide a copy of the notice of any default of Seller under this Article 9 to that Lender, and Buyer shall afford such Lender the same opportunities to cure Events of Default under this Agreement as are provided to Seller hereunder.

(e) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE

THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10. FORCE MAJEURE

10.1 Force Majeure.

(a) The term **"Force Majeure"** means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under this Agreement. Under no circumstances shall Force Majeure include (v) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God such as floods, hurricanes or tornados; sabotage; terrorism; or war, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in this Agreement, or (z) Buyer's ability to procure the Products at a price lower than that set out in this Agreement. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval) or qualifications, any delay or failure in satisfying the Critical Milestone obligations specified in Section 3.1(a)(i) (Permits) or Section 3.1(a)(iii) (Financing), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure or be the basis for a claim of Force Majeure. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Products to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined herein has occurred.

(b) Subject to Section 3.1(d), if either Party is unable, wholly or in part, by Force Majeure to perform obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer

period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing, if the Force Majeure prevents full or partial performance under this Agreement for a period of twelve (12) months or more, the Party whose performance is not prevented by Force Majeure shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse. In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this Agreement beyond its stated Term.

11. DISPUTE RESOLUTION

11.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a **"Dispute"**), in addition to any other remedies provided hereunder, the Parties shall attempt to resolve such Dispute through consultations between the Parties. If the Dispute has not been resolved within fifteen (15) Business Days after such consultations between the Parties, then either Party may seek to resolve such Dispute in the courts of the State of Rhode Island; provided, however, if the Dispute is subject to FERC's jurisdiction over wholesale power contracts, then either Party may elect to proceed with the mediation through FERC's Dispute Resolution Service; provided, however, that if one Party fails to participate in the negotiations as provided in this Section 11.1, the other Party can initiate mediation prior to the expiration of the thirty (30) Business Days. Unless otherwise agreed, the Parties will select a mediator from the FERC panel. The procedure specified herein shall be the sole and exclusive procedure for the resolution of Disputes. To the fullest extent permitted by law, any mediation proceeding and any settlement shall be maintained in confidence by the Parties.

11.2 Allocation of Dispute Costs. The fees and expenses associated with mediation shall be divided equally between the Parties, and each Party shall be responsible for its own legal fees, including but not limited to attorney fees, associated with any Dispute. The Parties may, by written agreement signed by both Parties, alter any time deadline, location(s) for meeting(s), or procedure outlined herein or in FERC's rules for mediation.

11.3 Consent to Jurisdiction. Subject to Section 11.1, the Parties agree to the exclusive jurisdiction of the state and federal courts located in the State of Rhode Island for any legal proceedings that may be brought by a Party arising out of or in connection with any Dispute.

11.4 Waiver of Jury Trial and Inconvenient Forum Claim. EACH PARTY HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE

TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT. BOTH PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE AS SET FORTH IN THIS ARTICLE 11 AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN ANY INCONVENIENT FORUM.

12. CONFIDENTIALITY

12.1 Nondisclosure. Buyer and Seller each agrees not to disclose to any Person and to keep confidential, and to cause and instruct its Affiliates, officers, directors, employees, partners and representatives not to disclose to any Person and to keep confidential, any non-public information relating to the terms and provisions of this Agreement, and any information relating to the Products to be supplied by Seller hereunder, and such other non-public information that is designated as "Confidential." Notwithstanding the foregoing, any such information may be disclosed:

(a) to the extent Buyer determines it is appropriate in connection with efforts to obtain or maintain the Regulatory Approval or to seek rate recovery for amounts expended by Buyer under this Agreement

(b) as required by applicable laws, regulations, filing requirements, rules or orders or by any subpoena or similar legal process of any Governmental Entity so long as the disclosing Party gives the non-disclosing Party written notice at least three (3) Business Days prior to such disclosure, if practicable;

(c) to the Affiliates of either Party and to the consultants, attorneys, auditors, financial advisors, lenders or potential lenders and their advisors of either Party or their Affiliates, but solely to the extent they have a need to know that information;

(d) in order to comply with any rule or regulation of ISO-NE, any stock exchange or similar Person or for financial disclosure purposes;

(e) to the extent the non-disclosing Party shall have consented in writing prior to any such disclosure; and

(f) to the extent that the information was previously made publicly available other than as a result of a breach of this Section 12.1;

provided, however, in each case, that the Party seeking such disclosure shall, to the extent practicable, use commercially reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this Section 12.1.

12.2 Public Statements. No public statement, press release or other voluntary publication regarding this Agreement or the transactions to be made hereunder shall be made or issued without the prior consent of the other Party.

13. INDEMNIFICATION

13.1 Indemnification Obligations. Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to: (i) third party (excepting Buyer's Affiliates) claims brought against Buyer (ii) personal injury, death or property damage to Buyer's property or facilities, or (iii) personal injury, death or property damage to third parties in each case caused by Seller's execution, delivery or performance of this Agreement, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under this Agreement, or Seller's failure to satisfy any regulatory requirement or commitment associated with this Agreement; provided, however, Seller shall have no obligation to indemnify Buyer: (1) to the extent such damages are attributable to the gross negligence or willful misconduct or breach of this Agreement by Buyer or (2) a loss, charge or cost for which Buyer is made expressly responsible under this Agreement.

13.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of Seller contest, settle or pay such claim.

14. ASSIGNMENT AND CHANGE OF CONTROL

14.1 Prohibition on Assignments. Except as permitted under this Article 14, this Agreement (and any portion thereof) may not be assigned, transferred or otherwise conveyed by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. The Party requesting the other Party's consent to an assignment of this Agreement will reimburse such other Party for all "out of pocket" costs and expenses such other Party incurs in connection with that consent, without regard to whether such consent is provided. The Party wishing to assign, transfer or convey its interests in this Agreement shall provide prior written notice of such conveyance, and any other reasonably requested information to the non-assigning Party. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement (and shall not impair any Credit Support given by Seller hereunder) unless the other Party (or its successors or assigns) consents in writing to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations thereunder.

14.2 Permitted Assignment by Seller. Buyer's consent shall not be required for Seller to pledge or assign the Facility, this Agreement or the revenues under this Agreement to any Lender as security for any Financing of the Facility; provided, however, if Seller requests Buyer's consent to such an assignment, (i) Buyer shall provide that consent subject to Buyer's execution of a consent to assignment in a form acceptable to Buyer and Seller, and (ii) Seller will reimburse Buyer for all "out of pocket" costs and expenses Buyer incurs in connection with that consent, without regarding to whether such consent is provided.

14.3 Change in Control over Seller. Buyer's consent shall be required for any change in Control over Seller, which consent shall not be unreasonably withheld, conditioned or delayed and shall be provided if Buyer reasonably determines that such change in Control does not have a material adverse effect on Seller's creditworthiness or Seller's ability to perform its obligations under this Agreement. Seller shall provide prior written notice to Buyer of any proposed Change in Control, and shall provide such information regarding the proposed Change in Control as requested by Buyer.

14.4 Permitted Assignment by Buyer. Buyer shall have the right to assign this Agreement without consent of Seller (a) in connection with any merger or consolidation of the Buyer with or into another Person or any exchange of all of the common stock or other equity interests of Buyer or Buyer's parent for cash, securities or other property or any acquisition, reorganization, or other similar corporate transaction involving all or substantially all of the common stock or other equity interests in, or assets of, Buyer, or (b) to any substitute purchaser of the Products so long as in the case of either clause (a) or clause (b) of this Section 14.4, either (1) the proposed assignee's credit rating is at least either BBB- from S&P or Baa3 from Moody's or (2) the proposed assignee's credit rating is equal to or better than that of Buyer at the time of the proposed assignment, or (3) such assignment, or in the case of clause (a) above the transaction associated with such assignment, has been approved by the PUC or the appropriate Government Entity.

14.5 Prohibited Assignments. Any purported assignment of this Agreement not in compliance with the provisions of this Article 14 shall be null and void.

15. TITLE; RISK OF LOSS

Title to and risk of loss related to Buyer's Percentage Entitlement of the Energy shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Buyer's Percentage Entitlement of the RECs shall transfer to Buyer when the same are credited to Buyer's GIS account(s) or the GIS account(s) designated by Buyer to Seller in writing. Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

16. AUDIT

16.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under this Agreement, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party additional information documenting the quantities of Products delivered or provided hereunder. If any such examination reveals any overcharge, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall include interest at the Late Payment Rate from the date the overpayment was made until credited or paid.

16.2 Access to Financial Information. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's written request financial information and statements applicable to

Seller as well as access to financial personnel, so that Buyer may address any inquiries relating to Seller's financial resources.

17. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); or (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) delivered by fax or electronic mail (notices sent by fax or electronic mail shall be deemed given upon confirmation of delivery); or (4) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing:

If to Buyer:
Attn: Renewable Contract Manager, Environmental Transactions
National Grid
100 East Old Country Road, Second Floor
Hicksville, NY 11801-4218
Email: RenewableContracts@nationalgrid.com
With a copy to: ElectricSupply@nationalgrid.com

With a copy to:
Legal Department
Attn: Jennifer Brooks Hutchinson, Esq.
Senior Counsel
National Grid
280 Melrose Street
Providence, RI 02907
Email: Jennifer.Hutchinson@nationalgrid.com

If to Seller:
11101 West 120th Avenue, Suite 400
Broomfield, CO 80021
Attn: General Counsel
Email: Marcia.Emmons@res-group.com
Telephone: 303-439-4200
Facsimile: 303-439-4299

18. WAIVER AND MODIFICATION

This Agreement may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a

continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine in its sole discretion whether any amendment or waiver of the provisions of this Agreement shall require Regulatory Approval or PUC filing and/or approval. If Buyer determines that any such approval or filing is required, then such amendment or waiver shall not become effective unless and until Regulatory Approval or such other approval is received, or such PUC filing is made and any requested PUC approval is received.

19. INTERPRETATION

19.1 Choice of Law. Interpretation and performance of this Agreement shall be in accordance with, and shall be controlled by, the laws of the State of Rhode Island (without regard to its principles of conflicts of law).

19.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of this Agreement. The words "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

19.3 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a "forward contract" within the meaning of the United States Bankruptcy Code.

19.4 Standard of Review. The Parties acknowledge and agree that the standard of review for any avoidance, breach, rejection, termination or other cessation of performance of or changes to any portion of this integrated, non-severable Agreement (as described in Section 22) over which FERC has jurisdiction, whether proposed by Seller, by Buyer, by a non-party of, by FERC acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Serv. Co., 350 U.S. 332 (1956) and Federal Power Comm'n v. Sierra Pac. Power Co., 350 U.S. 348 (1956). Each Party agrees that if it seeks to amend any applicable power sales tariff during the Term, such amendment shall not in any way materially and adversely affect this Agreement without the prior written consent of the other Party. Each Party further agrees that it shall not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

19.5 Change in ISO-NE Rules and Practices. This Agreement is subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of this Agreement, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend or clarify this Agreement to embody the Parties' original intent regarding their respective rights and obligations under this Agreement, provided that neither Party shall have any obligation to agree to any particular amendment or clarification of this Agreement. The intent of the Parties is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability,

provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable.

19.6 Dodd Frank Act Representations. The Parties agree that this Agreement (including all transactions reflected herein) is not a "swap" within the meaning of the Commodity Exchange Act ("CEA") and the rules, interpretations and other guidance of the Commodity Futures Trading Commission ("CFTC rules"), and that the primary intent of this Agreement is physical settlement (i.e., actual transfer of ownership) of the nonfinancial commodity and not solely to transfer price risk. In reliance upon such agreement, each Party represents to the other that:

(a) With respect to the commodity to be purchased and sold hereunder, it is a commercial market participant, a commercial entity and a commercial party, as such terms are used in the CFTC rules, and it is a producer, processor, or commercial user of, or a merchant handling, the commodity and it is entering into this Agreement for purposes related to its business as such;

(b) It is not registered or required to be registered under the CFTC rules as a swap dealer or a major swap participant;

(c) It has entered into this Agreement in connection with the conduct of its regular business and it has the capacity or ability to regularly make or take delivery of the commodity to be purchased and sold hereunder;

(d) With respect to the commodity to be purchased and sold hereunder, it intends to make or take physical delivery of the commodity;

(e) At the time that the Parties enter into this Agreement, any embedded volumetric optionality in this Agreement is primarily intended by the holder of such option or optionality to address physical factors or regulatory requirements that reasonably influence demand for, or supply of, the commodity to be purchased and sold hereunder;

(f) With respect to any embedded commodity option in this Agreement, such option is intended to be physically settled so that, if exercised, the option would result in the sale of the commodity to be purchased or sold hereunder for immediate or deferred shipment or delivery;

(g) The commodity to be purchased and sold hereunder is a nonfinancial commodity, and is also an exempt commodity or an agricultural commodity, as such terms are defined and interpreted in the CFTC rules.

To the extent that reporting of any transactions related to this Agreement is required by the CFTC rules, the Parties agree that Seller shall be responsible for such reporting (the "Reporting Party"). The Reporting Party's reporting obligations shall continue until the reporting obligation has expired or has been terminated in accordance with CFTC rules. The Buyer, as the Party that

is not undertaking the reporting obligations shall timely provide the Reporting Party all necessary information requested by the Reporting Party for it to comply with CFTC rules.

19.7 Change in Law or Buyer's Accounting Treatment, Subsequent Judicial or Regulatory Action. If, during the Term of this Agreement, there is a change in Law or accounting standards or rules or a change in the interpretation or applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with this Agreement or the amounts paid for Products purchased hereunder, the Buyer shall prepare an amendment to this Agreement to avoid or mitigate such impacts. Buyer shall use commercially reasonable efforts to prepare such amendment in a manner that mitigates any material adverse effect(s) on Seller (as identified by Seller, acting reasonably) that could reasonably be expected to result from such amendment, but only to the extent that such mitigation can be accomplished in a manner that is consistent with the purpose of such amendment. Seller agrees to execute such amendment provided that such amendment does not (unless the Seller otherwise agrees) alter: (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable. .

Upon a determination by a court or regulatory body having jurisdiction over this Agreement or any of the Parties hereto, or over the establishment and enforcement of any of the statutes or regulations or orders or actions of regulatory agencies (including the PUC) supporting this Agreement or the rights or obligations of the Parties hereunder that any of the statutes or regulations supporting this Agreement or the rights or obligations of the Parties hereunder, or orders of or actions of regulatory agencies (including the PUC) implementing such statutes or regulations, or this Agreement on its face or as applied, violates any Law (including the State or Federal Constitution) (an "Adverse Determination"), each Party shall have the right to suspend performance under this Agreement without liability. Seller may deliver and sell Products to a third party during any period of time for which Buyer suspends payments or purchases under this Section. Upon an Adverse Determination becoming final and non-appealable, this Agreement shall be rendered null and void.

20. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of this Agreement may be executed, and each shall have the same force and effect as an original. Facsimile signatures hereon or on any notice or other instrument delivered under this Agreement shall have the same force and effect as original signatures.

21. NO DUTY TO THIRD PARTIES

Except as provided in any consent to assignment of this Agreement, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement.

22. SEVERABILITY

If any term or provision of this Agreement or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of this Agreement and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law so long as all essential terms and conditions of this Agreement for both Parties remain valid, binding and enforceable and have not been declared to be unenforceable, illegal or invalid by a Governmental Entity of competent jurisdiction. The Parties acknowledge and agree that essential terms and conditions of this Agreement for each Party include, without limitation, all pricing and payment terms and conditions of this Agreement, and that the essential terms and conditions of this Agreement for Buyer also include, without limitation, the terms and conditions of Section 19.7 of this Agreement.

23. INDEPENDENT CONTRACTOR

Nothing in this Agreement shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of this Agreement, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby. Nothing in this Agreement shall be construed as creating any relationship between Buyer and the Interconnecting Utility.

24. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement and understanding between the Parties hereto and shall supersede all prior agreements and communications.

[Signature page follows]

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____

Name:
Title:

SCITUATE RI SOLAR, LLC

By: RES America Developments Inc.,
its Manager

By: _____

Name:
Title:

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____
Name:
Title:

SCITUATE RI SOLAR, LLC

By: RES America Developments Inc.,
its Manager

By: _____
Name: Brian Evans
Title: President

EXHIBIT A

DESCRIPTION OF FACILITY

Facility: The Scituate Solar Project is a fixed tilt solar energy generation project located on Seven Mile Road in the Town of Scituate, Providence County, Rhode Island. The facility will consist of photovoltaic panels, racking, inverters, transformers, controls, switchgear, and other ancillary facilities.

Longitude & Latitude: [redacted]

Delivery Point: Settlement in the ISO-NE energy market system will occur when Energy is supplied into Buyer's ISO-NE settlement account at the ISO New England pricing node ("pnode") for the Facility established in accordance with ISO-New England Rules. The Delivery Point is the ISO New England Pool Transmission Facilities ("PTF") in the vicinity of the referenced pnode. Seller shall be responsible for all charges, fees and losses required for Delivery of Energy from the generator to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. In addition Seller shall also be responsible to apply for and schedule all such services.

ISO-NE PNode: [redacted] [redacted]

Proposed Facility Size: 10 MW_{AC}

EXHIBIT B

SELLER'S CRITICAL MILESTONES
AND MATERIAL PROCEEDINGS

[redacted]

[redacted]

EXHIBIT C

FORM OF PROGRESS REPORT

For the Quarter Ending:_____

Milestones Achieved:

Milestones Pending:

Status of Progress toward achievement of Milestones during the quarter:

Status of permitting and Permits obtained during the quarter:

Status of Financing for Facility:

Current projection for Financial Closing Date:

Events expected to result in delays in achievement of any Milestones:

Critical Milestones not yet achieved and projected date for achievement:

Current projection for Commercial Operation Date:

EXHIBIT D

PRODUCTS AND PRICING

1. Price for Buyer's Percentage Entitlement of Products up to the Contract Maximum Amount. The Price for the Buyer's Percentage Entitlement of Delivered Products up to the Contract Maximum Amount in nominal dollars shall be as follow:

(a) Commencing on the Commercial Operation Date, the Price per MWh for the Products shall be equal to [redacted] per MWh. The Price per MWh for each billing period shall be allocated between Energy and RECs as follows:

(i) Energy = The $/MWh price of Energy for the applicable month shall be equal to the weighted average of the Real-Time or Day-Ahead Locational Marginal Price (as applicable consistent with Section 4.2(a)) in the month (also on a $MWh basis) for the Node on the Pool Transmission Facilities to which the Facility is interconnected.

(ii) RECs = The Price less the Energy allocation determined above for the applicable billing period, expressed in $/MWh.

(b) The Adjusted Price for Energy shall be equal to [redacted] per MWh.

If the market price at the Delivery Point in the Real-Time or Day-Ahead markets, as applicable, for Energy Delivered by Seller is negative in any hour, the payment to Seller for deliveries of Energy shall be reduced by the difference between the absolute value of the hourly LMP at the Delivery Point and $0.00 per MWh for that Energy for each such hour. Each monthly invoice shall reflect a reduction for all hours in the applicable month in which the LMP for the Energy at the Delivery Point is less than $0.00 per MWh.

Examples. If delivered Energy equals 1 MWh and Price equals $50.00/MWh:

LMP at the Delivery Point equals (or is greater than) $0.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $0.00
Net Result: Buyer pays Seller $50 for that hour

LMP at the Delivery Point equals -$150.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $150.00
Net Result: Seller credits or reimburses Buyer $100 for that hour

(c) Price for Buyer's Percentage Entitlement of Products Delivered in excess of Contract Maximum Amount. The Products Delivered in excess of the Contract Maximum Amount shall be purchased by Buyer at a Price equal to the product of (x) the MWhs of Energy in excess of the

Contract Maximum Amount Delivered to the Delivery Point and (y) the lesser of (i) ninety percent (90%) of the Real Time LMP at such Delivery Point, or (ii) the Price determined in accordance with Section 1(a) of this Exhibit D for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer.

(d) For those hours when the Real Time LMP at the Delivery Point (as determined by ISO-NE) is negative, the payment from Buyer to Seller shall be reduced for Products Delivered in excess of the Contract Maximum Amount by an amount equal to the product of (x) the MWhs of Energy in excess of the Contract Maximum Amount Delivered to the Delivery Point and (y) one hundred percent (100%) of the absolute value of the Real Time LMP at such Delivery Point for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer. All rights and title to RECs associated with Energy Delivered in excess of the Contract Maximum Amount shall remain with Buyer whether the Real Time LMP is positive or negative. In the event that Seller received RECs associated with Energy Delivered in excess of the Contract Maximum Amount, Seller shall not hold or claim to hold equitable title to such RECs and shall promptly transfer such RECs to Buyer's GIS account.

EXHIBIT E

RELATED TRANSMISSION FACILITIES

NONE

Schedule CMD-3

Redacted

REDACTED

RPS CLASS I RENEWABLE GENERATION UNIT

POWER PURCHASE AGREEMENT

BETWEEN

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

AND

HOPE FARM SOLAR, LLC

As of May 25, 2017

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Exhibits

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (as amended from time to time in accordance with the terms hereof, this **"Agreement"**) is entered into as of May 25, 2017 (the **"Effective Date"**), by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation (**"Buyer"**), and Hope Farm Solar, LLC, a Delaware limited liability company (**"Seller"**). Buyer and Seller are individually referred to herein as a **"Party"** and are collectively referred to herein as the **"Parties"**.

WHEREAS, Seller is developing the solar electric generation facility to be located in Cranston, RI, which is more fully described in Exhibit A hereto (the **"Facility"**), from which the Buyer's Percentage Entitlement of the Products (as defined below) is to be delivered to Buyer pursuant to the terms of this Agreement; and

WHEREAS, the Facility is, and shall qualify as a RPS Class I Renewable Generation Unit in the state of Rhode Island and which is expected to be in commercial operation by November 1, 2019; and

WHEREAS, pursuant to R.I.G.L. § 39-26.1, Buyer is authorized to enter into certain long-term contracts for the purchase of energy or energy and renewable energy certificates from renewable generators meeting the requirements of R.I.G.L. § 39-26.-5; and

WHEREAS, Buyer and Seller desire to enter into this Agreement whereby Buyer shall purchase from Seller certain Energy and RECs (each as defined herein) generated by or associated with the Facility;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in this Agreement and not defined herein shall have the same meaning as ascribed to such terms under the ISO-NE Practices and ISO-NE Rules.

"Actual Facility Size" shall mean the actual nameplate capacity of the Facility, as built, and as certified by an Independent Engineer, as provided in Section 3.4(b)(xiii).

"Adjusted Price" shall mean the purchase price(s) for Energy referenced in Section 5.1 if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b) hereof.

"Adverse Determination" shall have the meaning set forth in Section 19.7.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"Agreement" shall have the meaning set forth in the first paragraph of this Agreement.

"Alternative Compliance Payment Rate" means the rate per MWh paid by electricity suppliers under applicable Law for failure to supply RECs in accordance with the RPS.

"Business Day" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"Buyer's Percentage Entitlement" shall mean Buyer's rights to 50% of the Products. Buyer's Percentage Entitlement may be adjusted in accordance with Section 3.3(c).

"Buyer's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Capacity Deficiency" means, at the Commercial Operation Date, the amount (expressed in MW), if any, by which the Actual Facility Size is less than the proposed nameplate capacity of the Facility as set forth in Exhibit A.

"Cash" shall mean U.S. dollars held by or on behalf of a Party as Posted Collateral hereunder.

"Certificate" shall mean an electronic certificate created pursuant to the GIS Operating Rules or any successor thereto to represent certain Environmental Attributes of each MWh of Energy generated within the ISO-NE control area and the generation attributes of certain Energy imported into the ISO-NE control area.

"Collateral Account" shall have the meaning specified in Section 6.5(a)(iii)(B) hereof.

"Collateral Interest Rate" shall mean the rate published in *The Wall Street Journal* as the "Prime Rate" from time to time (or, if more than one such rate is published, the arithmetic mean of such rates), or, if such rate is no longer published, a successor rate agreed to by Buyer and Seller, in each case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties.

"Collateral Requirement" shall mean at any time the amount of Development Period Security or Operating Period Security required under this Agreement at such time.

"Commercial Operation Date" shall mean the date on which the conditions set forth in Section 3.4(b) have been satisfied, as set out in a written notice from Seller to Buyer.

"Contract Maximum Amount" shall mean 5.00 MW_{AC} and a corresponding portion of all other Products, as may be adjusted in accordance with Section 3.3(b).

"Contract Year" shall mean the twelve (12) consecutive calendar months starting on the first day of the calendar month following the Commercial Operation Date and each subsequent twelve (12) consecutive calendar month period; provided that the first Contract Year shall include the days in the prior month in which the Commercial Operation Date occurred.

"Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Cover Damages" shall mean, with respect to any Delivery Failure, an amount equal to (a) the positive net amount, if, any, by which the Replacement Price exceeds the applicable Price that would have been paid for the Products pursuant to Section 5.1 hereof, multiplied by the quantity of that Delivery Failure, plus (b) any applicable penalties and other costs assessed by ISO-NE against Buyer as a result of Seller's failure to deliver such Products in accordance with the terms of this Agreement, to the extent not already accounted for in the calculation of the Replacement Price. Buyer shall provide a statement for the applicable period explaining in reasonable detail the calculation of any Cover Damages.

"Credit Support" shall have the meaning specified in Section 6.2(d) hereof.

"Credit Support Delivery Amount" shall have the meaning specified in Section 6.3 hereof.

"Credit Support Return Amount" shall have the meaning specified in Section 6.4 hereof.

"Critical Milestones" shall have the meaning set forth in Section 3.1 hereof.

"Custodian" shall have the meaning specified in Section 6.5(a)(i) hereof.

"Day Ahead Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Default" shall mean any event or condition which, with the giving of notice or passage of time or both, could become an Event of Default.

"Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has occurred.

"Delay Damages" shall mean the damages assessed pursuant to Section 3.2(a) hereof.

"Deliver" or **"Delivery"** shall mean with respect to (i) Energy, to supply Energy at the Delivery Point in accordance with the terms of this Agreement and the ISO-NE Rules, and (ii) RECs, to supply RECs in accordance with Section 4.7(e).

"Delivery Failure" shall have the meaning set forth in Section 4.3 hereof.

"Delivery Point" shall mean the specific location where Seller shall Deliver its Energy to Buyer, as set forth in Exhibit A hereto.

"Development Period Security" shall have the meaning set forth in Section 6.2(a) hereof.

"Dispute" shall have the meaning set forth in Section 11.1 hereof.

"Disputing Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Eastern Prevailing Time" shall mean either Eastern Standard Time or Eastern Daylight Savings Time, as in effect from time to time.

"Effective Date" shall have the meaning set forth in the first paragraph hereof.

"Eligible Renewable Energy Resource" means resources as defined in R.I.G.L. § 39-26-5.

"Energy" shall mean electric "energy," as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time, less such Facility's station service use, generator lead losses and transformer losses, which quantity for purposes of this Agreement will never be less than zero.

"Environmental Attributes" shall mean any and all generation attributes under the RPS laws and regulations of the State of Rhode Island, and under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, to Buyer's Percentage Entitlement to the favorable generation or environmental attributes of the Facility or the Products produced by the Facility, up to and including the Contract Maximum Amount, during the Services Term including Buyer's Percentage Entitlement to: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility's generation using renewable technology or displacement of fossil-fuel derived or other conventional energy generation; (b) any Certificates issued pursuant to the GIS in connection with Energy generated by the Facility; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy by the Facility; provided, however, that Environmental Attributes shall not include: (i) any production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Facility; or (iii) any state, federal or private grants, financing, guarantees or other credit support relating to the construction or ownership, operation or maintenance of the Facility or the output thereof.

"Event of Default" shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

"EWG" shall mean an exempt wholesale generator under 15 U.S.C. § 79z-5a, as amended from time to time.

"Facility" shall have the meaning set forth in the Recitals.

"Federal Funds Rate" shall mean the annualized interest rate for the applicable month as set forth in the statistical release designated as H.15, or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" shall mean the United States Federal Energy Regulatory Commission, and shall include its successors.

"Financial Closing Date" shall mean the date of the closing of the initial agreements for any Financing of the Facility and of an initial disbursement of funds under such agreements.

"Financing" shall mean indebtedness, whether secured or unsecured, loans, guarantees, notes, convertible debt, bond issuances adequate for the construction of the Facility

"Force Majeure" shall have the meaning set forth in Section 10.1(a) hereof.

"Generation Unit" shall mean a facility that converts a fuel or an energy resource into electrical energy.

"GIS" shall mean the NEPOOL Generation Information System or any successor thereto, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity generated or consumed within New England.

"GIS Operating Rules" are the NEPOOL Generation Information System Operating Rules effective as of the Effective Date, as amended, superseded, or restated from time to time.

"Good Utility Practice" shall mean compliance with all applicable laws, codes, rules and regulations, all ISO-NE Rules and ISO-NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric industry in New England 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 is made, could have been expected to accomplish the desired result 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 is intended to include acceptable practices, methods and acts generally accepted in the electric industry in New England.

"Governmental Entity" shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

"Guaranteed Commercial Operation Date" shall have the meaning set forth in Section 3.1(a)(iv) hereof.

"I.3.9 Confirmation" refers to the ISO-NE Tariff Section I.3.9 pertaining to ISO-NE's approval of proposed plans as specified therein.

"Independent Engineer" shall mean a licensed Professional Engineer with expertise in the development of renewable energy projects using the same renewable energy technology as the Facility, reasonably selected by and retained by Seller in order to determine the as-built nameplate capacity of the Facility as provided in Section 3.4(b)(xiii) hereof.

"Interconnecting Utility" shall mean the utility (which may or may not be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the Transmission System of that utility.

"Interconnection Agreement" shall mean an agreement between Seller and the Interconnecting Utility and ISO-NE, as applicable, regarding the interconnection of the Facility to the Transmission System of the Interconnecting Utility, as the same may be amended from time to time.

"Interconnection Point" shall have the meaning set forth in the Interconnection Agreement.

"Interest Amount" shall mean with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (a) the amount of Cash held by such Party on that day (but excluding any interest previously earned on such Cash); multiplied by (b) the Collateral Interest Rate for that day; divided by (c) 360.

"Interest Period" shall mean the period from (and including) the last Business Day on which an Interest Amount was Transferred by Buyer (or if no Interest Amount has yet been Transferred by Buyer, the Business Day on which Cash was Transferred to Seller) to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

"ISO" or **"ISO-NE"** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

"ISO-NE Practices" shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Agreement, and any applicable successor practices and procedures.

"ISO-NE Rules" shall mean all rules and procedures adopted by NEPOOL, ISO-NE, or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE

Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the ISO –NE Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

"ISO-NE Tariff" shall mean ISO-NE's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, superseded or restated from time to time.

"ISO Settlement Market System" shall have the meaning as set forth in the ISO-NE Tariff.

"Late Payment Rate" shall have the meaning set forth in Section 5.3 hereof.

"Law" shall mean all federal, state and local statutes, regulations, rules, orders, executive orders, decrees, policies, judicial decisions and notifications.

"Lender" shall mean a party providing Financing for the development and construction of the Facility, or any refinancing of that Financing, and receiving a security interest in the Facility, and shall include any assignee or transferee of such a party and any trustee, collateral agent or similar entity acting on behalf of such a party.

"**Letter of Credit**" shall mean an irrevocable, non-transferable, standby letter of credit, issued by a Qualified Institution utilizing a form acceptable to the Party in whose favor such letter of credit is issued. All costs relating to any Letter of Credit shall be for the account of the Party providing that Letter of Credit.

"**Letter of Credit Default**" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events (a) the issuer of such Letter of Credit shall fail to be a Qualified Institution; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (c) the issuer of the Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (d) the Letter of Credit shall expire or terminate or have a Value of $0 at any time the Party on whose account that Letter of Credit is issued is required to provide Credit Support hereunder and that Party has not Transferred replacement Credit Support meeting the requirements of this Agreement; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be cancelled or returned in accordance with the terms of this Agreement.

"Locational Marginal Price" or "LMP" shall have the meaning set forth in the ISO-NE Rules.

"Market Price" shall mean the price received by Buyer by selling the Energy into either the ISO-NE-administered Day-Ahead or Real-Time Markets, as applicable.

"Meters" shall have the meaning set forth in Section 4.6(a) hereof.

"Moody's" shall mean Moody's Investors Service, Inc., and any successor thereto.

"MW" shall mean a megawatt AC.

"MWh" shall mean a megawatt-hour (one MWh shall equal 1,000 kWh).

"NEPOOL" shall mean the New England Power Pool and any successor organization.

"NERC" shall mean the North American Electric Reliability Corporation and shall include any successor thereto.

"Network Upgrades" shall mean upgrades to the Pool Transmission Facilities and the Transmission Provider's transmission and distribution systems, as determined and identified in the interconnection study approved in connection with construction of the Facility necessary for Delivery of the Energy to the Delivery Point, including those that are necessary for the Seller's satisfaction of the obligations under Section 7.4 of this Agreement.

"New England Control Area" shall have the meaning as set forth in the ISO-NE Tariff.

"Newly Developed Renewable Energy Resource" shall mean, pursuant to R.I.G.L. § 39-26.1-2(6), an electrical generation unit that uses exclusively an Eligible Renewable Energy Resource, and either (x) has neither begun operation, nor have the developers of the unit implemented investment or lending agreements necessary to finance the construction of the unit or (y) is located within the state of Rhode Island and obtained project financing on or after January 1, 2009.

"Node" shall have the meaning set forth in ISO-NE Rules.

"Non-Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has not occurred.

"Obligations" shall have the meaning specified in Section 6.1 hereof.

"Operational Limitations" of the Facility are the parameters set forth in Exhibit A describing the physical limitations of the Facility, including the time required for start-up and the limitation on the number of scheduled start-ups per Contract Year.

"Operating Period Security" shall have the meaning set forth in Section 6.1(b) hereof.

"Other Agreements" shall mean

(w) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and NSTAR Electric Company d/b/a Eversource Energy;

(x) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid;

(y) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Western Massachusetts Electric Company d/b/a Eversource Energy;

(z) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Fitchburg Gas and Electric Light Company d/b/a Unitil;

"Party" and **"Parties"** shall have the meaning set forth in the first paragraph of this Agreement.

"Permits" shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law and the Delivery of the Products in accordance with this Agreement.

"Person" shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

"Pool Transmission Facilities" has the meaning given that term in the ISO-NE Rules.

"Posted Collateral" shall mean all Credit Support and all proceeds thereof that have been Transferred to or received by a Party under this Agreement and not Transferred to the Party providing the Credit Support or released by the Party holding the Credit Support. Any Interest Amount or portion thereof not Transferred will constitute Posted Collateral in the form of Cash.

"Price" shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on Exhibit D.

"Products" shall mean Energy and RECs; provided, however, that Energy and RECs generated by or associated with the Facility during the Test Period and RECs not purchased by Buyer under Section 4.1(b) shall not be deemed Products.

"PUC" shall mean the Rhode Island Public Utilities Commission and shall include its successors.

"QF" shall mean a cogeneration or small power production facility which meets the criteria as defined by FERC in Title 18, Code of Federal Regulations, §§ 292.201 through 292.207, as amended from time to time.

"Qualified Institution" shall mean a major U.S. commercial bank or trust company, the U.S. branch office of a foreign bank, or another financial institution, in any case, organized under the laws of the United States or a political subdivision thereof having assets of at least $10 billion and a credit rating of at least (A) "A3" from Moody's or "A-" from S&P, if such entity is rated by both S&P and Moody's or (B) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both.

"Real-Time Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Reference Market-Maker" shall mean a leading dealer in the relevant market that is selected in a commercially reasonable manner and is not an affiliate of either party.

"Regulatory Agencies" shall mean the Massachusetts Department of Public Utilities and its successors ("MDPU"), the Connecticut Public Utilities Regulatory Authority and its successors ("PURA") and the Rhode Island Public Utilities Commission and its successors ("PUC").

"Regulatory Approval" shall mean the PUC's approval of this Agreement without material modification or conditions pursuant to R.I.G.L. §§ 39-26.1-3 through 39-26.1-5 and the regulations promulgated thereunder, including the recovery by Buyer of its costs incurred under this Agreement and remuneration equal to two and three-quarters percent (2.75%) of Buyer's actual annual payments under this Agreement pursuant to R.I.G.L. § 39-26.1-4, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

"Rejected Purchase" shall have the meaning set forth in Section 4.4 hereof.

"Related Transmission Facilities" shall mean those transmission and distribution facilities to be used by Seller for Delivery of Energy under this Agreement, as described in Exhibit E hereto.

"Related Transmission Approvals" shall mean those FERC filings, agreements, tariffs and approvals associated with service on the Related Transmission.

"Reliability Curtailment" shall mean any curtailment of Delivery of Energy resulting from (i) an emergency condition as defined in the Interconnection Agreement or the ISO-NE Tariff, or (ii) any other order or directive of the Interconnecting Utility or the Transmission Provider pursuant to an Interconnection Agreement or tariff.

"Renewable Energy Certificates" or **"RECs"** shall mean all of the Certificates and any and all other Environmental Attributes associated with the Products or otherwise produced by the Facility which satisfy the RPS for a RPS Class I Renewable Generation Unit, and shall represent title to and claim over all Environmental Attributes associated with the specified MWh of generation from such RPS Class I Renewable Generation Unit.

"Replacement Energy" shall mean energy purchased by Buyer as replacement for any Delivery Failure relating to the Energy to be provided hereunder.

"Replacement Price" shall mean the price at which Buyer, acting in a commercially reasonable manner, (A) purchases Replacement Energy and/or Replacement RECs plus (i) costs incurred by Buyer in purchasing such Replacement Energy and/or Replacement RECs, (ii) additional transmission charges, if any, incurred by Buyer to transmit Replacement Energy to the Delivery Point, and (iii) any other costs and losses incurred by Buyer as a result of the Delivery Failure; provided, however, that in no event shall Buyer be required to utilize or change its utilization of its owned or controlled assets, contracts or market positions to minimize Seller's liability, or (B) elects in its sole discretion not to purchase Replacement Energy and/or Replacement RECs, the market value of Energy and/or the Alternative Compliance Payment Rate as of the date and the time of the Delivery Failure plus any other costs and losses incurred by Buyer as a result of the Delivery Failure will replace the price at which Buyer purchases Replacement Energy and/or Replacement RECs in the calculation of the Replacement Price relating to the Energy and/or RECs to be purchased and sold hereunder.

"Replacement RECs" shall mean any generation or environmental attributes, including any Certificates or other certificates or credits related thereto reflecting generation by a RPS Class I Renewable Generation Unit that are purchased by Buyer as replacement for any Delivery Failure.

"Request Date" shall have the meaning set forth in Section 6.6(a) hereof.

"Requesting Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Resale Damages" shall mean, with respect to any Rejected Purchase, an amount equal to (a) the positive net amount, if any, by which the applicable Price that would have been paid pursuant to Section 5.1 hereof for such Rejected Purchase, had it been accepted, exceeds the Resale Price multiplied by the quantity of that Rejected Purchase (in MWh and/or RECs, as applicable), plus (b) any applicable penalties assessed by ISO-NE against Seller as a result of Buyer's failure to accept such Products in accordance with the terms of this Agreement. Seller shall provide a written statement for the applicable period explaining in reasonable detail the calculation of any Resale Damages.

"Resale Price" shall mean the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase, plus transaction and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase that Seller would not have incurred but for the Rejected Purchase; provided, however, that in no event shall Seller be required to utilize or change its utilization of the Facility or its other assets, contracts or market positions in order to minimize Buyer's liability for such Rejected Purchase.

"Rounding Amount" shall have the meaning specified in Section 6.2(c) hereof.

"RPS" shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. and the regulations promulgated thereunder that require all retail electricity suppliers in Rhode Island to provide a minimum percentage of electricity from RPS Class I Renewable Generation Units, and such successor laws and regulations as may be in effect from time to time.

"RPS Class I Renewable Generation Unit" shall mean a Newly Developed Renewable Energy Resource that produces RECs that qualify for the RPS.

"RTO" shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC's Order No. 2000 and FERC's corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

"S&P" shall mean Standard & Poor's Financial Services LLC, and any successor thereto.

"Schedule" or "Scheduling" shall mean the actions of Seller and/or its designated representatives pursuant to Section 4.2, of notifying, requesting and confirming to ISO-NE the quantity of Energy to be delivered on any given day or days (or in any given hour or hours) during the Services Term at the Delivery Point.

"Services Term" shall have the meaning set forth in Section 2.2(b) hereof.

"Seller's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Substitute Credit Support" shall have the meaning assigned in Section 6.5(e) hereof.

"Term" shall have the meaning set forth in Section 2.2(a) hereof.

"Termination Payment" shall have the meaning set forth in Section 9.3(b) hereof.

"Test Energy" shall have the meaning set forth in Section 4.8 hereof.

"Test Period" shall have the meaning set forth in Section 3.4(a) hereof.

"Transfer" shall mean, with respect to any Posted Collateral or Interest Amount, and in accordance with the instructions of the Party entitled thereto:

(a) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the Party to whom such Cash is being delivered; and

(b) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the Party to whom such Letter of Credit is being delivered.

"Transmission Provider" shall mean (a) ISO-NE, its respective successor or Affiliates; (b) Buyer; and/or (c) such other third parties from whom transmission services are

necessary for Seller to fulfill its performance obligations to Buyer hereunder, as the context requires.

"Transmission System" shall mean the transmission facilities operated by a Transmission Provider, now or hereafter in existence, which provide energy transmission service for the Energy to or from the Delivery Point.

"Unit Contingent" shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating Energy.

"Valuation Agent" means the Requesting Party; provided, however, that in all cases, if an Event of Default has occurred and is continuing with respect to the Party designated as the Valuation Agent, then in such case, and for so long as the Event of Default continues, the other Party shall be the Valuation Agent.

"Valuation Date" shall mean each Business Day.

"Valuation Percentage" shall have the meaning specified in Section 6.2(d) hereof.

"Valuation Time" shall mean the close of business on the Business Day before the Valuation Date or date of calculation, as applicable.

"Value" shall mean, with respect to Posted Collateral or Credit Support, the Valuation Percentage multiplied by the amount then available under the Letter of Credit to be unconditionally drawn by Buyer.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. Subject in all respects to Section 8.1and Section 8.2, this Agreement is effective as of the Effective Date.

2.2 Term.

(a) The **"Term"** of this Agreement is the period beginning on the Effective Date and ending upon the final settlement of all obligations hereunder after the expiration of the Services Term or the earlier termination of this Agreement in accordance with its terms.

(b) The **"Services Term"** is the period during which Buyer is obligated to purchase Products Delivered to Buyer by Seller (not including Energy and RECs Delivered during the Test Period under Section 4.8) commencing on the Commercial Operation Date and continuing for a period of twenty (20) years from the Commercial Operation Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

(c) At the expiration of the Term or earlier termination of this Agreement pursuant to the terms hereof, the Parties shall no longer be bound by the terms and provisions hereof, except (i) to the extent necessary to make payments of any amounts owed to the other Party arising prior to or resulting from termination of, or on account of a breach of, this Agreement, (ii) to the extent necessary to enforce the rights and the obligations of the Parties

arising under this Agreement before such expiration or termination, and (iii) the obligations of the Parties hereunder with respect to confidentiality and indemnification shall survive the expiration or termination of this Agreement.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Critical Milestones.

(a) Subject to the provisions of Section 3.1(d), commencing on the Effective Date, Seller shall develop the Facility in order to achieve the following milestones (**"Critical Milestones"**) on or before the dates set forth in this Section 3.1(a):

(i) receipt of all Permits necessary to construct the Facility, as set forth in Exhibit B, in final form, by [redacted];

(ii) acquisition of all required real property rights necessary for construction and operation of the Facility and the interconnection of the Facility to the Interconnecting Utility in full and final form with all options and/or contingencies having been exercised demonstrating complete site control as set forth in Exhibit B, by [redacted];

(iii) closing of the Financing or other demonstration to Buyer's satisfaction of the financial capability to construct the Facility, including, as applicable, Seller's financial obligations with respect to interconnection of the Facility to the Interconnecting Utility and construction of the Network Upgrades by [redacted]; and

(iv) achievement of the Commercial Operation Date by [redacted] ("Guaranteed Commercial Operation Date").

(b) Seller shall provide Buyer with written notice of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Critical Milestone has been achieved. Seller acknowledges that Buyer will receive such notice solely to monitor progress toward the Commercial Operation Date, and Buyer shall have no responsibility or liability for the development, construction, operation or maintenance of the Facility.

(c) In addition to any extension to a date for a Critical Milestone as a result of Force Majeure under Section 10.1, Seller may elect to extend all of the dates for the Critical Milestones not yet achieved by up to four six-month periods from the applicable dates set forth in Section 3.1(a) by posting additional Development Period Security in an amount equal to $25,000.00 for each such six-month period. Any such election shall be made in a written notice delivered to Buyer on or prior to the first date for a Critical Milestone that has not yet been achieved (as such date may have previously been extended).

(d) To the extent a Force Majeure event pursuant to Section 10.1 has occurred that prevents the Seller from achieving the Critical Milestone date for acquisition of real property rights and interconnection (Section 3.1(a)(ii)) or the Commercial Operation Date (Section 3.1(a)(iv) by the applicable Milestone date, the Critical Milestone Date(s) impacted by such Force Majeure event shall be extended for the duration of the Force Majeure event, but under no circumstances shall extensions of those Critical Milestone dates due to Force Majeure events exceed twelve (12) months beyond the applicable Milestone date, and further provided, that the Seller shall not have the right to declare a Force Majeure event related to the Permits Critical Milestone (Section 3.1(a)(i)) or the Financing Critical Milestone (Section 3.1(a)(iii)).

(e) The Parties agree that time is of the essence with respect to the Critical Milestones and is part of the consideration to Buyer in entering into this Agreement.

(f) If Seller fails to make material progress toward the Commercial Operation Date, as reasonably determined by either Buyer or the PUC based on Seller's progress with respect to the milestones set forth in Section 3.1(a), within three (3) years after the Effective Date, Buyer may terminate this Agreement by written notice to Seller delivered within sixty (60) days after the third anniversary of the Effective Date (which termination shall be effective upon delivery of such notice), and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 13.

3.2 Delay Damages.

(a) If the Commercial Operation Date is not achieved by the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) -(d) and 10.1), Seller shall pay to Buyer damages for each day from and after such date in an amount equal to $500.00 per day, commencing on the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c)-(d) and 10.1) and ending on the earlier of (i) the Commercial Operation Date, (ii) the date that Buyer exercises its right to terminate this Agreement under Section 9.3, or (iii) the date that is twelve (12) months after the Guaranteed Commercial Operation Date (**"Delay Damages"**). Delay Damages shall be due under this Section 3.2(a) without regard to whether Buyer exercises its right to terminate this Agreement pursuant to Section 9.3; provided, however, that if Buyer exercises its right to terminate this Agreement under Section 9.3, Delay Damages shall be due and owing to the extent that such Delay Damages were due and owing at the date of such termination.

(b) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation Date by the Guaranteed Commercial Operation Date would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Notwithstanding the foregoing, this Article shall not limit the amount of damages payable to Buyer if this Agreement is terminated as a result of Seller's failure to achieve the Commercial Operation Date. Any such termination damages shall be determined in accordance with Article 9.

(c) By the tenth (10th) day following the end of the calendar month in which Delay Damages first become due and continuing by the tenth (10th) day of each calendar month during the period in which Delay Damages accrue (and the following months if applicable), Buyer shall deliver to Seller an invoice showing Buyer's computation of such damages and any amount due Buyer in respect thereof for the preceding calendar month. No later than ten (10) days after receiving such an invoice, Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. If Seller fails to pay such amounts when due, Buyer may draw upon the Development Period Security for payment of such Delay Damages, and Buyer may exercise any other remedies available for Seller's default hereunder.

3.3 Construction and Changes in Capacity.

(a) Construction of Facility. Seller shall construct the Facility as described in Exhibit A, in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility and all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to Buyer. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction functions, so long as Seller maintains overall control over the construction of the Facility through the Term.

(b) Capacity Deficiency. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements for the Commercial Operation Date under Section 3.4(b) of this Agreement, but a Capacity Deficiency exists on the Commercial Operation Date as permitted by Section 3.4(b), then on the Commercial Operation Date, the Contract Maximum Amount shall be automatically and permanently reduced commensurate with the Capacity Deficiency, which reduced Contract Maximum Amount shall be stated in a notice from Buyer to Seller, which notice shall be binding absent manifest error.

(c) Increase in Facility Size. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements under Section 3.4(b) of this Agreement, if the Independent Engineer's certification provides that the Actual Facility Size exceeds the Proposed Facility Size as provided in Exhibit A, the Buyer's Percentage Entitlement will be recalculated and replaced by the percentage derived by dividing the Contract Maximum Amount by the Actual Facility Size.

(d) Progress Reports. Within ten (10) days of the end of each calendar quarter after the Effective Date and until the Commercial Operation Date, Seller shall provide Buyer with a progress report regarding Critical Milestones not yet achieved, including projected time to completion of the Facility, in accordance with the form attached hereto as Exhibit C, and shall provide supporting documents and detail regarding the same upon Buyer's request. Seller shall permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller.

(e) Site Access. Buyer and its representatives shall have the right but not the obligation, during business hours and upon reasonable notice to Seller, to inspect the Facility site and view the construction of the Facility.

3.4 Commercial Operation.

(a) Seller's obligation to Deliver the Products and Buyer's obligation to pay Seller for such Products commences on the Commercial Operation Date; provided, that Energy and RECs generated by the Facility prior to the Commercial Operation Date (the **"Test Period"**) shall not be deemed Products.

(b) The Commercial Operation Date shall occur on the date on which the Facility as described in Exhibit A is completed (subject, if applicable, to a Capacity Deficiency so long as the Actual Facility Size on the Commercial Operation Date is (1) at least ninety percent (90%) of the proposed nameplate capacity of the Facility as set forth in Exhibit A, and (2) not more than ten (10) MW less than the proposed nameplate capacity of the Facility set forth in Exhibit A) and capable of regular commercial operation in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility, all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to the Buyer have been satisfied, and all performance testing for the Facility has been successfully completed, provided Seller has also satisfied the following conditions precedent as of such date:

(i) completion of all transmission and interconnection facilities and any Network Upgrades necessary for Seller to satisfy its obligations under this Agreement, including final acceptance and authorization to interconnect the Facility from ISO-NE or the Interconnecting Utility in accordance with the fully executed Interconnection Agreement;

(ii) all Related Transmission Facilities as set forth in Exhibit E are complete and in-service;

(iii) Seller has obtained and demonstrated possession of all Permits required for the lawful construction and operation of the Facility, for the interconnection of the Facility to the Interconnecting Utility (including any Network Upgrades) and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, all as set forth on Exhibit B;

(iv) Seller has obtained qualification by the PUC qualifying the Facility as a RPS Class I Renewable Generation Unit;

(v) All Related Transmission Approvals have been received;

(vi) Seller has acquired all real property rights needed to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent that it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement;

(vii) Seller has established all ISO-NE-related accounts and entered into all ISO-NE-related agreements required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect, including the registration of the Facility in the GIS;

(viii) Seller has provided to Buyer I.3.9 Confirmation from ISO-NE regarding approval of generation entry, has submitted the Asset Registration Form (as defined in ISO-NE Practices) for the Facility to ISO-NE and has taken such other actions as are necessary to effect the Delivery of the Energy to Buyer in the ISO Settlement Market System;

(ix) Seller has successfully completed all pre-operational testing and commissioning in accordance with manufacturer guidelines;

(x) Seller has satisfied all Critical Milestones that precede the Commercial Operation Date in Section 3.1;

(xi) no Default or Event of Default by Seller shall have occurred and remain uncured;

(xii) the Facility is owned or leased by, and under the care, custody and control of, Seller.

(xiii) Seller has delivered to Buyer:

(A) an Independent Engineer's certification stating (i) that the Facility has been completed in all material respects (excepting punchlist items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this Agreement, and (ii) the Actual Facility Size;

(B) certificates of insurance evidencing the coverages required under Section 3.5(i); and

(C) the Operating Period Security; and

(xiv) Seller has demonstrated that it can reliably transmit real time data and measurements to ISO-NE.

3.5 Operation of the Facility.

(a) Compliance With Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; (ii) the Operational Limitations; and

(iii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under this Agreement (including obligations related to the generation, Scheduling, interconnection, and transmission of Energy, and the transfer of RECs), whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Owner and Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain or cause to be maintained in full force and effect all Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility and all Related Transmission Approvals.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, construct, maintain and operate the Facility in accordance with Good Utility Practice and in accordance with Exhibit A to this Agreement. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete construction, operation and maintenance functions, so long as Seller maintains overall control over the construction, operation and maintenance of the Facility throughout the Term.

(d) Interconnection Agreement. Seller shall comply with the terms and conditions of the Interconnection Agreement.

(e) ISO-NE Status. Seller shall, at all times during the Services Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and this Agreement.

(f) Forecasts. Commencing at least thirty (30) days prior to the anticipated Commercial Operation Date and continuing throughout the Term, Seller shall update and deliver to Buyer on an annual basis and in a form reasonably acceptable to Buyer, twelve (12) month rolling forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice based on historical performance, maintenance schedules, Seller's generation projections and other relevant data and considerations. Any notable changes from prior forecasts or historical energy delivery shall be noted and an explanation provided. The provisions of this section are in addition to Seller's requirements under ISO-NE Rules and ISO-NE Practices, including ISO-NE Operating Procedure No. 5.

(g) RPS Class I Renewable Generation Unit. Subject to Section 4.7(b), Seller shall be solely responsible at Seller's cost for qualifying the Facility as a RPS Class I Renewable Generation Unit and maintaining such qualification throughout the Services Term. Seller shall take all actions necessary to register for and maintain participation in the GIS to register, monitor, track, and transfer RECs. Seller shall provide such additional information as Buyer may request relating to such qualification and participation.

(h) Compliance Reporting. Within thirty (30) days following the end of each calendar quarter, Seller shall provide Buyer information pertaining to emissions, fuel types, labor information and any other information to the extent required by Buyer to comply with the disclosure requirements contained under applicable law and any other such disclosure regulations which may be imposed upon Buyer during the Term, which information requirements will be provided to Seller by Buyer at least fifteen (15) days before the beginning of the calendar quarter for which the information is required. To the extent Buyer is subject to any other certification or compliance reporting requirement with respect to the Products produced by Seller and delivered to Buyer hereunder, Seller shall provide any information in its possession (or, if not in Seller's possession, available to it and not reasonably available to Buyer) requested by Buyer to permit Buyer to comply with any such reporting requirement.

(i) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company (or any successor thereto) the insurance coverage and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Upon the execution of this Agreement, and at each subsequent policy renewal date thereafter, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications that may adversely affect Buyer, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

(j) Contacts. Each Party shall identify a principal contact or contacts, which contact(s) shall have adequate authority and expertise to make day-to-day decisions with respect to the administration of this Agreement.

(k) Compliance with Law. Without limiting the generality of any other provision of this Agreement, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of operational and environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with applicable requirements of Law.

(l) FERC Status. Seller shall be responsible for ensuring that it is in compliance with all FERC directives and requirements necessary for Seller to fulfill its obligations under this Agreement. As part of Seller's satisfaction of this responsibility, it shall maintain the Facility's status as a QF or EWG (to the extent Seller meets the criteria for such

status) at all times after the Commercial Operation Date and shall obtain and maintain any requisite authority to sell the output of the Facility at market-based rates, including market-based rate authority to the extent applicable. If Seller certifies the Facility as a QF, for so long as this Agreement is in effect, Seller waives, and agrees not to assert, any rights Seller may have to require Buyer to purchase or transmit electric power or to pay a specified price for electric power by virtue of the status of the Facility as a QF.

(m) Maintenance. No later than (a) the Commercial Operation Date and (b) two months prior to the end of each calendar year thereafter during the Term, Seller shall submit to Buyer a schedule of planned maintenance for the following calendar year for the Facility. Throughout the Term, Seller shall coordinate all planned maintenance with ISO-NE, consistent with ISO-NE Rules, and shall promptly provide applicable information concerning scheduled outages, as determined by ISO-NE, to Buyer. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules, Seller shall not schedule maintenance of the Facility during the months of January through February or June through September, and shall operate the Facility so as to maximize energy production during the hours of anticipated peak load and Energy prices in New England; provided, however, that planned maintenance may be scheduled during such period to the extent the failure to perform such planned maintenance is contrary to operation of the Facility in accordance with Good Utility Practice or as is required in order to maintain warranties associated with the Facility or its equipment.

3.6 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, including the costs of the Network Upgrades, consistent with all standards and requirements set forth by the FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility. Seller shall be responsible for procuring delivery service and all costs associated with it.

(b) Seller shall defend, indemnify and hold Buyer harmless against any and all liabilities, fees, costs and expenses, including but not limited to reasonable attorneys' fees arising due to Seller's performance or failure to perform under the Interconnection Agreement or any agreement for delivery service associated with Seller's performance of this Agreement.

4. DELIVERY OF PRODUCTS

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on the Commercial Operation Date and subject to Section 4.1(b), Seller shall sell and Deliver, and Buyer shall purchase and receive all right, title and interest in and to, Buyer's Percentage Entitlement of the Products in accordance with the terms and conditions of this Agreement. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent and shall be subject to the operation of the Facility. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules and Good

Utility Practice, Seller shall use commercially reasonable efforts to maximize the production and Delivery of Energy during the time periods of anticipated peak load and peak Energy prices in New England.

(b) Buyer shall not be obligated to accept or pay for any REC or comparable certificate, credit, attribute or other similar product produced by or associated with the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, and, to the extent that Buyer does not purchase any such REC or comparable certificate, credit, attribute or other similar product associated with the Facility, Seller may, in its sole discretion, sell, transfer or otherwise dispose of that REC or comparable certificate, credit, attribute or other similar product. In the event that the Buyer notifies Seller that it will not purchase any REC or comparable certificate, credit, attribute or other similar product produced by the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, then Buyer, upon thirty (30) days' prior written notice to Seller, may resume purchasing such RECs or comparable certificates, credits, attributes or other similar products produced by the Facility after such thirty (30) day period, unless otherwise agreed by Buyer and Seller.

(c) Seller shall Deliver Buyer's Percentage Entitlement of the Products produced by or associated with the Facility, up to and including the Contract Maximum Amount, exclusively to Buyer, and Seller shall not sell, divert, grant, transfer or assign such Products or any certificate or other attribute associated with such Products to any Person other than Buyer during the Term. Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Services Term and in accordance with Section 4.1, Seller shall Schedule and transfer Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with this Agreement and all ISO-NE Practices and ISO-NE Rules. Seller shall transfer the Energy to Buyer in the Real Time Energy Market or the Day Ahead Energy Market, as reasonably agreed from time to time by Buyer and Seller and consistent with ISO-NE Rules and ISO-NE practices at the time. Buyer shall have no obligation to pay for any Energy not Delivered to Buyer in accordance with the foregoing. Notwithstanding any other provision of this Agreement, if during the Term of this Agreement the LMP at the Delivery Point is negative, or, in the reasonable opinion of Seller, is likely to become negative, then Seller may deliver to Buyer a written notice stating that such condition has occurred or is likely to occur and the period during which such condition has occurred or is likely to occur. Buyer and Seller hereby agree that in such event Seller shall be under no obligation to schedule or Deliver Products to the Delivery Point during such period. Seller shall provide Buyer with detailed information, including but not limited to, the start and stop times of such periods of curtailment under this Section 4.2(a) as well as the quantity curtailed, for all such periods of non-delivery during the preceding calendar month which information shall be provided prior to Seller's delivery of the invoice to Buyer.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Services Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission up to and at the Delivery Point. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, (including amounts not credited to Buyer as described in Section 4.2(a)), Seller shall reimburse Buyer for the same.

4.3 Failure of Seller to Deliver Products. In the event that Seller fails to satisfy any of its obligations to Deliver any of the Products or any portion of the Products hereunder in accordance with Section 4.1, Section 4.2 and Section 4.7, and such failure is not excused under the express terms of this Agreement (a **"Delivery Failure"**), Seller shall pay Buyer an amount for such Delivery Failure (measured in MWh and/or RECs) equal to the Cover Damages. Such payment shall be due no later than the date for Buyer's payment for the applicable month as set forth in Section 5.2 hereof. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a Delivery Failure would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Cover Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.4 Failure by Buyer to Accept Delivery of Products. If Buyer fails to accept all or part of any of the Products to be purchased by Buyer hereunder, and such failure to accept (a) is not the result of Reliability Curtailment or (b) is not otherwise excused under the terms of this Agreement (a **"Rejected Purchase"**), then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such Rejected Purchase equal to the Resale Damages. Each Party agrees and acknowledges that (i) the damages that Seller would incur due to a Rejected Purchase would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Resale Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.5 Delivery Point.

(a) All Energy shall be Delivered hereunder by Seller to Buyer at the Delivery Point. Seller shall be responsible for the costs of delivering its Energy to the Delivery Point consistent with all standards and requirements set forth by the FERC, ISO-NE, and any other applicable Governmental Entity or tariff.

(b) Seller shall be responsible for all applicable charges associated with transmission and interconnection service and delivery charges, including all related ISO-NE administrative fees, uplift, socialized charges, and all other charges in connection with the satisfaction of Seller's obligations hereunder, incurred for the Delivery of Energy to and at the Delivery Point. Seller shall indemnify and hold harmless Buyer for any such charges, fees, or expenses imposed upon Buyer by operation of ISO-NE rules or otherwise in connection with Seller's performance of its obligations hereunder.

(c) Buyer shall be responsible for all applicable charges associated with transmission and delivery of the Energy from and after the Delivery Point, provided that Buyer shall have no responsibility or liability for any Network Upgrade.

4.6 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the **"Meters"**), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility or the ISO-NE Tariff, whichever is applicable, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

(c) Inspection, Testing and Calibration. Buyer shall have the right to inspect and test (at its own expense) any of the Meters at the Facility at reasonable times and upon reasonable notice from Buyer to Seller. Buyer shall have the right to have a representative present during any testing or calibration of the Meters at the Facility by Seller. Seller shall provide Buyer with timely notice of any such testing or calibration.

(d) Audit of Meters. Buyer shall have access to the Meters and the right to audit all information and test data related to such Meters.

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than two percent (2%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

4.7 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to Buyer's Percentage Entitlement of the Facility's Environmental Attributes, including the RECs, generated by, or associated with, the Facility during the Services Term in accordance with the terms of this Section 4.7.

(b) Regarding the RPS:

(i) Except as provided in subsection (ii) of this Section 4.7(b), all Energy provided by Seller to Buyer from the Facility under this Agreement shall meet the requirements for eligibility pursuant to the RPS, and Seller's failure to satisfy such requirements shall constitute an Event of Default pursuant to Section 9.1 (c) of this Agreement except as provided in Section 4.7(b)(ii), below; and

(ii) If solely as a result of change in Law, Energy provided by Seller to Buyer from the Facility under this Agreement no longer meets the requirements for eligibility pursuant to the RPS, such will not constitute an Event of Default under Article 9, provided Seller promptly uses commercially reasonable efforts to ensure that qualification will continue after the change in Law. If, notwithstanding such commercially reasonable efforts and solely as a result of change in Law, the Facility does not qualify as a RPS Class I Renewable Generation Unit, then (A) Seller shall continue to sell, and Buyer shall continue to purchase Energy under this Agreement at the Adjusted Price in accordance with Section 5.1 and (B) any purchases and sales of RECs shall be in accordance with Section 4.1(b).

(c) At Seller's sole cost, Seller shall also obtain and maintain throughout the Services Term qualification as a RPS Class I generation resource under the renewable portfolio standard or similar law of the New England states of Connecticut, Maine, Massachusetts, and New Hampshire, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard or similar law. At Buyer's request and at Seller's sole cost, Seller shall also obtain qualification under the renewable portfolio standard or similar law of New York and/or any federal renewable energy standard, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard, renewable energy standard or similar law, and Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to maintain such qualifications at all times during the Services Term unless otherwise agreed by Buyer. Seller shall also submit to Buyer or as directed by Buyer any information required by any state or federal agency with regard to administration of its rules regarding Environmental Attributes or its renewable energy standard or renewable portfolio standard or Seller's qualification under the foregoing.

(d) Seller shall comply with all GIS Operating Rules relating to the creation and transfer of all RECs to be purchased by Buyer under this Agreement and all other GIS Operating Rules to the extent required for Buyer to achieve the full value of the RECs. In addition, at Buyer's request, Seller shall use commercially reasonable efforts to register with and comply with the rules and requirements of any other tracking system or program that tracks, monetizes or otherwise creates or enhances value for Environmental Attributes, which compliance shall be at Seller's sole cost if such registration and compliance is requested in connection with Section 4.7(c) above and shall be at Buyer's sole cost in other instances.

(e) Prior to the delivery of any Energy hereunder (including any Energy Delivered during the Test Period), either (i) Seller shall cause Buyer to be registered in the GIS as the initial owner of all Certificates to be Delivered hereunder to Buyer or (ii) Seller and Buyer shall effect an irrevocable Forward Certificate Transfer (as defined in the GIS Operating Rules) of the Certificates to be Delivered hereunder to Buyer in the GIS for the Test Period and the Services Term; provided, however, that no payment shall be due to Seller for any RECs until either (x) the Certificates are actually deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing; or (y) (i) Buyer and Seller enter such an irrevocable Forward Certificate Transfer of the Certificates to be Delivered to Buyer in the GIS, which Forward Certificate Transfer shall be denoted in the GIS as not being capable of rescission by Seller, and (ii) the Energy with which such RECs are associated has been Delivered to Buyer..

(f) The Parties intend for the transactions entered into hereunder to be physically settled, meaning that the RECs are intended to be Delivered in the GIS account of Buyer or its designee as set forth in this Section 4.7.

4.8 Deliveries During Test Period. During the Test Period, Seller shall sell and Deliver, and Buyer shall purchase and receive Buyer's Percentage Entitlement of any Energy ("**Test Energy**") and RECs produced by or associated with the Facility. Notwithstanding the provisions of Section 5.1, payment for Test Energy Delivered during the Test Period and RECs associated with such Test Energy shall be equal to one hundred percent (100%) of the product of (x) the Test Energy Delivered (in MWh) and (y) the lesser of (i) the Adjusted Price determined in accordance with Section 1(a) of Exhibit D for Year 1, or (ii) the Real Time LMP at such

Delivery Point. In the event that the Real Time LMP for the Test Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to one hundred percent (100%) of the product of (i) such Test Energy delivered in such hour and (ii) the absolute value of the hourly Real Time LMP at the Delivery Point. In no event shall the Test Period extend beyond **six (6)** months, except due to Force Majeure.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products. All Products Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Price specified in Exhibit D; provided, however, that if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b), then all Energy Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Adjusted Price only, as specified in Exhibit D. Other than the (i) payment for the Products under this Section 5.1, (ii) payments related to Meter testing under Section 4.6(b), (iii) payments related to Meter malfunctions under Section 4.6(e), (iv) payment for Energy and RECs during the Test Period in accordance with Section 4.8, (v) payment of any Resale Damages under Section 4.4, (vi) payment of interest on late payments under Section 5.3, (vii) payments for reimbursement of Buyer's Taxes under Section 5.4(a), (viii) return of any Credit Support under Section 6.3, and (ix) payment of any Termination Payment due from Buyer under Section 9.3, Buyer shall not be required to make any other payments to Seller under this Agreement, and Seller shall be solely responsible for all costs and losses incurred by it in connection with the performance of its obligations under this Agreement. In the event that the LMP for the Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to the product of (i) such Energy delivered in such hour and (ii) the absolute value of the hourly LMP at the Delivery Point.

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all charges and payments under this Agreement. On or before the fifteenth (15th) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month, and any RECs deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days from receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late

Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

(i) All invoices rendered under this Agreement shall be subject to adjustment after the end of each month in order to true-up charges based on changes resulting from recent ISO-NE billing statements or revisions, if any, to previous ISO-NE billing statements. If ISO-NE resettles any invoice which relates to the Products sold under this Agreement and (a) any charges thereunder are the responsibility of the other Party under this Agreement or (b) any credits issued thereunder would be due to the other Party under this Agreement, then the Party receiving the invoice from ISO-NE shall in the case of (a) above invoice the other Party or in the case of (b) above pay the amount due to the other Party. Any invoices issued or amounts due pursuant to this Section shall be invoiced or paid as provided in this Section 5.2.

(ii) Within twelve (12) months of the issuance of an invoice the Seller may adjust any invoice for any arithmetic or computational error and shall provide documentation and information supporting such adjustment to Buyer. Within twelve (12) months of the receipt of an invoice (or an adjusted invoice), the Buyer may dispute any charges on that invoice. In the event of such a dispute, the Buyer shall give notice to the Seller and shall state the basis for the dispute. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Any claim for additional payment is waived unless the Seller issues an adjusted invoice within twelve (12) months of issuance of the original invoice. Any dispute of charges is waived unless the Buyer provides notice of the dispute to the Seller within twelve (12) months of receipt of the invoice (or adjusted invoice) including such charges.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting of such monetary obligations, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Agreement, including any related damages calculated pursuant to this Agreement, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party

shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the "Money & Investing" section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties) plus 1% per cent, and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the **"Late Payment Rate"**).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or the Products prior to and at Delivery of such Products to Buyer ("**Seller's Taxes**"). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer, and imposed on or associated with the purchase of such Products by Buyer (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) ("**Buyer's Taxes**"). In the event Seller shall be required by law or regulation to remit or pay any Buyer's Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller's Taxes, Seller shall reimburse Buyer for such payment, and Buyer may also elect to deduct any of the amount of any such Seller's Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller's or the Facility's eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes, or to receive any other favorable tax or accounting right or benefit, or any grant or subsidy from a Governmental Entity or other Person. Seller's obligations under this Agreement shall be effective regardless of whether the Facility is eligible for or receives, or the transactions contemplated under this Agreement are eligible for or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment.

6. SECURITY FOR PERFORMANCE

6.1 Grant of Security Interest. Subject to the terms and conditions of this Agreement, Seller hereby pledges to Buyer as security for all outstanding obligations under this Agreement (other than indemnification obligations surviving the expiration of the Term) and any other documents, instruments or agreements executed in connection therewith (collectively, the **"Obligations"**), and grants to Buyer a first priority continuing security interest, lien on, and right of set-off against all Posted Collateral delivered to or received by Buyer hereunder. Upon the return by Buyer to Seller of any Posted Collateral, the security interest and lien granted

hereunder on that Posted Collateral will be released immediately and, to the extent possible, without further action by either Party.

6.2 Seller's Support.

(a) Seller shall be required to post Credit Support with a Value of at least $100,000.00 to secure Seller's Obligations until the Commercial Operation Date (**"Development Period Security"**). Fifty percent (50%) of the Development Period Security shall be provided to Buyer on the Effective Date, and the remaining fifty percent (50%) of the Development Period Security shall be provided to Buyer within fifteen (15) days after this Agreement becomes effective and binding pursuant to Section 8.1(a). Buyer shall return any undrawn amount of the Development Period Security to Seller within thirty (30) days after the later of (x) Buyer's receipt of an undisputed notice from Seller that the Commercial Operation Date has occurred or (y) Buyer's receipt of the full amount of the Operating Period Security.

(b) Beginning not later than three (3) days following the Commercial Operation Date, Seller shall provide Buyer with Credit Support to secure Seller's Obligations after the Commercial Operation Date through and including the date that all of Seller's Obligations are satisfied ("**Operating Period Security**"). The Operating Period Security shall have a Value of at least $100,000.00, as adjusted in accordance with Section 3.3(b).

(c) The Credit Support Delivery Amount, as defined below, will be rounded up, and the Return Amount, as defined below, will be rounded down, in each case to the nearest integral multiple of $10,000 (**"Rounding Amount"**).

(d) The following items will qualify as "**Credit Support**" hereunder in the amount noted under "Valuation Percentage":

	"Valuation Percentage"
(A) Cash	100%
(B) Letters of Credit	100% unless either (i) a Letter of Credit Default shall have occurred and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be 0%.

(e) All calculations with respect to Credit Support shall be made by the Valuation Agent as of the Valuation Time on the Valuation Date.

6.3 Delivery of Credit Support.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Buyer, and (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Buyer for which there exist any unsatisfied payment obligations with respect to Buyer, then Buyer may request, by written notice, that Seller Transfer to Buyer, or cause to be Transferred to Buyer, Credit Support for the benefit of Buyer, having a Value of at least the Collateral Requirement (**"Credit Support Delivery Amount"**). Such Credit Support shall be delivered to Buyer on the next Business Day if the request is received by the Notification Time; otherwise Credit Support is due by the close of business on the second Business Day after the request is received.

6.4 Reduction and Substitution of Posted Collateral.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Seller, (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment Obligations, and (c) the Posted Collateral posted by Seller exceeds the required Operating Period Security (rounding downwards for any fractional amount to the next interval of the Rounding Amount), then Seller may, at its sole cost, request that Buyer return Operating Period Security in the amount of such difference (**"Credit Support Return Amount"**) and Buyer shall be obligated to do so. Such Posted Collateral shall be returned to Seller by the close of business on the second Business Day after Buyer's receipt of such request. The Parties agree that if Seller has posted more than one type of Credit Support to Buyer, Seller can, in its sole discretion, select the type of Credit Support for Buyer to return; provided, however, that Buyer shall not be required to return the specified Credit Support if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Operating Period Security.

6.5 Administration of Posted Collateral.

(a) Cash. Posted Collateral provided in the form of Cash to Buyer hereunder shall be subject to the following provisions.

(i) So long as no Event of Default has occurred and is continuing with respect to Buyer, Buyer will be entitled to either hold Cash or to appoint an agent which is a Qualified Institution (a **"Custodian"**) to hold Cash for Buyer. In the event that an Event of Default has occurred and is continuing with respect to Buyer, then the provisions of Section 6.5(a)(ii) shall not apply with respect to Buyer and Cash shall be held in a Qualified Institution in accordance with the provisions of Section 6.5(a)(iii)(B). Upon notice by Buyer to Seller of the appointment of a Custodian, Seller's Obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by Buyer for which the Custodian is acting. If Buyer or its Custodian fails to satisfy any conditions for holding Cash as set forth above, or if Buyer is not entitled to hold Cash at any time, then Buyer will

Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Section 6.5(a)(iii)(B). Except as set forth in Section 6.5(c), Buyer will be liable for the acts or omissions of the Custodian to the same extent that Buyer would be held liable for its own acts or omissions.

(ii) Notwithstanding the provisions of applicable Law, if no Event of Default has occurred and is continuing with respect to Buyer and no termination date has occurred or been designated as a result of an Event of Default with respect to Buyer for which there exists any unsatisfied payment obligations with respect to Buyer, then Buyer shall have the right to sell, pledge, rehypothecate, assign, invest, use, comingle or otherwise use in its business any Cash that it holds as Posted Collateral hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.

(iii) Notwithstanding Section 6.5(a)(ii), if neither Buyer nor the Custodian is eligible to hold Cash pursuant to Section 6.5(a)(i) then:

(A) the provisions of Section 6.5(a)(ii) will not apply with respect to Buyer; and

(B) Buyer shall be required to Transfer (or cause to be Transferred) not later than the close of business within five (5) Business Days following the beginning of such ineligibility all Cash in its possession or held on its behalf to a Qualified Institution to be held in a segregated, safekeeping or custody account (the **"Collateral Account"**) within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for Buyer. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Article 6 and for the security interest of Buyer and execute such account control agreements as are necessary or applicable to perfect the security interest of Seller therein pursuant to Section 9-314 of the Uniform Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of Seller. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of Buyer, subject to the approval of such instructions by Seller (which approval shall not be unreasonably withheld). Buyer shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with Seller's approval.

(iv) So long as no Event of Default with respect to Seller has occurred and is continuing, and no termination date has occurred or been designated for which any unsatisfied payment obligations of Seller exist as the result of an Event of Default with respect to Seller, in the event that Buyer or its Custodian is holding Cash, Buyer will Transfer (or cause to be Transferred) to Seller, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which shall be retained by Buyer), the Interest Amount. Interest on Cash shall accrue at the Collateral Interest Rate. Interest accrued during the previous month shall be paid by Buyer to Seller on the 3rd Business Day of each calendar month and on any Business Day that posted Credit Support in the form of Cash is returned to Seller, but solely to the extent that, after making such payment, the amount of the Posted Collateral will be at least equal to the required Development Period Security or Operating Period Security, as applicable. On or after the occurrence of an Event of Default with respect to Seller or a termination date as a result of an Event of Default with respect to Seller, Buyer or its Custodian shall retain any such Interest Amount as additional Posted Collateral hereunder until the Obligations of Seller under the Agreement have been satisfied in the case of a termination date or for so long as such Event of Default is continuing in the case of an Event of Default.

(b) Buyer's Rights and Remedies. If at any time an Event of Default with respect to Seller has occurred and is continuing, then, unless Seller has paid in full all of its Obligations that are then due, including those under Section 9.3(b) of this Agreement, Buyer may exercise one or more of the following rights and remedies: (i) all rights and remedies available to a secured party under applicable Law with respect to Posted Collateral held by Buyer, (ii) the right to set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or the cash equivalent of any Posted Collateral held by Buyer, or (iii) the right to liquidate any Posted Collateral held by Buyer and to apply the proceeds of such liquidation of the Posted Collateral to any amounts payable to Buyer with respect to the Obligations in such order as Buyer may elect. For purposes of this Section 6.5, Buyer may draw on the undrawn portion of any Letter of Credit from time to time up to the amount of the Obligations that are due at the time of such drawing. Cash proceeds that are not applied to the Obligations shall be maintained in accordance with the terms of this Article 6. Seller shall remain liable for amounts due and owing to Buyer that remain unpaid after the application of Posted Collateral, pursuant to this Section 6.5.

(c) Letters of Credit. Credit Support provided in the form of a Letter of Credit shall be subject to the following provisions.

(i) As one method of providing increased Credit Support, Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.

(ii) Upon the occurrence of a Letter of Credit Default, Seller agrees to Transfer to Buyer either a substitute Letter of Credit or Cash, in each case on or before the first (1st) Business Day after the occurrence thereof (or the third (3rd) Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).

(iii) Notwithstanding Sections 6.3 and 6.4, (1) Buyer need not return a Letter of Credit unless the entire principal amount is required to be returned, (2) Buyer shall consent to a reduction of the principal amount of a Letter of Credit to the extent that a Credit Support Delivery Amount would not be created thereby (as of the time of the request or as of the last time the Credit Support Delivery Amount was determined), and (3) if there is more than one form of Posted Collateral when a Credit Support Return Amount is to be Transferred, the Secured Party may elect which to Transfer.

(d) Care of Posted Collateral. Buyer shall exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable Law, and in any event Buyer will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, Buyer will have no duty with respect to the Posted Collateral, including without limitation, any duty to enforce or preserve any rights thereto.

(e) Substitutions. Unless otherwise prohibited herein, upon notice to Buyer specifying the items of Posted Collateral to be exchanged, Seller may, on any Business Day, deliver to Buyer other Credit Support (**"Substitute Credit Support"**). On the Business Day following the day on which the Substitute Credit Support is delivered to Buyer, Buyer shall return to Seller the items of Credit Support specified in Seller's notice; provided, however, that Buyer shall not be required to return the specified Posted Collateral if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Development Period Security or Operating Period Security set forth in Sections 6.2(a) and 6.2(b), respectively.

6.6 Exercise of Rights Against Posted Collateral

(a) Disputes regarding amount of Credit Support. If either Party disputes the amount of Credit Support to be provided or returned (such Party the "**Disputing Party**"), then the Disputing Party shall (a) deliver the undisputed amount of Credit Support to the other Party (such Party, the "**Requesting Party**") and (b) notify the Requesting Party of the existence and nature of the dispute no later than 5:00 p.m. Eastern Prevailing Time on the Business Day that the request for Credit Support was made (the "**Request Date**"). On the Business Day following the Request Date, the Parties shall consult with each other in order to reconcile the two conflicting amounts. If the Parties are not able to resolve their dispute, the Credit Support shall be recalculated, on the Business Day following the Request Date, by each Party requesting quotations from two (2) Reference Market-Makers for a total of four (4)

quotations. The highest and lowest of the four (4) quotations shall be discarded and the arithmetic average shall be taken of the remaining two (2), which shall be used in order to determine the amount of Credit Support required. On the same day the Credit Support amount is recalculated, the Disputing Party shall deliver any additional Credit Support required pursuant to the recalculation or the Requesting Party shall return any excess Credit Support that is no longer required pursuant to the recalculation.

(b) Further Assurances. Promptly following a request by a Party, the other Party shall use commercially reasonable efforts to execute, deliver, file, and/or record any financing statement, specific assignment, or other document and take any other action that may be necessary or desirable to create, perfect, or validate any Posted Collateral or other security interest or lien, to enable the requesting party to exercise or enforce its rights or remedies under this Agreement, or with respect to Posted Collateral, or accrued interest.

(c) Further Protection. Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding, or lien (other than a banker's lien in favor of the Custodian appointed by Buyer so long as no amount owing from Seller to such Custodian is overdue) that involves the Posted Collateral delivered to Buyer by Seller or that could adversely affect any security interest or lien granted pursuant to this Agreement.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

7.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Rhode Island. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Due Authorization; No Conflicts. The execution and delivery by Buyer of this Agreement, and the performance by Buyer of its obligations hereunder, have been duly authorized by all necessary actions on the part of Buyer and do not and, under existing facts and Law, shall not: (i) contravene its certificate of incorporation or any other governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) subject to receipt of the Regulatory Approval, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(c) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Buyer and, assuming the due execution hereof and performance hereunder by Seller and receipt of the Regulatory Approval, constitutes a legal, valid and binding obligation

of Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(d) No Proceedings. As of the Effective Date, except to the extent relating to the Regulatory Approval, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Buyer or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Buyer reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Buyer's ability to perform its obligations under this Agreement.

(e) Consents and Approvals. Except to the extent associated with the Regulatory Approval, the execution, delivery and performance by Buyer of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken or that shall be duly obtained, made or taken on or prior to the date required, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable as required under applicable Law.

(f) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Buyer and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(g) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Buyer, or, to Buyer's knowledge, threatened against it.

(h) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Buyer of its obligations under this Agreement.

7.2 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer as of the Effective Date as follows:

(a) Organization and Good Standing; Power and Authority. Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of Delaware. Subject to the receipt of the Permits listed in Exhibit B and any Related Transmission Approvals, Seller has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to construct, own

and operate the Facility and to deliver the Products to the Buyer in accordance with this Agreement.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) assuming receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing. Seller is qualified to perform as a Market Participant under the ISO-NE Tariff, or is qualified to transact through another Market Participant under the ISO-NE Tariff. Seller will not be disqualified from or be materially adversely affected in the performance of any of its obligations under this Agreement by reason of market power or affiliate transaction issues under federal or state regulatory requirements.

(d) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Buyer and receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) No Proceedings. Except to the extent associated with the Permits listed on Exhibit B and any Related Transmission Approvals and as otherwise set forth on Exhibit B, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Seller or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Seller reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Seller's ability to perform its obligations under this Agreement.

(f) Consents and Approvals. Subject to the receipt of the Permits listed on Exhibit B on or prior to the date such Permits are required under applicable Law and subject to the receipt of the Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable. To Seller's knowledge, Seller shall be able to receive the Permits listed in Exhibit B and the Related Transmission Approvals in due course and as required under applicable Law to the extent that those Permits have not previously been received.

(g) RPS Class I Renewable Generation Unit. The Facility shall be a RPS Class I Renewable Generation Unit, qualified by the PUC as eligible to participate in the RPS program, under R.I.G.L. § 39-26-1, *et seq.* (subject to Section 4.7(b) in the event of a change in Law affecting such qualification as a RPS Class I Renewable Generation Unit) and shall have a Commercial Operation Date, as verified by the Buyer.

(h) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under this Agreement, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under this Agreement.

(i) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Seller and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(j) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

(k) No Misrepresentations. The reports and other submittals by Seller to Buyer under this Agreement are not false or misleading in any material respect.

(l) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under this Agreement.

(m) Site Control. As of the Effective Date, Seller either (i) has acquired all real property rights to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement or (ii) has an irrevocable option to acquire such real property rights and the only condition upon Seller's exercise of such option to acquire such real property rights is the payment of monies to acquire such real property rights.

7.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section are made as of the Effective Date and , except for the representations and warranties set forth in Section 7.2(e), deemed made continually throughout the Term, subject to the removal of the references to the Regulatory Approval and Permits as and when the Regulatory Approval and Permits are obtained. If at any time during the Term, a Party has knowledge of any event or information which causes any of the representations and warranties in this Article 7 to be untrue or misleading, such Party shall provide the other Party with prompt written notice of the event or information, the representations and warranties affected, and the corrective action such Party shall take. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

8. REGULATORY APPROVAL

8.1 Receipt of Regulatory Approval. The obligations of the Parties to perform this Agreement, other than the Parties' obligations under Section 6.1, Section 6.2, Section 8.2, and Section 12, are conditioned upon and shall not become effective or binding until the earlier of: (i) the receipt of the Regulatory Approval from the PUC and the receipt of final approval of the Other Agreements from the other Regulatory Agencies, or (ii) both (A) the receipt of the Regulatory Approval from the PUC, and (B) Seller's delivery of written notice to Buyer that Seller elects to make this Agreement immediately effective and binding, which such notice may be delivered to Buyer at any time between the receipt of the Regulatory Approval from the PUC and fifteen (15) days after the other Regulatory Agencies issue final decisions with respect to the Other Agreements. Buyer shall notify Seller within five (5) Business Days after receipt of the Regulatory Approval or receipt of an order of the PUC regarding this Agreement. This Agreement may be terminated by either Buyer or Seller in the event that Regulatory Approval is not received within 270 days after filing, without liability as a result of such termination, subject to the return of Credit Support as provided in Section 6.3. The Parties acknowledge and agree that the Seller shall not be obligated to amend this Agreement on account of any condition or requirement stipulated in the Regulatory Approval.

8.2 Related Transmission Approvals. The obligation of the Parties to perform this Agreement is further conditioned upon the receipt of any Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law.

9. BREACHES; REMEDIES

9.1 Events of Default by Either Party. It shall constitute an event of default (**"Event of Default"**) by either Party hereunder if:

(a) Representation or Warranty. Any breach of any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement occurs where such breach is not fully cured and corrected within thirty (30) days after the Non-Defaulting Party has provided written notice to the Defaulting Party; or

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than:

(i) a Delivery Failure not exceeding ten (10) days,

(ii) failure of the Facility to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date,

(iii) a failure to maintain the RPS eligibility requirements set forth in Section 4.7(b),

(iv) a Rejected Purchase, or

(v) an Event of Default described in Section 9.1(a), 9.1(b), 9.1(d), 9.1(e) or 9.2,

such Party fails to perform, observe or otherwise to comply with any obligation hereunder and such failure continues for more than thirty (30) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; provided, however, that period shall be extended for an additional period of up to thirty (30) days if the Defaulting Party is unable to cure within the initial thirty (30) day period so long as such cure is diligently pursued by the Defaulting Party until such Default had been corrected, but in any event shall be cured within sixty (60) days of the notice from the Non-Defaulting Party; or

(d) Bankruptcy. Such Party (i) is adjudged bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy or reorganization petition against such Party under any such law, or (without limiting the generality of the foregoing) files a petition to reorganize pursuant to 11 U.S.C. § 101 or any similar statute applicable to such Party, as now or hereinafter in effect, (ii) makes an assignment for the benefit of creditors, or admits in writing an inability to pay its debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of such Party, or (iii) is subject to an order of a court of competent jurisdiction appointing a receiver or liquidator or custodian or trustee of such Party or of a major part of such Party's property, which is not dismissed within sixty (60) days; or

(e) Permit Compliance. Such Party fails to obtain and maintain or cause to be obtained and maintained in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under this Agreement.

9.2 Events of Default by Seller. In addition to the Events of Default described in Section 9.1, each of the following shall constitute an Event of Default by Seller hereunder if:

(a) Taking of Facility Assets. Any asset of Seller that is material to the construction, operation or maintenance of the Facility or the performance of its obligations hereunder is taken upon execution or by other process of law directed against Seller, or any such asset is taken upon or subject to any attachment by any creditor of or claimant against Seller and such attachment is not disposed of within sixty (60) days after such attachment is levied; or

(b) Failure to Maintain Credit Support. The failure of Seller to provide, maintain and/or replenish the Development Period Security or the Operating Period Security as required pursuant to Article 6 of this Agreement, and such failure continues for more than five (5) Business Days after Buyer has provided written notice thereof to Seller; or

(c) Energy Output. The failure of the Facility to produce Energy for **twelve (12)** consecutive months during the Services Term for any reason, including due in whole or in part to a Force Majeure; or

(d) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under this Agreement or on Buyer or Buyer's ability to receive the benefits under this Agreement; provided, however, if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under this Agreement, Seller shall have the opportunity to cure such failure within thirty (30) days of its occurrence; or

(e) Failure to Meet Critical Milestones. The failure of Seller to satisfy any Critical Milestone by the date set forth therefor in Section 3.1(a), as the same may be extended in accordance with Section 3.1(c) and (d); or

(f) Abandonment. On or after the Commercial Operation Date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a transfer permitted under this Agreement; or

(g) Assignment. The assignment of this Agreement by Seller, or Seller's sale or transfer of its interest (or any part thereof) in the Facility, except as permitted in accordance with Article 14; or

(h) Recurring Delivery Failure. A Delivery Failure of ten (10) continuous days or more; or

(i) Failure to Provide Status Reports. A failure to provide timely, accurate and complete status reports in accordance with this Agreement, and such failure continues for more than five (5) days after notice thereof is given by the Buyer; or

(j) Failure to Maintain RPS Eligibility. A failure to maintain RPS eligibility requirements set forth in Section 4.7(b).

9.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under this Agreement, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in this Agreement including, without limitation, the termination right set forth in Section 9.3(b), and, to the extent not inconsistent with the terms of this Agreement, such remedies available at law and in equity. In addition to the foregoing, except for breaches for which an express remedy or measure of damages is provided herein, the Non-Defaulting Party

shall retain its right of specific performance to enforce the Defaulting Party's obligations under this Agreement.

(b) Termination and Termination Payment. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate this Agreement at its sole discretion by providing written notice of such termination to the Defaulting Party. If the Non-Defaulting Party terminates this Agreement, it shall be entitled to calculate and receive as its sole remedy for such Event of Default a **"Termination Payment"** as follows:

(i) *Termination by Buyer Prior to Commercial Operation Date*. If Buyer terminates this Agreement because of an Event of Default by Seller occurring prior to the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the sum of (x) all Delay Damages due and owing by Seller through the date of such termination plus (y) the full amount of any Development Period Security provided to Buyer by Seller.

(ii) *Termination by Seller Prior to Commercial Operation Date*. If Seller terminates this Agreement because of an Event of Default by Buyer prior to the Commercial Operation Date, Seller shall only receive a Termination Payment if the Commercial Operation Date either occurs on or before the Guaranteed Commercial Operation Date or would have occurred by such date but for the Event of Default by Buyer giving rise to the termination of this Agreement. In such case, (x) if Seller terminates this Agreement because of an Event of Default by Buyer prior to the Financial Closing Date, the Termination Payment due to Seller shall be equal to the lesser of: (i) Buyer's Percentage Entitlement to Seller's out-of-pocket expenses incurred in connection with the development and construction of the Facility prior to such termination and for which Seller has provided adequate documentation to enable Buyer to verify the expense claimed, or (ii) the Termination Payment due to Seller as calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller; and (y) if Seller terminates this Agreement because of an Event of Default by Buyer on or after the Financial Closing Date, the Termination Payment due to Seller shall be calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller.

(iii) *Termination by Buyer On or After Commercial Operation Date.* If Buyer terminates this Agreement because of an Event of Default by Seller occurring on or after the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the greater of: (i) the security provided in accordance with Article 6, or (ii) the amount, if positive, calculated according to the following formula:

(x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the forward market price of Energy and Renewable Energy Credits, as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Buyer, for Replacement Energy and Replacement RECs, exceeds the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, multiplied by (ii) Buyer's Percentage Entitlement of the projected Energy output of the Facility as determined by a recognized third party expert selected by Buyer, using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Buyer as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Buyer in good faith and in a commercially reasonable manner, and Buyer shall provide Seller with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iii).

(iv) *Termination by Seller On or After Commercial Operation Date.* If Seller terminates this Agreement because of an Event of Default by Buyer occurring on or after the Commercial Operation Date, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, exceeds the forward market price of Energy and Renewable Energy Credits as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Seller, for Replacement Energy and Replacement RECs, multiplied by (ii) Buyer's Percentage Entitlement to the projected Energy output of the Facility as determined by a recognized third party expert selected by Seller using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Seller as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Seller in good faith and in a commercially reasonable manner, and Seller shall provide Buyer with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iv).

(v) *Acceptability of Liquidated Damages.* Each Party agrees and acknowledges that (i) the damages and losses (including without limitation the loss of environmental, reliability and economic benefits contemplated under this Agreement) that the Parties would incur due to an Event of Default would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Payment as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

(vi) *Payment of Termination Payment.* The Defaulting Party shall make the Termination Payment within ten (10) Business Days after such notice is effective, regardless whether the Termination Payment calculation is disputed. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall within ten (10) Business Days of receipt of the calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. If the Parties are unable to resolve the dispute within thirty (30) days, Article 11 shall apply.

(c) Set-off. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to withhold and set off any amounts owed by the Non-Defaulting Party to the Defaulting Party against any payments and any other amounts owed by the Defaulting Party to the Non-Defaulting Party, including any Termination Payment payable as a result of any early termination of this Agreement.

(d) Notice to Lenders. Seller shall provide Buyer with a notice identifying a single Lender (if any) to whom default notices are to be issued. Buyer shall provide a copy of the notice of any default of Seller under this Article 9 to that Lender, and Buyer shall afford such Lender the same opportunities to cure Events of Default under this Agreement as are provided to Seller hereunder.

(e) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE

THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10. FORCE MAJEURE

10.1 Force Majeure.

(a) The term **"Force Majeure"** means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under this Agreement. Under no circumstances shall Force Majeure include (v) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God such as floods, hurricanes or tornados; sabotage; terrorism; or war, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in this Agreement, or (z) Buyer's ability to procure the Products at a price lower than that set out in this Agreement. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval) or qualifications, any delay or failure in satisfying the Critical Milestone obligations specified in Section 3.1(a)(i) (Permits) or Section 3.1(a)(iii) (Financing), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure or be the basis for a claim of Force Majeure. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Products to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined herein has occurred.

(b) Subject to Section 3.1(d), if either Party is unable, wholly or in part, by Force Majeure to perform obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer

period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing, if the Force Majeure prevents full or partial performance under this Agreement for a period of twelve (12) months or more, the Party whose performance is not prevented by Force Majeure shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse. In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this Agreement beyond its stated Term.

11. DISPUTE RESOLUTION

11.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a **"Dispute"**), in addition to any other remedies provided hereunder, the Parties shall attempt to resolve such Dispute through consultations between the Parties. If the Dispute has not been resolved within fifteen (15) Business Days after such consultations between the Parties, then either Party may seek to resolve such Dispute in the courts of the State of Rhode Island; provided, however, if the Dispute is subject to FERC's jurisdiction over wholesale power contracts, then either Party may elect to proceed with the mediation through FERC's Dispute Resolution Service; provided, however, that if one Party fails to participate in the negotiations as provided in this Section 11.1, the other Party can initiate mediation prior to the expiration of the thirty (30) Business Days. Unless otherwise agreed, the Parties will select a mediator from the FERC panel. The procedure specified herein shall be the sole and exclusive procedure for the resolution of Disputes. To the fullest extent permitted by law, any mediation proceeding and any settlement shall be maintained in confidence by the Parties.

11.2 Allocation of Dispute Costs. The fees and expenses associated with mediation shall be divided equally between the Parties, and each Party shall be responsible for its own legal fees, including but not limited to attorney fees, associated with any Dispute. The Parties may, by written agreement signed by both Parties, alter any time deadline, location(s) for meeting(s), or procedure outlined herein or in FERC's rules for mediation.

11.3 Consent to Jurisdiction. Subject to Section 11.1, the Parties agree to the exclusive jurisdiction of the state and federal courts located in the State of Rhode Island for any legal proceedings that may be brought by a Party arising out of or in connection with any Dispute.

11.4 Waiver of Jury Trial and Inconvenient Forum Claim. EACH PARTY HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE

TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT. BOTH PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE AS SET FORTH IN THIS ARTICLE 11 AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN ANY INCONVENIENT FORUM.

12. CONFIDENTIALITY

12.1 Nondisclosure. Buyer and Seller each agrees not to disclose to any Person and to keep confidential, and to cause and instruct its Affiliates, officers, directors, employees, partners and representatives not to disclose to any Person and to keep confidential, any non-public information relating to the terms and provisions of this Agreement, and any information relating to the Products to be supplied by Seller hereunder, and such other non-public information that is designated as "Confidential." Notwithstanding the foregoing, any such information may be disclosed:

(a) to the extent Buyer determines it is appropriate in connection with efforts to obtain or maintain the Regulatory Approval or to seek rate recovery for amounts expended by Buyer under this Agreement

(b) as required by applicable laws, regulations, filing requirements, rules or orders or by any subpoena or similar legal process of any Governmental Entity so long as the disclosing Party gives the non-disclosing Party written notice at least three (3) Business Days prior to such disclosure, if practicable;

(c) to the Affiliates of either Party and to the consultants, attorneys, auditors, financial advisors, lenders or potential lenders and their advisors of either Party or their Affiliates, but solely to the extent they have a need to know that information;

(d) in order to comply with any rule or regulation of ISO-NE, any stock exchange or similar Person or for financial disclosure purposes;

(e) to the extent the non-disclosing Party shall have consented in writing prior to any such disclosure; and

(f) to the extent that the information was previously made publicly available other than as a result of a breach of this Section 12.1;

provided, however, in each case, that the Party seeking such disclosure shall, to the extent practicable, use commercially reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this Section 12.1.

12.2 Public Statements. No public statement, press release or other voluntary publication regarding this Agreement or the transactions to be made hereunder shall be made or issued without the prior consent of the other Party.

13. INDEMNIFICATION

13.1 Indemnification Obligations. Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to: (i) third party (excepting Buyer's Affiliates) claims brought against Buyer (ii) personal injury, death or property damage to Buyer's property or facilities, or (iii) personal injury, death or property damage to third parties in each case caused by Seller's execution, delivery or performance of this Agreement, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under this Agreement, or Seller's failure to satisfy any regulatory requirement or commitment associated with this Agreement; provided, however, Seller shall have no obligation to indemnify Buyer: (1) to the extent such damages are attributable to the gross negligence or willful misconduct or breach of this Agreement by Buyer or (2) a loss, charge or cost for which Buyer is made expressly responsible under this Agreement.

13.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of Seller contest, settle or pay such claim.

14. ASSIGNMENT AND CHANGE OF CONTROL

14.1 Prohibition on Assignments. Except as permitted under this Article 14, this Agreement (and any portion thereof) may not be assigned, transferred or otherwise conveyed by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. The Party requesting the other Party's consent to an assignment of this Agreement will reimburse such other Party for all "out of pocket" costs and expenses such other Party incurs in connection with that consent, without regard to whether such consent is provided. The Party wishing to assign, transfer or convey its interests in this Agreement shall provide prior written notice of such conveyance, and any other reasonably requested information to the non-assigning Party. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement (and shall not impair any Credit Support given by Seller hereunder) unless the other Party (or its successors or assigns) consents in writing to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations thereunder.

14.2 Permitted Assignment by Seller. Buyer's consent shall not be required for Seller to pledge or assign the Facility, this Agreement or the revenues under this Agreement to any Lender as security for any Financing of the Facility; provided, however, if Seller requests Buyer's consent to such an assignment, (i) Buyer shall provide that consent subject to Buyer's execution of a consent to assignment in a form acceptable to Buyer and Seller, and (ii) Seller will reimburse Buyer for all "out of pocket" costs and expenses Buyer incurs in connection with that consent, without regarding to whether such consent is provided.

14.3 Change in Control over Seller. Buyer's consent shall be required for any change in Control over Seller, which consent shall not be unreasonably withheld, conditioned or delayed and shall be provided if Buyer reasonably determines that such change in Control does not have a material adverse effect on Seller's creditworthiness or Seller's ability to perform its obligations under this Agreement. Seller shall provide prior written notice to Buyer of any proposed Change in Control, and shall provide such information regarding the proposed Change in Control as requested by Buyer.

14.4 Permitted Assignment by Buyer. Buyer shall have the right to assign this Agreement without consent of Seller (a) in connection with any merger or consolidation of the Buyer with or into another Person or any exchange of all of the common stock or other equity interests of Buyer or Buyer's parent for cash, securities or other property or any acquisition, reorganization, or other similar corporate transaction involving all or substantially all of the common stock or other equity interests in, or assets of, Buyer, or (b) to any substitute purchaser of the Products so long as in the case of either clause (a) or clause (b) of this Section 14.4, either (1) the proposed assignee's credit rating is at least either BBB- from S&P or Baa3 from Moody's or (2) the proposed assignee's credit rating is equal to or better than that of Buyer at the time of the proposed assignment, or (3) such assignment, or in the case of clause (a) above the transaction associated with such assignment, has been approved by the PUC or the appropriate Government Entity.

14.5 Prohibited Assignments. Any purported assignment of this Agreement not in compliance with the provisions of this Article 14 shall be null and void.

15. TITLE; RISK OF LOSS

Title to and risk of loss related to Buyer's Percentage Entitlement of the Energy shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Buyer's Percentage Entitlement of the RECs shall transfer to Buyer when the same are credited to Buyer's GIS account(s) or the GIS account(s) designated by Buyer to Seller in writing. Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

16. AUDIT

16.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under this Agreement, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party additional information documenting the quantities of Products delivered or provided hereunder. If any such examination reveals any overcharge, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall include interest at the Late Payment Rate from the date the overpayment was made until credited or paid.

16.2 Access to Financial Information. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's written request financial information and statements applicable to

Seller as well as access to financial personnel, so that Buyer may address any inquiries relating to Seller's financial resources.

17. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); or (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) delivered by fax or electronic mail (notices sent by fax or electronic mail shall be deemed given upon confirmation of delivery); or (4) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing:

If to Buyer:
Attn: Renewable Contract Manager, Environmental Transactions
National Grid
100 East Old Country Road, Second Floor
Hicksville, NY 11801-4218
Email: RenewableContracts@nationalgrid.com
With a copy to: ElectricSupply@nationalgrid.com

With a copy to:
Legal Department
Attn: Jennifer Brooks Hutchinson, Esq.
Senior Counsel
National Grid
280 Melrose Street
Providence, RI 02907
Email: Jennifer.Hutchinson@nationalgrid.com

If to Seller:
11101 West 120th Avenue, Suite 400
Broomfield, CO 80021
Attn: General Counsel
Email: Marcia.Emmons@res-group.com
Telephone: 303-439-4200
Facsimile: 303-439-4299

18. WAIVER AND MODIFICATION

This Agreement may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a

continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine in its sole discretion whether any amendment or waiver of the provisions of this Agreement shall require Regulatory Approval or PUC filing and/or approval. If Buyer determines that any such approval or filing is required, then such amendment or waiver shall not become effective unless and until Regulatory Approval or such other approval is received, or such PUC filing is made and any requested PUC approval is received.

19. INTERPRETATION

19.1 Choice of Law. Interpretation and performance of this Agreement shall be in accordance with, and shall be controlled by, the laws of the State of Rhode Island (without regard to its principles of conflicts of law).

19.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of this Agreement. The words "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

19.3 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a "forward contract" within the meaning of the United States Bankruptcy Code.

19.4 Standard of Review. The Parties acknowledge and agree that the standard of review for any avoidance, breach, rejection, termination or other cessation of performance of or changes to any portion of this integrated, non-severable Agreement (as described in Section 22) over which FERC has jurisdiction, whether proposed by Seller, by Buyer, by a non-party of, by FERC acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Serv. Co., 350 U.S. 332 (1956) and Federal Power Comm'n v. Sierra Pac. Power Co., 350 U.S. 348 (1956). Each Party agrees that if it seeks to amend any applicable power sales tariff during the Term, such amendment shall not in any way materially and adversely affect this Agreement without the prior written consent of the other Party. Each Party further agrees that it shall not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

19.5 Change in ISO-NE Rules and Practices. This Agreement is subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of this Agreement, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend or clarify this Agreement to embody the Parties' original intent regarding their respective rights and obligations under this Agreement, provided that neither Party shall have any obligation to agree to any particular amendment or clarification of this Agreement. The intent of the Parties is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability,

provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable.

19.6 Dodd Frank Act Representations. The Parties agree that this Agreement (including all transactions reflected herein) is not a "swap" within the meaning of the Commodity Exchange Act ("CEA") and the rules, interpretations and other guidance of the Commodity Futures Trading Commission ("CFTC rules"), and that the primary intent of this Agreement is physical settlement (i.e., actual transfer of ownership) of the nonfinancial commodity and not solely to transfer price risk. In reliance upon such agreement, each Party represents to the other that:

(a) With respect to the commodity to be purchased and sold hereunder, it is a commercial market participant, a commercial entity and a commercial party, as such terms are used in the CFTC rules, and it is a producer, processor, or commercial user of, or a merchant handling, the commodity and it is entering into this Agreement for purposes related to its business as such;

(b) It is not registered or required to be registered under the CFTC rules as a swap dealer or a major swap participant;

(c) It has entered into this Agreement in connection with the conduct of its regular business and it has the capacity or ability to regularly make or take delivery of the commodity to be purchased and sold hereunder;

(d) With respect to the commodity to be purchased and sold hereunder, it intends to make or take physical delivery of the commodity;

(e) At the time that the Parties enter into this Agreement, any embedded volumetric optionality in this Agreement is primarily intended by the holder of such option or optionality to address physical factors or regulatory requirements that reasonably influence demand for, or supply of, the commodity to be purchased and sold hereunder;

(f) With respect to any embedded commodity option in this Agreement, such option is intended to be physically settled so that, if exercised, the option would result in the sale of the commodity to be purchased or sold hereunder for immediate or deferred shipment or delivery;

(g) The commodity to be purchased and sold hereunder is a nonfinancial commodity, and is also an exempt commodity or an agricultural commodity, as such terms are defined and interpreted in the CFTC rules.

To the extent that reporting of any transactions related to this Agreement is required by the CFTC rules, the Parties agree that Seller shall be responsible for such reporting (the "Reporting Party"). The Reporting Party's reporting obligations shall continue until the reporting obligation has expired or has been terminated in accordance with CFTC rules. The Buyer, as the Party that

is not undertaking the reporting obligations shall timely provide the Reporting Party all necessary information requested by the Reporting Party for it to comply with CFTC rules.

19.7 Change in Law or Buyer's Accounting Treatment, Subsequent Judicial or Regulatory Action. If, during the Term of this Agreement, there is a change in Law or accounting standards or rules or a change in the interpretation or applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with this Agreement or the amounts paid for Products purchased hereunder, the Buyer shall prepare an amendment to this Agreement to avoid or mitigate such impacts. Buyer shall use commercially reasonable efforts to prepare such amendment in a manner that mitigates any material adverse effect(s) on Seller (as identified by Seller, acting reasonably) that could reasonably be expected to result from such amendment, but only to the extent that such mitigation can be accomplished in a manner that is consistent with the purpose of such amendment. Seller agrees to execute such amendment provided that such amendment does not (unless the Seller otherwise agrees) alter: (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable. .

Upon a determination by a court or regulatory body having jurisdiction over this Agreement or any of the Parties hereto, or over the establishment and enforcement of any of the statutes or regulations or orders or actions of regulatory agencies (including the PUC) supporting this Agreement or the rights or obligations of the Parties hereunder that any of the statutes or regulations supporting this Agreement or the rights or obligations of the Parties hereunder, or orders of or actions of regulatory agencies (including the PUC) implementing such statutes or regulations, or this Agreement on its face or as applied, violates any Law (including the State or Federal Constitution) (an "Adverse Determination"), each Party shall have the right to suspend performance under this Agreement without liability. Seller may deliver and sell Products to a third party during any period of time for which Buyer suspends payments or purchases under this Section. Upon an Adverse Determination becoming final and non-appealable, this Agreement shall be rendered null and void.

20. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of this Agreement may be executed, and each shall have the same force and effect as an original. Facsimile signatures hereon or on any notice or other instrument delivered under this Agreement shall have the same force and effect as original signatures.

21. NO DUTY TO THIRD PARTIES

Except as provided in any consent to assignment of this Agreement, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement.

22. SEVERABILITY

If any term or provision of this Agreement or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of this Agreement and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law so long as all essential terms and conditions of this Agreement for both Parties remain valid, binding and enforceable and have not been declared to be unenforceable, illegal or invalid by a Governmental Entity of competent jurisdiction. The Parties acknowledge and agree that essential terms and conditions of this Agreement for each Party include, without limitation, all pricing and payment terms and conditions of this Agreement, and that the essential terms and conditions of this Agreement for Buyer also include, without limitation, the terms and conditions of Section 19.7 of this Agreement.

23. INDEPENDENT CONTRACTOR

Nothing in this Agreement shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of this Agreement, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby. Nothing in this Agreement shall be construed as creating any relationship between Buyer and the Interconnecting Utility.

24. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement and understanding between the Parties hereto and shall supersede all prior agreements and communications.

[Signature page follows]

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____

Name:
Title:

HOPE FARM SOLAR, LLC

By: RES America Developments Inc.,
its Manager

By: _____

Name:
Title:

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____
Name:
Title:

HOPE FARM SOLAR, LLC

By: RES America Developments Inc.,
its Manager

By: _____
Name: Brian Evans
Title: President

EXHIBIT A

DESCRIPTION OF FACILITY

Facility: The Hope Farm Solar Project is a fixed tilt solar energy generation project located on Hope Road in the City of Cranston, Providence County, Rhode Island. The facility will consist of photovoltaic panels, racking, inverters, transformers, controls, switchgear, and other ancillary facilities.

[redacted]

Delivery Point: Settlement in the ISO-NE energy market system will occur when Energy is supplied into Buyer's ISO-NE settlement account at the ISO New England pricing node ("pnode") for the Facility established in accordance with ISO-New England Rules. The Delivery Point is the ISO New England Pool Transmission Facilities ("PTF") in the vicinity of the referenced pnode. Seller shall be responsible for all charges, fees and losses required for Delivery of Energy from the generator to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. In addition Seller shall also be responsible to apply for and schedule all such services.

ISO-NE PNode: [redacted] [redacted]

Proposed Facility Size: 10 MW_{AC}

EXHIBIT B

SELLER'S CRITICAL MILESTONES
AND MATERIAL PROCEEDINGS

[redacted]

EXHIBIT C

FORM OF PROGRESS REPORT

For the Quarter Ending:_____

Milestones Achieved:

Milestones Pending:

Status of Progress toward achievement of Milestones during the quarter:

Status of permitting and Permits obtained during the quarter:

Status of Financing for Facility:

Current projection for Financial Closing Date:

Events expected to result in delays in achievement of any Milestones:

Critical Milestones not yet achieved and projected date for achievement:

Current projection for Commercial Operation Date:

EXHIBIT D

PRODUCTS AND PRICING

1. Price for Buyer's Percentage Entitlement of Products up to the Contract Maximum Amount. The Price for the Buyer's Percentage Entitlement of Delivered Products up to the Contract Maximum Amount in nominal dollars shall be as follow:

(a) Commencing on the Commercial Operation Date, the Price per MWh for the Products shall be equal to [redacted] per MWh. The Price per MWh for each billing period shall be allocated between Energy and RECs as follows:

(i) Energy = The $/MWh price of Energy for the applicable month shall be equal to the weighted average of the Real-Time or Day-Ahead Locational Marginal Price (as applicable consistent with Section 4.2(a)) in the month (also on a $MWh basis) for the Node on the Pool Transmission Facilities to which the Facility is interconnected.

(ii) RECs = The Price less the Energy allocation determined above for the applicable billing period, expressed in $/MWh.

(b) The Adjusted Price for Energy shall be equal to [redacted] per MWh.

If the market price at the Delivery Point in the Real-Time or Day-Ahead markets, as applicable, for Energy Delivered by Seller is negative in any hour, the payment to Seller for deliveries of Energy shall be reduced by the difference between the absolute value of the hourly LMP at the Delivery Point and $0.00 per MWh for that Energy for each such hour. Each monthly invoice shall reflect a reduction for all hours in the applicable month in which the LMP for the Energy at the Delivery Point is less than $0.00 per MWh.

Examples. If delivered Energy equals 1 MWh and Price equals $50.00/MWh:

LMP at the Delivery Point equals (or is greater than) $0.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $0.00
Net Result: Buyer pays Seller $50 for that hour

LMP at the Delivery Point equals -$150.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $150.00
Net Result: Seller credits or reimburses Buyer $100 for that hour

(c) Price for Buyer's Percentage Entitlement of Products Delivered in excess of Contract Maximum Amount. The Products Delivered in excess of the Contract Maximum Amount shall be purchased by Buyer at a Price equal to the product of (x) the MWhs of Energy in excess of the

Contract Maximum Amount Delivered to the Delivery Point and (y) the lesser of (i) ninety percent (90%) of the Real Time LMP at such Delivery Point, or (ii) the Price determined in accordance with Section 1(a) of this Exhibit D for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer.

(d) For those hours when the Real Time LMP at the Delivery Point (as determined by ISO-NE) is negative, the payment from Buyer to Seller shall be reduced for Products Delivered in excess of the Contract Maximum Amount by an amount equal to the product of (x) the MWhs of Energy in excess of the Contract Maximum Amount Delivered to the Delivery Point and (y) one hundred percent (100%) of the absolute value of the Real Time LMP at such Delivery Point for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer. All rights and title to RECs associated with Energy Delivered in excess of the Contract Maximum Amount shall remain with Buyer whether the Real Time LMP is positive or negative. In the event that Seller received RECs associated with Energy Delivered in excess of the Contract Maximum Amount, Seller shall not hold or claim to hold equitable title to such RECs and shall promptly transfer such RECs to Buyer's GIS account.

EXHIBIT E

RELATED TRANSMISSION FACILITIES

NONE

Schedule CMD-4

Redacted

REDACTED

RPS CLASS I RENEWABLE GENERATION UNIT

POWER PURCHASE AGREEMENT

BETWEEN

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

AND

WOODS HILL SOLAR, LLC

As of May 25, 2017

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Exhibits

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (as amended from time to time in accordance with the terms hereof, this **"Agreement"**) is entered into as of May 25, 2017 (the **"Effective Date"**), by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation (**"Buyer"**), and Woods Hill Solar, LLC, a Delaware limited liability company (**"Seller"**). Buyer and Seller are individually referred to herein as a **"Party"** and are collectively referred to herein as the **"Parties"**.

WHEREAS, Seller is developing the solar electric generation facility to be located in Pomfret, CT, which is more fully described in Exhibit A hereto (the **"Facility"**), from which the Buyer's Percentage Entitlement of the Products (as defined below) is to be delivered to Buyer pursuant to the terms of this Agreement; and

WHEREAS, the Facility is, and shall qualify as a RPS Class I Renewable Generation Unit in the state of Rhode Island and which is expected to be in commercial operation by November 1, 2019; and

WHEREAS, pursuant to R.I.G.L. § 39-26.1, Buyer is authorized to enter into certain long-term contracts for the purchase of energy or energy and renewable energy certificates from renewable generators meeting the requirements of R.I.G.L. § 39-26.-5; and

WHEREAS, Buyer and Seller desire to enter into this Agreement whereby Buyer shall purchase from Seller certain Energy and RECs (each as defined herein) generated by or associated with the Facility;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in this Agreement and not defined herein shall have the same meaning as ascribed to such terms under the ISO-NE Practices and ISO-NE Rules.

"Actual Facility Size" shall mean the actual nameplate capacity of the Facility, as built, and as certified by an Independent Engineer, as provided in Section 3.4(b)(xiii).

"Adjusted Price" shall mean the purchase price(s) for Energy referenced in Section 5.1 if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b) hereof.

"Adverse Determination" shall have the meaning set forth in Section 19.7.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"Agreement" shall have the meaning set forth in the first paragraph of this Agreement.

"Alternative Compliance Payment Rate" means the rate per MWh paid by electricity suppliers under applicable Law for failure to supply RECs in accordance with the RPS.

"Business Day" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"Buyer's Percentage Entitlement" shall mean Buyer's rights to 7.5% of the Products. Buyer's Percentage Entitlement may be adjusted in accordance with Section 3.3(c).

"Buyer's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Capacity Deficiency" means, at the Commercial Operation Date, the amount (expressed in MW), if any, by which the Actual Facility Size is less than the proposed nameplate capacity of the Facility as set forth in Exhibit A.

"Cash" shall mean U.S. dollars held by or on behalf of a Party as Posted Collateral hereunder.

"Certificate" shall mean an electronic certificate created pursuant to the GIS Operating Rules or any successor thereto to represent certain Environmental Attributes of each MWh of Energy generated within the ISO-NE control area and the generation attributes of certain Energy imported into the ISO-NE control area.

"Collateral Account" shall have the meaning specified in Section 6.5(a)(iii)(B) hereof.

"Collateral Interest Rate" shall mean the rate published in *The Wall Street Journal* as the "Prime Rate" from time to time (or, if more than one such rate is published, the arithmetic mean of such rates), or, if such rate is no longer published, a successor rate agreed to by Buyer and Seller, in each case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties.

"Collateral Requirement" shall mean at any time the amount of Development Period Security or Operating Period Security required under this Agreement at such time.

"Commercial Operation Date" shall mean the date on which the conditions set forth in Section 3.4(b) have been satisfied, as set out in a written notice from Seller to Buyer.

"Contract Maximum Amount" shall mean 1.5 MW_{AC} and a corresponding portion of all other Products, as may be adjusted in accordance with Section 3.3(b).

"Contract Year" shall mean the twelve (12) consecutive calendar months starting on the first day of the calendar month following the Commercial Operation Date and each subsequent twelve (12) consecutive calendar month period; provided that the first Contract Year shall include the days in the prior month in which the Commercial Operation Date occurred.

"Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Cover Damages" shall mean, with respect to any Delivery Failure, an amount equal to (a) the positive net amount, if, any, by which the Replacement Price exceeds the applicable Price that would have been paid for the Products pursuant to Section 5.1 hereof, multiplied by the quantity of that Delivery Failure, plus (b) any applicable penalties and other costs assessed by ISO-NE against Buyer as a result of Seller's failure to deliver such Products in accordance with the terms of this Agreement, to the extent not already accounted for in the calculation of the Replacement Price. Buyer shall provide a statement for the applicable period explaining in reasonable detail the calculation of any Cover Damages.

"Credit Support" shall have the meaning specified in Section 6.2(d) hereof.

"Credit Support Delivery Amount" shall have the meaning specified in Section 6.3 hereof.

"Credit Support Return Amount" shall have the meaning specified in Section 6.4 hereof.

"Critical Milestones" shall have the meaning set forth in Section 3.1 hereof.

"Custodian" shall have the meaning specified in Section 6.5(a)(i) hereof.

"Day Ahead Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Default" shall mean any event or condition which, with the giving of notice or passage of time or both, could become an Event of Default.

"Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has occurred.

"Delay Damages" shall mean the damages assessed pursuant to Section 3.2(a) hereof.

"Deliver" or **"Delivery"** shall mean with respect to (i) Energy, to supply Energy at the Delivery Point in accordance with the terms of this Agreement and the ISO-NE Rules, and (ii) RECs, to supply RECs in accordance with Section 4.7(e).

"Delivery Failure" shall have the meaning set forth in Section 4.3 hereof.

"Delivery Point" shall mean the specific location where Seller shall Deliver its Energy to Buyer, as set forth in Exhibit A hereto.

"Development Period Security" shall have the meaning set forth in Section 6.2(a) hereof.

"Dispute" shall have the meaning set forth in Section 11.1 hereof.

"Disputing Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Eastern Prevailing Time" shall mean either Eastern Standard Time or Eastern Daylight Savings Time, as in effect from time to time.

"Effective Date" shall have the meaning set forth in the first paragraph hereof.

"Eligible Renewable Energy Resource" means resources as defined in R.I.G.L. § 39-26-5.

"Energy" shall mean electric "energy," as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time, less such Facility's station service use, generator lead losses and transformer losses, which quantity for purposes of this Agreement will never be less than zero.

"Environmental Attributes" shall mean any and all generation attributes under the RPS laws and regulations of the State of Rhode Island, and under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, to Buyer's Percentage Entitlement to the favorable generation or environmental attributes of the Facility or the Products produced by the Facility, up to and including the Contract Maximum Amount, during the Services Term including Buyer's Percentage Entitlement to: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility's generation using renewable technology or displacement of fossil-fuel derived or other conventional energy generation; (b) any Certificates issued pursuant to the GIS in connection with Energy generated by the Facility; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy by the Facility; provided, however, that Environmental Attributes shall not include: (i) any production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Facility; or (iii) any state, federal or private grants, financing, guarantees or other credit support relating to the construction or ownership, operation or maintenance of the Facility or the output thereof.

"Event of Default" shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

"EWG" shall mean an exempt wholesale generator under 15 U.S.C. § 79z-5a, as amended from time to time.

"Facility" shall have the meaning set forth in the Recitals.

"Federal Funds Rate" shall mean the annualized interest rate for the applicable month as set forth in the statistical release designated as H.15, or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" shall mean the United States Federal Energy Regulatory Commission, and shall include its successors.

"Financial Closing Date" shall mean the date of the closing of the initial agreements for any Financing of the Facility and of an initial disbursement of funds under such agreements.

"Financing" shall mean indebtedness, whether secured or unsecured, loans, guarantees, notes, convertible debt, bond issuances adequate for the construction of the Facility

"Force Majeure" shall have the meaning set forth in Section 10.1(a) hereof.

"Generation Unit" shall mean a facility that converts a fuel or an energy resource into electrical energy.

"GIS" shall mean the NEPOOL Generation Information System or any successor thereto, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity generated or consumed within New England.

"GIS Operating Rules" are the NEPOOL Generation Information System Operating Rules effective as of the Effective Date, as amended, superseded, or restated from time to time.

"Good Utility Practice" shall mean compliance with all applicable laws, codes, rules and regulations, all ISO-NE Rules and ISO-NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric industry in New England 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 is made, could have been expected to accomplish the desired result 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 is intended to include acceptable practices, methods and acts generally accepted in the electric industry in New England.

"Governmental Entity" shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

"Guaranteed Commercial Operation Date" shall have the meaning set forth in Section 3.1(a)(iv) hereof.

"I.3.9 Confirmation" refers to the ISO-NE Tariff Section I.3.9 pertaining to ISO-NE's approval of proposed plans as specified therein.

"Independent Engineer" shall mean a licensed Professional Engineer with expertise in the development of renewable energy projects using the same renewable energy technology as the Facility, reasonably selected by and retained by Seller in order to determine the as-built nameplate capacity of the Facility as provided in Section 3.4(b)(xiii) hereof.

"Interconnecting Utility" shall mean the utility (which may or may not be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the Transmission System of that utility.

"Interconnection Agreement" shall mean an agreement between Seller and the Interconnecting Utility and ISO-NE, as applicable, regarding the interconnection of the Facility to the Transmission System of the Interconnecting Utility, as the same may be amended from time to time.

"Interconnection Point" shall have the meaning set forth in the Interconnection Agreement.

"Interest Amount" shall mean with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (a) the amount of Cash held by such Party on that day (but excluding any interest previously earned on such Cash); multiplied by (b) the Collateral Interest Rate for that day; divided by (c) 360.

"Interest Period" shall mean the period from (and including) the last Business Day on which an Interest Amount was Transferred by Buyer (or if no Interest Amount has yet been Transferred by Buyer, the Business Day on which Cash was Transferred to Seller) to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

"ISO" or **"ISO-NE"** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

"ISO-NE Practices" shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Agreement, and any applicable successor practices and procedures.

"ISO-NE Rules" shall mean all rules and procedures adopted by NEPOOL, ISO-NE, or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE

Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the ISO –NE Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

"ISO-NE Tariff" shall mean ISO-NE's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, superseded or restated from time to time.

"ISO Settlement Market System" shall have the meaning as set forth in the ISO-NE Tariff.

"Late Payment Rate" shall have the meaning set forth in Section 5.3 hereof.

"Law" shall mean all federal, state and local statutes, regulations, rules, orders, executive orders, decrees, policies, judicial decisions and notifications.

"Lender" shall mean a party providing Financing for the development and construction of the Facility, or any refinancing of that Financing, and receiving a security interest in the Facility, and shall include any assignee or transferee of such a party and any trustee, collateral agent or similar entity acting on behalf of such a party.

"**Letter of Credit**" shall mean an irrevocable, non-transferable, standby letter of credit, issued by a Qualified Institution utilizing a form acceptable to the Party in whose favor such letter of credit is issued. All costs relating to any Letter of Credit shall be for the account of the Party providing that Letter of Credit.

"**Letter of Credit Default**" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events (a) the issuer of such Letter of Credit shall fail to be a Qualified Institution; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (c) the issuer of the Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (d) the Letter of Credit shall expire or terminate or have a Value of $0 at any time the Party on whose account that Letter of Credit is issued is required to provide Credit Support hereunder and that Party has not Transferred replacement Credit Support meeting the requirements of this Agreement; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be cancelled or returned in accordance with the terms of this Agreement.

"Locational Marginal Price" or "LMP" shall have the meaning set forth in the ISO-NE Rules.

"Market Price" shall mean the price received by Buyer by selling the Energy into either the ISO-NE-administered Day-Ahead or Real-Time Markets, as applicable.

"Meters" shall have the meaning set forth in Section 4.6(a) hereof.

"Moody's" shall mean Moody's Investors Service, Inc., and any successor thereto.

"MW" shall mean a megawatt AC.

"MWh" shall mean a megawatt-hour (one MWh shall equal 1,000 kWh).

"NEPOOL" shall mean the New England Power Pool and any successor organization.

"NERC" shall mean the North American Electric Reliability Corporation and shall include any successor thereto.

"Network Upgrades" shall mean upgrades to the Pool Transmission Facilities and the Transmission Provider's transmission and distribution systems, as determined and identified in the interconnection study approved in connection with construction of the Facility necessary for Delivery of the Energy to the Delivery Point, including those that are necessary for the Seller's satisfaction of the obligations under Section 7.4 of this Agreement.

"New England Control Area" shall have the meaning as set forth in the ISO-NE Tariff.

"Newly Developed Renewable Energy Resource" shall mean, pursuant to R.I.G.L. § 39-26.1-2(6), an electrical generation unit that uses exclusively an Eligible Renewable Energy Resource, and either (x) has neither begun operation, nor have the developers of the unit implemented investment or lending agreements necessary to finance the construction of the unit or (y) is located within the state of Rhode Island and obtained project financing on or after January 1, 2009.

"Node" shall have the meaning set forth in ISO-NE Rules.

"Non-Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has not occurred.

"Obligations" shall have the meaning specified in Section 6.1 hereof.

"Operational Limitations" of the Facility are the parameters set forth in Exhibit A describing the physical limitations of the Facility, including the time required for start-up and the limitation on the number of scheduled start-ups per Contract Year.

"Operating Period Security" shall have the meaning set forth in Section 6.1(b) hereof.

"Other Agreements" shall mean

(w) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and NSTAR Electric Company d/b/a Eversource Energy;

(x) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid;

(y) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Western Massachusetts Electric Company d/b/a Eversource Energy;

(z) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Fitchburg Gas and Electric Light Company d/b/a Unitil;

(aa) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and The United Illuminating Company; and

(bb) that certain RPS Class I Renewable Generation Unit Power Purchase Agreement, dated as of May 25, 2017, by and between Seller and Connecticut Light and Power Company d/b/a Eversource Energy.

"Party" and **"Parties"** shall have the meaning set forth in the first paragraph of this Agreement.

"Permits" shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law and the Delivery of the Products in accordance with this Agreement.

"Person" shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

"Pool Transmission Facilities" has the meaning given that term in the ISO-NE Rules.

"Posted Collateral" shall mean all Credit Support and all proceeds thereof that have been Transferred to or received by a Party under this Agreement and not Transferred to the Party providing the Credit Support or released by the Party holding the Credit Support. Any Interest Amount or portion thereof not Transferred will constitute Posted Collateral in the form of Cash.

"Price" shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on Exhibit D.

"Products" shall mean Energy and RECs; provided, however, that Energy and RECs generated by or associated with the Facility during the Test Period and RECs not purchased by Buyer under Section 4.1(b) shall not be deemed Products.

"PUC" shall mean the Rhode Island Public Utilities Commission and shall include its successors.

"QF" shall mean a cogeneration or small power production facility which meets the criteria as defined by FERC in Title 18, Code of Federal Regulations, §§ 292.201 through 292.207, as amended from time to time.

"Qualified Institution" shall mean a major U.S. commercial bank or trust company, the U.S. branch office of a foreign bank, or another financial institution, in any case, organized under the laws of the United States or a political subdivision thereof having assets of at least $10 billion and a credit rating of at least (A) "A3" from Moody's or "A-" from S&P, if such entity is rated by both S&P and Moody's or (B) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both.

"Real-Time Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Reference Market-Maker" shall mean a leading dealer in the relevant market that is selected in a commercially reasonable manner and is not an affiliate of either party.

"Regulatory Agencies" shall mean the Massachusetts Department of Public Utilities and its successors ("MDPU"), the Connecticut Public Utilities Regulatory Authority and its successors ("PURA") and the Rhode Island Public Utilities Commission and its successors ("PUC").

"Regulatory Approval" shall mean the PUC's approval of this Agreement without material modification or conditions pursuant to R.I.G.L. §§ 39-26.1-3 through 39-26.1-5 and the regulations promulgated thereunder, including the recovery by Buyer of its costs incurred under this Agreement and remuneration equal to two and three-quarters percent (2.75%) of Buyer's actual annual payments under this Agreement pursuant to R.I.G.L. § 39-26.1-4, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

"Rejected Purchase" shall have the meaning set forth in Section 4.4 hereof.

"Related Transmission Facilities" shall mean those transmission and distribution facilities to be used by Seller for Delivery of Energy under this Agreement, as described in Exhibit E hereto.

"Related Transmission Approvals" shall mean those FERC filings, agreements, tariffs and approvals associated with service on the Related Transmission.

"Reliability Curtailment" shall mean any curtailment of Delivery of Energy resulting from (i) an emergency condition as defined in the Interconnection Agreement or the ISO-

NE Tariff, or (ii) any other order or directive of the Interconnecting Utility or the Transmission Provider pursuant to an Interconnection Agreement or tariff.

"Renewable Energy Certificates" or **"RECs"** shall mean all of the Certificates and any and all other Environmental Attributes associated with the Products or otherwise produced by the Facility which satisfy the RPS for a RPS Class I Renewable Generation Unit, and shall represent title to and claim over all Environmental Attributes associated with the specified MWh of generation from such RPS Class I Renewable Generation Unit.

"Replacement Energy" shall mean energy purchased by Buyer as replacement for any Delivery Failure relating to the Energy to be provided hereunder.

"Replacement Price" shall mean the price at which Buyer, acting in a commercially reasonable manner, (A) purchases Replacement Energy and/or Replacement RECs plus (i) costs incurred by Buyer in purchasing such Replacement Energy and/or Replacement RECs, (ii) additional transmission charges, if any, incurred by Buyer to transmit Replacement Energy to the Delivery Point, and (iii) any other costs and losses incurred by Buyer as a result of the Delivery Failure; provided, however, that in no event shall Buyer be required to utilize or change its utilization of its owned or controlled assets, contracts or market positions to minimize Seller's liability, or (B) elects in its sole discretion not to purchase Replacement Energy and/or Replacement RECs, the market value of Energy and/or the Alternative Compliance Payment Rate as of the date and the time of the Delivery Failure plus any other costs and losses incurred by Buyer as a result of the Delivery Failure will replace the price at which Buyer purchases Replacement Energy and/or Replacement RECs in the calculation of the Replacement Price relating to the Energy and/or RECs to be purchased and sold hereunder.

"Replacement RECs" shall mean any generation or environmental attributes, including any Certificates or other certificates or credits related thereto reflecting generation by a RPS Class I Renewable Generation Unit that are purchased by Buyer as replacement for any Delivery Failure.

"Request Date" shall have the meaning set forth in Section 6.6(a) hereof.

"Requesting Party" shall have the meaning set forth in Section 6.6(a) hereof.

"Resale Damages" shall mean, with respect to any Rejected Purchase, an amount equal to (a) the positive net amount, if any, by which the applicable Price that would have been paid pursuant to Section 5.1 hereof for such Rejected Purchase, had it been accepted, exceeds the Resale Price multiplied by the quantity of that Rejected Purchase (in MWh and/or RECs, as applicable), plus (b) any applicable penalties assessed by ISO-NE against Seller as a result of Buyer's failure to accept such Products in accordance with the terms of this Agreement. Seller shall provide a written statement for the applicable period explaining in reasonable detail the calculation of any Resale Damages.

"Resale Price" shall mean the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase, plus transaction and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase that Seller would not have incurred but for the Rejected Purchase; provided, however, that in no event shall Seller be required to utilize or change its utilization of the Facility or its other assets, contracts or market positions in order to minimize Buyer's liability for such Rejected Purchase.

"Rounding Amount" shall have the meaning specified in Section 6.2(c) hereof.

"RPS" shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. and the regulations promulgated thereunder that require all retail electricity suppliers in Rhode Island to provide a minimum percentage of electricity from RPS Class I Renewable Generation Units, and such successor laws and regulations as may be in effect from time to time.

"RPS Class I Renewable Generation Unit" shall mean a Newly Developed Renewable Energy Resource that produces RECs that qualify for the RPS.

"RTO" shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC's Order No. 2000 and FERC's corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

"S&P" shall mean Standard & Poor's Financial Services LLC, and any successor thereto.

"Schedule" or "Scheduling" shall mean the actions of Seller and/or its designated representatives pursuant to Section 4.2, of notifying, requesting and confirming to ISO-NE the quantity of Energy to be delivered on any given day or days (or in any given hour or hours) during the Services Term at the Delivery Point.

"Services Term" shall have the meaning set forth in Section 2.2(b) hereof.

"Seller's Taxes" shall have the meaning set forth in Section 5.4(a) hereof.

"Substitute Credit Support" shall have the meaning assigned in Section 6.5(e) hereof.

"Term" shall have the meaning set forth in Section 2.2(a) hereof.

"Termination Payment" shall have the meaning set forth in Section 9.3(b) hereof.

"Test Energy" shall have the meaning set forth in Section 4.8 hereof.

"Test Period" shall have the meaning set forth in Section 3.4(a) hereof.

"Transfer" shall mean, with respect to any Posted Collateral or Interest Amount, and in accordance with the instructions of the Party entitled thereto:

(a) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the Party to whom such Cash is being delivered; and

(b) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the Party to whom such Letter of Credit is being delivered.

"Transmission Provider" shall mean (a) ISO-NE, its respective successor or Affiliates; (b) Buyer; and/or (c) such other third parties from whom transmission services are necessary for Seller to fulfill its performance obligations to Buyer hereunder, as the context requires.

"Transmission System" shall mean the transmission facilities operated by a Transmission Provider, now or hereafter in existence, which provide energy transmission service for the Energy to or from the Delivery Point.

"Unit Contingent" shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating Energy.

"Valuation Agent" means the Requesting Party; provided, however, that in all cases, if an Event of Default has occurred and is continuing with respect to the Party designated as the Valuation Agent, then in such case, and for so long as the Event of Default continues, the other Party shall be the Valuation Agent.

"Valuation Date" shall mean each Business Day.

"Valuation Percentage" shall have the meaning specified in Section 6.2(d) hereof.

"Valuation Time" shall mean the close of business on the Business Day before the Valuation Date or date of calculation, as applicable.

"Value" shall mean, with respect to Posted Collateral or Credit Support, the Valuation Percentage multiplied by the amount then available under the Letter of Credit to be unconditionally drawn by Buyer.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. Subject in all respects to Section 8.1and Section 8.2, this Agreement is effective as of the Effective Date.

2.2 Term.

(a) The **"Term"** of this Agreement is the period beginning on the Effective Date and ending upon the final settlement of all obligations hereunder after the expiration of the Services Term or the earlier termination of this Agreement in accordance with its terms.

(b) The **"Services Term"** is the period during which Buyer is obligated to purchase Products Delivered to Buyer by Seller (not including Energy and RECs Delivered during the Test Period under Section 4.8) commencing on the Commercial Operation Date and continuing for a period of twenty (20) years from the Commercial Operation Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

(c) At the expiration of the Term or earlier termination of this Agreement pursuant to the terms hereof, the Parties shall no longer be bound by the terms and provisions hereof, except (i) to the extent necessary to make payments of any amounts owed to the other Party arising prior to or resulting from termination of, or on account of a breach of, this Agreement, (ii) to the extent necessary to enforce the rights and the obligations of the Parties arising under this Agreement before such expiration or termination, and (iii) the obligations of the Parties hereunder with respect to confidentiality and indemnification shall survive the expiration or termination of this Agreement.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Critical Milestones.

(a) Subject to the provisions of Section 3.1(d), commencing on the Effective Date, Seller shall develop the Facility in order to achieve the following milestones (**"Critical Milestones"**) on or before the dates set forth in this Section 3.1(a):

(i) receipt of all Permits necessary to construct the Facility, as set forth in Exhibit B, in final form, by [redacted]

(ii) acquisition of all required real property rights necessary for construction and operation of the Facility and the interconnection of the Facility to the Interconnecting Utility in full and final form with all options and/or contingencies having been exercised demonstrating complete site control as set forth in Exhibit B, by [redacted];

(iii) closing of the Financing or other demonstration to Buyer's satisfaction of the financial capability to construct the Facility, including, as applicable, Seller's financial obligations with respect to interconnection of the Facility to the Interconnecting Utility and construction of the Network Upgrades by [redacted]; and

(iv) achievement of the Commercial Operation Date by [redacted] ("Guaranteed Commercial Operation Date").

(b) Seller shall provide Buyer with written notice of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Critical Milestone has been achieved. Seller acknowledges that Buyer will receive such notice solely to monitor progress

toward the Commercial Operation Date, and Buyer shall have no responsibility or liability for the development, construction, operation or maintenance of the Facility.

(c) In addition to any extension to a date for a Critical Milestone as a result of Force Majeure under Section 10.1, Seller may elect to extend all of the dates for the Critical Milestones not yet achieved by up to four six-month periods from the applicable dates set forth in Section 3.1(a) by posting additional Development Period Security in an amount equal to $7,500.00 for each such six-month period. Any such election shall be made in a written notice delivered to Buyer on or prior to the first date for a Critical Milestone that has not yet been achieved (as such date may have previously been extended).

(d) To the extent a Force Majeure event pursuant to Section 10.1 has occurred that prevents the Seller from achieving the Critical Milestone date for acquisition of real property rights and interconnection (Section 3.1(a)(ii)) or the Commercial Operation Date (Section 3.1(a)(iv) by the applicable Milestone date, the Critical Milestone Date(s) impacted by such Force Majeure event shall be extended for the duration of the Force Majeure event, but under no circumstances shall extensions of those Critical Milestone dates due to Force Majeure events exceed twelve (12) months beyond the applicable Milestone date, and further provided, that the Seller shall not have the right to declare a Force Majeure event related to the Permits Critical Milestone (Section 3.1(a)(i)) or the Financing Critical Milestone (Section 3.1(a)(iii)).

(e) The Parties agree that time is of the essence with respect to the Critical Milestones and is part of the consideration to Buyer in entering into this Agreement.

(f) If Seller fails to make material progress toward the Commercial Operation Date, as reasonably determined by either Buyer or the PUC based on Seller's progress with respect to the milestones set forth in Section 3.1(a), within three (3) years after the Effective Date, Buyer may terminate this Agreement by written notice to Seller delivered within sixty (60) days after the third anniversary of the Effective Date (which termination shall be effective upon delivery of such notice), and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 13.

3.2 Delay Damages.

(a) If the Commercial Operation Date is not achieved by the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) -(d) and 10.1), Seller shall pay to Buyer damages for each day from and after such date in an amount equal to $150.00 per day, commencing on the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c)-(d) and 10.1) and ending on the earlier of (i) the Commercial Operation Date, (ii) the date that Buyer exercises its right to terminate this Agreement under Section 9.3, or (iii) the date that is twelve (12) months after the Guaranteed Commercial Operation Date (**"Delay Damages"**). Delay Damages shall be due under this Section 3.2(a) without regard to whether Buyer exercises its right to terminate this Agreement pursuant to Section 9.3; provided, however, that if Buyer exercises its right to terminate this Agreement under Section 9.3, Delay Damages shall be due and owing to the extent that such Delay Damages were due and owing at the date of such termination.

(b) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation Date by the Guaranteed Commercial Operation Date would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Notwithstanding the foregoing, this Article shall not limit the amount of damages payable to Buyer if this Agreement is terminated as a result of Seller's failure to achieve the Commercial Operation Date. Any such termination damages shall be determined in accordance with Article 9.

(c) By the tenth (10th) day following the end of the calendar month in which Delay Damages first become due and continuing by the tenth (10th) day of each calendar month during the period in which Delay Damages accrue (and the following months if applicable), Buyer shall deliver to Seller an invoice showing Buyer's computation of such damages and any amount due Buyer in respect thereof for the preceding calendar month. No later than ten (10) days after receiving such an invoice, Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. If Seller fails to pay such amounts when due, Buyer may draw upon the Development Period Security for payment of such Delay Damages, and Buyer may exercise any other remedies available for Seller's default hereunder.

3.3 Construction and Changes in Capacity.

(a) Construction of Facility. Seller shall construct the Facility as described in Exhibit A, in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility and all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to Buyer. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction functions, so long as Seller maintains overall control over the construction of the Facility through the Term.

(b) Capacity Deficiency. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements for the Commercial Operation Date under Section 3.4(b) of this Agreement, but a Capacity Deficiency exists on the Commercial Operation Date as permitted by Section 3.4(b), then on the Commercial Operation Date, the Contract Maximum Amount shall be automatically and permanently reduced commensurate with the Capacity Deficiency, which reduced Contract Maximum Amount shall be stated in a notice from Buyer to Seller, which notice shall be binding absent manifest error.

(c) Increase in Facility Size. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements under Section 3.4(b) of this Agreement, if the Independent Engineer's certification provides that the Actual Facility Size exceeds the Proposed Facility Size as provided in Exhibit A, the Buyer's Percentage Entitlement will be recalculated and replaced by the percentage derived by dividing the Contract Maximum Amount by the Actual Facility Size.

(d) Progress Reports. Within ten (10) days of the end of each calendar quarter after the Effective Date and until the Commercial Operation Date, Seller shall provide Buyer with a progress report regarding Critical Milestones not yet achieved, including projected time to completion of the Facility, in accordance with the form attached hereto as Exhibit C, and shall provide supporting documents and detail regarding the same upon Buyer's request. Seller shall permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller.

(e) Site Access. Buyer and its representatives shall have the right but not the obligation, during business hours and upon reasonable notice to Seller, to inspect the Facility site and view the construction of the Facility.

3.4 Commercial Operation.

(a) Seller's obligation to Deliver the Products and Buyer's obligation to pay Seller for such Products commences on the Commercial Operation Date; provided, that Energy and RECs generated by the Facility prior to the Commercial Operation Date (the **"Test Period"**) shall not be deemed Products.

(b) The Commercial Operation Date shall occur on the date on which the Facility as described in Exhibit A is completed (subject, if applicable, to a Capacity Deficiency so long as the Actual Facility Size on the Commercial Operation Date is (1) at least ninety percent (90%) of the proposed nameplate capacity of the Facility as set forth in Exhibit A, and (2) not more than ten (10) MW less than the proposed nameplate capacity of the Facility set forth in Exhibit A) and capable of regular commercial operation in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility, all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to the Buyer have been satisfied, and all performance testing for the Facility has been successfully completed, provided Seller has also satisfied the following conditions precedent as of such date:

(i) completion of all transmission and interconnection facilities and any Network Upgrades necessary for Seller to satisfy its obligations under this Agreement, including final acceptance and authorization to interconnect the Facility from ISO-NE or the Interconnecting Utility in accordance with the fully executed Interconnection Agreement;

(ii) all Related Transmission Facilities as set forth in Exhibit E are complete and in-service;

(iii) Seller has obtained and demonstrated possession of all Permits required for the lawful construction and operation of the Facility, for the interconnection of the Facility to the Interconnecting Utility (including any Network Upgrades) and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, all as set forth on Exhibit B;

(iv) Seller has obtained qualification by the PUC qualifying the Facility as a RPS Class I Renewable Generation Unit;

(v) All Related Transmission Approvals have been received;

(vi) Seller has acquired all real property rights needed to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent that it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement;

(vii) Seller has established all ISO-NE-related accounts and entered into all ISO-NE-related agreements required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect, including the registration of the Facility in the GIS;

(viii) Seller has provided to Buyer I.3.9 Confirmation from ISO-NE regarding approval of generation entry, has submitted the Asset Registration Form (as defined in ISO-NE Practices) for the Facility to ISO-NE and has taken such other actions as are necessary to effect the Delivery of the Energy to Buyer in the ISO Settlement Market System;

(ix) Seller has successfully completed all pre-operational testing and commissioning in accordance with manufacturer guidelines;

(x) Seller has satisfied all Critical Milestones that precede the Commercial Operation Date in Section 3.1;

(xi) no Default or Event of Default by Seller shall have occurred and remain uncured;

(xii) the Facility is owned or leased by, and under the care, custody and control of, Seller.

(xiii) Seller has delivered to Buyer:

(A) an Independent Engineer's certification stating (i) that the Facility has been completed in all material respects (excepting punchlist items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this Agreement, and (ii) the Actual Facility Size;

(B) certificates of insurance evidencing the coverages required under Section 3.5(i); and

(C) the Operating Period Security; and

(xiv) Seller has demonstrated that it can reliably transmit real time data and measurements to ISO-NE.

3.5 Operation of the Facility.

(a) Compliance With Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; (ii) the Operational Limitations; and (iii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under this Agreement (including obligations related to the generation, Scheduling, interconnection, and transmission of Energy, and the transfer of RECs), whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Owner and Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain or cause to be maintained in full force and effect all Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility and all Related Transmission Approvals.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, construct, maintain and operate the Facility in accordance with Good Utility Practice and in accordance with Exhibit A to this Agreement. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete construction, operation and maintenance functions, so long as Seller maintains overall control over the construction, operation and maintenance of the Facility throughout the Term.

(d) Interconnection Agreement. Seller shall comply with the terms and conditions of the Interconnection Agreement.

(e) ISO-NE Status. Seller shall, at all times during the Services Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and this Agreement.

(f) Forecasts. Commencing at least thirty (30) days prior to the anticipated Commercial Operation Date and continuing throughout the Term, Seller shall update and deliver to Buyer on an annual basis and in a form reasonably acceptable to Buyer, twelve (12) month rolling forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice based on historical performance, maintenance

schedules, Seller's generation projections and other relevant data and considerations. Any notable changes from prior forecasts or historical energy delivery shall be noted and an explanation provided. The provisions of this section are in addition to Seller's requirements under ISO-NE Rules and ISO-NE Practices, including ISO-NE Operating Procedure No. 5.

(g) RPS Class I Renewable Generation Unit. Subject to Section 4.7(b), Seller shall be solely responsible at Seller's cost for qualifying the Facility as a RPS Class I Renewable Generation Unit and maintaining such qualification throughout the Services Term. Seller shall take all actions necessary to register for and maintain participation in the GIS to register, monitor, track, and transfer RECs. Seller shall provide such additional information as Buyer may request relating to such qualification and participation.

(h) Compliance Reporting. Within thirty (30) days following the end of each calendar quarter, Seller shall provide Buyer information pertaining to emissions, fuel types, labor information and any other information to the extent required by Buyer to comply with the disclosure requirements contained under applicable law and any other such disclosure regulations which may be imposed upon Buyer during the Term, which information requirements will be provided to Seller by Buyer at least fifteen (15) days before the beginning of the calendar quarter for which the information is required. To the extent Buyer is subject to any other certification or compliance reporting requirement with respect to the Products produced by Seller and delivered to Buyer hereunder, Seller shall provide any information in its possession (or, if not in Seller's possession, available to it and not reasonably available to Buyer) requested by Buyer to permit Buyer to comply with any such reporting requirement.

(i) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company (or any successor thereto) the insurance coverage and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Upon the execution of this Agreement, and at each subsequent policy renewal date thereafter, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications that may adversely affect Buyer, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

(j) Contacts. Each Party shall identify a principal contact or contacts, which contact(s) shall have adequate authority and expertise to make day-to-day decisions with respect to the administration of this Agreement.

(k) Compliance with Law. Without limiting the generality of any other provision of this Agreement, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented

during the Term, including all risks of operational and environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with applicable requirements of Law.

(l) FERC Status. Seller shall be responsible for ensuring that it is in compliance with all FERC directives and requirements necessary for Seller to fulfill its obligations under this Agreement. As part of Seller's satisfaction of this responsibility, it shall maintain the Facility's status as a QF or EWG (to the extent Seller meets the criteria for such status) at all times after the Commercial Operation Date and shall obtain and maintain any requisite authority to sell the output of the Facility at market-based rates, including market-based rate authority to the extent applicable. If Seller certifies the Facility as a QF, for so long as this Agreement is in effect, Seller waives, and agrees not to assert, any rights Seller may have to require Buyer to purchase or transmit electric power or to pay a specified price for electric power by virtue of the status of the Facility as a QF.

(m) Maintenance. No later than (a) the Commercial Operation Date and (b) two months prior to the end of each calendar year thereafter during the Term, Seller shall submit to Buyer a schedule of planned maintenance for the following calendar year for the Facility. Throughout the Term, Seller shall coordinate all planned maintenance with ISO-NE, consistent with ISO-NE Rules, and shall promptly provide applicable information concerning scheduled outages, as determined by ISO-NE, to Buyer. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules, Seller shall not schedule maintenance of the Facility during the months of January through February or June through September, and shall operate the Facility so as to maximize energy production during the hours of anticipated peak load and Energy prices in New England; provided, however, that planned maintenance may be scheduled during such period to the extent the failure to perform such planned maintenance is contrary to operation of the Facility in accordance with Good Utility Practice or as is required in order to maintain warranties associated with the Facility or its equipment.

3.6 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, including the costs of the Network Upgrades, consistent with all standards and requirements set forth by the FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility. Seller shall be responsible for procuring delivery service and all costs associated with it.

(b) Seller shall defend, indemnify and hold Buyer harmless against any and all liabilities, fees, costs and expenses, including but not limited to reasonable attorneys' fees arising due to Seller's performance or failure to perform under the Interconnection Agreement or any agreement for delivery service associated with Seller's performance of this Agreement.

4. DELIVERY OF PRODUCTS

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on the Commercial Operation Date and subject to Section 4.1(b), Seller shall sell and Deliver, and Buyer shall purchase and receive all right, title and interest in and to, Buyer's Percentage Entitlement of the Products in accordance with the terms and conditions of this Agreement. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent and shall be subject to the operation of the Facility. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules and Good Utility Practice, Seller shall use commercially reasonable efforts to maximize the production and Delivery of Energy during the time periods of anticipated peak load and peak Energy prices in New England.

(b) Buyer shall not be obligated to accept or pay for any REC or comparable certificate, credit, attribute or other similar product produced by or associated with the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, and, to the extent that Buyer does not purchase any such REC or comparable certificate, credit, attribute or other similar product associated with the Facility, Seller may, in its sole discretion, sell, transfer or otherwise dispose of that REC or comparable certificate, credit, attribute or other similar product. In the event that the Buyer notifies Seller that it will not purchase any REC or comparable certificate, credit, attribute or other similar product produced by the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, then Buyer, upon thirty (30) days' prior written notice to Seller, may resume purchasing such RECs or comparable certificates, credits, attributes or other similar products produced by the Facility after such thirty (30) day period, unless otherwise agreed by Buyer and Seller.

(c) Seller shall Deliver Buyer's Percentage Entitlement of the Products produced by or associated with the Facility, up to and including the Contract Maximum Amount, exclusively to Buyer, and Seller shall not sell, divert, grant, transfer or assign such Products or any certificate or other attribute associated with such Products to any Person other than Buyer during the Term. Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Services Term and in accordance with Section 4.1, Seller shall Schedule and transfer Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with this Agreement and all ISO-NE Practices and ISO-NE Rules. Seller shall transfer the Energy to Buyer in the Real Time Energy Market or the Day Ahead Energy Market, as reasonably agreed from time to time by Buyer and Seller and consistent with ISO-NE Rules and ISO-NE practices at the time. Buyer

shall have no obligation to pay for any Energy not Delivered to Buyer in accordance with the foregoing. Notwithstanding any other provision of this Agreement, if during the Term of this Agreement the LMP at the Delivery Point is negative, or, in the reasonable opinion of Seller, is likely to become negative, then Seller may deliver to Buyer a written notice stating that such condition has occurred or is likely to occur and the period during which such condition has occurred or is likely to occur. Buyer and Seller hereby agree that in such event Seller shall be under no obligation to schedule or Deliver Products to the Delivery Point during such period. Seller shall provide Buyer with detailed information, including but not limited to, the start and stop times of such periods of curtailment under this Section 4.2(a) as well as the quantity curtailed, for all such periods of non-delivery during the preceding calendar month which information shall be provided prior to Seller's delivery of the invoice to Buyer.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Services Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission up to and at the Delivery Point. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, (including amounts not credited to Buyer as described in Section 4.2(a)), Seller shall reimburse Buyer for the same.

4.3 Failure of Seller to Deliver Products. In the event that Seller fails to satisfy any of its obligations to Deliver any of the Products or any portion of the Products hereunder in accordance with Section 4.1, Section 4.2 and Section 4.7, and such failure is not excused under the express terms of this Agreement (a **"Delivery Failure"**), Seller shall pay Buyer an amount for such Delivery Failure (measured in MWh and/or RECs) equal to the Cover Damages. Such payment shall be due no later than the date for Buyer's payment for the applicable month as set forth in Section 5.2 hereof. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a Delivery Failure would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Cover Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.4 Failure by Buyer to Accept Delivery of Products. If Buyer fails to accept all or part of any of the Products to be purchased by Buyer hereunder, and such failure to accept (a) is not the result of Reliability Curtailment or (b) is not otherwise excused under the terms of this Agreement (a **"Rejected Purchase"**), then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such Rejected Purchase equal to the Resale Damages. Each Party agrees and acknowledges that (i)

the damages that Seller would incur due to a Rejected Purchase would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Resale Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.5 Delivery Point.

(a) All Energy shall be Delivered hereunder by Seller to Buyer at the Delivery Point. Seller shall be responsible for the costs of delivering its Energy to the Delivery Point consistent with all standards and requirements set forth by the FERC, ISO-NE, and any other applicable Governmental Entity or tariff.

(b) Seller shall be responsible for all applicable charges associated with transmission and interconnection service and delivery charges, including all related ISO-NE administrative fees, uplift, socialized charges, and all other charges in connection with the satisfaction of Seller's obligations hereunder, incurred for the Delivery of Energy to and at the Delivery Point. Seller shall indemnify and hold harmless Buyer for any such charges, fees, or expenses imposed upon Buyer by operation of ISO-NE rules or otherwise in connection with Seller's performance of its obligations hereunder.

(c) Buyer shall be responsible for all applicable charges associated with transmission and delivery of the Energy from and after the Delivery Point, provided that Buyer shall have no responsibility or liability for any Network Upgrade.

4.6 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the **"Meters"**), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting

Utility or the ISO-NE Tariff, whichever is applicable, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

(c) Inspection, Testing and Calibration. Buyer shall have the right to inspect and test (at its own expense) any of the Meters at the Facility at reasonable times and upon reasonable notice from Buyer to Seller. Buyer shall have the right to have a representative present during any testing or calibration of the Meters at the Facility by Seller. Seller shall provide Buyer with timely notice of any such testing or calibration.

(d) Audit of Meters. Buyer shall have access to the Meters and the right to audit all information and test data related to such Meters.

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than two percent (2%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

4.7 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to Buyer's Percentage Entitlement of the Facility's Environmental Attributes, including the RECs, generated by, or associated with, the Facility during the Services Term in accordance with the terms of this Section 4.7.

(b) Regarding the RPS:

(i) Except as provided in subsection (ii) of this Section 4.7(b), all Energy provided by Seller to Buyer from the Facility under this Agreement shall meet the requirements for eligibility pursuant to the RPS, and Seller's failure to satisfy such requirements shall constitute an Event of Default pursuant to Section 9.1 (c) of this Agreement except as provided in Section 4.7(b)(ii), below; and

(ii) If solely as a result of change in Law, Energy provided by Seller to Buyer from the Facility under this Agreement no

longer meets the requirements for eligibility pursuant to the RPS, such will not constitute an Event of Default under Article 9, provided Seller promptly uses commercially reasonable efforts to ensure that qualification will continue after the change in Law. If, notwithstanding such commercially reasonable efforts and solely as a result of change in Law, the Facility does not qualify as a RPS Class I Renewable Generation Unit, then (A) Seller shall continue to sell, and Buyer shall continue to purchase Energy under this Agreement at the Adjusted Price in accordance with Section 5.1 and (B) any purchases and sales of RECs shall be in accordance with Section 4.1(b).

(c) At Seller's sole cost, Seller shall also obtain and maintain throughout the Services Term qualification as a RPS Class I generation resource under the renewable portfolio standard or similar law of the New England states of Connecticut, Maine, Massachusetts, and New Hampshire, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard or similar law. At Buyer's request and at Seller's sole cost, Seller shall also obtain qualification under the renewable portfolio standard or similar law of New York and/or any federal renewable energy standard, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard, renewable energy standard or similar law, and Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to maintain such qualifications at all times during the Services Term unless otherwise agreed by Buyer. Seller shall also submit to Buyer or as directed by Buyer any information required by any state or federal agency with regard to administration of its rules regarding Environmental Attributes or its renewable energy standard or renewable portfolio standard or Seller's qualification under the foregoing.

(d) Seller shall comply with all GIS Operating Rules relating to the creation and transfer of all RECs to be purchased by Buyer under this Agreement and all other GIS Operating Rules to the extent required for Buyer to achieve the full value of the RECs. In addition, at Buyer's request, Seller shall use commercially reasonable efforts to register with and comply with the rules and requirements of any other tracking system or program that tracks, monetizes or otherwise creates or enhances value for Environmental Attributes, which compliance shall be at Seller's sole cost if such registration and compliance is requested in connection with Section 4.7(c) above and shall be at Buyer's sole cost in other instances.

(e) Prior to the delivery of any Energy hereunder (including any Energy Delivered during the Test Period), either (i) Seller shall cause Buyer to be registered in the GIS as the initial owner of all Certificates to be Delivered hereunder to Buyer or (ii) Seller and Buyer shall effect an irrevocable Forward Certificate Transfer (as defined in the GIS Operating Rules) of the Certificates to be Delivered hereunder to Buyer in the GIS for the Test Period and the Services Term; provided, however, that no payment shall be due to Seller for any RECs until either (x) the Certificates are actually deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing; or (y) (i) Buyer and Seller enter such an irrevocable Forward Certificate Transfer of the Certificates to be Delivered to Buyer in the GIS, which

Forward Certificate Transfer shall be denoted in the GIS as not being capable of rescission by Seller, and (ii) the Energy with which such RECs are associated has been Delivered to Buyer..

(f) The Parties intend for the transactions entered into hereunder to be physically settled, meaning that the RECs are intended to be Delivered in the GIS account of Buyer or its designee as set forth in this Section 4.7.

4.8 Deliveries During Test Period. During the Test Period, Seller shall sell and Deliver, and Buyer shall purchase and receive Buyer's Percentage Entitlement of any Energy ("**Test Energy**") and RECs produced by or associated with the Facility. Notwithstanding the provisions of Section 5.1, payment for Test Energy Delivered during the Test Period and RECs associated with such Test Energy shall be equal to one hundred percent (100%) of the product of (x) the Test Energy Delivered (in MWh) and (y) the lesser of (i) the Adjusted Price determined in accordance with Section 1(a) of Exhibit D for Year 1, or (ii) the Real Time LMP at such Delivery Point. In the event that the Real Time LMP for the Test Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to one hundred percent (100%) of the product of (i) such Test Energy delivered in such hour and (ii) the absolute value of the hourly Real Time LMP at the Delivery Point. In no event shall the Test Period extend beyond **six (6)** months, except due to Force Majeure.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products. All Products Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Price specified in Exhibit D; provided, however, that if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b), then all Energy Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Adjusted Price only, as specified in Exhibit D. Other than the (i) payment for the Products under this Section 5.1, (ii) payments related to Meter testing under Section 4.6(b), (iii) payments related to Meter malfunctions under Section 4.6(e), (iv) payment for Energy and RECs during the Test Period in accordance with Section 4.8, (v) payment of any Resale Damages under Section 4.4, (vi) payment of interest on late payments under Section 5.3, (vii) payments for reimbursement of Buyer's Taxes under Section 5.4(a), (viii) return of any Credit Support under Section 6.3, and (ix) payment of any Termination Payment due from Buyer under Section 9.3, Buyer shall not be required to make any other payments to Seller under this Agreement, and Seller shall be solely responsible for all costs and losses incurred by it in connection with the performance of its obligations under this Agreement. In the event that the LMP for the Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to the product of (i) such Energy delivered in such hour and (ii) the absolute value of the hourly LMP at the Delivery Point.

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all charges and payments under this Agreement. On or before the fifteenth (15th) day following the

end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month, and any RECs deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days from receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

(i) All invoices rendered under this Agreement shall be subject to adjustment after the end of each month in order to true-up charges based on changes resulting from recent ISO-NE billing statements or revisions, if any, to previous ISO-NE billing statements. If ISO-NE resettles any invoice which relates to the Products sold under this Agreement and (a) any charges thereunder are the responsibility of the other Party under this Agreement or (b) any credits issued thereunder would be due to the other Party under this Agreement, then the Party receiving the invoice from ISO-NE shall in the case of (a) above invoice the other Party or in the case of (b) above pay the amount due to the other Party. Any invoices issued or amounts due pursuant to this Section shall be invoiced or paid as provided in this Section 5.2.

(ii) Within twelve (12) months of the issuance of an invoice the Seller may adjust any invoice for any arithmetic or computational error and shall provide documentation and information supporting such adjustment to Buyer. Within twelve (12) months of the receipt of an invoice (or an adjusted invoice), the Buyer may dispute any charges on that invoice. In the event of such a dispute, the Buyer shall give notice to the Seller and shall state the basis for the dispute. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Any claim for additional payment is waived unless the Seller issues an adjusted

invoice within twelve (12) months of issuance of the original invoice. Any dispute of charges is waived unless the Buyer provides notice of the dispute to the Seller within twelve (12) months of receipt of the invoice (or adjusted invoice) including such charges.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting of such monetary obligations, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Agreement, including any related damages calculated pursuant to this Agreement, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the "Money & Investing" section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties) plus 1% per cent, and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the **"Late Payment Rate"**).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or the Products prior to and at Delivery of such Products to Buyer ("**Seller's Taxes**"). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer, and imposed on or associated with the purchase of such Products by Buyer (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) ("**Buyer's Taxes**"). In the event Seller shall be required by law or regulation to remit or pay any Buyer's Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller's Taxes, Seller shall reimburse Buyer for such payment, and Buyer may also elect to deduct any of the amount of any such Seller's Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller's or the Facility's eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes, or to receive any other favorable tax or accounting right or benefit, or any grant or subsidy from a Governmental Entity or other Person. Seller's obligations under this Agreement shall be

effective regardless of whether the Facility is eligible for or receives, or the transactions contemplated under this Agreement are eligible for or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment.

6. SECURITY FOR PERFORMANCE

6.1 Grant of Security Interest. Subject to the terms and conditions of this Agreement, Seller hereby pledges to Buyer as security for all outstanding obligations under this Agreement (other than indemnification obligations surviving the expiration of the Term) and any other documents, instruments or agreements executed in connection therewith (collectively, the **"Obligations"**), and grants to Buyer a first priority continuing security interest, lien on, and right of set-off against all Posted Collateral delivered to or received by Buyer hereunder. Upon the return by Buyer to Seller of any Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without further action by either Party.

6.2 Seller's Support.

(a) Seller shall be required to post Credit Support with a Value of at least $30,000.00 to secure Seller's Obligations until the Commercial Operation Date (**"Development Period Security"**). Fifty percent (50%) of the Development Period Security shall be provided to Buyer on the Effective Date, and the remaining fifty percent (50%) of the Development Period Security shall be provided to Buyer within fifteen (15) days after this Agreement becomes effective and binding pursuant to Section 8.1(a). Buyer shall return any undrawn amount of the Development Period Security to Seller within thirty (30) days after the later of (x) Buyer's receipt of an undisputed notice from Seller that the Commercial Operation Date has occurred or (y) Buyer's receipt of the full amount of the Operating Period Security.

(b) Beginning not later than three (3) days following the Commercial Operation Date, Seller shall provide Buyer with Credit Support to secure Seller's Obligations after the Commercial Operation Date through and including the date that all of Seller's Obligations are satisfied ("**Operating Period Security**"). The Operating Period Security shall have a Value of at least $30,000.00, as adjusted in accordance with Section 3.3(b).

(c) The Credit Support Delivery Amount, as defined below, will be rounded up, and the Return Amount, as defined below, will be rounded down, in each case to the nearest integral multiple of $10,000 (**"Rounding Amount"**).

(d) The following items will qualify as "**Credit Support**" hereunder in the amount noted under "Valuation Percentage":

	"Valuation Percentage"
(A) Cash	100%
(B) Letters of Credit	100% unless either (i) a Letter of Credit Default shall have occurred

and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be 0%.

(e) All calculations with respect to Credit Support shall be made by the Valuation Agent as of the Valuation Time on the Valuation Date.

6.3 Delivery of Credit Support.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Buyer, and (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Buyer for which there exist any unsatisfied payment obligations with respect to Buyer, then Buyer may request, by written notice, that Seller Transfer to Buyer, or cause to be Transferred to Buyer, Credit Support for the benefit of Buyer, having a Value of at least the Collateral Requirement (**"Credit Support Delivery Amount"**). Such Credit Support shall be delivered to Buyer on the next Business Day if the request is received by the Notification Time; otherwise Credit Support is due by the close of business on the second Business Day after the request is received.

6.4 Reduction and Substitution of Posted Collateral.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Seller, (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment Obligations, and (c) the Posted Collateral posted by Seller exceeds the required Operating Period Security (rounding downwards for any fractional amount to the next interval of the Rounding Amount), then Seller may, at its sole cost, request that Buyer return Operating Period Security in the amount of such difference (**"Credit Support Return Amount"**) and Buyer shall be obligated to do so. Such Posted Collateral shall be returned to Seller by the close of business on the second Business Day after Buyer's receipt of such request. The Parties agree that if Seller has posted more than one type of Credit Support to Buyer, Seller can, in its sole discretion, select the type of Credit Support for Buyer to return; provided, however, that Buyer shall not be required to return the specified Credit Support if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Operating Period Security.

6.5 Administration of Posted Collateral.

(a) Cash. Posted Collateral provided in the form of Cash to Buyer hereunder shall be subject to the following provisions.

(i) So long as no Event of Default has occurred and is continuing with respect to Buyer, Buyer will be entitled to either hold Cash or to appoint an agent which is a Qualified Institution (a

"Custodian") to hold Cash for Buyer. In the event that an Event of Default has occurred and is continuing with respect to Buyer, then the provisions of Section 6.5(a)(ii) shall not apply with respect to Buyer and Cash shall be held in a Qualified Institution in accordance with the provisions of Section 6.5(a)(iii)(B). Upon notice by Buyer to Seller of the appointment of a Custodian, Seller's Obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by Buyer for which the Custodian is acting. If Buyer or its Custodian fails to satisfy any conditions for holding Cash as set forth above, or if Buyer is not entitled to hold Cash at any time, then Buyer will Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Section 6.5(a)(iii)(B). Except as set forth in Section 6.5(c), Buyer will be liable for the acts or omissions of the Custodian to the same extent that Buyer would be held liable for its own acts or omissions.

(ii) Notwithstanding the provisions of applicable Law, if no Event of Default has occurred and is continuing with respect to Buyer and no termination date has occurred or been designated as a result of an Event of Default with respect to Buyer for which there exists any unsatisfied payment obligations with respect to Buyer, then Buyer shall have the right to sell, pledge, rehypothecate, assign, invest, use, comingle or otherwise use in its business any Cash that it holds as Posted Collateral hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.

(iii) Notwithstanding Section 6.5(a)(ii), if neither Buyer nor the Custodian is eligible to hold Cash pursuant to Section 6.5(a)(i) then:

(A) the provisions of Section 6.5(a)(ii) will not apply with respect to Buyer; and

(B) Buyer shall be required to Transfer (or cause to be Transferred) not later than the close of business within five (5) Business Days following the beginning of such ineligibility all Cash in its possession or held on its behalf to a Qualified Institution to be held in a segregated, safekeeping or custody account (the **"Collateral Account"**) within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for Buyer. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Article 6

and for the security interest of Buyer and execute such account control agreements as are necessary or applicable to perfect the security interest of Seller therein pursuant to Section 9-314 of the Uniform Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of Seller. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of Buyer, subject to the approval of such instructions by Seller (which approval shall not be unreasonably withheld). Buyer shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with Seller's approval.

(iv) So long as no Event of Default with respect to Seller has occurred and is continuing, and no termination date has occurred or been designated for which any unsatisfied payment obligations of Seller exist as the result of an Event of Default with respect to Seller, in the event that Buyer or its Custodian is holding Cash, Buyer will Transfer (or cause to be Transferred) to Seller, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which shall be retained by Buyer), the Interest Amount. Interest on Cash shall accrue at the Collateral Interest Rate. Interest accrued during the previous month shall be paid by Buyer to Seller on the 3rd Business Day of each calendar month and on any Business Day that posted Credit Support in the form of Cash is returned to Seller, but solely to the extent that, after making such payment, the amount of the Posted Collateral will be at least equal to the required Development Period Security or Operating Period Security, as applicable. On or after the occurrence of an Event of Default with respect to Seller or a termination date as a result of an Event of Default with respect to Seller, Buyer or its Custodian shall retain any such Interest Amount as additional Posted Collateral hereunder until the Obligations of Seller under the Agreement have been satisfied in the case of a termination date or for so long as such Event of Default is continuing in the case of an Event of Default.

(b) Buyer's Rights and Remedies. If at any time an Event of Default with respect to Seller has occurred and is continuing, then, unless Seller has paid in full all of its Obligations that are then due, including those under Section 9.3(b) of this Agreement, Buyer may exercise one or more of the following rights and remedies: (i) all rights and remedies available to a secured party under applicable Law with respect to Posted Collateral held by Buyer, (ii) the right to set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or the cash equivalent of any Posted Collateral held by Buyer, or (iii) the right to liquidate any Posted Collateral held by Buyer and to apply the proceeds of such liquidation of the Posted Collateral to any amounts payable to Buyer with respect to the

Obligations in such order as Buyer may elect. For purposes of this Section 6.5, Buyer may draw on the undrawn portion of any Letter of Credit from time to time up to the amount of the Obligations that are due at the time of such drawing. Cash proceeds that are not applied to the Obligations shall be maintained in accordance with the terms of this Article 6. Seller shall remain liable for amounts due and owing to Buyer that remain unpaid after the application of Posted Collateral, pursuant to this Section 6.5.

(c) Letters of Credit. Credit Support provided in the form of a Letter of Credit shall be subject to the following provisions.

(i) As one method of providing increased Credit Support, Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.

(ii) Upon the occurrence of a Letter of Credit Default, Seller agrees to Transfer to Buyer either a substitute Letter of Credit or Cash, in each case on or before the first (1st) Business Day after the occurrence thereof (or the third (3rd) Business Day after the occurrence thereof if only clause (a) under the definition of Letter of Credit Default applies).

(iii) Notwithstanding Sections 6.3 and 6.4, (1) Buyer need not return a Letter of Credit unless the entire principal amount is required to be returned, (2) Buyer shall consent to a reduction of the principal amount of a Letter of Credit to the extent that a Credit Support Delivery Amount would not be created thereby (as of the time of the request or as of the last time the Credit Support Delivery Amount was determined), and (3) if there is more than one form of Posted Collateral when a Credit Support Return Amount is to be Transferred, the Secured Party may elect which to Transfer.

(d) Care of Posted Collateral. Buyer shall exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable Law, and in any event Buyer will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, Buyer will have no duty with respect to the Posted Collateral, including without limitation, any duty to enforce or preserve any rights thereto.

(e) Substitutions. Unless otherwise prohibited herein, upon notice to Buyer specifying the items of Posted Collateral to be exchanged, Seller may, on any Business Day, deliver to Buyer other Credit Support (**"Substitute Credit Support"**). On the Business Day following the day on which the Substitute Credit Support is delivered to Buyer, Buyer shall return to Seller the items of Credit Support specified in Seller's notice; provided, however, that Buyer shall not be required to return the specified Posted Collateral if immediately after such return, Seller would be required to post additional Credit Support pursuant to the

calculation of Development Period Security or Operating Period Security set forth in Sections 6.2(a) and 6.2(b), respectively.

6.6 Exercise of Rights Against Posted Collateral

(a) Disputes regarding amount of Credit Support. If either Party disputes the amount of Credit Support to be provided or returned (such Party the "**Disputing Party**"), then the Disputing Party shall (a) deliver the undisputed amount of Credit Support to the other Party (such Party, the "**Requesting Party**") and (b) notify the Requesting Party of the existence and nature of the dispute no later than 5:00 p.m. Eastern Prevailing Time on the Business Day that the request for Credit Support was made (the "**Request Date**"). On the Business Day following the Request Date, the Parties shall consult with each other in order to reconcile the two conflicting amounts. If the Parties are not able to resolve their dispute, the Credit Support shall be recalculated, on the Business Day following the Request Date, by each Party requesting quotations from two (2) Reference Market-Makers for a total of four (4) quotations. The highest and lowest of the four (4) quotations shall be discarded and the arithmetic average shall be taken of the remaining two (2), which shall be used in order to determine the amount of Credit Support required. On the same day the Credit Support amount is recalculated, the Disputing Party shall deliver any additional Credit Support required pursuant to the recalculation or the Requesting Party shall return any excess Credit Support that is no longer required pursuant to the recalculation.

(b) Further Assurances. Promptly following a request by a Party, the other Party shall use commercially reasonable efforts to execute, deliver, file, and/or record any financing statement, specific assignment, or other document and take any other action that may be necessary or desirable to create, perfect, or validate any Posted Collateral or other security interest or lien, to enable the requesting party to exercise or enforce its rights or remedies under this Agreement, or with respect to Posted Collateral, or accrued interest.

(c) Further Protection. Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding, or lien (other than a banker's lien in favor of the Custodian appointed by Buyer so long as no amount owing from Seller to such Custodian is overdue) that involves the Posted Collateral delivered to Buyer by Seller or that could adversely affect any security interest or lien granted pursuant to this Agreement.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

7.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Rhode Island. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Due Authorization; No Conflicts. The execution and delivery by Buyer of this Agreement, and the performance by Buyer of its obligations hereunder, have been duly authorized by all necessary actions on the part of Buyer and do not and, under existing facts and Law, shall not: (i) contravene its certificate of incorporation or any other governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) subject to receipt of the Regulatory Approval, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(c) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Buyer and, assuming the due execution hereof and performance hereunder by Seller and receipt of the Regulatory Approval, constitutes a legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(d) No Proceedings. As of the Effective Date, except to the extent relating to the Regulatory Approval, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Buyer or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Buyer reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Buyer's ability to perform its obligations under this Agreement.

(e) Consents and Approvals. Except to the extent associated with the Regulatory Approval, the execution, delivery and performance by Buyer of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken or that shall be duly obtained, made or taken on or prior to the date required, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable as required under applicable Law.

(f) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Buyer and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(g) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Buyer, or, to Buyer's knowledge, threatened against it.

(h) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Buyer of its obligations under this Agreement.

7.2 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer as of the Effective Date as follows:

(a) Organization and Good Standing; Power and Authority. Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of Delaware. Subject to the receipt of the Permits listed in Exhibit B and any Related Transmission Approvals, Seller has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to construct, own and operate the Facility and to deliver the Products to the Buyer in accordance with this Agreement.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) assuming receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing. Seller is qualified to perform as a Market Participant under the ISO-NE Tariff, or is qualified to transact through another Market Participant under the ISO-NE Tariff. Seller will not be disqualified from or be materially adversely affected in the performance of any of its obligations under this Agreement by reason of market power or affiliate transaction issues under federal or state regulatory requirements.

(d) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Buyer and receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) No Proceedings. Except to the extent associated with the Permits listed on Exhibit B and any Related Transmission Approvals and as otherwise set forth on Exhibit B, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Seller or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Seller reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Seller's ability to perform its obligations under this Agreement.

(f) Consents and Approvals. Subject to the receipt of the Permits listed on Exhibit B on or prior to the date such Permits are required under applicable Law and subject to the receipt of the Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable. To Seller's knowledge, Seller shall be able to receive the Permits listed in Exhibit B and the Related Transmission Approvals in due course and as required under applicable Law to the extent that those Permits have not previously been received.

(g) RPS Class I Renewable Generation Unit. The Facility shall be a RPS Class I Renewable Generation Unit, qualified by the PUC as eligible to participate in the RPS program, under R.I.G.L. § 39-26-1, *et seq.* (subject to Section 4.7(b) in the event of a change in Law affecting such qualification as a RPS Class I Renewable Generation Unit) and shall have a Commercial Operation Date, as verified by the Buyer.

(h) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under this Agreement, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under this Agreement.

(i) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Seller and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(j) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

(k) No Misrepresentations. The reports and other submittals by Seller to Buyer under this Agreement are not false or misleading in any material respect.

(l) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under this Agreement.

(m) Site Control. As of the Effective Date, Seller either (i) has acquired all real property rights to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement or (ii) has an irrevocable option to acquire such real property rights and the only condition upon Seller's exercise of such option to acquire such real property rights is the payment of monies to acquire such real property rights.

7.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section are made as of the Effective Date and , except for the representations and warranties set forth in Section 7.2(e), deemed made continually throughout the Term, subject to the removal of the references to the Regulatory Approval and Permits as and when the Regulatory Approval and Permits are obtained. If at any time during the Term, a Party has knowledge of any event or information which causes any of the representations and warranties in this Article 7 to be untrue or misleading, such Party shall provide the other Party with prompt written notice of the event or information, the representations and warranties affected, and the corrective action such Party shall take. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

8. REGULATORY APPROVAL

8.1 Receipt of Regulatory Approval. The obligations of the Parties to perform this Agreement, other than the Parties' obligations under Section 6.1, Section 6.2, Section 8.2, and Section 12, are conditioned upon and shall not become effective or binding until the earlier of: (i) the receipt of the Regulatory Approval from the PUC and the receipt of final approval of the Other Agreements from the other Regulatory Agencies, or (ii) both (A) the receipt of the Regulatory Approval from the PUC, and (B) Seller's delivery of written notice to Buyer that Seller elects to make this Agreement immediately effective and binding, which such notice may be delivered to Buyer at any time between the receipt of the Regulatory Approval from the PUC and fifteen (15) days after the other Regulatory Agencies issue final decisions with respect to the Other Agreements. Buyer shall notify Seller within five (5) Business Days after receipt of the Regulatory Approval or receipt of an order of the PUC regarding this Agreement. This Agreement may be terminated by either Buyer or Seller in the event that Regulatory Approval is not received within 270 days after filing, without liability as a result of such termination, subject to the return of Credit Support as provided in Section 6.3. The Parties acknowledge and agree that the Seller shall not be obligated to amend this Agreement on account of any condition or requirement stipulated in the Regulatory Approval.

8.2 Related Transmission Approvals. The obligation of the Parties to perform this Agreement is further conditioned upon the receipt of any Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law.

9. BREACHES; REMEDIES

9.1 Events of Default by Either Party. It shall constitute an event of default (**"Event of Default"**) by either Party hereunder if:

(a) Representation or Warranty. Any breach of any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement occurs where such breach is not fully cured and corrected within thirty (30) days after the Non-Defaulting Party has provided written notice to the Defaulting Party; or

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than:

(i) a Delivery Failure not exceeding ten (10) days,

(ii) failure of the Facility to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date,

(iii) a failure to maintain the RPS eligibility requirements set forth in Section 4.7(b),

(iv) a Rejected Purchase, or

(v) an Event of Default described in Section 9.1(a), 9.1(b), 9.1(d), 9.1(e) or 9.2,

such Party fails to perform, observe or otherwise to comply with any obligation hereunder and such failure continues for more than thirty (30) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; provided, however, that period shall be extended for an additional period of up to thirty (30) days if the Defaulting Party is unable to cure within the initial thirty (30) day period so long as such cure is diligently pursued by the Defaulting Party until such Default had been corrected, but in any event shall be cured within sixty (60) days of the notice from the Non-Defaulting Party; or

(d) Bankruptcy. Such Party (i) is adjudged bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy or reorganization petition against such Party under any such law, or (without limiting the generality of the foregoing) files a petition to reorganize pursuant to 11 U.S.C. § 101 or any similar statute applicable to such Party, as now or hereinafter in effect, (ii) makes an assignment for the benefit of creditors, or admits in writing an inability to pay its debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of such Party, or (iii) is subject to an order of a court of competent jurisdiction appointing a receiver or liquidator or custodian or trustee of such Party or of a major part of such Party's property, which is not dismissed within sixty (60) days; or

(e) Permit Compliance. Such Party fails to obtain and maintain or cause to be obtained and maintained in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under this Agreement.

9.2 Events of Default by Seller. In addition to the Events of Default described in Section 9.1, each of the following shall constitute an Event of Default by Seller hereunder if:

(a) Taking of Facility Assets. Any asset of Seller that is material to the construction, operation or maintenance of the Facility or the performance of its obligations hereunder is taken upon execution or by other process of law directed against Seller, or any such asset is taken upon or subject to any attachment by any creditor of or claimant against Seller and such attachment is not disposed of within sixty (60) days after such attachment is levied; or

(b) Failure to Maintain Credit Support. The failure of Seller to provide, maintain and/or replenish the Development Period Security or the Operating Period Security as required pursuant to Article 6 of this Agreement, and such failure continues for more than five (5) Business Days after Buyer has provided written notice thereof to Seller; or

(c) Energy Output. The failure of the Facility to produce Energy for **twelve (12)** consecutive months during the Services Term for any reason, including due in whole or in part to a Force Majeure; or

(d) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under this Agreement or on Buyer or Buyer's ability to receive the benefits under this Agreement; provided, however, if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under this Agreement, Seller shall have the opportunity to cure such failure within thirty (30) days of its occurrence; or

(e) Failure to Meet Critical Milestones. The failure of Seller to satisfy any Critical Milestone by the date set forth therefor in Section 3.1(a), as the same may be extended in accordance with Section 3.1(c) and (d); or

(f) Abandonment. On or after the Commercial Operation Date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a transfer permitted under this Agreement; or

(g) Assignment. The assignment of this Agreement by Seller, or Seller's sale or transfer of its interest (or any part thereof) in the Facility, except as permitted in accordance with Article 14; or

(h) Recurring Delivery Failure. A Delivery Failure of ten (10) continuous days or more; or

(i) Failure to Provide Status Reports. A failure to provide timely, accurate and complete status reports in accordance with this Agreement, and such failure continues for more than five (5) days after notice thereof is given by the Buyer; or

(j) Failure to Maintain RPS Eligibility. A failure to maintain RPS eligibility requirements set forth in Section 4.7(b).

9.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under this Agreement, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in this Agreement including, without limitation, the termination right set forth in Section 9.3(b), and, to the extent not inconsistent with the terms of this Agreement, such remedies available at law and in equity. In addition to the foregoing, except for breaches for which an express remedy or measure of damages is provided herein, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under this Agreement.

(b) Termination and Termination Payment. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate this Agreement at its sole discretion by providing written notice of such termination to the Defaulting Party. If the Non-Defaulting Party terminates this Agreement, it shall be entitled to calculate and receive as its sole remedy for such Event of Default a **"Termination Payment"** as follows:

(i) *Termination by Buyer Prior to Commercial Operation Date*. If Buyer terminates this Agreement because of an Event of Default by Seller occurring prior to the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the sum of (x) all Delay Damages due and owing by Seller through the date of such termination plus (y) the full amount of any Development Period Security provided to Buyer by Seller.

(ii) *Termination by Seller Prior to Commercial Operation Date*. If Seller terminates this Agreement because of an Event of Default by Buyer prior to the Commercial Operation Date, Seller shall only receive a Termination Payment if the Commercial Operation Date either occurs on or before the Guaranteed Commercial Operation Date or would have occurred by such date but for the Event of Default by Buyer giving rise to the termination of this Agreement. In such case, (x) if Seller terminates this Agreement because of an Event of Default by Buyer prior to the Financial Closing Date, the Termination Payment due to Seller shall be equal to the lesser of: (i) Buyer's Percentage Entitlement to Seller's out-of-pocket expenses incurred in connection with the development and construction of the Facility prior to such termination and for which Seller has provided adequate documentation to enable Buyer to verify the expense claimed, or (ii) the Termination Payment due to Seller as calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller; and (y) if Seller terminates this Agreement because of an Event of Default by Buyer on or after the Financial Closing Date, the Termination Payment due to

Seller shall be calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller.

(iii) *Termination by Buyer On or After Commercial Operation Date.* If Buyer terminates this Agreement because of an Event of Default by Seller occurring on or after the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the greater of: (i) the security provided in accordance with Article 6, or (ii) the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the forward market price of Energy and Renewable Energy Credits, as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Buyer, for Replacement Energy and Replacement RECs, exceeds the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, multiplied by (ii) Buyer's Percentage Entitlement of the projected Energy output of the Facility as determined by a recognized third party expert selected by Buyer, using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Buyer as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Buyer in good faith and in a commercially reasonable manner, and Buyer shall provide Seller with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iii).

(iv) *Termination by Seller On or After Commercial Operation Date.* If Seller terminates this Agreement because of an Event of Default by Buyer occurring on or after the Commercial Operation Date, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, exceeds the forward market price of Energy and Renewable Energy Credits as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Seller, for Replacement Energy and Replacement RECs, multiplied by (ii)

Buyer's Percentage Entitlement to the projected Energy output of the Facility as determined by a recognized third party expert selected by Seller using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Seller as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Seller in good faith and in a commercially reasonable manner, and Seller shall provide Buyer with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iv).

(v) *Acceptability of Liquidated Damages.* Each Party agrees and acknowledges that (i) the damages and losses (including without limitation the loss of environmental, reliability and economic benefits contemplated under this Agreement) that the Parties would incur due to an Event of Default would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Payment as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

(vi) *Payment of Termination Payment.* The Defaulting Party shall make the Termination Payment within ten (10) Business Days after such notice is effective, regardless whether the Termination Payment calculation is disputed. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall within ten (10) Business Days of receipt of the calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. If the Parties are unable to resolve the dispute within thirty (30) days, Article 11 shall apply.

(c) Set-off. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to withhold and set off any amounts owed by the Non-Defaulting Party to the Defaulting Party against any payments and any other amounts owed by the Defaulting Party to the Non-Defaulting Party, including any Termination Payment payable as a result of any early termination of this Agreement.

(d) Notice to Lenders. Seller shall provide Buyer with a notice identifying a single Lender (if any) to whom default notices are to be issued. Buyer shall provide a copy of the notice of any default of Seller under this Article 9 to that Lender, and Buyer shall afford such Lender the same opportunities to cure Events of Default under this Agreement as are provided to Seller hereunder.

(e) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10. FORCE MAJEURE

10.1 Force Majeure.

(a) The term **"Force Majeure"** means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under this Agreement. Under no circumstances shall Force Majeure include (v) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God such as floods, hurricanes or tornados; sabotage; terrorism; or war, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in this Agreement, or (z) Buyer's ability to procure the Products at a price lower than that set out in this Agreement. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval) or qualifications, any delay or failure in satisfying the Critical Milestone obligations specified in Section 3.1(a)(i) (Permits) or Section 3.1(a)(iii) (Financing), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure or be the basis for a claim of Force Majeure. Neither Party may raise

a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Products to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined herein has occurred.

(b) Subject to Section 3.1(d), if either Party is unable, wholly or in part, by Force Majeure to perform obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing, if the Force Majeure prevents full or partial performance under this Agreement for a period of twelve (12) months or more, the Party whose performance is not prevented by Force Majeure shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse. In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this Agreement beyond its stated Term.

11. DISPUTE RESOLUTION

11.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a **"Dispute"**), in addition to any other remedies provided hereunder, the Parties shall attempt to resolve such Dispute through consultations between the Parties. If the Dispute has not been resolved within fifteen (15) Business Days after such consultations between the Parties, then either Party may seek to resolve such Dispute in the courts of the State of Rhode Island; provided, however, if the Dispute is subject to FERC's jurisdiction over wholesale power contracts, then either Party may elect to proceed with the mediation through FERC's Dispute Resolution Service; provided, however, that if one Party fails to participate in the negotiations as provided in this Section 11.1, the other Party can initiate mediation prior to the expiration of the thirty (30) Business Days. Unless otherwise agreed, the Parties will select a mediator from the FERC panel. The procedure specified herein shall be the sole and exclusive procedure for the resolution of Disputes. To the fullest extent permitted by law, any mediation proceeding and any settlement shall be maintained in confidence by the Parties.

11.2 Allocation of Dispute Costs. The fees and expenses associated with mediation shall be divided equally between the Parties, and each Party shall be responsible for its own legal fees, including but not limited to attorney fees, associated with any Dispute. The Parties may, by written agreement signed by both Parties, alter any time deadline, location(s) for meeting(s), or procedure outlined herein or in FERC's rules for mediation.

11.3 Consent to Jurisdiction. Subject to Section 11.1, the Parties agree to the exclusive jurisdiction of the state and federal courts located in the State of Rhode Island for any legal proceedings that may be brought by a Party arising out of or in connection with any Dispute.

11.4 Waiver of Jury Trial and Inconvenient Forum Claim. EACH PARTY HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT. BOTH PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE AS SET FORTH IN THIS ARTICLE 11 AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN ANY INCONVENIENT FORUM.

12. CONFIDENTIALITY

12.1 Nondisclosure. Buyer and Seller each agrees not to disclose to any Person and to keep confidential, and to cause and instruct its Affiliates, officers, directors, employees, partners and representatives not to disclose to any Person and to keep confidential, any non-public information relating to the terms and provisions of this Agreement, and any information relating to the Products to be supplied by Seller hereunder, and such other non-public information that is designated as "Confidential." Notwithstanding the foregoing, any such information may be disclosed:

(a) to the extent Buyer determines it is appropriate in connection with efforts to obtain or maintain the Regulatory Approval or to seek rate recovery for amounts expended by Buyer under this Agreement

(b) as required by applicable laws, regulations, filing requirements, rules or orders or by any subpoena or similar legal process of any Governmental Entity so long as the disclosing Party gives the non-disclosing Party written notice at least three (3) Business Days prior to such disclosure, if practicable;

(c) to the Affiliates of either Party and to the consultants, attorneys, auditors, financial advisors, lenders or potential lenders and their advisors of either Party or their Affiliates, but solely to the extent they have a need to know that information;

(d) in order to comply with any rule or regulation of ISO-NE, any stock exchange or similar Person or for financial disclosure purposes;

(e) to the extent the non-disclosing Party shall have consented in writing prior to any such disclosure; and

(f) to the extent that the information was previously made publicly available other than as a result of a breach of this Section 12.1;

provided, however, in each case, that the Party seeking such disclosure shall, to the extent practicable, use commercially reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this Section 12.1.

12.2 Public Statements. No public statement, press release or other voluntary publication regarding this Agreement or the transactions to be made hereunder shall be made or issued without the prior consent of the other Party.

13. INDEMNIFICATION

13.1 Indemnification Obligations. Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to: (i) third party (excepting Buyer's Affiliates) claims brought against Buyer (ii) personal injury, death or property damage to Buyer's property or facilities, or (iii) personal injury, death or property damage to third parties in each case caused by Seller's execution, delivery or performance of this Agreement, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under this Agreement, or Seller's failure to satisfy any regulatory requirement or commitment associated with this Agreement; provided, however, Seller shall have no obligation to indemnify Buyer: (1) to the extent such damages are attributable to the gross negligence or willful misconduct or breach of this Agreement by Buyer or (2) a loss, charge or cost for which Buyer is made expressly responsible under this Agreement.

13.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of Seller contest, settle or pay such claim.

14. ASSIGNMENT AND CHANGE OF CONTROL

14.1 Prohibition on Assignments. Except as permitted under this Article 14, this Agreement (and any portion thereof) may not be assigned, transferred or otherwise conveyed by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. The Party requesting the other Party's consent to an assignment of this Agreement will reimburse such other Party for all "out of pocket" costs and expenses such other Party incurs in connection with that consent, without regard to whether such consent is provided. The Party wishing to assign, transfer or convey its interests in this Agreement shall provide prior written notice of such conveyance, and any other reasonably requested information to the non-assigning Party. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement (and shall not impair any Credit Support given by Seller hereunder) unless

the other Party (or its successors or assigns) consents in writing to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations thereunder.

14.2 Permitted Assignment by Seller. Buyer's consent shall not be required for Seller to pledge or assign the Facility, this Agreement or the revenues under this Agreement to any Lender as security for any Financing of the Facility; provided, however, if Seller requests Buyer's consent to such an assignment, (i) Buyer shall provide that consent subject to Buyer's execution of a consent to assignment in a form acceptable to Buyer and Seller, and (ii) Seller will reimburse Buyer for all "out of pocket" costs and expenses Buyer incurs in connection with that consent, without regarding to whether such consent is provided.

14.3 Change in Control over Seller. Buyer's consent shall be required for any change in Control over Seller, which consent shall not be unreasonably withheld, conditioned or delayed and shall be provided if Buyer reasonably determines that such change in Control does not have a material adverse effect on Seller's creditworthiness or Seller's ability to perform its obligations under this Agreement. Seller shall provide prior written notice to Buyer of any proposed Change in Control, and shall provide such information regarding the proposed Change in Control as requested by Buyer.

14.4 Permitted Assignment by Buyer. Buyer shall have the right to assign this Agreement without consent of Seller (a) in connection with any merger or consolidation of the Buyer with or into another Person or any exchange of all of the common stock or other equity interests of Buyer or Buyer's parent for cash, securities or other property or any acquisition, reorganization, or other similar corporate transaction involving all or substantially all of the common stock or other equity interests in, or assets of, Buyer, or (b) to any substitute purchaser of the Products so long as in the case of either clause (a) or clause (b) of this Section 14.4, either (1) the proposed assignee's credit rating is at least either BBB- from S&P or Baa3 from Moody's or (2) the proposed assignee's credit rating is equal to or better than that of Buyer at the time of the proposed assignment, or (3) such assignment, or in the case of clause (a) above the transaction associated with such assignment, has been approved by the PUC or the appropriate Government Entity.

14.5 Prohibited Assignments. Any purported assignment of this Agreement not in compliance with the provisions of this Article 14 shall be null and void.

15. TITLE; RISK OF LOSS

Title to and risk of loss related to Buyer's Percentage Entitlement of the Energy shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Buyer's Percentage Entitlement of the RECs shall transfer to Buyer when the same are credited to Buyer's GIS account(s) or the GIS account(s) designated by Buyer to Seller in writing. Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

16. AUDIT

16.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under this Agreement, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party additional information documenting the quantities of Products delivered or provided hereunder. If any such examination reveals any overcharge, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall include interest at the Late Payment Rate from the date the overpayment was made until credited or paid.

16.2 Access to Financial Information. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's written request financial information and statements applicable to Seller as well as access to financial personnel, so that Buyer may address any inquiries relating to Seller's financial resources.

17. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); or (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) delivered by fax or electronic mail (notices sent by fax or electronic mail shall be deemed given upon confirmation of delivery); or (4) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing:

If to Buyer:
Attn: Renewable Contract Manager, Environmental Transactions
National Grid
100 East Old Country Road, Second Floor
Hicksville, NY 11801-4218
Email: RenewableContracts@nationalgrid.com
With a copy to: ElectricSupply@nationalgrid.com

With a copy to:
Legal Department
Attn: Jennifer Brooks Hutchinson, Esq.
Senior Counsel
National Grid
280 Melrose Street
Providence, RI 02907
Email: Jennifer.Hutchinson@nationalgrid.com

If to Seller: 11101 West 120th Avenue, Suite 400
Broomfield, CO 80021
Attn: General Counsel
Email: Marcia.Emmons@res-group.com
Telephone: 303-439-4200
Facsimile: 303-439-4299

18. WAIVER AND MODIFICATION

This Agreement may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine in its sole discretion whether any amendment or waiver of the provisions of this Agreement shall require Regulatory Approval or PUC filing and/or approval. If Buyer determines that any such approval or filing is required, then such amendment or waiver shall not become effective unless and until Regulatory Approval or such other approval is received, or such PUC filing is made and any requested PUC approval is received.

19. INTERPRETATION

19.1 Choice of Law. Interpretation and performance of this Agreement shall be in accordance with, and shall be controlled by, the laws of the State of Rhode Island (without regard to its principles of conflicts of law).

19.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of this Agreement. The words “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

19.3 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a “forward contract” within the meaning of the United States Bankruptcy Code.

19.4 Standard of Review. The Parties acknowledge and agree that the standard of review for any avoidance, breach, rejection, termination or other cessation of performance of or changes to any portion of this integrated, non-severable Agreement (as described in Section 22) over which FERC has jurisdiction, whether proposed by Seller, by Buyer, by a non-party of, by FERC acting *sua sponte* shall be the “public interest” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Serv. Co., 350 U.S. 332 (1956) and Federal Power Comm’n v. Sierra Pac. Power Co., 350 U.S. 348 (1956). Each Party agrees that if it seeks to amend any applicable power sales tariff during the Term, such amendment shall not in any way materially and adversely affect this Agreement without the prior written consent of the other Party. Each

Party further agrees that it shall not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

19.5 Change in ISO-NE Rules and Practices. This Agreement is subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of this Agreement, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend or clarify this Agreement to embody the Parties' original intent regarding their respective rights and obligations under this Agreement, provided that neither Party shall have any obligation to agree to any particular amendment or clarification of this Agreement. The intent of the Parties is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable.

19.6 Dodd Frank Act Representations. The Parties agree that this Agreement (including all transactions reflected herein) is not a "swap" within the meaning of the Commodity Exchange Act ("CEA") and the rules, interpretations and other guidance of the Commodity Futures Trading Commission ("CFTC rules"), and that the primary intent of this Agreement is physical settlement (i.e., actual transfer of ownership) of the nonfinancial commodity and not solely to transfer price risk. In reliance upon such agreement, each Party represents to the other that:

(a) With respect to the commodity to be purchased and sold hereunder, it is a commercial market participant, a commercial entity and a commercial party, as such terms are used in the CFTC rules, and it is a producer, processor, or commercial user of, or a merchant handling, the commodity and it is entering into this Agreement for purposes related to its business as such;

(b) It is not registered or required to be registered under the CFTC rules as a swap dealer or a major swap participant;

(c) It has entered into this Agreement in connection with the conduct of its regular business and it has the capacity or ability to regularly make or take delivery of the commodity to be purchased and sold hereunder;

(d) With respect to the commodity to be purchased and sold hereunder, it intends to make or take physical delivery of the commodity;

(e) At the time that the Parties enter into this Agreement, any embedded volumetric optionality in this Agreement is primarily intended by the holder of such option or optionality to address physical factors or regulatory requirements that reasonably influence demand for, or supply of, the commodity to be purchased and sold hereunder;

(f) With respect to any embedded commodity option in this Agreement, such option is intended to be physically settled so that, if exercised, the option would result in the sale of the commodity to be purchased or sold hereunder for immediate or deferred shipment or delivery;

(g) The commodity to be purchased and sold hereunder is a nonfinancial commodity, and is also an exempt commodity or an agricultural commodity, as such terms are defined and interpreted in the CFTC rules.

To the extent that reporting of any transactions related to this Agreement is required by the CFTC rules, the Parties agree that Seller shall be responsible for such reporting (the "Reporting Party"). The Reporting Party's reporting obligations shall continue until the reporting obligation has expired or has been terminated in accordance with CFTC rules. The Buyer, as the Party that is not undertaking the reporting obligations shall timely provide the Reporting Party all necessary information requested by the Reporting Party for it to comply with CFTC rules.

19.7 Change in Law or Buyer's Accounting Treatment, Subsequent Judicial or Regulatory Action. If, during the Term of this Agreement, there is a change in Law or accounting standards or rules or a change in the interpretation or applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with this Agreement or the amounts paid for Products purchased hereunder, the Buyer shall prepare an amendment to this Agreement to avoid or mitigate such impacts. Buyer shall use commercially reasonable efforts to prepare such amendment in a manner that mitigates any material adverse effect(s) on Seller (as identified by Seller, acting reasonably) that could reasonably be expected to result from such amendment, but only to the extent that such mitigation can be accomplished in a manner that is consistent with the purpose of such amendment. Seller agrees to execute such amendment provided that such amendment does not (unless the Seller otherwise agrees) alter: (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable. .

Upon a determination by a court or regulatory body having jurisdiction over this Agreement or any of the Parties hereto, or over the establishment and enforcement of any of the statutes or regulations or orders or actions of regulatory agencies (including the PUC) supporting this Agreement or the rights or obligations of the Parties hereunder that any of the statutes or regulations supporting this Agreement or the rights or obligations of the Parties hereunder, or orders of or actions of regulatory agencies (including the PUC) implementing such statutes or regulations, or this Agreement on its face or as applied, violates any Law (including the State or Federal Constitution) (an "Adverse Determination"), each Party shall have the right to suspend performance under this Agreement without liability. Seller may deliver and sell Products to a third party during any period of time for which Buyer suspends payments or purchases under this Section. Upon an Adverse Determination becoming final and non-appealable, this Agreement shall be rendered null and void.

20. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of this Agreement may be executed, and each shall have the same force and effect as an original. Facsimile signatures hereon or on any notice or other instrument delivered under this Agreement shall have the same force and effect as original signatures.

21. NO DUTY TO THIRD PARTIES

Except as provided in any consent to assignment of this Agreement, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement.

22. SEVERABILITY

If any term or provision of this Agreement or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of this Agreement and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law so long as all essential terms and conditions of this Agreement for both Parties remain valid, binding and enforceable and have not been declared to be unenforceable, illegal or invalid by a Governmental Entity of competent jurisdiction. The Parties acknowledge and agree that essential terms and conditions of this Agreement for each Party include, without limitation, all pricing and payment terms and conditions of this Agreement, and that the essential terms and conditions of this Agreement for Buyer also include, without limitation, the terms and conditions of Section 19.7 of this Agreement.

23. INDEPENDENT CONTRACTOR

Nothing in this Agreement shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of this Agreement, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby. Nothing in this Agreement shall be construed as creating any relationship between Buyer and the Interconnecting Utility.

24. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement and understanding between the Parties hereto and shall supersede all prior agreements and communications.

[Signature page follows]

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____

Name:
Title:

WOODS HILL SOLAR, LLC

By: RES America Developments Inc.,
its Manager

By: _____

Name:
Title:

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____
Name:
Title:

WOODS HILL SOLAR, LLC

By: RES America Developments Inc.,
its Manager

By: _____
Name: Brian Evans
Title: President

EXHIBIT A

DESCRIPTION OF FACILITY

Facility: The Woods Hill Solar Project is a fixed tilt solar energy generation project located on Woods Hill Road in the town of Pomfret, Tolland County, Connecticut. The facility will consist of photovoltaic panels, racking, inverters, transformers, controls, switchgear, and other ancillary facilities.

Longitude & Latitude: [redacted]

Delivery Point: Settlement in the ISO-NE energy market system will occur when Energy is supplied into Buyer's ISO-NE settlement account at the ISO New England pricing node ("pnode") for the Facility established in accordance with ISO-New England Rules. The Delivery Point is the ISO New England Pool Transmission Facilities ("PTF") in the vicinity of the referenced pnode. Seller shall be responsible for all charges, fees and losses required for Delivery of Energy from the generator to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. In addition Seller shall also be responsible to apply for and schedule all such services.

ISO-NE PNode: [redacted]

Proposed Facility Size: 20 MW_{AC}

EXHIBIT B

SELLER'S CRITICAL MILESTONES AND MATERIAL PROCEEDINGS

[redacted]

EXHIBIT C

FORM OF PROGRESS REPORT

For the Quarter Ending:_____

Milestones Achieved:

Milestones Pending:

Status of Progress toward achievement of Milestones during the quarter:

Status of permitting and Permits obtained during the quarter:

Status of Financing for Facility:

Current projection for Financial Closing Date:

Events expected to result in delays in achievement of any Milestones:

Critical Milestones not yet achieved and projected date for achievement:

Current projection for Commercial Operation Date:

EXHIBIT D

PRODUCTS AND PRICING

1. Price for Buyer's Percentage Entitlement of Products up to the Contract Maximum Amount. The Price for the Buyer's Percentage Entitlement of Delivered Products up to the Contract Maximum Amount in nominal dollars shall be as follow:

(a) Commencing on the Commercial Operation Date, the Price per MWh for the Products shall be equal to [redacted] per MWh. The Price per MWh for each billing period shall be allocated between Energy and RECs as follows:

(i) Energy = The $/MWh price of Energy for the applicable month shall be equal to the weighted average of the Real-Time or Day-Ahead Locational Marginal Price (as applicable consistent with Section 4.2(a)) in the month (also on a $MWh basis) for the Node on the Pool Transmission Facilities to which the Facility is interconnected.

(ii) RECs = The Price less the Energy allocation determined above for the applicable billing period, expressed in $/MWh.

(b) The Adjusted Price for Energy shall be equal to [redacted] per MWh.

If the market price at the Delivery Point in the Real-Time or Day-Ahead markets, as applicable, for Energy Delivered by Seller is negative in any hour, the payment to Seller for deliveries of Energy shall be reduced by the difference between the absolute value of the hourly LMP at the Delivery Point and $0.00 per MWh for that Energy for each such hour. Each monthly invoice shall reflect a reduction for all hours in the applicable month in which the LMP for the Energy at the Delivery Point is less than $0.00 per MWh.

Examples. If delivered Energy equals 1 MWh and Price equals $50.00/MWh:

LMP at the Delivery Point equals (or is greater than) $0.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $0.00
Net Result: Buyer pays Seller $50 for that hour

LMP at the Delivery Point equals -$150.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $150.00
Net Result: Seller credits or reimburses Buyer $100 for that hour

(c) Price for Buyer's Percentage Entitlement of Products Delivered in excess of Contract Maximum Amount. The Products Delivered in excess of the Contract Maximum Amount shall be purchased by Buyer at a Price equal to the product of (x) the MWhs of Energy in excess of the

Contract Maximum Amount Delivered to the Delivery Point and (y) the lesser of (i) ninety percent (90%) of the Real Time LMP at such Delivery Point, or (ii) the Price determined in accordance with Section 1(a) of this Exhibit D for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer.

(d) For those hours when the Real Time LMP at the Delivery Point (as determined by ISO-NE) is negative, the payment from Buyer to Seller shall be reduced for Products Delivered in excess of the Contract Maximum Amount by an amount equal to the product of (x) the MWhs of Energy in excess of the Contract Maximum Amount Delivered to the Delivery Point and (y) one hundred percent (100%) of the absolute value of the Real Time LMP at such Delivery Point for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer. All rights and title to RECs associated with Energy Delivered in excess of the Contract Maximum Amount shall remain with Buyer whether the Real Time LMP is positive or negative. In the event that Seller received RECs associated with Energy Delivered in excess of the Contract Maximum Amount, Seller shall not hold or claim to hold equitable title to such RECs and shall promptly transfer such RECs to Buyer's GIS account.

EXHIBIT E

RELATED TRANSMISSION FACILITIES

NONE

Schedule CMD-5

RPS CLASS I RENEWABLE GENERATION UNIT

POWER PURCHASE AGREEMENT

BETWEEN

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

AND

SANFORD AIRPORT SOLAR, LLC

As of May 25, 2017

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Exhibits

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (as amended from time to time in accordance with the terms hereof, this "**Agreement**") is entered into as of May 25, 2017 (the "**Effective Date**"), by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation ("**Buyer**"), and Sanford Airport Solar, LLC, a Delaware limited liability company ("**Seller**"). Buyer and Seller are individually referred to herein as a "**Party**" and are collectively referred to herein as the "**Parties**".

WHEREAS, Seller is developing the Sanford Airport Solar electric generation facility to be located in Sanford, Maine, which is more fully described in Exhibit A hereto (the "**Facility**"), from which the Buyer's Percentage Entitlement of the Products (as defined below) is to be delivered to Buyer pursuant to the terms of this Agreement; and

WHEREAS, the Facility is, and shall qualify as a RPS Class I Renewable Generation Unit in the state of Rhode Island and which is expected to be in commercial operation by November 1, 2019; and

WHEREAS, pursuant to R.I.G.L. § 39-26.1, Buyer is authorized to enter into certain long-term contracts for the purchase of energy or energy and renewable energy certificates from renewable generators meeting the requirements of R.I.G.L. § 39-26.-5; and

WHEREAS, Buyer and Seller desire to enter into this Agreement whereby Buyer shall purchase from Seller certain Energy and RECs (each as defined herein) generated by or associated with the Facility;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in this Agreement and not defined herein shall have the same meaning as ascribed to such terms under the ISO-NE Practices and ISO-NE Rules.

"**Actual Facility Size**" shall mean the actual nameplate capacity of the Facility, as built, and as certified by an Independent Engineer, as provided in Section 3.4(b)(xiii).

"**Adjusted Price**" shall mean the purchase price(s) for Energy referenced in Section 5.1 if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b) hereof.

"**Adverse Determination**" shall have the meaning set forth in Section 19.7.

"**Affiliate**" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"**Agreement**" shall have the meaning set forth in the first paragraph of this Agreement.

"**Alternative Compliance Payment Rate**" means the rate per MWh paid by electricity suppliers under applicable Law for failure to supply RECs in accordance with the RPS.

"**Business Day**" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"**Buyer's Percentage Entitlement**" shall mean Buyer's rights to seven and one-half percent (7.5%) of the Products. Buyer's Percentage Entitlement may be adjusted in accordance with Section 3.3(c).

"**Buyer's Taxes**" shall have the meaning set forth in Section 5.3(a) hereof.

"**Capacity Deficiency**" means, at the Commercial Operation Date, the amount (expressed in MW), if any, by which the Actual Facility Size is less than the proposed nameplate capacity of the Facility as set forth in Exhibit A.

"**Cash**" shall mean U.S. dollars held by or on behalf of a Party as Posted Collateral hereunder.

"**Certificate**" shall mean an electronic certificate created pursuant to the GIS Operating Rules or any successor thereto to represent certain Environmental Attributes of each MWh of Energy generated within the ISO-NE control area and the generation attributes of certain Energy imported into the ISO-NE control area.

"**Collateral Account**" shall have the meaning specified in Section 6.6(a)(iii)(B) hereof.

"**Collateral Interest Rate**" shall mean the rate published in *The Wall Street Journal* as the "Prime Rate" from time to time (or, if more than one such rate is published, the arithmetic mean of such rates), or, if such rate is no longer published, a successor rate agreed to by Buyer and Seller, in each case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties.

"**Collateral Requirement**" shall mean at any time the amount of Development Period Security or Operating Period Security required under this Agreement at such time.

"**Commercial Operation Date**" shall mean the date on which the conditions set forth in Section 3.4(b) have been satisfied, as set out in a written notice from Seller to Buyer.

"**Contract Maximum Amount**" shall mean 3.702 MWh per hour of Energy and a corresponding portion of all other Products, as may be adjusted in accordance with Section 3.3(b).

"**Contract Year**" shall mean the twelve (12) consecutive calendar months starting on the first day of the calendar month following the Commercial Operation Date and each subsequent twelve (12) consecutive calendar month period; provided that the first Contract Year shall include the days in the prior month in which the Commercial Operation Date occurred.

"**Control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Cover Damages**" shall mean, with respect to any Delivery Failure, an amount equal to (a) the positive net amount, if, any, by which the Replacement Price exceeds the applicable Price that would have been paid pursuant to Section 5.1 hereof, multiplied by the quantity of that Delivery Failure, plus (b) any applicable penalties and other costs assessed by ISO-NE or any other Person against Buyer as a result of Seller's failure to deliver such Products in accordance with the terms of this Agreement. Buyer shall provide a statement for the applicable period explaining in reasonable detail the calculation of any Cover Damages.

"**Credit Support**" shall have the meaning specified in Section 6.2(d) hereof.

"**Credit Support Delivery Amount**" shall have the meaning specified in Section 6.3 hereof.

"**Credit Support Return Amount**" shall have the meaning specified in Section 6.4 hereof.

"**Critical Milestones**" shall have the meaning set forth in Section 3.1 hereof.

"**Custodian**" shall have the meaning specified in Section 6.6(a)(i) hereof.

"**Day Ahead Energy Market**" shall have the meaning set forth in the ISO-NE Rules.

"**Default**" shall mean any event or condition which, with the giving of notice or passage of time or both, could become an Event of Default.

"**Defaulting Party**" shall mean the Party with respect to which a Default or Event of Default has occurred.

"**Delay Damages**" shall mean the damages assessed pursuant to Section 3.2(a) hereof.

"Deliver" or **"Delivery"** shall mean with respect to (i) Energy, to supply Energy at the Delivery Point in accordance with the terms of this Agreement and the ISO-NE Rules, and (ii) RECs, to supply RECs in accordance with Section 4.7(e).

"Delivery Failure" shall have the meaning set forth in Section 4.3 hereof.

"Delivery Point" shall mean the specific location where Seller shall transmit its Energy to Buyer, as set forth in Exhibit A hereto.

"Development Period Security" shall have the meaning set forth in Section 6.2(a) hereof.

"Dispute" shall have the meaning set forth in Section 11.1 hereof.

"Disputing Party" shall have the meaning set forth in Section 6.7(a) hereof.

"Eastern Prevailing Time" shall mean either Eastern Standard Time or Eastern Daylight Savings Time, as in effect from time to time.

"Effective Date" shall have the meaning set forth in the first paragraph hereof.

"Eligible Renewable Energy Resource" means resources as defined in R.I.G.L. § 39-26-5.

"Energy" shall mean electric "energy," as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time, less such Facility's station service use, generator lead losses and transformer losses, which quantity for purposes of this Agreement will never be less than zero.

"Environmental Attributes" shall mean any and all generation attributes under the RPS laws and regulations of the state of Rhode Island, and under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, to Buyer's Percentage Entitlement to the favorable generation or environmental attributes of the Facility or the Products produced by the Facility, up to and including the Contract Maximum Amount, during the Services Term including Buyer's Percentage Entitlement to: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility's generation using renewable technology or displacement of fossil-fuel derived or other conventional energy generation; (b) any Certificates issued pursuant to the GIS in connection with Energy generated by the Facility; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy by the Facility; provided, however, that Environmental Attributes shall not include: (i) any production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Facility; or (iii) any state,

federal or private grants, financing, guarantees or other credit support relating to the construction or ownership, operation or maintenance of the Facility or the output thereof.

"Event of Default" shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

"EWG" shall mean an exempt wholesale generator under 15 U.S.C. § 79z-5a, as amended from time to time.

"Facility" shall have the meaning set forth in the Recitals.

"FCM" shall mean the Forward Capacity Market described in the ISO-NE Tariff, which includes a mechanism for procuring capacity in the New England Control Area, or any successor thereto.

"Federal Funds Rate" shall mean the annualized interest rate for the applicable month as set forth in the statistical release designated as H.15, or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" shall mean the United States Federal Energy Regulatory Commission, and shall include its successors.

"Financial Closing Date" shall mean the date of the closing of the initial agreements for any Financing of the Facility and of an initial disbursement of funds under such agreements.

"Financing" shall mean any indebtedness (whether secured or unsecured) or other financing arrangement, including without limitation loans, guarantees, notes, convertible debt, bond issuances, tax equity investments, sale/leaseback arrangements and partnership-flips, adequate for the development, construction, or operation of the Facility.

"Force Majeure" shall have the meaning set forth in Section 10.1(a) hereof.

"Generation Unit" shall mean a facility that converts a fuel or an energy resource into electrical energy.

"GIS" shall mean the NEPOOL Generation Information System or any successor thereto, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity generated or consumed within New England.

"GIS Operating Rules" are the NEPOOL Generation Information System Operating Rules effective as of the Effective Date, as amended, superseded, or restated from time to time.

"Good Utility Practice" shall mean compliance with all applicable laws, codes, rules and regulations, all ISO-NE Rules and ISO-NE Practices, and any practices, methods and

acts engaged in or approved by a significant portion of the electric industry in New England 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 is made, could have been expected to accomplish the desired result 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 is intended to include acceptable practices, methods and acts generally accepted in the electric industry in New England.

"Governmental Entity" shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

"Guaranteed Commercial Operation Date" shall have the meaning set forth in Section 3.1(a)(iv) hereof.

"I.3.9 Confirmation" refers to the ISO-NE Tariff Section I.3.9 pertaining to ISO-NE's approval of proposed plans as specified therein.

"Independent Engineer" shall mean a licensed Professional Engineer with expertise in the development of renewable energy projects using the same renewable energy technology as the Facility, reasonably selected by and retained by Seller in order to determine the as-built nameplate capacity of the Facility as provided in Section 3.4(b)(xiii) hereof.

"Interconnecting Utility" shall mean the utility (which may or may not be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the Transmission System of that utility.

"Interconnection Agreement" shall mean an agreement between Seller and the Interconnecting Utility and ISO-NE, as applicable, regarding the interconnection of the Facility to the Transmission System of the Interconnecting Utility, as the same may be amended from time to time.

"Interconnection Point" shall have the meaning set forth in the Interconnection Agreement.

"Interest Amount" shall mean with respect to a Party and an Interest Period, the sum of the daily interest amounts for all days in such Interest Period; each daily interest amount to be determined by such Party as follows: (a) the amount of Cash held by such Party on that day (but excluding any interest previously earned on such Cash); multiplied by (b) the Collateral Interest Rate for that day; divided by (c) 360.

"Interest Period" shall mean the period from (and including) the last Business Day on which an Interest Amount was Transferred by Buyer (or if no Interest Amount has yet been Transferred by Buyer, the Business Day on which Cash was Transferred to Seller)

to (but excluding) the Business Day on which the current Interest Amount is to be Transferred.

"**ISO**" or "**ISO-NE**" shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

"**ISO-NE Practices**" shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Agreement, and any applicable successor practices and procedures.

"**ISO-NE Rules**" shall mean all rules and procedures adopted by NEPOOL, ISO-NE, or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

"**ISO-NE Tariff**" shall mean ISO-NE's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, superseded or restated from time to time.

"**ISO Settlement Market System**" shall have the meaning as set forth in the ISO-NE Tariff.

"**Late Payment Rate**" shall have the meaning set forth in Section 5.2 hereof.

"**Law**" shall mean all federal, state and local statutes, regulations, rules, orders, executive orders, decrees, policies, judicial decisions and notifications.

"**Lender**" shall mean any and all Persons (A) lending money, extending credit or providing loan guarantees (whether directly to Seller or to an Affiliate of Seller) as follows: (i) for the construction, interim or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility (including the maintenance, repair, replacement or improvement of the Facility); (iii) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Facility; (iv) for any capital improvement or replacement related to the Facility; or (v) for the purchase of the Facility and the related rights from Seller; or (B) participating (directly or indirectly) as an equity investor (including a tax equity investor) in the Facility; or (C) any lessor under a lease finance arrangement relating to the Facility.

"**Letter of Credit**" shall mean an irrevocable, non-transferable, standby letter of credit, issued by a Qualified Institution utilizing a form acceptable to the Party in whose favor

such letter of credit is issued. All costs relating to any Letter of Credit shall be for the account of the Party providing that Letter of Credit.

"**Letter of Credit Default**" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events (a) the issuer of such Letter of Credit shall fail to be a Qualified Institution; (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (c) the issuer of the Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (d) the Letter of Credit shall expire or terminate or have a Value of $0 at any time the Party on whose account that Letter of Credit is issued is required to provide Credit Support hereunder and that Party has not Transferred replacement Credit Support meeting the requirements of this Agreement; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be cancelled or returned in accordance with the terms of this Agreement.

"Locational Marginal Price" or "LMP" shall have the meaning set forth in the ISO-NE Rules.

"Market Price" shall mean the price received by Buyer by selling the Energy into either the ISO-NE-administered Day-Ahead or Real-Time Markets, as applicable.

"Meters" shall have the meaning set forth in Section 4.6(a) hereof.

"Moody's" shall mean Moody's Investors Service, Inc., and any successor thereto.

"MW" shall mean a megawatt AC.

"MWh" shall mean a megawatt-hour (one MWh shall equal 1,000 kWh).

"NEPOOL" shall mean the New England Power Pool and any successor organization.

"NERC" shall mean the North American Electric Reliability Corporation and shall include any successor thereto.

"Network Upgrades" shall mean upgrades to the Pool Transmission Facilities and the Transmission Provider's transmission and distribution systems, as determined and identified in the interconnection study approved in connection with construction of the Facility, necessary for Delivery of the Energy to the Delivery Point, including those that are necessary for the Seller's satisfaction of the obligations under Section 77.4 of this Agreement.

"New England Control Area" shall have the meaning as set forth in the ISO-NE Tariff.

"**Newly Developed Renewable Energy Resource**" shall mean, pursuant to R.I.G.L. § 39-26.1-2(6), an electrical generation unit that uses exclusively an Eligible Renewable

Energy Resource, and either (x) has neither begun operation, nor have the developers of the unit implemented investment or lending agreements necessary to finance the construction of the unit or (y) is located within the state of Rhode Island and obtained project financing on or after January 1, 2009.

"Node" shall have the meaning set forth in ISO-NE Rules.

"Non-Defaulting Party" shall mean the Party with respect to which a Default or Event of Default has not occurred.

"Obligations" shall have the meaning specified in Section 6.1 hereof.

"Operational Limitations" of the Facility are the parameters set forth in Exhibit A describing the physical limitations of the Facility, including the time required for start-up and the limitation on the number of scheduled start-ups per Contract Year.

"Operating Period Security" shall have the meaning set forth in Section 6.2(b) hereof.

"Party" and **"Parties"** shall have the meaning set forth in the first paragraph of this Agreement.

"Permits" shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law and the Delivery of the Products in accordance with this Agreement.

"Person" shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

"Pool Transmission Facilities" has the meaning given that term in the ISO-NE Rules.

"Posted Collateral" shall mean all Credit Support and all proceeds thereof that have been Transferred to or received by a Party under this Agreement and not Transferred to the Party providing the Credit Support or released by the Party holding the Credit Support. Any Interest Amount or portion thereof not Transferred will constitute Posted Collateral in the form of Cash.

"Price" shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on Exhibit D.

"Products" shall mean Energy and RECs; provided, however, that Energy and RECs generated by or associated with the Facility during the Test Period and RECs not purchased by Buyer under Section 4.1(b) shall not be deemed Products.

"PUC" shall mean the Rhode Island Public Utilities Commission and shall include its successors.

"QF" shall mean a cogeneration or small power production facility which meets the criteria as defined in Title 18, Code of Federal Regulations, §§ 292.201 through 292.207, as amended from time to time.

"Qualified Institution" shall mean a major U.S. commercial bank or trust company, the U.S. branch office of a foreign bank, or another financial institution, in any case, organized under the laws of the United States or a political subdivision thereof having assets of at least $10 billion and a credit rating of at least (A) "A2" from Moody's or "A" from S&P, if such entity is rated by both S&P and Moody's or (B) "A" by S&P or "A2" by Moody's, if such entity is rated by either S&P or Moody's but not both.

"Real-Time Energy Market" shall have the meaning as set forth in the ISO-NE Rules.

"Reference Market-Maker" shall mean a leading dealer in the relevant market that is selected in a commercially reasonable manner and is not an affiliate of either party.

"Regulatory Approval" shall mean the PUC's approval of this Agreement without material modification or conditions pursuant to R.I.G.L. §§ 39-26.1-3 through 39-26.1-5 and the regulations promulgated thereunder, including the recovery by Buyer of its costs incurred under this Agreement and remuneration equal to two and three-quarters percent (2.75%) of Buyer's actual annual payments under this Agreement pursuant to R.I.G.L. § 39-26.1-4, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

"Rejected Purchase" shall have the meaning set forth in Section 4.4 hereof.

"Related Transmission" shall mean those transmission and distribution facilities to be used by Seller for delivery of the Energy under this Agreement, as described in Exhibit E hereto.

"Related Transmission Approvals" shall mean those FERC filings, agreements, tariffs and approvals associated with service on the Related Transmission.

"Reliability Curtailment" shall mean any curtailment of Delivery of Energy resulting from (i) an emergency condition as defined in the Interconnection Agreement or the ISO-NE Tariff, or (ii) any other order or directive of the Interconnecting Utility or the Transmission Provider pursuant to an Interconnection Agreement or tariff.

"Renewable Energy Certificates" or **"RECs"** shall mean all of the Certificates and any and all other Environmental Attributes associated with the Products or otherwise produced by the Facility which satisfy the RPS for a RPS Class I Renewable Generation Unit, and shall represent title to and claim over all Environmental Attributes associated with the specified MWh of generation from such RPS Class I Renewable Generation Unit.

"Replacement Energy" shall mean Energy purchased by Buyer as replacement for any Delivery Failure relating to the Energy to be provided hereunder.

"Replacement Price" shall mean the price at which Buyer, acting in a commercially reasonable manner, (A) purchases Replacement Energy and/or Replacement RECs plus (i) costs incurred by Buyer in purchasing such Replacement Energy and/or Replacement RECs, (ii) additional transmission charges, if any, incurred by Buyer to transmit Replacement Energy to the Delivery Point, and (iii) any other costs and losses incurred by Buyer as a result of the Delivery Failure; provided, however, that in no event shall Buyer be required to utilize or change its utilization of its owned or controlled assets, contracts or market positions to minimize Seller's liability, or (B) elects in its sole discretion not to purchase Replacement Energy and/or Replacement RECs, the market value of Energy and/or RECs (provided that the market value of the RECs shall in no event exceed the Alternative Compliance Payment Rate) as of the date and the time of the Delivery Failure plus any other costs and losses incurred by Buyer as a result of the Delivery Failure will replace the price at which Buyer purchases Replacement Energy and/or Replacement RECs in the calculation of the Replacement Price relating to the Energy and/or RECs to be purchased and sold hereunder.

"Replacement RECs" shall mean any generation or environmental attributes, including any Certificates or other certificates or credits related thereto reflecting generation by a RPS Class I Renewable Generation Unit that are purchased by Buyer as replacement for any Delivery Failure.

"Request Date" shall have the meaning set forth in Section 6.7(a) hereof.

"Requesting Party" shall have the meaning set forth in Section 6.7(a) hereof.

"Resale Damages" shall mean, with respect to any Rejected Purchase, an amount equal to (a) the positive net amount, if any, by which the applicable Price that would have been paid pursuant to Section 5.1 hereof for such Rejected Purchase, had it been accepted, exceeds the Resale Price multiplied by the quantity of that Rejected Purchase (in MWh and/or RECs, as applicable), plus (b) any applicable penalties assessed by ISO-NE or any other Person against Seller as a result of Buyer's failure to accept such Products in accordance with the terms of this Agreement. Seller shall provide a written statement for the applicable period explaining in reasonable detail the calculation of any Resale Damages.

"Resale Price" shall mean the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase, plus transaction and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase that Seller would not have incurred but for the Rejected Purchase; provided, however, that in no event shall Seller be required to utilize or change its utilization of the Facility or its other assets, contracts or market positions in order to minimize Buyer's liability for such Rejected Purchase.

"**Rounding Amount**" shall have the meaning specified in Section 6.2(c) hereof.

"**RPS**" shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. and the regulations promulgated thereunder that require all retail electricity suppliers in Rhode Island to provide a minimum percentage of electricity from RPS Class I Renewable Generation Units, and such successor laws and regulations as may be in effect from time to time.

"**RPS Class I Renewable Generation Unit**" shall mean a Newly Developed Renewable Energy Resource that produces RECs that qualify for the RPS.

"**RTO**" shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC's Order No. 2000 and FERC's corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

"**S&P**" shall mean Standard & Poor's Financial Services LLC, and any successor thereto.

"**Schedule" or "Scheduling**" shall mean the actions of Seller and/or its designated representatives pursuant to Section 4.2, of notifying, requesting and confirming to ISO-NE the quantity of Energy to be delivered on any given day or days (or in any given hour or hours) during the Services Term at the Delivery Point.

"**Services Term**" shall have the meaning set forth in Section 2.2(b) hereof.

"**Seller's Taxes**" shall have the meaning set forth in Section 5.3(a) hereof.

"**Substitute Credit Support**" shall have the meaning assigned in Section 6.6(e) hereof.

"**Term**" shall have the meaning set forth in Section 2.2(a) hereof.

"**Termination Payment**" shall have the meaning set forth in Section 9.3(b) hereof.

"**Test Energy**" shall have the meaning set forth in Section 4.8 hereof.

"**Test Period**" shall have the meaning set forth in Section 3.4(a) hereof.

"**Transfer**" shall mean, with respect to any Posted Collateral or Interest Amount, and in accordance with the instructions of the Party entitled thereto:

(a) in the case of Cash, payment or transfer by wire transfer into one or more bank accounts specified by the Party to whom such Cash is being delivered; and

(b) in the case of Letters of Credit, delivery of the Letter of Credit or an amendment thereto to the Party to whom such Letter of Credit is being delivered.

"Transmission Provider" shall mean (a) ISO-NE, its respective successor or Affiliates; (b) Buyer; and/or (c) such other third parties from whom transmission services are necessary for Seller to fulfill its performance obligations to Buyer hereunder, as the context requires.

"Transmission System" shall mean the transmission facilities operated by a Transmission Provider, now or hereafter in existence, which provide energy transmission service for the Energy to or from the Delivery Point.

"Unit Contingent" shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is in operation.

"Valuation Agent" means the Requesting Party; provided, however, that in all cases, if an Event of Default has occurred and is continuing with respect to the Party designated as the Valuation Agent, then in such case, and for so long as the Event of Default continues, the other Party shall be the Valuation Agent.

"Valuation Date" shall mean each Business Day.

"Valuation Percentage" shall have the meaning specified in Section 6.2(d) hereof.

"Valuation Time" shall mean the close of business on the Business Day before the Valuation Date or date of calculation, as applicable.

"Value" shall mean, with respect to Posted Collateral or Credit Support, the Valuation Percentage multiplied by the amount then available under the Letter of Credit to be unconditionally drawn by Buyer.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. Subject in all respects to Section 8.1 and Section 8.2, this Agreement is effective as of the Effective Date.

2.2 Term.

(a) The **"Term"** of this Agreement is the period beginning on the Effective Date and ending upon the final settlement of all obligations hereunder after the expiration of the Services Term or the earlier termination of this Agreement in accordance with its terms.

(b) The **"Services Term"** is the period during which Buyer is obligated to purchase Products Delivered to Buyer by Seller (not including Energy and RECs Delivered during the Test Period under Section 4.8) commencing on the Commercial Operation Date and continuing for a period of twenty (20) years from the Commercial Operation Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

(c) At the expiration of the Term or earlier termination of this Agreement pursuant to the terms hereof, the Parties shall no longer be bound by the terms and provisions

hereof, except (i) to the extent necessary to make payments of any amounts owed to the other Party arising prior to or resulting from termination of, or on account of a breach of, this Agreement, (ii) to the extent necessary to enforce the rights and the obligations of the Parties arising under this Agreement before such expiration or termination, and (iii) the obligations of the Parties hereunder with respect to confidentiality and indemnification shall survive the expiration or termination of this Agreement.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Critical Milestones.

(a) Subject to the provisions of Section 3.1(d), commencing on the Effective Date, Seller shall develop the Facility in order to achieve the following milestones (**"Critical Milestones"**) on or before the dates set forth in this Section 3.1(a):

(i) receipt of all Permits necessary to construct the Facility, as set forth in Exhibit B, in final form, by July 1, 2019;

(ii) acquisition of all required real property rights necessary for construction and operation of the Facility and the interconnection of the Facility to the Interconnecting Utility in full and final form with all options and/or contingencies having been exercised demonstrating complete site control as set forth in Exhibit B, by July 1, 2019;

(iii) closing of the Financing adequate for the development and construction of the Facility or other demonstration to Buyer's reasonable satisfaction of the financial capability to construct the Facility, including, as applicable, Seller's financial obligations with respect to interconnection of the Facility to the Interconnecting Utility and construction of the Network Upgrades by June 1 , 2019; and

(iv) achievement of the Commercial Operation Date by November 1, 2019 ("Guaranteed Commercial Operation Date").

(b) Seller shall provide Buyer with written notice of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information reasonably demonstrating with reasonable specificity that such Critical Milestone has been achieved. Seller acknowledges that Buyer will receive such notice solely to monitor progress toward the Commercial Operation Date, and Buyer shall have no responsibility or liability for the development, construction, operation or maintenance of the Facility.

(c) Seller may elect to extend all of the dates for the Critical Milestones not yet achieved by up to four six-month periods from the applicable dates set forth in Section 3.1(a) by posting additional Development Period Security in an amount equal to $18,510 for each such

six-month period. Any such election shall be made in a written notice delivered to Buyer on or prior to the first date for a Critical Milestone that has not yet been achieved (as such date may have previously been extended).

(d) To the extent a Force Majeure event pursuant to Section 10.1 has occurred that prevents the Seller from achieving the Critical Milestone date for acquisition of real property rights and interconnection (Section 3.1(a)(ii)) or the Commercial Operation Date (Section 3.1(a)(iv) by the applicable Milestone date, the Critical Milestone Date(s) impacted by such Force Majeure event shall be extended for the duration of the Force Majeure event, but under no circumstances shall extensions of those Critical Milestone dates due to Force Majeure events exceed twelve (12) months beyond the applicable Milestone date, and further provided, that the Seller shall not have the right to declare a Force Majeure event related to the Permits Critical Milestone (Section 3.1(a)(i)) or the Financing Critical Milestone (Section 3.1(a)(iii)).

(e) The Parties agree that time is of the essence with respect to the Critical Milestones and is part of the consideration to Buyer in entering into this Agreement.

(f) If Seller fails to make material progress toward the Commercial Operation Date, as reasonably determined by either Buyer or the PUC based on Seller's progress with respect to the milestones set forth in Section 3.1(a), within three (3) years after the Effective Date, Buyer may terminate this Agreement by written notice to Seller delivered within sixty (60) days after the third anniversary of the Effective Date (which termination shall be effective upon delivery of such notice), and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Article 12.

3.2 Delay Damages.

(a) If the Commercial Operation Date is not achieved by the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) and 10.1), Seller shall pay to Buyer damages for each day from and after such date in an amount equal to $370, commencing on the Guaranteed Commercial Operation Date (as extended pursuant to Sections 3.1(c) and 10.1) and ending on the earlier of (i) the Commercial Operation Date, (ii) the date that Buyer exercises its right to terminate this Agreement under Section 9.3, or (iii) the date that is twelve (12) months after the Guaranteed Commercial Operation Date (**"Delay Damages"**). Delay Damages shall be due under this Section 3.2(a) without regard to whether Buyer exercises its right to terminate this Agreement pursuant to Section 9.3; provided, however, that if Buyer exercises its right to terminate this Agreement under Section 9.3, Delay Damages shall be due and owing to the extent that such Delay Damages were due and owing at the date of such termination.

(b) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation Date by the Guaranteed Commercial Operation Date would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Notwithstanding the foregoing, this Article shall

not limit the amount of damages payable to Buyer if this Agreement is terminated as a result of Seller's failure to achieve the Commercial Operation Date. Any such termination damages shall be determined in accordance with Article 9.

(c) By the tenth (10th) day following the end of the calendar month in which Delay Damages first become due and continuing by the tenth (10th) day of each calendar month during the period in which Delay Damages accrue (and the following months if applicable), Buyer shall deliver to Seller an invoice showing Buyer's computation of such damages and any amount due Buyer in respect thereof for the preceding calendar month. No later than ten (10) days after receiving such an invoice, Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. If Seller fails to pay such amounts when due, Buyer may draw upon the Development Period Security for payment of such Delay Damages, and Buyer may exercise any other remedies available for Seller's default hereunder.

3.3 Construction and Changes in Capacity.

(a) Construction of Facility. Seller shall construct the Facility as described in Exhibit A, in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility and all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to Buyer. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction functions, so long as Seller maintains overall control over the construction of the Facility through the Term.

(b) Capacity Deficiency. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements for the Commercial Operation Date under Section 3.4(b) of this Agreement, but a Capacity Deficiency exists on the Commercial Operation Date as permitted by Section 3.4(b), then on the Commercial Operation Date, the Contract Maximum Amount shall be automatically and permanently reduced commensurate with the Capacity Deficiency, which reduced Contract Maximum Amount shall be stated in a notice from Buyer to Seller, which notice shall be binding absent manifest error.

(c) Increase in Facility Size. To the extent that Seller has constructed the Facility in accordance with Good Utility Practice, and met all other requirements under Section 3.4(b) of this Agreement, if the Independent Engineer's certification provides that the Actual Facility Size exceeds the Proposed Facility Size as provided in Exhibit A, the Buyer's Percentage Entitlement will be recalculated and replaced by the percentage derived by dividing the Contract Maximum Amount by the Actual Facility Size.

(d) Progress Reports. Within ten (10) days of the end of each calendar quarter after the Effective Date and until the Commercial Operation Date, Seller shall provide Buyer with a progress report regarding Critical Milestones not yet achieved, including projected time to completion of the Facility, in accordance with the form attached hereto as Exhibit C, and shall provide supporting documents and detail regarding the same upon Buyer's request. Seller shall

permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller.

(e) Site Access. Buyer and its representatives shall have the right but not the obligation, during business hours and upon reasonable notice to Seller, to view the construction of the Facility; *provided,* that (i) Buyer and its representatives shall observe all applicable Facility safety rules while such authorized individuals are at the Facility site, and (ii) Seller may remove any such authorized individuals from the Facility site if they have violated any of the Facility safety rules.

3.4 Commercial Operation.

(a) Seller's obligation to Deliver the Products and Buyer's obligation to pay Seller for such Products commences on the Commercial Operation Date; provided, that Energy and RECs generated by the Facility prior to the Commercial Operation Date (the **"Test Period"**) shall not be deemed Products.

(b) The Commercial Operation Date shall occur on the date on which the Facility as described in Exhibit A is completed (subject, if applicable, to a Capacity Deficiency so long as the Actual Facility Size on the Commercial Operation Date is (1) at least ninety percent (90%) of the proposed nameplate capacity of the Facility as set forth in Exhibit A, and (2) not more than ten (10) MW less than the proposed nameplate capacity of the Facility set forth in Exhibit A) and capable of regular commercial operation in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility, all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to the Buyer have been satisfied, and all performance testing for the Facility has been successfully completed, provided Seller has also satisfied the following conditions precedent as of such date:

(i) completion of all transmission and interconnection facilities and any Network Upgrades, including final acceptance and authorization to interconnect the Facility from ISO-NE or the Interconnecting Utility in accordance with the fully executed Interconnection Agreement;

(ii) all Related Transmission Facilities as set forth in Exhibit E are complete and in-service;

(iii) Seller has obtained and demonstrated possession of all Permits required for the lawful construction and operation of the Facility, for the interconnection of the Facility to the Interconnecting Utility (including any Network Upgrades) and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, all as set forth on Exhibit B;

(iv) Seller has obtained qualification by the PUC qualifying the Facility as a RPS Class I Renewable Generation Unit;

(v) All Related Transmission Approvals have been received;

(vi) Seller has acquired all real property rights needed to construct and operate the Facility, to interconnect the Facility to the Interconnecting Utility, to construct the Network Upgrades (to the extent that it is Seller's responsibility to do so) and to perform Seller's obligations under this Agreement;

(vii) Seller has established all ISO-NE-related accounts and entered into all ISO-NE-related agreements required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect, including the registration of the Facility in the GIS;

(viii) Seller has provided to Buyer I.3.9 Confirmation from ISO-NE regarding approval of generation entry, has submitted the Asset Registration Form (as defined in ISO-NE Practices) for the Facility to ISO-NE and has taken such other actions as are necessary to effect the transfer of the Energy to Buyer in the ISO Settlement Market System;

(ix) Seller has successfully completed all pre-operational testing and commissioning in accordance with manufacturer guidelines;

(x) Seller has satisfied all Critical Milestones that precede the Commercial Operation Date in Section 3.1;

(xi) no Default or Event of Default by Seller shall have occurred and remain uncured;

(xii) the Facility is owned or leased by, and under the care, custody and control of, Seller.

(xiii) Seller has delivered to Buyer:

(A) an Independent Engineer's certification stating (i) that the Facility has been completed in all material respects (excepting punchlist items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this Agreement, and (ii) the Actual Facility Size;

(B) certificates of insurance evidencing the coverages required under Section 3.5(i); and

(C) the Operating Period Security; and

(xiv) Seller has demonstrated that it can reliably transmit real time data and measurements to ISO-NE.

3.5 Operation of the Facility.

(a) Compliance With Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; (ii) the Operational Limitations; and (iii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under this Agreement (including obligations related to the generation, Scheduling, interconnection, and transmission of Energy, and the transfer of RECs), whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Owner and Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain or cause to be maintained in full force and effect all Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility and all Related Transmission Approvals.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, construct, maintain and operate the Facility in accordance with Good Utility Practice and in accordance with Exhibit A to this Agreement. Seller shall bear all costs related thereto. Seller may contract with other Persons to provide construction, operation and maintenance functions, so long as Seller maintains overall control over the construction, operation and maintenance of the Facility throughout the Term.

(d) Interconnection Agreement. Seller shall comply with the terms and conditions of the Interconnection Agreement.

(e) ISO-NE Status. Seller shall, at all times during the Services Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and this Agreement.

(f) Forecasts. Commencing at least thirty (30) days prior to the anticipated Commercial Operation Date and continuing throughout the Term, Seller shall update and deliver to Buyer on an annual basis and in a form reasonably acceptable to Buyer, twelve (12) month rolling forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice based on historical performance, maintenance schedules, Seller's generation projections and other relevant data and considerations. Any notable changes from prior forecasts or historical energy delivery shall be noted and an explanation provided. The provisions of this section are in addition to Seller's requirements under ISO-NE Rules and ISO-NE Practices, including ISO-NE Operating Procedure No. 5.

(g) RPS Class I Renewable Generation Unit. Subject to Section 4.7(b), Seller shall be solely responsible at Seller's cost for qualifying the Facility as a RPS Class I Renewable Generation Unit and maintaining such qualification throughout the Services Term. Seller shall take all actions necessary to register for and maintain participation in the GIS to register, monitor, track, and transfer RECs. Seller shall provide such additional information as Buyer may request relating to such qualification and participation.

(h) Compliance Reporting. Within **thirty (30)** days following the end of each calendar quarter, Seller shall provide Buyer information pertaining to emissions, fuel types, labor information and any other information to the extent required by Buyer to comply with the disclosure requirements contained under applicable Law and any other such disclosure regulations which may be imposed upon Buyer during the Term, which information requirements will be provided to Seller by Buyer at least fifteen (15) days before the beginning of the calendar quarter for which the information is required. To the extent Buyer is subject to any other certification or compliance reporting requirement with respect to the Products produced by Seller and delivered to Buyer hereunder, Seller shall provide any information in its possession (or, if not in Seller's possession, reasonably available to it and not reasonably available to Buyer) requested by Buyer to permit Buyer to comply with any such reporting requirement.

(i) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company (or any successor thereto) the insurance coverage and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Upon the execution of this Agreement, and at each subsequent policy renewal date thereafter, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, if such evidence of insurance is not issued on a standard ACORD form, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of cancellation or non-renewal of coverage (for coverage modifications that may adversely affect Buyer, Seller shall provide Buyer with thirty (30) days prior written notice), and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

(j) Contacts. Each Party shall identify a principal contact or contacts, which contact(s) shall have adequate authority and expertise to make day-to-day decisions with respect to the administration of this Agreement.

(k) Compliance with Law. Without limiting the generality of any other provision of this Agreement, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of operational and environmental matters relating to the

Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with applicable requirements of Law.

(l) FERC Status. Seller shall be responsible for ensuring that it is in compliance with all FERC directives and requirements necessary for Seller to fulfill its obligations under this Agreement. As part of Seller's satisfaction of this responsibility, it shall maintain the Facility's status as a QF or EWG (to the extent Seller meets the criteria for such status) at all times after the Commercial Operation Date and shall obtain and maintain any requisite authority to sell the output of the Facility at market-based rates, including market-based rate authority to the extent applicable. If Seller certifies the Facility as a QF, for so long as this Agreement is in effect, Seller waives, and agrees not to assert, any rights Seller may have to require Buyer to purchase or transmit electric power or to pay a specified price for electric power by virtue of the status of the Facility as a QF.

(m) Maintenance. No later than (a) the Commercial Operation Date and (b) two months prior to the end of each calendar year thereafter during the Term, Seller shall submit to Buyer a schedule of planned maintenance for the following calendar year for the Facility. Throughout the Term, Seller shall coordinate all planned maintenance with ISO-NE, consistent with ISO-NE Rules, and shall promptly provide applicable information concerning scheduled outages, as determined by ISO-NE, to Buyer. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules, Seller shall not schedule maintenance of the Facility during the months of January through February or June through September, and shall operate the Facility so as to maximize energy production during the hours of anticipated peak load and Energy prices in New England; provided, however, that planned maintenance may be scheduled during such period to the extent the failure to perform such planned maintenance is contrary to operation of the Facility in accordance with Good Utility Practice.

3.6 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, including the costs of the Network Upgrades, consistent with all standards and requirements set forth by the FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility. Seller shall be responsible for procuring delivery service and all costs associated with it.

(b) Seller shall defend, indemnify and hold Buyer harmless against any and all liabilities, fees, costs and expenses, including but not limited to reasonable attorneys' fees arising due to Seller's performance or failure to perform under the Interconnection Agreement or any agreement for delivery service associated with Seller's performance of this Agreement.

4. DELIVERY OF PRODUCTS

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on the Commercial Operation Date and subject to Section 4.1(b) and 4.2(a), Seller shall sell and Deliver, and Buyer shall purchase and receive all right, title and interest in and to, Buyer's Percentage Entitlement of the Products in accordance with the terms and conditions of this Agreement. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent and shall be subject to the operation of the Facility. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers. To maximize the value of the Products, to the extent possible and consistent with ISO-NE Rules and Good Utility Practice, Seller shall use commercially reasonable efforts to minimize outages during the time periods of anticipated peak load and peak Energy prices in New England.

(b) Buyer shall not be obligated to accept or pay for any REC or comparable certificate, credit, attribute or other similar product produced by or associated with the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, and, to the extent that Buyer does not purchase any such REC or comparable certificate, credit, attribute or other similar product associated with the Facility, Seller may, in its sole discretion, sell, transfer or otherwise dispose of that REC or comparable certificate, credit, attribute or other similar product. In the event that the Buyer notifies Seller that it will not purchase any REC or comparable certificate, credit, attribute or other similar product produced by the Facility which fails to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit, then Buyer may resume purchasing such RECs or comparable certificates, credits, attributes or other similar products produced by the Facility upon thirty (30) days' prior written notice to Seller, unless otherwise agreed by Buyer and Seller.

(c) Seller shall Deliver Buyer's Percentage Entitlement of the Products produced by or associated with the Facility, up to and including the Contract Maximum Amount, exclusively to Buyer, and Seller shall not sell, divert, grant, transfer or assign such Products or any certificate or other attribute associated with such Products to any Person other than Buyer during the Term except as permitted under this Section 4.1 or otherwise pursuant to this Agreement. Seller shall not enter into any agreement or arrangement under which such Buyer's Percentage Entitlement of the Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Services Term and in accordance with Section 4.1, Seller shall Schedule and transfer Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with this Agreement and all ISO-NE Practices and ISO-NE Rules. Seller shall transfer the Energy to Buyer in the Day Ahead Energy Market or Real Time Energy Market, as reasonably agreed from time to time by Buyer and Seller and consistent with prevailing electric industry practices at the time and Buyer shall have

no obligation to pay for any Energy not transferred to Buyer in the Day Ahead Energy Market or Real Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system). Notwithstanding any other provision of this Agreement, if during the Term of this Agreement the LMP at the Delivery Point is negative, or, in the reasonable opinion of Seller, is likely to become negative, then Seller may deliver to Buyer a written notice stating that such condition has occurred or is likely to occur and the period during which such condition has occurred or is likely to occur. Buyer and Seller hereby agree that in such event Seller shall be under no obligation to schedule or Deliver Products to the Delivery Point during such period. Seller shall provide Buyer with detailed information, including but not limited to, the start and stop times of such periods of curtailment under this Section 4.2(a) as well as the quantity curtailed, for all such periods of non-delivery during the preceding calendar month which information shall be provided prior to Seller's delivery of the invoice to Buyer.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Services Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission up to and at the Delivery Point, and Buyer shall be responsible for all of the foregoing after the Delivery Point, provided that Buyer shall have no responsibility or liability for any Network Upgrade. To the extent a Party incurs costs, charges, penalties or losses which are the responsibility of the other Party, (including amounts not credited to Buyer as described in Section 4.2(a)), the other Party shall reimburse such Party for the same.

4.3 Failure of Seller to Deliver Products. In the event that Seller generates Products and fails to satisfy any of its obligations to Deliver such Products or any portion thereof in accordance with Section 4.1, Section 4.2 and Section 4.7, and such failure is not excused under the express terms of this Agreement (a **"Delivery Failure"**), Seller shall pay Buyer an amount for such Delivery Failure (measured in MWh and/or RECs) equal to the Cover Damages. Such payment shall be due no later than the date for Buyer's payment for the applicable month as set forth in Section 5.2 hereof. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a Delivery Failure would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Cover Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.4 Failure by Buyer to Accept Delivery of Products. If Buyer fails to accept all or part of any of the Products to be purchased by Buyer hereunder, and such failure to accept (a) is not the result of Reliability Curtailment or (b) is not otherwise excused under the terms of this Agreement (a **"Rejected Purchase"**), then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such Rejected Purchase equal to the Resale Damages. Each Party agrees and acknowledges that (i) the damages that Seller would incur due to a Rejected Purchase would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Resale Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.5 Delivery Point.

(a) All Energy shall be Delivered hereunder by Seller to Buyer at the Delivery Point. Seller shall be responsible for the costs of delivering its Energy to the Delivery Point consistent with all standards and requirements set forth by the FERC, ISO-NE, and any other applicable Governmental Entity or tariff.

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees, uplift, socialized charges, and all other charges in connection with the satisfaction of Seller's obligations hereunder, including without limitation the Delivery of Energy to and at the Delivery Point. Seller shall indemnify and hold harmless Buyer for any such charges, fees, or expenses imposed upon Buyer by operation of ISO-NE rules or otherwise in connection with Seller's performance of its obligations hereunder.

4.6 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the **"Meters"**), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), (i)

the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility or the ISO-NE Tariff, whichever is applicable, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

(c) Inspection, Testing and Calibration. Buyer shall have the right to inspect and test (at its own expense) any of the Meters at the Facility at reasonable times and upon reasonable notice from Buyer to Seller. Buyer shall have the right to have a representative present during any testing or calibration of the Meters at the Facility by Seller. Seller shall provide Buyer with timely notice of any such testing or calibration.

(d) Audit of Meters. Buyer shall have access to the Meters and the right to audit all information and test data related to such Meters.

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than two percent (2%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18

4.7 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to Buyer's Percentage Entitlement of the Facility's Environmental Attributes, including the RECs, generated by, or associated with, the Facility during the Term in accordance with the terms of this Section 4.7.

(b) Regarding the RPS:

(i) Except as provided in subsection (ii) of this Section 4.7(b), all Energy provided by Seller to Buyer from the Facility under this Agreement shall meet the requirements for eligibility pursuant to the RPS, and Seller's failure to satisfy such requirements shall constitute an Event of Default pursuant to Section 9.1(c) of

this Agreement except as provided in Section 4.7(b)(ii), below; and

(ii) If solely as a result of change in Law, Energy provided by Seller to Buyer from the Facility under this Agreement no longer meets the requirements for eligibility pursuant to the RPS, such will not constitute an Event of Default under Article 9, provided Seller promptly uses commercially reasonable efforts to ensure that qualification will continue after the change in Law. If, notwithstanding such commercially reasonable efforts and solely as a result of change in Law, the Facility does not qualify as a RPS Class I Renewable Generation Unit, then (A) Seller shall continue to sell, and Buyer shall continue to purchase Energy under this Agreement at the Adjusted Price in accordance with Section 5.1 and (B) any purchases and sales of RECs shall be in accordance with Section 4.1(b).

(c) At Seller's sole cost, Seller shall also obtain and maintain throughout the Services Term qualification as a RPS Class I generation resource under the renewable portfolio standard or similar law of the New England states of Connecticut, Maine, Massachusetts, and New Hampshire, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard or similar law. At Buyer's request and at Seller's sole cost, Seller shall also obtain qualification under the renewable portfolio standard or similar law of New York and/or any federal renewable energy standard, to the extent the renewable energy technology used in the Facility is eligible under such renewable portfolio standard, renewable energy standard or similar law, and Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to maintain such qualifications at all times during the Services Term unless otherwise agreed by Buyer. Seller shall also submit to Buyer or as directed by Buyer any information required by any state or federal agency with regard to administration of its rules regarding Environmental Attributes or its renewable energy standard or renewable portfolio standard or Seller's qualification under the foregoing.

(d) Seller shall comply with all GIS Operating Rules relating to the creation and transfer of all RECs to be purchased by Buyer under this Agreement and all other GIS Operating Rules to the extent required for Buyer to achieve the full value of the RECs. In addition, at Buyer's request, Seller shall use commercially reasonable efforts to register with and comply with the rules and requirements of any other tracking system or program that tracks, monetizes or otherwise creates or enhances value for Environmental Attributes which compliance shall be at Seller's sole cost if such registration and compliance is requested in connection with Section 4.7(c) above and shall be at Buyer's sole cost in other instances.

(e) Prior to the delivery of any Energy hereunder (including any Energy Delivered during the Test Period), either (i) Seller shall cause Buyer to be registered in the GIS as the initial owner of all Certificates to be Delivered hereunder to Buyer or (ii) Seller and Buyer shall effect an irrevocable Forward Certificate Transfer (as defined in the GIS Operating Rules) of the Certificates to be Delivered hereunder to Buyer in the GIS for the Test Period and the

Services Term; provided, however, that no payment shall be due to Seller for any RECs until either (x) the Certificates are actually deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing, or (y) (i) Buyer and Seller enter such an irrevocable Forward Certificate Transfer of the Certificates to be Delivered to Buyer in the GIS, which Forward Certificate Transfer shall be denoted in the GIS as not being capable of rescission by Seller, and (ii) the Energy with which such RECs are associated has been Delivered to Buyer.

(f) The Parties intend for the transactions entered into hereunder to be physically settled, meaning that the RECs are intended to be Delivered in the GIS account of Buyer or its designee as set forth in this Section 4.7.

4.8 Deliveries During Test Period. During the Test Period, Seller shall sell and Deliver, and Buyer shall purchase and receive Buyer's Percentage Entitlement of any Energy ("**Test Energy**") and RECs produced by or associated with the Facility. Notwithstanding the provisions of Section 5.1, payment for Test Energy Delivered during the Test Period and RECs associated with such Test Energy shall be equal to one hundred percent (100%) of the product of (x) the Test Energy Delivered (in MWh) and (y) the lesser of (i) the Adjusted Price determined in accordance with Section 1(a) of Exhibit D for Year 1, or (ii) the Real Time LMP at such Delivery Point. In the event that the Real Time LMP for the Test Energy at the Delivery Point is less than $0.00 per MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to one hundred percent (100%) of the product of (i) such Test Energy delivered in such hour and (ii) the absolute value of the hourly Real Time LMP at the Delivery Point. In no event shall the Test Period extend beyond **six (6)** months, except due to Force Majeure.

4.9 Title to Facility. Seller or Lender shall be the legal and beneficial owner of the Facility at all times.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products. All Products Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Price specified in Exhibit D; provided, however, that if the RECs fail to satisfy the RPS as an Environmental Attribute associated with the specified MWh of generation from a RPS Class I Renewable Generation Unit and Buyer does not purchase the RECs pursuant to Section 4.1(b), then all Energy Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Adjusted Price specified in Exhibit D. Other than the (i) payment for the Products under this Section 5.1, (ii) payments related to Meter testing under Section 4.6(b), (iii) payments related to Meter malfunctions under Section 4.6(e), (iv) payment for Energy and RECs during the Test Period in accordance with Section 4.8, (v) payment of any Resale Damages under Section 4.4, (vi) payment of interest on late payments under Section 5.2, (vii) payments for reimbursement of Buyer's Taxes under Section 5.3(a), (viii) return of any Credit Support under Section 6.4, and (ix) payment of any Termination Payment due from Buyer under Section 9.3, Buyer shall not be required to make any other payments to Seller under this Agreement, and Seller shall be solely responsible for all costs and losses incurred by it in connection with the performance of its obligations under this Agreement. In the event that the LMP for the Energy at the Delivery Point is less than $0.00 per

MWh in any hour, Seller shall credit to Buyer, on the appropriate monthly invoice, an amount equal to the product of (i) such Energy delivered in such hour and (ii) the absolute value of the hourly LMP at the Delivery Point.

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all charges and payments under this Agreement. On or before the fifteenth (15th) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month, and any RECs deposited in Buyer's GIS account or a GIS account designated by Buyer to Seller in writing in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days from receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

(i) All invoices rendered under this Agreement shall be subject to adjustment after the end of each month in order to true-up charges based on changes resulting from recent ISO-NE billing statements or revisions, if any, to previous ISO-NE billing statements. If ISO-NE resettles any invoice which relates to the Products sold under this Agreement and (a) any charges thereunder are the responsibility of the other Party under this Agreement or (b) any credits issued thereunder would be due to the other Party under this Agreement, then the Party receiving the invoice from ISO-NE shall in the case of (a) above invoice the other Party or in the case of (b) above pay the amount due to the other Party. Any invoices issued or amounts due pursuant to this Section shall be invoiced or paid as provided in this Section 5.2.

(ii) Within twelve (12) months of the issuance of an invoice the Seller may adjust any invoice for any arithmetic or computational error and shall provide documentation and information supporting such adjustment to Buyer. Within twelve (12)

months of the receipt of an invoice (or an adjusted invoice), the Buyer may dispute any charges on that invoice. In the event of such a dispute, the Buyer shall give notice to the Seller and shall state the basis for the dispute. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Any claim for additional payment is waived unless the Seller issues an adjusted invoice within twelve (12) months of issuance of the original invoice. Any dispute of charges is waived unless the Buyer provides notice of the dispute to the Seller within twelve (12) months of receipt of the invoice (or adjusted invoice) including such charges.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting of such monetary obligations, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Agreement, including any related damages calculated pursuant to this Agreement, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

(e) Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the "Money & Investing" section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties) plus 1% per cent, and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the **"Late Payment Rate"**).

5.3 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products ("**Seller's Taxes**"). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer, or imposed on or associated with the purchase of such Products by Buyer (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) ("**Buyer's Taxes**"). In the event Seller shall be required by law or regulation to remit or pay any Buyer's Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller's Taxes, Seller shall reimburse Buyer for such payment, and Buyer may also elect to deduct any of the amount of any such Seller's

Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller's or the Facility's eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes, or to receive any other favorable tax or accounting right or benefit, or any grant or subsidy from a Governmental Entity or other Person. Seller's obligations under this Agreement shall be effective regardless of whether the Facility is eligible for or receives, or the transactions contemplated under this Agreement are eligible for or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment.

6. SECURITY FOR PERFORMANCE

6.1 Grant of Security Interest. Subject to the terms and conditions of this Agreement, Seller hereby pledges to Buyer as security for all outstanding obligations under this Agreement (other than indemnification obligations surviving the expiration of the Term) and any other documents, instruments or agreements executed in connection therewith (collectively, the **"Obligations"**), and grants to Buyer a first priority continuing security interest, lien on, and right of set-off against all Posted Collateral delivered to or received by Buyer hereunder. Upon the return by Buyer to Seller of any Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without further action by either Party.

6.2 Seller's Support.

(a) Seller shall be required to post Credit Support having a Value of $74,040 to secure Seller's Obligations until the Commercial Operation Date (**"Development Period Security"**). Fifty percent (50%) of the Development Period Security shall be provided to Buyer on the Effective Date, and the remaining fifty percent (50%) of the Development Period Security shall be provided to Buyer within fifteen (15) days after the receipt of the Regulatory Approval. Buyer shall return any undrawn amount of the Development Period Security to Seller within thirty (30) days after the later of (x) Buyer's receipt of an undisputed notice from Seller that the Commercial Operation Date has occurred or (y) Buyer's receipt of the full amount of the Operating Period Security.

(b) Beginning not later than three (3) days following the Commercial Operation Date, Seller shall provide Buyer with Credit Support to secure Seller's Obligations after the Commercial Operation Date through and including the date that all of Seller's Obligations are satisfied ("**Operating Period Security**"). The Operating Period Security shall have a Value of $74,040, as adjusted in accordance with Section 3.3(b).

(c) The Credit Support Delivery Amount, as defined below, will be rounded up, and the Return Amount, as defined below, will be rounded down, in each case to the nearest integral multiple of $10,000 (**"Rounding Amount"**).

(d) The following items will qualify as "**Credit Support**" hereunder in the amount noted under "Valuation Percentage":

	"Valuation Percentage"
(A) Cash	100%
(B) Letters of Credit	100% unless either (i) a Letter of Credit Default shall have occurred and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be 0%.

(e) All calculations with respect to Credit Support shall be made by the Valuation Agent as of the Valuation Time on the Valuation Date.

6.3 Delivery of Credit Support.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Buyer, and (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Buyer for which there exist any unsatisfied payment obligations with respect to Buyer, then Buyer may request, by written notice, that Seller Transfer to Buyer, or cause to be Transferred to Buyer, Credit Support for the benefit of Buyer, having a Value of at least the Collateral Requirement (**"Credit Support Delivery Amount"**). Such Credit Support shall be delivered to Buyer on the next Business Day if the request is received by the Notification Time; otherwise Credit Support is due by the close of business on the second Business Day after the request is received.

6.4 Reduction and Substitution of Posted Collateral.

On any Business Day during the Services Term on which (a) no Event of Default has occurred and is continuing with respect to Seller, (b) no termination date has occurred or has been designated as a result of an Event of Default with respect to Seller for which there exist any unsatisfied payment Obligations, and (c) the Posted Collateral posted by Seller exceeds the required Operating Period Security (rounding downwards for any fractional amount to the next interval of the Rounding Amount), then Seller may, at its sole cost, request that Buyer return Operating Period Security in the amount of such difference (**"Credit Support Return**

Amount") and Buyer shall be obligated to do so. Such Posted Collateral shall be returned to Seller by the close of business on the second Business Day after Buyer's receipt of such request. The Parties agree that if Seller has posted more than one type of Credit Support to Buyer, Seller can, in its sole discretion, select the type of Credit Support for Buyer to return; provided, however, that Buyer shall not be required to return the specified Credit Support if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Operating Period Security.

6.5 [Reserved].

6.6 Cash. Posted Collateral provided in the form of Cash to Buyer hereunder shall be subject to the following provisions.

(a) Transfer and Holding of Cash.

(i) So long as no Event of Default has occurred and is continuing with respect to Buyer, Buyer will be entitled to either hold Cash or to appoint an agent which is a Qualified Institution (a "**Custodian**") to hold Cash for Buyer. In the event that an Event of Default has occurred and is continuing with respect to Buyer, then the provisions of Section 6.6(a)(ii) shall not apply with respect to Buyer and Cash shall be held in a Qualified Institution in accordance with the provisions of Section 6.6(a)(iii)(B). Upon notice by Buyer to Seller of the appointment of a Custodian, Seller's Obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by Buyer for which the Custodian is acting. If Buyer or its Custodian fails to satisfy any conditions for holding Cash as set forth above, or if Buyer is not entitled to hold Cash at any time, then Buyer will Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Section 6.6(a)(iii)(B). Except as set forth in Section 6.6(c), Buyer will be liable for the acts or omissions of the Custodian to the same extent that Buyer would be held liable for its own acts or omissions.

(ii) Notwithstanding the provisions of applicable Law, if no Event of Default has occurred and is continuing with respect to Buyer and no termination date has occurred or been designated as a result of an Event of Default with respect to Buyer for which there exists any unsatisfied payment obligations with respect to Buyer, then Buyer shall have the right to sell, pledge, rehypothecate, assign, invest, use, comingle or otherwise use in its business any Cash that it holds as Posted Collateral

hereunder, free from any claim or right of any nature whatsoever of Seller, including any equity or right of redemption by Seller.

(iii) Notwithstanding Section 6.6(a)(ii), if neither Buyer nor the Custodian is eligible to hold Cash pursuant to Section 6.6(a)(i) then:

(A) the provisions of Section 6.6(a)(ii) will not apply with respect to Buyer; and

(B) Buyer shall be required to Transfer (or cause to be Transferred) not later than the close of business within five (5) Business Days following the beginning of such ineligibility all Cash in its possession or held on its behalf to a Qualified Institution to be held in a segregated, safekeeping or custody account (the **"Collateral Account"**) within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for Buyer. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Article 6 and for the security interest of Buyer and execute such account control agreements as are necessary or applicable to perfect the security interest of Seller therein pursuant to Section 9-314 of the Uniform Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of Seller. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of Buyer, subject to the approval of such instructions by Seller (which approval shall not be unreasonably withheld). Buyer shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with Seller's approval.

(iv) So long as no Event of Default with respect to Seller has occurred and is continuing, and no termination date has occurred or been designated for which any unsatisfied payment obligations of Seller exist as the result of an Event of Default with respect to Seller, in the event that Buyer or its Custodian is holding Cash, Buyer will Transfer (or cause to be Transferred) to Seller, in lieu of any interest or other amounts paid or deemed to have been paid with respect to such Cash (all of which shall be retained by Buyer), the Interest Amount. Interest on Cash shall accrue at the Collateral Interest Rate. Interest accrued during the previous month shall be paid by Buyer to Seller on the 3rd Business Day of each calendar month and on any Business Day that posted Credit Support in the form of Cash is returned to Seller, but solely to the extent that, after making such payment, the amount of the Posted Collateral will be at least equal to the required Development Period Security or Operating Period Security, as applicable. On or after the occurrence of an Event of Default with respect to Seller or a termination date as a result of an Event of Default with respect to Seller, Buyer or its

Custodian shall retain any such Interest Amount as additional Posted Collateral hereunder until the Obligations of Seller under the Agreement have been satisfied in the case of a termination date or for so long as such Event of Default is continuing in the case of an Event of Default.

(b) Buyer's Rights and Remedies. If at any time an Event of Default with respect to Seller has occurred and is continuing, then, unless Seller has paid in full all of its Obligations that are then due, including those under Section 9.3(b) of this Agreement, Buyer may exercise one or more of the following rights and remedies: (i) all rights and remedies available to a secured party under applicable Law with respect to Posted Collateral held by Buyer, (ii) the right to set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or the cash equivalent of any Posted Collateral held by Buyer, or (iii) the right to liquidate any Posted Collateral held by Buyer and to apply the proceeds of such liquidation of the Posted Collateral to any amounts payable to Buyer with respect to the Obligations in such order as Buyer may elect. For purposes of this Section 6.6, Buyer may draw on the undrawn portion of any Letter of Credit from time to time up to the amount of the Obligations that are due at the time of such drawing. Cash proceeds that are not applied to the Obligations shall be maintained in accordance with the terms of this Article 6. Seller shall remain liable for amounts due and owing to Buyer that remain unpaid after the application of Posted Collateral, pursuant to this Section 6.6.

(c) Letters of Credit. Credit Support provided in the form of a Letter of Credit shall be subject to the following provisions.

(i) As one method of providing increased Credit Support, Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.

(ii) Upon the occurrence of a Letter of Credit Default, Seller agrees to Transfer to Buyer either a substitute Letter of Credit or Cash, in each case on or before the first (1st) Business Day after the occurrence thereof (or the third (3rd) Business Day after the occurrence thereof if only clause (a) under the definition of **Letter of Credit Default** applies.

(iii) Notwithstanding Sections 6.3 and 6.4, (1) Buyer need not return a Letter of Credit unless the entire principal amount is required to be returned, (2) Buyer shall consent to a reduction of the principal amount of a Letter of Credit to the extent that a Credit Support Delivery Amount would not be created thereby (as of the time of the request or as of the last time the Credit Support Delivery Amount was determined), and (3) if there is more than one form of Posted Collateral when a Credit Support Return Amount is to be Transferred, the Secured Party may elect which to Transfer.

(d) Care of Posted Collateral. Buyer shall exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable Law, and in any event Buyer will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, Buyer will have no duty with respect to the Posted Collateral, including without limitation, any duty to enforce or preserve any rights thereto.

(e) Substitutions. Unless otherwise prohibited herein, upon notice to Buyer specifying the items of Posted Collateral to be exchanged, Seller may, on any Business Day, deliver to Buyer other Credit Support (**"Substitute Credit Support"**). On the Business Day following the day on which the Substitute Credit Support is delivered to Buyer, Buyer shall return to Seller the items of Credit Support specified in Seller's notice; provided, however, that Buyer shall not be required to return the specified Posted Collateral if immediately after such return, Seller would be required to post additional Credit Support pursuant to the calculation of Development Period Security or Operating Period Security set forth in Sections 6.2(a) and 6.2(b), respectively.

6.7 Exercise of Rights Against Posted Collateral.

(a) Disputes regarding amount of Credit Support. If either Party disputes the amount of Credit Support to be provided or returned (such Party the "**Disputing Party**"), then the Disputing Party shall (a) deliver the undisputed amount of Credit Support to the other Party (such Party, the "**Requesting Party**") and (b) notify the Requesting Party of the existence and nature of the dispute no later than 5:00 p.m. Eastern Prevailing Time on the Business Day that the request for Credit Support was made (the "**Request Date**"). On the Business Day following the Request Date, the Parties shall consult with each other in order to reconcile the two conflicting amounts. If the Parties are not able to resolve their dispute, the Credit Support shall be recalculated, on the Business Day following the Request Date, by each Party requesting quotations from two (2) Reference Market-Makers for a total of four (4) quotations. The highest and lowest of the four (4) quotations shall be discarded and the arithmetic average shall be taken of the remaining two (2), which shall be used in order to determine the amount of Credit Support required. On the same day the Credit Support amount is recalculated, the Disputing Party shall deliver any additional Credit Support required pursuant to the recalculation or the Requesting Party shall return any excess Credit Support that is no longer required pursuant to the recalculation.

(b) Further Assurances. Promptly following a request by a Party, the other Party shall use commercially reasonable efforts to execute, deliver, file, and/or record any financing statement, specific assignment, or other document and take any other action that may be necessary or desirable to create, perfect, or validate any Posted Collateral or other security interest or lien, to enable the requesting party to exercise or enforce its rights or remedies under this Agreement, or with respect to Posted Collateral, or accrued interest.

(c) Further Protection. Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding, or lien (other than a banker's lien in favor of the Custodian appointed by Buyer so long as no amount owing from Seller to such Custodian is

overdue) that involves the Posted Collateral delivered to Buyer by Seller or that could adversely affect any security interest or lien granted pursuant to this Agreement.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

7.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of Rhode Island. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Due Authorization; No Conflicts. The execution and delivery by Buyer of this Agreement, and the performance by Buyer of its obligations hereunder, have been duly authorized by all necessary actions on the part of Buyer and do not and, under existing facts and Law, shall not: (i) contravene its certificate of incorporation or any other governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) subject to receipt of the Regulatory Approval, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(c) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Buyer and, assuming the due execution hereof and performance hereunder by Seller and receipt of the Regulatory Approval, constitutes a legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(d) No Proceedings. As of the Effective Date, except to the extent relating to the Regulatory Approval, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Buyer or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Buyer reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Buyer's ability to perform its obligations under this Agreement.

(e) Consents and Approvals. Except to the extent associated with the Regulatory Approval, the execution, delivery and performance by Buyer of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken or that shall be duly obtained, made or taken on or prior to the date required, and all such approvals, consents,

permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable as required under applicable Law.

(f) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Buyer and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(g) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Buyer, or, to Buyer's knowledge, threatened against it.

(h) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Buyer of its obligations under this Agreement.

7.2 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer as of the Effective Date as follows:

(a) Organization and Good Standing; Power and Authority. Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of Delaware. Subject to the receipt of the Permits listed in Exhibit B and any Related Transmission Approvals, Seller has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to construct, own and operate the Facility and to deliver the Products to the Buyer in accordance with this Agreement.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) assuming receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing. Seller is qualified to perform as a Market Participant under the ISO-NE Tariff, or is qualified to transact through another Market Participant under the ISO-NE Tariff. Seller will not be disqualified from or be materially adversely affected in the

performance of any of its obligations under this Agreement by reason of market power or affiliate transaction issues under federal or state regulatory requirements.

(d) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Buyer and receipt of the Permits listed on Exhibit B and any Related Transmission Approvals, constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) No Proceedings. Except to the extent associated with the Permits listed on Exhibit B and any Related Transmission Approvals, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Seller or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction contemplated hereby, or which Seller reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Seller's ability to perform its obligations under this Agreement.

(f) Consents and Approvals. Subject to the receipt of the Permits listed on Exhibit B on or prior to the date such Permits are required under applicable Law and subject to the receipt of the Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable. To Seller's knowledge, Seller shall be able to receive the Permits listed in Exhibit B and the Related Transmission Approvals in due course and as required under applicable Law to the extent that those Permits have not previously been received.

(g) RPS Class I Renewable Generation Unit. The Facility shall be a RPS Class I Renewable Generation Unit, qualified by the PUC as eligible to participate in the RPS program, under R.I.G.L. § 39-26-1 et seq. (subject to Section 4.7(b) in the event of a change in Law affecting such qualification as a RPS Class I Renewable Generation Unit) and shall have a Commercial Operation Date, as verified by the Buyer.

(h) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under this Agreement, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under this Agreement.

(i) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Seller and equal bargaining power of the Parties. No principle of law or equity regarding construing ambiguities in this Agreement against the drafting Party shall apply.

(j) Bankruptcy. There are no bankruptcy, insolvency, reorganization, receivership or other such proceedings pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

(k) No Misrepresentations. The reports and other submittals by Seller to Buyer under this Agreement are not false or misleading in any material respect.

(l) No Default. No Default or Event of Default has occurred and is continuing and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under this Agreement.

(m) Site Control. As of the Effective Date, Seller either (i) has acquired all real property rights to construct and operate the Facility subject only to the receipt of the Permits and approvals referenced in Exhibit B, and to perform Seller's obligations under this Agreement, or (ii) has an irrevocable option to acquire such real property rights and the only condition upon Seller's exercise of such option to acquire such real property rights is the payment of monies to acquire such real property rights; provided, however, that (a) with respect to the real property rights to interconnect the Facility to the Interconnecting Utility and to construct the Network Upgrades each as presently contemplated (to the extent it is Seller's responsibility to do so), Seller shall have acquired all such rights as of the date of the applicable Critical Milestone in Section 3.1(a) ; and (b) the Parties understand that as of the Effective Date the Seller has undertaken only a preliminary site design, and that the final design of the Facility, including the Facility's interconnection, may require the acquisition or disposition of additional property and/or property rights in a manner that does not alter the Contract Maximum Amount of the Facility.

7.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section are made as of the Effective Date and deemed made continually throughout the Term, subject to the removal of the references to the Regulatory Approval and Permits as and when the Regulatory Approval and Permits are obtained. If at any time during the Term, a Party has knowledge of any event or information which causes any of the representations and warranties in this Article 7 to be untrue or misleading, such Party shall provide the other Party with prompt written notice of the event or information, the representations and warranties affected, and the corrective action such Party shall take. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7.4 Forward Capacity Market Participation. Seller must take (i) all necessary and appropriate actions to qualify and participate; and (ii) commercially reasonable actions to be selected and compensated in every auction applicable to the Services Term, in any capacity market, including the Forward Capacity Market and any successor capacity market. Subject to Good Utility Practice, Seller shall operate the Facility in a manner to maximize the Capacity Supply Obligation of the Facility. Seller shall use best efforts to make Network Upgrades such that the maximum output of the Facility shall be qualified to participate in the FCM. Seller shall provide documentation to the Buyer demonstrating the satisfaction of the foregoing obligations.

8. REGULATORY APPROVAL

8.1 Receipt of Regulatory Approval. The obligations of the Parties to perform this Agreement, other than the Parties' obligations under Section 6.2, Section 8.2, and Section 11, are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval. Buyer shall notify Seller within five (5) Business Days after receipt of the Regulatory Approval or receipt of an order of the PUC regarding this Agreement. This Agreement may be terminated by either Buyer or Seller in the event that Regulatory Approval is not received within 270 days after filing, without liability as a result of such termination, subject to the return of Credit Support as provided in Section 6.4.

8.2 Related Transmission Approvals. The obligation of the Parties to perform this Agreement is further conditioned upon the receipt of any Related Transmission Approvals on or prior to the date such Related Transmission Approvals are required under Applicable Law.

9. BREACHES; REMEDIES

9.1 Events of Default by Either Party. It shall constitute an event of default (**"Event of Default"**) by either Party hereunder if:

(a) Representation or Warranty. Any breach of any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement occurs where such breach is not fully cured and corrected within thirty (30) days after the Non-Defaulting Party has provided written notice to the Defaulting Party; provided, however, that such period shall be extended for an additional period of up to thirty (30) days if the Defaulting Party is unable to cure within the initial thirty (30) day period so long as such cure is diligently pursued by the Defaulting Party until such Default has been corrected, but in any event shall be cured within sixty (60) days of the notice from the Non-Defaulting Party; or

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than:

(i) a Delivery Failure of ten (10) days or more, which is addressed in Section 9.2(h),

(ii) failure of the Facility to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date,

(iii) a failure to maintain the RPS eligibility requirements set forth in Section 4.7(b),

(iv) a Rejected Purchase, or

(v) an Event of Default described in Section 9.1(a), 9.1(b), 9.1(d), 9.1(e) or 9.2,

such Party fails to perform, observe or otherwise to comply with any obligation hereunder and such failure continues for more than thirty (30) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; provided, however, that such period shall be extended for an additional period of up to thirty (30) days if the Defaulting Party is unable to cure within the initial thirty (30) day period so long as such cure is diligently pursued by the Defaulting Party until such Default had been corrected, but in any event shall be cured within sixty (60) days of the notice from the Non-Defaulting Party; or

(d) Bankruptcy. Such Party (i) is adjudged bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy or reorganization petition against such Party under any such law, or (without limiting the generality of the foregoing) files a petition to reorganize pursuant to 11 U.S.C. § 101 or any similar statute applicable to such Party, as now or hereinafter in effect, (ii) makes an assignment for the benefit of creditors, or admits in writing an inability to pay its debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of such Party, or (iii) is subject to an order of a court of competent jurisdiction appointing a receiver or liquidator or custodian or trustee of such Party or of a major part of such Party's property, which is not dismissed within sixty (60) days; or

(e) Permit Compliance. Such Party fails to obtain and maintain or cause to be obtained and maintained in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under this Agreement where such failure is not fully cured and corrected within thirty (30) days after such Party has knowledge of such failure ; provided, however, that such period shall be extended for an additional period of up to thirty (30) days if such Party is unable to cure within the initial thirty (30) day period so long as such cure is diligently pursued by such Party until such Default has been corrected, but in any event shall be cured within seventy-five (75) days of such Party's knowledge of such Default.

9.2 Events of Default by Seller. In addition to the Events of Default described in Section 9.1, each of the following shall constitute an Event of Default by Seller hereunder if:

(a) Taking of Facility Assets. Any asset of Seller that is material to the construction, operation or maintenance of the Facility or the performance of its obligations hereunder is taken upon execution or by other process of law directed against Seller, or any such asset is taken upon or subject to any attachment by any creditor of or claimant against Seller and .such attachment is not disposed of within sixty (60) days after such attachment is levied; or

(b) Failure to Maintain Credit Support. The failure of Seller to provide, maintain and/or replenish the Development Period Security or the Operating Period Security as required pursuant to Article 6 of this Agreement, and such failure continues for more than five (5) Business Days after Buyer has provided written notice thereof to Seller (which five (5) Business Day period shall include any cure period in the definition of Letter of Credit Default); or

(c) Energy Output. The failure of the Facility to produce Energy for **twelve (12)** consecutive months during the Services Term for any reason, other than due to a Force Majeure; or

(d) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under this Agreement or on Buyer or Buyer's ability to receive the benefits under this Agreement; provided that Seller shall have the opportunity to cure such failure within five (5) days of its occurrence; provided, however, if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under this Agreement, Seller shall have the opportunity to cure such failure within thirty (30) days of its occurrence; or

(e) Failure to Meet Critical Milestones. The failure of Seller to satisfy any Critical Milestone by the date set forth therefor in Section 3.1(a), as the same may be extended in accordance with Section 3.1(c); or

(f) Abandonment. On or after the Commercial Operation Date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a transfer permitted under this Agreement; or

(g) Assignment. The assignment of this Agreement by Seller, or Seller's sale or transfer of its interest (or any part thereof) in the Facility, except as permitted in accordance with Article 14; or

(h) Recurring Delivery Failure. A Delivery Failure of ten (10) days or more; or

(i) Failure to Provide Status Reports. A failure to provide timely, accurate and complete status reports in accordance with this Agreement, and such failure continues for more than thirty (30) days after notice thereof is given by the Buyer; or

(j) Failure to Maintain RPS Eligibility. A failure to maintain RPS eligibility requirements set forth in Section 4.7(b).

9.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under this Agreement, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in this Agreement including, without limitation, the termination right set forth in Section 9.3(b), and, to the extent not inconsistent with the terms of this Agreement, such remedies available at law and in equity. In addition to the foregoing, except for breaches for

which an express remedy or measure of damages is provided herein, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under this Agreement.

(b) Termination and Termination Payment. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate this Agreement at its sole discretion by providing written notice of such termination to the Defaulting Party. If the Non-Defaulting Party terminates this Agreement, it shall be entitled to calculate and receive as its sole remedy for such Event of Default a **"Termination Payment"** as follows:

(i) *Termination by Buyer Prior to Commercial Operation Date*. If Buyer terminates this Agreement because of an Event of Default by Seller occurring prior to the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the sum of (x) all Delay Damages due and owing by Seller through the date of such termination plus (y) the full amount of any Development Period Security provided to Buyer by Seller.

(ii) *Termination by Seller Prior to Commercial Operation Date*. If Seller terminates this Agreement because of an Event of Default by Buyer prior to the Commercial Operation Date, Seller shall only receive a Termination Payment if the Commercial Operation Date either occurs on or before the Guaranteed Commercial Operation Date or would have occurred by such date but for the Event of Default by Buyer giving rise to the termination of this Agreement. In such case, (x) if Seller terminates this Agreement because of an Event of Default by Buyer prior to the Financial Closing Date, the Termination Payment due to Seller shall be equal to the lesser of: (i) Buyer's Percentage Entitlement to Seller's out-of-pocket expenses incurred in connection with the development and construction of the Facility prior to such termination and for which Seller has provided adequate documentation to enable Buyer to verify the expense claimed, or (ii) the Termination Payment due to Seller as calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller; and (y) if Seller terminates this Agreement because of an Event of Default by Buyer on or after the Financial Closing Date, the Termination Payment due to Seller shall be calculated according to the methodology in Section 9.3(b)(iv), as if the Commercial Operation Date had occurred prior to the date of the termination by Seller.

(iii) *Termination by Buyer On or After Commercial Operation Date.* If Buyer terminates this Agreement because of an Event of

Default by Seller occurring on or after the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the greater of: (i) the security provided in accordance with Article 6, or (ii) the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the forward market price of Energy and Renewable Energy Credits, as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Buyer, for Replacement Energy and Replacement RECs, exceeds the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, multiplied by (ii) Buyer's Percentage Entitlement of the projected Energy output of the Facility as determined by a recognized third party expert selected by Buyer, using a probability of exceedance basis of 50%; plus, (y) any costs and losses incurred by Buyer as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Buyer in good faith and in a commercially reasonable manner, and Buyer shall provide Seller with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iii).

(iv) *Termination by Seller On or After Commercial Operation Date.* If Seller terminates this Agreement because of an Event of Default by Buyer occurring on or after the Commercial Operation Date, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula: (x) the present value, discounted at a rate equal to the prime rate specified in the "Money & Investing" section of *The Wall Street Journal* determined as of the date of the notice of default, plus 300 basis points, for each month remaining in the Services Term, of (i) the amount, if, any, by which the applicable Price that would have been paid pursuant to Exhibit D of this Agreement, exceeds the forward market price of Energy and Renewable Energy Credits as determined by the average of the quotes of at least two nationally recognized energy consulting firms or brokers chosen by Seller, for Replacement Energy and Replacement RECs, multiplied by (ii) Buyer's Percentage Entitlement to the projected Energy output of the Facility as determined by a recognized third party expert selected by Seller using a probability of exceedance basis of

50%; plus, (y) any costs and losses incurred by Seller as a result of the Event of Default and termination of the Agreement.

All such amounts shall be determined by Seller in good faith and in a commercially reasonable manner, and Seller shall provide Buyer with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(iv).

(v) *Acceptability of Liquidated Damages.* Each Party agrees and acknowledges that (i) the damages and losses (including without limitation the loss of environmental, reliability and economic benefits contemplated under this Agreement) that the Parties would incur due to an Event of Default would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Payment as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

(vi) *Payment of Termination Payment.* The Defaulting Party shall make the Termination Payment within ten (10) Business Days after such notice is effective, regardless whether the Termination Payment calculation is disputed. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall within ten (10) Business Days of receipt of the calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. If the Parties are unable to resolve the dispute within thirty (30) days, Article 11 shall apply.

(c) Set-off. The Non-Defaulting Party shall be entitled, at its option and in its discretion, to withhold and set off any amounts owed by the Non-Defaulting Party to the Defaulting Party against any payments and any other amounts owed by the Defaulting Party to the Non-Defaulting Party, including any Termination Payment payable as a result of any early termination of this Agreement.

(d) Notice to Lenders. Seller shall provide Buyer with a notice identifying a single Lender (if any) to whom default notices are to be issued. Buyer shall provide a copy of the notice of any default of Seller under this Article 9 to that Lender, and Buyer shall afford such Lender the same opportunities to cure Events of Default under this Agreement as are provided to Seller hereunder with such additional days to cure such Events of Default as may reasonably be agreed by Buyer and Lender in any consent executed pursuant to Section 14.2.

(e) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10. FORCE MAJEURE

10.1 Force Majeure.

(a) The term **"Force Majeure"** means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under this Agreement. Under no circumstances shall Force Majeure include (v) any reduction or cessation in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such reduction or cessation is caused by one of the following: acts of God such as floods, hurricanes or tornados; sabotage; terrorism; or war. (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in this Agreement, or (z) Buyer's ability to procure the Products at a price lower than that set out in this Agreement. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval) or qualifications, any delay or failure in satisfying the Critical Milestone obligations specified in Section 3.1(a)(i) (Permits) or Section 3.1(a)(iii) (Financing), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure or be the basis for a claim of Force Majeure. Neither Party may raise a claim of

Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Products to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined herein has occurred.

(b) Subject to Section 3.1(d), if either Party is unable, wholly or in part, by Force Majeure to perform obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing, and subject to Seller's ability to extend Critical Milestones pursuant to Section 3.1(c), if the Force Majeure prevents full or partial performance under this Agreement for a period of twelve (12) months or more, the Party whose performance is not prevented by Force Majeure shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse. In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this Agreement beyond its stated Term.

11. DISPUTE RESOLUTION

11.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a **"Dispute"**), in addition to any other remedies provided hereunder, the Parties shall attempt to resolve such Dispute through consultations between the Parties. If the Dispute has not been resolved within fifteen (15) Business Days after such consultations between the Parties, then either Party may seek to resolve such Dispute in the courts of Rhode Island.

11.2 Allocation of Dispute Costs. Each Party shall be responsible for its own legal fees, including but not limited to attorney fees, associated with any Dispute.

11.3 Consent to Jurisdiction. Subject to Section 11.1, the Parties agree to the exclusive jurisdiction of the state and federal courts located in Rhode Island for any legal proceedings that may be brought by a Party arising out of or in connection with any Dispute.

11.4 Waiver of Jury Trial and Inconvenient Forum Claim. EACH PARTY HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT. BOTH PARTIES IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE AS SET FORTH IN THIS ARTICLE 12 AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN ANY INCONVENIENT FORUM.

12. CONFIDENTIALITY

12.1 Nondisclosure. Buyer and Seller each agrees not to disclose to any Person and to keep confidential, and to cause and instruct its Affiliates, officers, directors, employees, partners and representatives not to disclose to any Person and to keep confidential, any non-public information relating to the terms and provisions of this Agreement, and any information relating to the Products to be supplied by Seller hereunder, and such other non-public information that is designated as "Confidential." Notwithstanding the foregoing, any such information may be disclosed:

(a) to the extent Buyer determines it is appropriate in connection with efforts to obtain or maintain the Regulatory Approval or to seek rate recovery for amounts expended by Buyer under this Agreement;

(b) as required by applicable laws, regulations, filing requirements, rules or orders or by any subpoena or similar legal process of any Governmental Entity so long as the disclosing Party gives the non-disclosing Party written notice at least three (3) Business Days prior to such disclosure, if practicable, so that the non-disclosing Party may seek an appropriate protective order; provided, that, if a protective order or other remedy is not obtained, the non-disclosing Party agrees to furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, is consistent with the scope of the required disclosure, and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information;

(c) to the Affiliates of either Party and to the consultants, attorneys, auditors, financial advisors, lenders or potential lenders and their advisors of either Party or their Affiliates, but solely to the extent they have a need to know that information;

(d) in order to comply with any rule or regulation of ISO-NE, any stock exchange or similar Person or for financial disclosure purposes;

(e) to the extent the non-disclosing Party shall have consented in writing prior to any such disclosure; and

(f) to the extent that the information was previously made publicly available other than as a result of a breach of this Section 12.1;

provided, however, in each case, that the Party seeking such disclosure shall, to the extent practicable, use commercially reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this Section 12.1.

12.2 Public Statements. No public statement, press release or other voluntary publication regarding this Agreement or the transactions to be made hereunder shall be made or issued without the prior consent of the other Party.

13. INDEMNIFICATION

Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever in connection with or arising from Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to perform or satisfy any obligation or liability under this Agreement, or Seller's failure to satisfy any regulatory requirement or commitment associated with this Agreement.

14. ASSIGNMENT AND CHANGE OF CONTROL

14.1 Prohibition on Assignments. Except as permitted under this Article 14, this Agreement (and any portion thereof) may not be assigned by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. The Party requesting the other Party's consent to an assignment of this Agreement will reimburse such other Party for all "out of pocket" costs and expenses such other Party incurs in connection with that consent, without regard to whether such consent is provided. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement (and shall not impair any Credit Support given by Seller hereunder) unless the other Party (or its successors or assigns) consents in writing to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations thereunder.

14.2 Permitted Assignment by Seller. Buyer's consent shall not be required for Seller to pledge or assign the Facility, this Agreement or the revenues under this Agreement to any Lenders as collateral security for obligations under the Financing documents entered into with such Lender; provided, however, if Seller requests Buyer's consent to such an assignment (i) Buyer shall provide that consent subject to Buyer's execution of a consent to assignment in a form reasonably acceptable to Buyer, Seller and the Lenders, and (ii) Seller will reimburse Buyer for all "out of pocket" costs and expenses Buyer incurs in connection with that consent, without regard to whether such consent is provided.

14.3 Change in Control over Seller. Buyer's consent shall be required for any change in Control over Seller, which consent shall not be unreasonably withheld, conditioned or

delayed and shall be provided if Buyer reasonably determines that such change in Control does not have a material adverse effect on Seller's creditworthiness or Seller's ability to perform its obligations under this Agreement; provided, however, following the Commercial Operation Date, (a) a change of Control of the ultimate parent entity of Seller (defined under Section 7A of the Clayton Act, 15 U.S.C. § 18a, aka the Hart-Scott-Rodino Antitrust Improvements Act of 1976) shall not require the consent of Buyer; and (b) transactions among Affiliates of Seller, any corporate reorganization, merger, combination or similar transaction or transfer or assets or ownership interests involving Seller and its Affiliates, shall not constitute a change in Control for purposes of this Section 14.3; provided further that, in each case, Seller provides written notice of such change to Buyer within thirty (30) days after such change.

14.4 Permitted Assignment by Buyer. Buyer shall have the right to assign this Agreement without consent of Seller (a) in connection with any merger or consolidation of the Buyer with or into another Person or any exchange of all of the common stock or other equity interests of Buyer or Buyer's parent for cash, securities or other property or any acquisition, reorganization, or other similar corporate transaction involving all or substantially all of the common stock or other equity interests in, or assets of, Buyer, or (b) to any substitute purchaser of the Products so long as in the case of either clause (a) or clause (b) of this Section 14.4, either (1) the proposed assignee's credit rating is at least either BBB- from S&P or Baa3 from Moody's, or (2) the proposed assignee's credit rating is equal to or better than that of Buyer at the time of the proposed assignment, or (3) such assignment, or in the case of clause (a) above the transaction associated with such assignment, has been approved by the PUC or the appropriate Government Entity.

14.5 Prohibited Assignments. Any purported assignment of this Agreement not in compliance with the provisions of this Article 14 shall be null and void.

15. TITLE; RISK OF LOSS

Title to and risk of loss related to Buyer's Percentage Entitlement of the Energy shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Buyer's Percentage Entitlement of the RECs shall transfer to Buyer when the same are credited to Buyer's GIS account(s) or the GIS account(s) designated by Buyer to Seller in writing. Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

16. AUDIT

16.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under this Agreement, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party additional information documenting the quantities of Products delivered or provided hereunder. If any such examination reveals any overcharge, the necessary

adjustments in such statement and the payments thereof shall be made promptly and shall include interest at the Late Payment Rate from the date the overpayment was made until credited or paid.

16.2 Access to Financial Information. Seller shall provide to Buyer, within fifteen (15) days of receipt of Buyer's written request, Seller's financial information and statements as well as reasonable access to financial personnel during normal business hours, so that Buyer may address any reasonable inquiries relating to Seller's financial resources.

17. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); or (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) delivered by fax or electronic mail (notices sent by fax or electronic mail shall be deemed given upon confirmation of delivery); or (4) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing:

If to Buyer:	Attn: Renewable Contract Manager, Environmental Transactions National Grid 100 East Old Country Road, Second Floor Hicksville, NY 11801-4218 Email: RenewableContracts@nationalgrid.com With a copy to: ElectricSupply@nationalgrid.com
With a copy to:	Legal Department Attn: Jennifer Brooks Hutchinson, Esq. Senior Counsel National Grid 280 Melrose Street Providence, RI 02907 Email: Jennifer.Hutchinson@nationalgrid.com
If to Seller:	Gregory Schneck Vice President 700 Universe Boulevard Juno Beach, FL 33408 Gregory.schneck@nexteraenergy.com
With a copy to:	Mitch Ross Vice President and General Counsel 700 Universe Boulevard Juno Beach, FL 33408 mitch.ross@nexteraenergy.com

18. WAIVER AND MODIFICATION

This Agreement may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine in its sole discretion whether any amendment or waiver of the provisions of this Agreement shall require Regulatory Approval or PUC filing and/or approval. If Buyer determines that any such approval or filing is required, then such amendment or waiver shall not become effective unless and until Regulatory Approval or such other approval is received, or such PUC filing is made and any requested PUC approval is received.

19. INTERPRETATION

19.1 Choice of Law. Interpretation and performance of this Agreement shall be in accordance with, and shall be controlled by, the laws of Rhode Island (without regard to its principles of conflicts of law).

19.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of this Agreement. The words "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

19.3 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a "forward contract" within the meaning of the United States Bankruptcy Code.

19.4 Standard of Review. The Parties acknowledge and agree that the standard of review for any avoidance, breach, rejection, termination or other cessation of performance of or changes to any portion of this integrated, non-severable Agreement (as described in Section 22) over which FERC has jurisdiction, whether proposed by Seller, by Buyer, by a non-party of, by FERC acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Serv. Co., 350 U.S. 332 (1956) and Federal Power Comm'n v. Sierra Pac. Power Co., 350 U.S. 348 (1956)), as clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) and *NRG Power Marketing, LLC v. Maine Pub. Util. Comm'n*, 558 U.S. 165 (2010). Each Party agrees that if it seeks to amend any applicable power sales tariff during the Term, such amendment shall not in any way materially and adversely affect this Agreement without the prior written consent of the other Party. Each Party further agrees that it shall not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

19.5 Change in ISO-NE Rules and Practices. This Agreement is subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of this Agreement, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend or clarify this Agreement to embody the Parties' original intent regarding their respective rights and obligations under this Agreement, provided that neither Party shall have any obligation to agree to any particular amendment or clarification of this Agreement. The intent of the Parties is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable.

19.6 Dodd Frank Act Representations. The Parties agree that this Agreement (including all transactions reflected herein) is not a "swap" within the meaning of the Commodity Exchange Act ("CEA") and the rules, interpretations and other guidance of the Commodity Futures Trading Commission ("CFTC rules"), and that the primary intent of this Agreement is physical settlement (i.e., actual transfer of ownership) of the nonfinancial commodity and not solely to transfer price risk. In reliance upon such agreement, each Party represents to the other that:

(a) With respect to the commodity to be purchased and sold hereunder, it is a commercial market participant, a commercial entity and a commercial party, as such terms are used in the CFTC rules, and it is a producer, processor, or commercial user of, or a merchant handling, the commodity and it is entering into this Agreement for purposes related to its business as such;

(b) It is not registered or required to be registered under the CFTC rules as a swap dealer or a major swap participant;

(c) It has entered into this Agreement in connection with the conduct of its regular business and it has the capacity or ability to regularly make or take delivery of the commodity to be purchased and sold hereunder;

(d) With respect to the commodity to be purchased and sold hereunder, it intends to make or take physical delivery of the commodity;

(e) At the time that the Parties enter into this Agreement, any embedded volumetric optionality in this Agreement is primarily intended by the holder of such option or optionality to address physical factors or regulatory requirements that reasonably influence demand for, or supply of, the commodity to be purchased and sold hereunder;

(f) With respect to any embedded commodity option in this Agreement, such option is intended to be physically settled so that, if exercised, the option would result in the sale

of the commodity to be purchased or sold hereunder for immediate or deferred shipment or delivery;

(g) The commodity to be purchased and sold hereunder is a nonfinancial commodity, and is also an exempt commodity or an agricultural commodity, as such terms are defined and interpreted in the CFTC rules.

To the extent that reporting of any transactions related to this Agreement is required by the CFTC rules, the Parties agree that Seller shall be responsible for such reporting (the "Reporting Party"). The Reporting Party's reporting obligations shall continue until the reporting obligation has expired or has been terminated in accordance with CFTC rules. The Buyer, as the Party that is not undertaking the reporting obligations shall timely provide the Reporting Party all necessary information requested by the Reporting Party for it to comply with CFTC rules.

19.7 Change in Law or Buyer's Accounting Treatment, Subsequent Judicial or Regulatory Action.

(a) If, during the Term of this Agreement, there is a change in Law or accounting standards or rules or a change in the interpretation or applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with this Agreement or the amounts paid for Products purchased hereunder the Buyer shall prepare an amendment to this Agreement to avoid or mitigate such impacts. Buyer shall prepare such amendment in a manner that is designed to be limited to changes required to avoid or mitigate the adverse balance sheet or creditworthiness impact on Buyer. Buyer shall use commercially reasonable efforts to prepare such amendment in a manner that mitigates any material adverse effect(s) on Seller (as identified by Seller, acting reasonably) that could reasonably be expected to result from such amendment, but only to the extent that such mitigation can be accomplished in a manner that is consistent with the purpose of such amendment. Seller agrees to execute such amendment; provided that such amendment does not (unless Seller otherwise agrees) alter: (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price or the Adjusted Price, as applicable; provided, further, that Seller may terminate the Agreement if it is agreed by Buyer and Seller or determined in a final and non-appealable order of a court that the proposed amendment will impose costs (imposed solely by such proposed amendment) on Seller's purchase and sale obligations in an amount equal to or greater than ten percent (10%) of the Price.

(b) Upon a determination by a court or regulatory body having jurisdiction (i) over this Agreement or any of the Parties hereto, or (ii) over the establishment and enforcement of any of the statutes or regulations or orders or actions of regulatory agencies (including the PUC) supporting this Agreement or (iii) over the rights or obligations of the Parties hereunder that any of the statutes or regulations supporting this Agreement or the rights or obligations of the Parties hereunder, or orders of or actions of regulatory agencies (including the PUC) implementing such statutes or regulations, or this Agreement on its face or as applied, in the reasonable determination by a Party, violates any Law (including the State or Federal Constitution) (an "Adverse Determination"), each Party shall have the right to suspend performance under this Agreement without liability. Seller may deliver and sell Products to a

third party during any period of time for which Buyer suspends payments or purchases under this Section.

Upon an Adverse Determination becoming final and non-appealable, Buyer shall make a good faith determination regarding whether the Adverse Determination does or may adversely affect the enforceability of any provision of this Agreement and/or Buyer's continued ability to recover all of its costs incurred under and in connection with this Agreement for the entire term and to recover remuneration equal to two and three quarters percent (2.75%) of Buyer's annual payments under this Agreement for the term of this Agreement and whether such adverse effect(s) of the Adverse Determination can reasonably be mitigated by amending the Agreement in a manner that allows the Agreement to continue with modification. If, in Buyer's sole reasonable judgment, such adverse effect(s) of the Adverse Determination cannot be reasonably mitigated by amending the Agreement, either Party shall have the right to terminate the Agreement. If Buyer determines that such effect(s) can be so mitigated, it shall promptly prepare an amendment to this Agreement designed to be limited to changes required to avoid or mitigate such effect(s). Thereafter, Buyer and Seller shall negotiate the terms of such amendment in good faith; provided, however, that neither Buyer nor Seller will be required to agree to any particular amendment. If Seller and Buyer cannot reach agreement on such amendment within sixty (60) days after Buyer delivers to Seller the first draft thereof, then either Party may terminate this Agreement by written notice to the other Party delivered within thirty (30) days after such sixty (60) day period. Upon a termination pursuant to this section, (A) Seller shall: (a) prepare a final invoice to Buyer for Products Delivered to Buyer, which Buyer shall pay in the normal course pursuant to Section 5.2(b); (b) have no further obligations or liabilities to Buyer and (c) have the right to sell Energy, Environmental Attributes and capacity to third parties and (B) Seller and Buyer shall have no further obligations or liabilities to the other Party under this Agreement.

20. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of this Agreement may be executed, and each shall have the same force and effect as an original. Facsimile signatures hereon or on any notice or other instrument delivered under this Agreement shall have the same force and effect as original signatures.

21. NO DUTY TO THIRD PARTIES

Except as provided in any consent to assignment of this Agreement, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement.

22. SEVERABILITY

If any term or provision of this Agreement or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of this Agreement and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which

are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law so long as all essential terms and conditions of this Agreement for both Parties remain valid, binding and enforceable and have not been declared to be unenforceable, illegal or invalid by a Governmental Entity of competent jurisdiction. The Parties acknowledge and agree that essential terms and conditions of this Agreement for each Party include, without limitation, all pricing and payment terms and conditions of this Agreement, and that the essential terms and conditions of this Agreement for Buyer also include, without limitation, the terms and conditions of Section 19.7 of this Agreement.

23. INDEPENDENT CONTRACTOR

Nothing in this Agreement shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of this Agreement, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby. Nothing in this Agreement shall be construed as creating any relationship between Buyer and the Interconnecting Utility.

24. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement and understanding between the Parties hereto and shall supersede all prior agreements and communications.

[Signature page follows]

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____

Name: John V. Vaughn
Title: Authorized Signatory

SANFORD AIRPORT SOLAR, LLC

By: _____

Name:
Title:

IN WITNESS WHEREOF, each of Buyer and Seller has caused this Agreement to be duly executed on its behalf as of the date first above written.

THE NARRAGANSETT ELECTRIC COMPANY, D/B/A NATIONAL GRID

By: _____
Name:
Title:

SANFORD AIRPORT SOLAR, LLC

By: _____
Name: Michael O'Sullivan
Title: Vice President

EXHIBIT A

DESCRIPTION OF FACILITY

Facility: The Facility is a net 49.36 MWac nameplate solar photovoltaic generation facility. The Facility is located in the City of Sanford on or near the property of the Sanford Seacoast Regional Airport, on Airport Road. Sanford is in York County, Maine.

Operational Limitations: Utility-scale solar generation will only operate during daytime periods when sufficient sunlight is available to generate electricity from the Facility, however once the weather conditions are favorable the Facility should begin producing without significant startup time required. The Facility is not limited on the number of scheduled startups per year, which could occur daily or more than once per day, depending on weather conditions.

Delivery Point: Settlement in the ISO-NE energy market system will occur when Energy is supplied into Buyer's ISO-NE settlement account at the ISO New England pricing node ("pnode") for the Facility established in accordance with ISO-New England Rules. The Delivery Point is the ISO New England Pool Transmission Facilities ("PTF") in the vicinity of the referenced pnode. Seller shall be responsible for all charges, fees and losses required for Delivery of Energy from the generator to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. In addition Seller shall also be responsible to apply for and schedule all such services.

Proposed Facility Size: 49.36 MWac.

Criteria for Substantial Completion: See Exhibit B.

EXHIBIT B

SELLER'S CRITICAL MILESTONES

i. All significant land use, stormwater, and building permits necessary to construct the **Sanford Airport Solar** Facility will be in place on or before July 1, 2019, as summarized below. This is inclusive of the following:

Town: If required, City of Sanford local ministerial permits (e.g., road access permits).

State: If required, Maine Department of Environmental Protection ("MDEP") Site Location of Development Act Permit ("SLODA"), MDEP Natural Resources Protection Act ("NRPA") and MDEP Permits by Rule ("BR"), MDEP NPDES Stormwater General Permit for Construction, MDEP Section 401 Water Quality Certification, Maine Historic Preservation Commission ("MHPC") Section 106 NHPA Consultation.

Federal: If required, Federal Aviation Administration ("FAA") 7460, Glint/Glare and National Environmental Policy Act compliance, U.S. Army Corps of Engineers ("ACOE") Section 10 and 404 Authorization and U.S. Fish and Wildlife Service ("USFWS") Endangered Species Act ("ESA") Section 7 consultation.

Ancillary and minor permits, including if required, all road crossing agreements with the municipal, county, or state department of transportation access permits will be in place on or before July 1, 2019.

ii. Sanford Airport Solar, LLC will have acquired all required real property rights necessary for construction and operation of the Facility and the interconnection of the Facility to the Interconnecting Utility in full and final form with all options and/or contingencies having been exercised demonstrating complete site control by July 1, 2019.

iii. Sanford Airport Solar, LLC will have closed all of the Financing adequate for the development and construction of the Facility or other demonstration to Buyer's reasonable satisfaction of the financial capability to construct the Facility, including, as applicable, Seller's financial obligations with respect to interconnection of the Facility to the Interconnecting Utility and construction of the Network Upgrades on or before June 1, 2019.

iv. Sanford Airport Solar, LLC will achieve Commercial Operation Date by November 1, 2019.

Permit/Authorization Descriptions

Agency	Description of Permit/Authorization
Federal	
1. FAA	**Facility Review and Submission of Notice of Proposed Construction (Form 7460-1)** **Hazard Determination:** Due to its broad authority to protect aviation safety, the FAA will need to review any facility on airport grounds regardless of height or location. The

	FAA will complete a NEPA analysis on the release of the property from aeronautical use.
2. ACOE	**Section 10 and 404 Authorization:** The discharge of dredged or fill material into wetlands, streams, and lakes that are subject to regulation under the Clean Water Act (what are commonly referred to as "jurisdictional waters").
3. USFWS	**ESA Section 7 consultation**: The USFWS has regulatory authority over the Endangered Species Act of 1973, which protects federally listed threatened and endangered species, and the Migratory Bird Treaty Act. Any federal action, such as a decision on a wetland permit or Section 10 permit modification will trigger a review for endangered species.
State	
1. MDEP	**SLODA:** Maine's SLODA provides a regulatory framework for the MDEP to "regulate the location developments which may substantially affect the environment and quality of life in Maine"; including facilities that occupy land areas in excess of 20-acres.
2. MDEP	**NRPA & BR:** NRPA is required for Facilities that have the potential to impact protected natural resources (such as wetlands, streams or significant habitats). Permit review times depend on the size and impacts of the facility, and range depending on the Tier of NRPA review required. PBRs may be required for stream crossings or activities adjacent to some natural resources.
3. MDEP	**NPDES Stormwater General Permit for Construction:** Required for construction work area >1 acre. Requires preparation of a Stormwater Pollution Prevention Plan and filing of Notice of Intent ("NOI").
4. MDEP	**Section 401 Water Quality Certification**: Under Section 401 of the Clean Water Act, the MDEP evaluates facilities that will result in the discharge of dredge or fill material into state waters and whether the discharge violates water quality standards.
5. MHPC	**Section 106 NHPA Consultation** – Federal permitting decisions will trigger consultation on the presence of any historically and culturally significant

	properties or areas that may be impacted by the Facility. Both state and federal permitting requirements obligate consultation with the MHPC.
Local	
1. City of Sanford	**Local ministerial permits (Site Plan Review; building, electrical, road access permits):** required for new developments.

Land Control

Owner	Agreement Type	Land Use	Acreage
City of Sanford	Lease	Solar Power Facilities	419.7 acres
Industrial Development Corporation of Sanford	Purchase Option	Solar Power Facilities	37.2 acres
Just Land LLC	Lease	Solar Power Facilities	74.32 acres
PWS Holdings – Sanford LLC	Transmission Facilities Agreement	Transmission Facilities	5 acres (50-foot easement area within 5-acre parcel)

EXHIBIT C

FORM OF PROGRESS REPORT

For the Quarter Ending: _____

Milestones Achieved:

Milestones Pending:

Status of Progress toward achievement of Milestones during the quarter:

Status of permitting and Permits obtained during the quarter:

Status of Financing for Facility:

Current projection for Financial Closing Date:

Events expected to result in delays in achievement of any Milestones:

Critical Milestones not yet achieved and projected date for achievement:

Current projection for Commercial Operation Date:

EXHIBIT D

PRODUCTS AND PRICING

1. Price for Buyer's Percentage Entitlement of Products up to the Contract Maximum Amount. The Price for the Buyer's Percentage Entitlement of Delivered Products up to the Contract Maximum Amount in nominal dollars shall be as follow:

(a) Commencing on the Commercial Operation Date, the Price per MWh for each billing period shall be $78.95 per MWh and shall be allocated between Energy and RECs as follows:

(i) Energy= The $/MWh price of Energy for the applicable month shall be equal to the weighted average of the Real-Time or Day Ahead Locational Marginal Price (as applicable consistent with Section 4.2(a)) in that month (also on a $/MWh basis) for the Node on the Pool Transmission Facilities to which the Facility is interconnected.

(ii) RECs = The Price less the Energy allocation determined above for the applicable billing period, expressed in $/MWh.

(b) The Adjusted Price for Energy shall be equal to $53.95 per MWh.

If the market price at the Delivery Point in the Real-Time or Day-Ahead markets, as applicable, for Energy Delivered by Seller is negative in any hour, the payment to Seller for deliveries of Energy shall be reduced by the difference between the absolute value of the hourly LMP at the Delivery Point and $0.00 per MWh for that Energy for each such hour. Each monthly invoice shall reflect a reduction for all hours in the applicable month in which the LMP for the Energy at the Delivery Point is less than $0.00 per MWh.

Examples. If delivered Energy equals 1 MWh and Price equals $50.00/MWh:

LMP at the Delivery Point equals (or is greater than) $0.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $0.00
Net Result: Buyer pays Seller $50 for that hour

LMP at the Delivery Point equals -$150.00/MWh
Buyer payment of Price to Seller $50.00
Seller credit/reimbursement for negative LMP to Buyer $150.00
Net Result: Seller credits or reimburses Buyer $100 for that hour

(c) Price for Buyer's Percentage Entitlement of Products Delivered in excess of Contract Maximum Amount. The Products Delivered in excess of the Contract Maximum Amount shall be purchased by Buyer at a Price equal to the product of (x) the MWhs of Energy in excess of the

Contract Maximum Amount Delivered to the Delivery Point and (y) the lesser of (i) ninety percent (90%) of the Real Time LMP at such Delivery Point, or (ii) the Price determined in accordance with Section 1(a) of this Exhibit D for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer.

(d) For those hours when the Real Time LMP at the Delivery Point (as determined by ISO-NE) is negative, the payment from Buyer to Seller shall be reduced for Products Delivered in excess of the Contract Maximum Amount by an amount equal to the product of (x) the MWhs of Energy in excess of the Contract Maximum Amount Delivered to the Delivery Point and (y) one hundred percent (100%) of the absolute value of the Real Time LMP at such Delivery Point for each hour of the month during which such Energy in excess of the Contract Maximum Amount is Delivered to Buyer. All rights and title to RECs associated with Energy Delivered in excess of the Contract Maximum Amount shall remain with Buyer whether the Real Time LMP is positive or negative. In the event that Seller received RECs associated with Energy Delivered in excess of the Contract Maximum Amount, Seller shall not hold or claim to hold equitable title to such RECs and shall promptly transfer such RECs to Buyer's GIS account.

EXHIBIT E

RELATED TRANSMISSION FACILITIES

None