

Tariff, Part IX, Section 1, Execution Deadlines

Unless otherwise stated in a specific agreement, the following provisions shall apply to any agreement under Tariff, Part IX, between Transmission Provider, a Project Developer, Eligible Customer or Upgrade Customer, and, where applicable, a Transmission Owner. In addition to any other requirements under such agreement, no later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer, Eligible Customer or Upgrade Customer, shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer, Eligible Customer or Upgrade Customer, fails to comply with these requirements. If a Transmission Owner is party to the agreement, following tender of the agreement and no later than fifteen (15) Business Days after PJM sends notification to the relevant Transmission Owner~~execution by Project Developer, Eligible Customer or Upgrade Customer~~, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following execution by Transmission Owner (or by the Project Developer if there is not Transmission Owner that is subject to the agreement) Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

With the filing of any unexecuted agreement, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between the parties.

Tariff, Part IX, Subpart A

**Form of
Application and Studies Agreement**

1. This Application and Studies Agreement (“Application” or “Agreement”), dated _____, is entered into by and between _____ (Project Developer or Eligible Customer, hereafter “Applicant”) and PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”) (individually a “Party” and together the “Parties”) pursuant to PJM Interconnection, L.L.C. Open Access Transmission Tariff (“Tariff”), Part VIII, Subpart B. Capitalized terms used in this Application, unless otherwise indicated, shall have the meanings ascribed to them in Tariff, Part I, section 1 or Tariff, Part VIII, Subpart A.1.
2. Prior to the Application Deadline, Applicant must electronically provide to Transmission Provider through the PJM website or OASIS, as applicable, all applicable information identified below, which is then subject to validation during the Application Phase as set forth in Tariff, Part VIII, Subparts B and C and the PJM Manuals. Only valid New Service Requests will proceed past the Application Phase.
3. Before Transmission Provider will review or process the Application, in addition to submitting a completed and signed Application prior to the Application Deadline, Applicant must electronically submit to Transmission Provider prior to the Application Deadline the (i) required cash Study Deposit by wire transfer and (ii) required Readiness Deposit by wire transfer or letter of credit. Applicant’s wire transfer(s) or letter(s) of credit must specify the Application reference number to which the Study Deposit and Readiness Deposit correspond, or Transmission Provider will not review or process the Application.

SECTION 1: APPLICANT INFORMATION

4. Name, address, telephone number, and e-mail address of Applicant. If Applicant has designated an agent, include the agent’s contact information.

Applicant

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Applicant’s Agent (if applicable)

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Agent's contact person: _____

5. An Internal Revenue Service Form W-9 or comparable state-issued document for Applicant.
6. Documentation proving the existence of a legally binding relationship between Applicant and any entity with a vested interest in this Application and associated project (*e.g.*, a parent company, a subsidiary, or financing company acting as agent for Applicant). Such documentation may include, but is not limited to, Applicant's Articles of Organization and Operating Agreement describing the nature of the legally binding relationship.
7. Applicant's banking information, or the banking information of any entity with a legally binding relationship to Applicant that wishes to make payments and receive refunds on behalf of Applicant, in association with this Application and corresponding project:

Bank Name: _____

Account Holder Name: _____

ABA number: _____

Account Number: _____

Company: _____

Tax Reporting Name: _____

Tax ID: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone: _____

Email: _____

8. If the Application is a request for long-term firm transmission service, see section 3.
9. Location of the proposed Point of Interconnection (POI) to the Transmission System, including the substation name or the name of the line to be tapped (including the voltage),

the estimated distance from the substation endpoints of a line tap, address, and GPS coordinates.

POI substation name: _____ or
POI line name: _____ (endpoint 1) to _____ (endpoint 2)
POI Distance from endpoint 1: _____ miles
POI Distance from endpoint 2: _____ miles
Interconnection voltage: _____ kV
Address: _____
City: _____ State: _____ Zip Code: _____
GPS Coordinates: _____ N _____ W

10. If the project is a Merchant Transmission Facility, see section 4.

SECTION 2: GENERATING FACILITY SPECIFICATIONS

11. Specify the nature of the Generating Facility project.

____ New Generating Facility

____ Increase in generation capability of an existing Generating Facility

____ Replacement of existing Generating Facility with no increase in generation capability

12. Specify the type of Interconnection Service requested for the Generating Facility.

____ Energy Resource only

____ Capacity Resource (includes Energy Resource) with Capacity Interconnection Rights

13. Provide the following information about the Generating Facility:

- a. Generating Facility location and site plan:

Provide a physical address or equivalent written description of the location of the Generating Facility, as well as global positioning system (GPS) coordinates. When known, provide GPS coordinates for the location of the Generating Facility's main power transformer(s).

Provide a current site plan in PDF depicting the (1) property boundaries; (2) Generating Facility layout, including the Generating Facility's collector substation (if applicable) or interconnection switchyard (if required); and (3) Interconnection Facilities extending from the Generating Facility's main power transformer(s) to the proposed POI.

b. Generating Facility Site Control:

In accordance with Tariff, Part VIII, Subpart A.3, provide evidence of an ownership interest in, or right to acquire or control through a deed, lease, or option for at least a one-year term beginning from the Application Deadline, 100% of the Generating Facility site, including the location of the high-voltage side of the Generating Facility's main power transformer(s). In addition, provide a certification, executed by an officer or authorized representative of Applicant, verifying that the site control requirement is met. Further at PJM's request, Applicant shall provide copies of landowner attestations or county recordings.

c. Will the Generating Facility physically connect to distribution or sub-transmission facilities currently not subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC), for the purpose of injecting energy at the POI and engaging in FERC-jurisdictional Wholesale Transactions, as described in Tariff, Part VIII, Subpart F? (Y/N)

If yes, if available, provide with this Application a copy of the executed interconnection agreement between Applicant and the owner of the distribution or sub-transmission facilities to which the Generating Facility will physically connect. If the two-party interconnection agreement is not yet available, provide any available documentation demonstrating that Applicant has requested or applied for interconnection through the relevant non-jurisdictional process, and provide a status report.

d. For the Generating Facility, has Applicant obtained, or does Applicant intend to obtain, Qualifying Facility status under the Public Utility Regulatory Policies Act? (Y/N)

If yes, provide evidence of Qualifying Facility status or eligibility. Further, verify that Applicant intends that the Qualifying Facility will engage in Wholesale Transactions in PJM's FERC-jurisdictional wholesale markets (Y/N).

e. Will the Generating Facility share Project Developer's Interconnection Facilities

with another Generating Facility, either existing or planned? (Y/N)

If yes, demonstrate that the relevant parties have entered into, or will enter into, a shared facilities agreement with respect to the shared Interconnection Facilities.

f. Maximum Facility Output and Capacity Interconnection Rights:

i. For a new Generating Facility, provide the following information:

Total Requested Maximum Facility Output (maximum injection at the POI), in Megawatts	
Total Requested Capacity Interconnection Rights, in Megawatts	

ii. For a requested increase in generation capability of an existing Generating Facility, identify the Generating Facility and provide the following information:

	Existing	Requested Increase	Total
Maximum Facility Output (maximum injection at the POI), in Megawatts			
Capacity Interconnection Rights, in Megawatts			

iii. For a new Behind the Meter Generating Facility, provide the following information:

Gross Output in Megawatts	
Behind the Meter Load in Megawatts (the sum of auxiliary load and any other load to be served behind the meter)	

Total Requested Maximum Facility Output (maximum injection at the POI), in Megawatts	
Total Requested Capacity Interconnection Rights, in Megawatts	

- iv. For a requested increase in generation capability of an existing Behind the Meter Generating Facility, identify the Generating Facility and provide the following information:

	Existing	Increase	Total
Gross Output in Megawatts			
Behind the Meter Load in Megawatts (the sum of auxiliary load and any other load to be served behind the meter)			
Maximum Facility Output (maximum injection at the POI), in Megawatts			
Capacity Interconnection Rights, in Megawatts			

- g. Provide a description of the equipment configuration and electrical design specifications for the Generating Facility, as further defined in the PJM Manuals and reflected in the single-line diagram.
- h. Specify the fuel type of the Generating Facility.
- i. If the Generating Facility will be a multi-fuel Generating Facility, or if a proposed increase in generation capability of an existing Generating Facility will create a multi-fuel Generating Facility, describe the physical and electrical configuration in as much detail as possible.

- j. If the Generating Facility will include storage device(s), will the storage device(s) be charged using energy from the Transmission System at any time? (Y/N)

If yes, specify the maximum that will be withdrawn from the Transmission System at any time: ___ MWh (or kWh)

If yes, provide other technical and operating information on the storage device(s) as set forth in the PJM Manuals, including MWh stockpile and hour class, as applicable.

- k. If the Generating Facility will include storage, provide the primary frequency response operating range for the electric storage component, as described in the PJM Manuals.

Minimum State of Charge: _____ Maximum State of Charge: _____

- l. For a Behind the Meter Generating Facility, provide the following information (note that all of the provisions in Tariff, Part VIII, Subpart E, section 4 apply):

i. Identify the type and size of the load co-located (or to be co-located) with the Generating Facility, and attach a detailed single-line diagram in PDF depicting the electrical location of the load in relation to the Generating Facility.

ii. Describe the electrical connections between the Generating Facility and the co-located load, as shown in the single-line diagram.

- m. Provide the date that the new Generating Facility, or the increase in generation capability of an existing Generating Facility, will be in service.

- n. Provide other relevant information for the Generating Facility including, but not limited to, identifying whether Applicant has submitted a previous Application; and, if this Application proposes an increase in generation capability of a Generating Facility, identify whether the Generating Facility is subject to an existing PJM Service Agreement; and, if so, provide those details.

SECTION 3: LONG-TERM FIRM TRANSMISSION SERVICE

14. Request:

OASIS Request	Start	Stop	Amount	Path	Date & Time Request

15. **PURPOSE:** A Phase I System Impact Study, incorporated within a Cycle’s System Impact Studies, is used to determine whether the Transmission System is adequate to accommodate all or part of an Applicant’s request for long-term firm transmission service under Tariff, Part II (POINT-TO-POINT TRANSMISSION SERVICE) and Tariff, Part III (NETWORK INTEGRATION TRANSMISSION SERVICE). The FERC comparability standard is applied in evaluating the impact of all requests.
16. **SCOPE OF WORK AND STUDY DEPOSIT:** PJM will perform a Phase I System Impact Study to determine if the PJM network has sufficient capability to grant Applicant’s request for long-term firm transmission service, based on expected system conditions and topology. The required cash Study Deposit for the Phase I System Impact Study, as described in Tariff, Part VIII, Subpart B, section 5(a), is due prior to the Application Deadline.
17. **NETWORK ANALYSIS AND DELIVERABILITY TEST:** PJM evaluates requests for long-term firm transmission service using deliverability tests commensurate with the testing employed for evaluating Interconnection Requests. The energy from a Generating Facility or the energy delivered using long-term firm transmission service that is ultimately committed to meet resource requirements must be deliverable to where it is needed in the event of a system emergency. Therefore, there must be sufficient transmission network transfer capability within the control area. PJM determines the sufficiency of network transfer capability through a series of “deliverability tests.” All Interconnection Requests and long-term firm transmission service requests in PJM are subjected to the same deliverability tests. The FERC comparability standard is applied in evaluating the impact of all requests.
18. Skip to section 5.

SECTION 4: MERCHANT TRANSMISSION FACILITY SPECIFICATIONS

19. Applicant requests interconnection to the Transmission System of Merchant Transmission Facilities with the following specifications:
 - a. Location of proposed facilities:

 - b. Substation(s) where Applicant proposes to interconnect or add its facilities:

c. Proposed voltage and nominal capability of new facilities or increase in capability of existing facilities:

d. Description of proposed facilities and equipment:

e. Planned date the proposed facilities or increase in capability will be in service:

f. Will the proposed facilities be Merchant A.C. or Merchant D.C. Transmission Facilities or Controllable A.C. Merchant Transmission Facilities?

A.C. _____ or D.C. _____ or Controllable A.C. _____

i. If the proposed facilities will be Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities, does Applicant elect to receive either:

____ (1) Firm or Non-Firm Transmission Injection Rights (TIR) and/or Firm or Non-Firm Transmission Withdrawal Rights (TWR)

OR

____ (2) Incremental Deliverability Rights, Incremental Auction Revenue Rights, and Incremental Available Transfer Capability Revenue Rights.

If Applicant elects (1) above, provide the following:

____ Total project MWs to be evaluated as Firm (capacity) injection for TIR.

____ Total project MWs to be evaluated as Non-firm (energy) injection for TIR.

____ Total project MWs to be evaluated as Firm (capacity) withdrawal for TWR.

____ Total project MWs to be evaluated a Non-firm (energy) withdrawal for TWR.

If Applicant elects (2) above, state the location on the Transmission System where Applicant proposes to receive Incremental Deliverability Rights associated with its proposed facilities:

ii. If the proposed facilities will be Controllable A.C. Merchant Transmission Facilities, and provided that Applicant contractually binds itself in the Service Agreement related to its project always to operate its Controllable A.C. Merchant Transmission Facilities in a manner effectively the same as operation of D.C. transmission facilities, the Service Agreement will provide Applicant with the same types of transmission rights that are available under the Tariff for Merchant D.C. Transmission Facilities. For purposes of this Agreement, Applicant represents that, should it execute a Service Agreement for its project described herein, it will agree in the Service Agreement to operate its facilities continuously in a controllable mode.

iii. If the proposed facilities will be Merchant A.C. Transmission Facilities without continuous controllability as described in the preceding paragraph, specify the location on the Transmission System where Applicant proposes to receive any Incremental Deliverability Rights associated with its proposed facilities:

20. Site Control: In accordance with Tariff, Part VIII, Subpart A.3, provide evidence of an ownership interest in, or right to acquire or control through a deed, lease, or option for at least a one-year term beginning from the Application Deadline, 100% of the site for Applicant's major equipment (e.g., converter station). In addition, provide a certification, executed by an officer or authorized representative of Applicant, verifying that the site control requirement is met. Further at PJM's request, Applicant shall provide copies of landowner attestations or county recordings.

SECTION 5: SCOPE AND TIMING OF SYSTEM IMPACT STUDIES

21. Transmission Provider, in consultation with the affected Transmission Owner(s), will conduct System Impact Studies, in three phases, to provide Applicant with information on the required Interconnection Facilities and Network Upgrades needed to support Applicant's New Service Request.
22. Consistent with Tariff, Part VIII, Subparts C and D, the Phase I System Impact Study begins at the end of the 90-day Application Review Phase, and runs for 120 days followed by a 30-day Decision Point I period for withdrawal or modification. If no withdrawal, the Phase II System Impact Study begins at the end of the Decision Point 1 period and runs for 180 days followed by a 30-day Decision Point II period for withdrawal or modification. If no withdrawal, the Phase III System Impact Study begins at the end of the Decision Point

II period and runs for 180 days followed by release of the Phase III System Impact Study report and the start of final agreement negotiations. If a phase or period does not end on a Business Day, the phase or period shall be extended to end on the next Business Day.

23. The System Impact Studies include good faith estimates that attempt to determine the cost of necessary facilities, and upgrades to existing facilities, to accommodate Applicant's New Service Request, and to identify Applicant's cost responsibility, but those estimates shall not be deemed final or binding. The scope of the System Impact Studies may include, but are not limited to, short circuit analyses, stability analyses, an interconnection facilities study, and a system upgrades facilities study.
24. The System Impact Studies necessarily will employ various assumptions regarding Applicant's New Service Request, other New Service Requests, and PJM's Regional Transmission Expansion Plan at the time of study. **IN NO EVENT SHALL THIS AGREEMENT OR THE SYSTEM IMPACT STUDIES IN ANY WAY BE DEEMED TO OBLIGATE TRANSMISSION PROVIDER OR TRANSMISSION OWNERS TO CONSTRUCT ANY FACILITIES OR UPGRADES OR TO PROVIDE ANY TRANSMISSION OR INTERCONNECTION SERVICE TO OR ON BEHALF OF APPLICANT EITHER AT THIS POINT IN TIME OR IN THE FUTURE.**
25. Consistent with Tariff, Part VIII, Subpart G, Transmission Provider will coordinate with Affected System Operators the conduct of studies required to determine the impact of a New Service Request on any Affected System, and will include those results in the Phase II System Impact Study if available from the Affected System. Applicant will cooperate with Transmission Provider in all matters related to the conduct of studies by Affected System Operators and the determination of modifications to Affected Systems needed to accommodate Applicant's New Service Request.

SECTION 6: CONFIDENTIALITY

26. Applicant agrees to provide all information requested by Transmission Provider necessary to complete and review this Application. Subject to this section 6, and to the extent required by Tariff, Part VIII, Subpart E, section 17, information provided pursuant to this Application shall be and remain confidential.
27. Upon completion of each System Impact Study for a New Service Request, the corresponding reports will be listed on Transmission Provider's website and, to the extent required by Tariff, Part VIII, Subpart E, section 17 or Commission regulations, will be made publicly available. Applicant acknowledges and consents to such disclosures as may be required under Tariff, Part VIII, Subpart E, section 17 or Commission regulations.
28. Applicant acknowledges that, consistent with the confidentiality provisions of Tariff, Part VIII, Subpart E, section 17, Transmission Provider may contract with consultants, including Transmission Owners, to provide services or expertise in the study process, and Transmission Provider may disseminate information as necessary to those consultants, and

rely upon them to conduct part or all of the System Impact Studies.

SECTION 7: COST RESPONSIBILITY

29. Transmission Provider shall apply Applicant's Study Deposit in payment of the invoices for the costs of the System Impact Studies.
30. Actual study costs may exceed the Study Deposit. Notwithstanding the amount of the Study Deposit, Applicant shall reimburse Transmission Provider for all, or for Applicant's allocated portion of, the actual cost of the System Impact Studies in accordance with Applicant's cost responsibility. Applicant is responsible for, and must pay, all actual study costs. If Transmission Provider sends Applicant notification of additional study costs, then Applicant must either: (i) pay all additional study costs within 20 days (or, if the 20th day is not a Business Day, then the next Business Day) of Transmission Provider sending the notification of such additional study costs or (ii) withdraw its New Service Request. If Applicant fails to complete either (i) or (ii), then Transmission Provider shall deem the New Service Request to be terminated and withdrawn.

SECTION 8: DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

31. In completing the System Impact Studies, Transmission Provider, Transmission Owner(s), and any other subcontractors employed by Transmission Provider must rely on information provided by Applicant and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE SYSTEM IMPACT STUDIES. Applicant acknowledges that it has not relied on any representations or warranties not specifically set forth herein, and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement nor the System Impact Studies prepared hereunder is intended, nor shall either be interpreted, to constitute agreement by Transmission Provider or Transmission Owner(s) to provide Interconnection Service or transmission service to or on behalf of Applicant either at this time or in the future.
32. In no event will Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this agreement or otherwise, even if Transmission Provider, Transmission Owner(s), or other

subcontractors employed by Transmission Provider have been advised of the possibility of such a loss. Nor shall Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of Transmission Provider's obligations under this Agreement.

SECTION 10: MISCELLANEOUS

33. Any notice or request made to or by either Party regarding this Agreement shall be made to the representative of the other Party as indicated below.

34. Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Applicant:

35. No waiver by either Party of one or more defaults by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.

36. This Agreement, or any part thereof, may not be amended, modified, or waived other than by a writing signed by all Parties.

37. This Agreement shall be binding upon the Parties, their heirs, executors, administrators, successors, and assigns.

38. This Agreement shall become effective on the date it is executed by both Parties and shall remain in effect until the earlier of (a) the date on which Applicant enters into a final Service Agreement with PJM (and Transmission Owner as applicable) in accordance with Tariff, Part VIII, Subpart D or (b) termination or withdrawal of this Application.

39. Governing Law, Regulatory Authority, and Rules:
This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal laws and/or laws of the State of Delaware without regard to conflicts of law provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each

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

40. No Third-Party Beneficiaries:

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest, and where permitted their assigns.

41. Multiple Counterparts:

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

42. No Partnership:

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

43. Severability:

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

44. Reservation of Rights:

Transmission Provider shall have the right to make a unilateral filing with the Federal Energy Regulatory Commission ("FERC") to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; and Applicant shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials.

Transmission Provider: PJM Interconnection, L.L.C.

By: _____
Name Title Date

Printed Name

Applicant: [Name of Party]

By: _____
Name Title Date

Printed Name

DRAFT

**Tariff, Part IX, Subpart B
GIA combined with CSA**

DRAFT

GIA FORM TEMPLATE
(From Part IX of the PJM Tariff)

DRAFT

(Project Identifier # [])

**GENERATION INTERCONNECTION AGREEMENT
By and Between
PJM INTERCONNECTION, L.L.C.**

And

[]

And

[]

DRAFT

GENERATION INTERCONNECTION AGREEMENT

By and Between

PJM Interconnection, L.L.C.

And

[Name of Project Developer]

And

[Name of Transmission Owner]

(Project Identifier # [])

- 1.0 Parties. This Generation Interconnection Agreement (“GIA”) including the Specifications, Schedules and Appendices attached hereto and incorporated herein, is entered into by and between PJM Interconnection, L.L.C., the Regional Transmission Organization for the PJM Region (hereinafter “Transmission Provider” or “PJM”), [redacted] (“Project Developer” [OPTIONAL: or “[short name”]]) and [redacted] (“Transmission Owner” [OPTIONAL: or “[short name”]]). All capitalized terms herein shall have the meanings set forth in the appended definitions of such terms as stated in Part I of the PJM Open Access Transmission Tariff (“Tariff”). [Use as/when applicable: This GIA supersedes the [redacted] {insert details to identify the agreement being superseded, the effective date of the agreement, the service agreement number designation, and the FERC docket number, if applicable, for the agreement being superseded.}]. [Use as/when applicable: Pursuant to the terms of an Agreement to Amend signed by all Parties effective {INSERT DATE}, this GIA reflects amends the {ISA/GIA} entered into by {Party 1}, {Party 2}, and Transmission Provider effective {INSERT DATE} and designated as Service Agreement No. {INSERT NUMBER}.]
- 2.0 Authority. This GIA is entered into pursuant to the Generation Interconnection Procedures set forth in [instruction: {use Part VII if this is a transition period GIA subject to Tariff Part VII} {use Part VIII if this a new rules GIA subject to Part VIII}] of the Tariff. Project Developer has requested a Generation Interconnection Agreement under the Tariff, and Transmission Provider has determined that Project Developer is eligible under the Tariff to obtain this GIA. The standard terms and conditions for interconnection as set forth in Appendix 2 to this GIA are hereby specifically incorporated as provisions of this GIA. Transmission Provider, Transmission Owner, and Project Developer agree to and assume all of the rights and obligations of the Transmission Provider, Transmission Owner, and Project Developer, respectively, as set forth in Appendix 2 to this GIA.
- 3.0 Generating Facility or Merchant Transmission Facility Specifications. Attached are Specifications for the Generating Facility or Merchant Transmission Facility that Project Developer proposes to interconnect with the Transmission System. Project Developer represents and warrants that, upon completion of construction of such facilities, it will own or control the Generating Facility or Merchant Transmission Facility identified in section 1.0 of the Specifications attached hereto and made a part hereof. In the event that Project Developer will not own the Generating Facility or Merchant Transmission Facility, Project

Developer represents and warrants that it is authorized by the owner(s) thereof to enter into this GIA and to represent such control.

- 4.0 Effective Date. Subject to any necessary regulatory acceptance, this GIA shall become effective on the date it is executed by all Interconnection Parties, or, if the agreement is filed with FERC unexecuted, upon the date specified by FERC. This GIA shall terminate on such date as mutually agreed upon by the parties, unless earlier terminated in accordance with the terms set forth in Appendix 2 to this GIA. The term of the GIA shall be as provided in section 1.3 of Appendix 2 to this GIA. Interconnection Service shall commence as provided in section 1.2 of Appendix 2 to this GIA.
- 5.0 Security. In accord with GIP, section **[to be determined]**, Project Developer shall provide the Transmission Provider (for the benefit of the Transmission Owner) with a letter of credit from an agreed provider or other form of security reasonably acceptable to the Transmission Provider and that names the Transmission Provider as beneficiary (“Security”) in the amount of \$ **[redacted]**. Such Security can also be used be applied to unpaid Cancellation Costs and for completion of some or all of the required Transmission Owner Interconnection Facilities, and/or Customer-Funded Upgrades. This amount represents the sum of the estimated Costs, determined in accordance with GIP, section **[to be determined]**, for which the Project Developer will be responsible, less any Costs already paid by Project Developer. Project Developer acknowledges that its ultimate cost responsibility will be based upon the actual Costs of the facilities described in the Specifications, whether greater or lesser than the amount of the payment security provided under this section.
- 6.0 Project Specific Milestones. In addition to the milestones stated in GIP, section **[to be determined]**, as applicable, during the term of this GIA, Project Developer shall ensure that it meets each of the following development milestones:

[Specify Project Specific Milestones]

[As appropriate include the following standard Milestones, with any revisions necessary for the project at hand (sections should be renumbered as appropriate):]

- 6.1 Substantial Site work completed. On or before **[redacted]**, Project Developer must demonstrate completion of at least 20% of project site construction. At this time, Project Developer must submit to Transmission Owner and Transmission Provider initial drawings, certified by a professional engineer, of the Project Developer Interconnection Facilities.
- 6.2 Delivery of major electrical equipment. On or before **[redacted]**, Project Developer must demonstrate that ____ generating units have been delivered to Project Developer’s project site.

[Instructions: the following provisions can be used be as mutually agreed upon, and as an alternative to the milestones set forth in the GIP (renumber sections as appropriate):]

6.____ Fuel delivery agreement and water agreement. Project Developer must demonstrate it has entered into a fuel delivery agreement and water agreement, if necessary, and that it controls any necessary rights-of-way for fuel and water interconnection by _____.

6.____ Local, county, and state site permits. Project Developer must obtain all necessary local, county, and state site permits by _____.

[Instruction to be used if the Project Developer has not provided evidence of the 100% Site Control for the Project Developer’s Interconnection Facilities, and any Transmission Owner’s Interconnection Facilities or Transmission Owner Upgrades at the Point of Interconnection that the Project Developer will develop prior to entering to a GIA (renumber remaining sections as appropriate):]

6.____ Project Developer shall provide evidence of 100% Site Control for the Generating Facility or Merchant Transmission Facility, Interconnection Facilities, and, if applicable, the Stand Alone Network Upgrades necessary to interconnect the project to the Transmission System consistent with GIP, section [DP3 general site control provisions] no later than six months after the effective date of this GIA. Notwithstanding any other provisions of this GIA, no extension of this milestone shall be granted and if the Project Developer fails to meet this milestone, its Interconnection Request and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

6.3 Commercial Operation. On or before _____, Project Developer must demonstrate commercial operation of all generating units in order to achieve the full Maximum Facility Output set forth in section 1.0(c) of the Specifications to this GIA. Failure to achieve this Maximum Facility Output may result in a permanent reduction in Maximum Facility Output of the Generating Facility, and if, necessary, a permanent reduction of the Capacity Interconnection Rights, to the level achieved. Demonstrating commercial operation includes achieving Initial Operation in accordance with section 1.4 of Appendix 2 to this GIA and making commercial sales or use of energy, as well as, if applicable, obtaining capacity qualification in accordance with the requirements of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region.

[Instructions: If this GIA is for an incremental increase in output for a facility that already is in commercial operation (i.e., an uprate), then, instead of the above, use the following language for the Commercial Operation milestone.]

[For an uprate where MFO and CIRs will increase, use this alternate language:]

Commercial Operation. On or before _____, Project Developer must demonstrate commercial operation of an incremental increase over Project Developer’s previous interconnection, as set forth in Specifications, section 1.0(c) of this GIA for increases in Maximum Facility Output and in Specifications, section 2.1 of this GIA for increases in

Capacity Interconnection Rights. This incremental increase is a result of the Interconnection Request associated with this GIA. Failure to achieve this Maximum Facility Output shall result in a permanent reduction in Maximum Facility Output of the Generating Facility, and if, necessary, a permanent reduction of the Capacity Interconnection Rights, to the level achieved. Demonstrating commercial operation includes making commercial sales or use of energy, as well as, if applicable, obtaining capacity qualification in accordance with the requirements of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region.

[For CIR-only uprates, use the alternate language that follows. The September 1, _____ date for CIR-only uprates is meant to align with Summer Capability Testing for the unit(s). Without this Commercial Operation milestone that is specific to CIR-only uprates, it can be difficult to implement or enforce a Commercial Operation milestone for CIR-only uprates, because the unit is already in Commercial Operation at its specified MFO:]

Commercial Operation. On or before September 1, _____, Project Developer must demonstrate commercial operation of an incremental increase in Capacity Interconnection Rights over Project Developer's previous interconnection, as set forth in Specifications, section 2.1 of this GIA. Failure to achieve this level of Capacity Interconnection Rights shall result in a permanent reduction of the Capacity Interconnection Rights to the level achieved. This incremental increase in Capacity Interconnection Rights is a result of the Interconnection Request associated with this GIA. Demonstrating commercial operation includes making commercial sales or use of energy, as well as, if applicable, obtaining capacity qualification in accordance with the requirements of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region.

[Additional instructions (separate from the Commercial Operation Date provisions): if a specific situation requires a separate Construction Service Agreement by a certain date then use the following:]

Construction Service Agreement. On or before _____, Project Developer must have either (a) executed a Construction Service Agreement for Interconnection Facilities or Transmission Owner Upgrades for which Project Developer has cost responsibility; (b) requested dispute resolution under section 12 of the PJM Tariff, or if concerning the Regional Transmission Expansion Plan, consistent with Schedule 5 of the Operating Agreement of PJM Interconnection, L.L.C. ("Operating Agreement"); or (c) requested that the Transmission Provider file the Construction Service Agreement unexecuted with the Commission.

- 6.4 Within one (1) month following commercial operation of generating unit(s), Project Developer must provide certified documentation demonstrating that "as-built" Generating Facility or the Merchant Transmission Facilities, and Project Developer Interconnection Facilities are in accordance with applicable PJM studies and agreements. Project Developer must also provide PJM with "as-built" electrical modeling data or confirm that previously submitted data remains valid.

[Add Additional Project Specific Milestones as appropriate]

Project Developer shall demonstrate the occurrence of each of the foregoing milestones to Transmission Provider's reasonable satisfaction. Transmission Provider may reasonably extend any such milestone dates, in the event of delays that Project Developer (i) did not cause and (ii) could not have remedied through the exercise of due diligence. Project Developer shall also have a one-time option to extend its milestone (other than any milestone related to site control) for a total period of one year regardless of cause. This option may only be applied one time for an Interconnection Request, and may only be applied to one single milestone specified in this GIA. Other milestone dates stated in the Generation Interconnection Agreement shall be deemed to be extended coextensively with Project Developer's use this provision. Once this extension is used, it is no longer available with regard to any other milestones or other deadlines in this GIA. If the Project Developer fails to meet any of the milestones set forth above, including any extended milestones, its Interconnection Request shall be terminated and withdrawn, in accordance with the provisions of Appendix 2, section _____. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

- 7.0 Provision of Interconnection Service. Transmission Provider and Transmission Owner agree to provide for the interconnection to the Transmission System in the PJM Region of Project Developer's Generating Facility or Merchant Transmission Facility identified in the Specifications in accordance with the GIP, the Operating Agreement, and this GIA, as they may be amended from time to time.
- 8.0 Assumption of Tariff Obligations. Project Developer agrees to abide by all rules and procedures pertaining to generation and transmission in the PJM Region, including but not limited to the rules and procedures concerning the dispatch of generation or scheduling transmission set forth in the Tariff, the Operating Agreement and the PJM Manuals.
- 9.0 System Impact Study(ies). In analyzing and preparing the [System Impact Study(ies)], and in designing and constructing the Distribution Upgrades, Network Upgrades, Stand Alone Network Upgrades and/or Transmission Owner Interconnection Facilities described in the Specifications attached to this GIA, Transmission Provider, the Transmission Owner(s), and any other subcontractors employed by Transmission Provider have had to, and shall have to, rely on information provided by Project Developer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER OR TRANSMISSION OWNER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE SYSTEM IMPACT STUDY(IES) OF THE DISTRIBUTION UPGRADES, NETWORK

UPGRADES, STAND ALONE NETWORK UPGRADES AND/OR TRANSMISSION OWNER INTERCONNECTION FACILITIES. Project Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.

10.0 Construction of Transmission Owner Interconnection Facilities and Transmission Owner Upgrades

10.1. Cost Responsibility. Project Developer shall be responsible for and shall pay upon demand all Costs associated with the interconnection of the Generating Facility or Merchant Transmission Facility as specified in the GIP. These Costs may include, but are not limited to, a Distribution Upgrades charge, Network Upgrades charge, Stand Alone Network Upgrades charge, Transmission Owner Interconnection Facilities charge and other charges. A description of the facilities required and an estimate of the Costs of these facilities are included in sections 3.0 and 4.0 of the Specifications to this GIA.

10.2. Billing and Payments. Transmission Provider shall bill the Project Developer for the Costs associated with the facilities contemplated by this GIA, estimates of which are set forth in the Specifications to this GIA, and the Project Developer shall pay such Costs, in accordance with section 11 of Appendix 2 to this GIA and the applicable provisions of Schedule L. Upon receipt of each of Project Developer's payments of such bills, Transmission Provider shall reimburse the applicable Transmission Owner. Project Developer requests that Transmission Provider provide a quarterly cost reconciliation:

Yes

No

10.3. Contract Option. In the event that the Project Developer and Transmission Owner agree to utilize the Negotiated Contract Option as set forth in Schedule L, Appendix 1 to establish, subject to FERC acceptance, non-standard terms regarding cost responsibility, payment, billing and/or financing, the terms of sections 10.1 and/or 10.2 of this section 10.0 shall be superseded to the extent required to conform to such negotiated terms, as stated in Schedule L to this GIA. The Negotiated Option can only be used in connection with a Network Upgrade subject to the Network Upgrade Cost Responsibility Agreement all Project Developers and the relevant Transmission Owner agree.

Yes

No

10.4 Interconnection Construction Terms and Conditions

10.4.1 Schedule L of this GIA sets forth the additional terms and conditions of service that apply in the event there are any there are Project Developer Interconnection Facilities, Transmission Owner Interconnection Facilities, or Transmission Owner Upgrades subject to this Agreement. In the event there is an additional Transmission Owner listed in Specification section 3.0(c), Transmission Provider, Project Developer and the additional Transmission Owner shall be required to enter into a separate Interconnection Construction Service Agreement in the form set forth in Tariff, Part IX, Subpart J. In the event there any Common Use Upgrades listed in Specification section 3.0 of this GIA, Transmission Provider, Project Developer and Transmission Owner, along with the other relevant Project Developers, shall also be required to enter into a separate Network Upgrade Cost Responsibility Agreement in the form set forth in Tariff, Part IX, Subpart H.

10.4.2 In the event that the Project Developer elects to construct some or all of the Transmission Owner Interconnection Facilities or Stand Alone Network Upgrades under the Option to Build, billing and payment for the Costs associated with the facilities contemplated by this GIA shall relate only to such portion of the Interconnection Facilities and Transmission Owner Upgrades as the Transmission Owner is responsible for building.

11.0 Interconnection Specifications

11.1 Point of Interconnection. The Point of Interconnection shall be as identified on the one-line diagram attached as Schedule B to this GIA.

11.2 List and Ownership of Interconnection Facilities and Transmission Owner Upgrades. The Interconnection Facilities and Transmission Owner Upgrades and Transmission Owner Upgrades to be constructed and ownership of the components thereof are identified in section 3.0 of the Specifications attached to this GIA.

11.3 Ownership and Location of Metering Equipment. The Metering Equipment to be constructed, the capability of the Metering Equipment to be constructed, and the ownership thereof, are identified on the attached Schedule C to this GIA.

11.4 Applicable Technical Standards. The Applicable Technical Requirements and Standards that apply to the Generating Facility or Merchant Transmission Facility and the Interconnection Facilities and Transmission Owner Upgrades are identified in Schedule D to this GIA.

12.0 Power Factor Requirement.

Consistent with section 4.7 of Appendix 2 to this GIA, the power factor requirement is as follows:

[For Generation Project Developers]

{The following language should be included for new large and small synchronous generation facilities that will have the Tariff specified power factor. This section does not apply if the Interconnection Request is for an incremental increase in generating capability.}

The Project Developer shall design its Generating Facility with the ability to maintain a power factor of at least 0.95 leading to 0.90 lagging measured at the [generator's terminals] [Point of Interconnection].

{include the following language if the Interconnection Request is for an incremental increase in capacity or energy output to a synchronized generation facility}

The existing [] MW portion of the Generating Facility shall retain its existing ability to maintain a power factor of at least 0.95 leading to 0.90 lagging measured at the [generator's terminals] [Point of Interconnection].

The increase of [] MW to the Generating Facility associated with this GIA shall be designed with the ability to maintain a power factor of at least 1.0 (unity) to 0.90 lagging measured at the [generator's terminals] [Point of Interconnection].

{For new wind or non-synchronous generation facilities which have submitted a New Service Request. after November 1, 2016, the following applies:}

The Generation Project Developer shall design its [wind-powered] [non-synchronous] Generating Facility with the ability to maintain a power factor of at least 0.95 leading to 0.95 lagging measured at the high-side of the facility substation transformers.

[For Transmission Project Developers]

{The following language should be included only for new Merchant Transmission Facilities}

Transmission Project Developer shall design its Merchant D.C. Transmission Facilities and/ or Controllable A.C. Merchant Transmission Facilities, to maintain a power factor at the Point of Interconnection of at least 0.95 leading and 0.95 lagging, when such Generating Facility is operating at any level within its approved operating range.

- 13.0 Charges. In accordance with sections 10 and 11 of Appendix 2 to this GIA, the Project Developer shall pay to the Transmission Provider the charges applicable after Initial Operation, as set forth in Schedule E to this GIA. Promptly after receipt of such payments, the Transmission Provider shall forward such payments to the appropriate Transmission Owner.

- 14.0 Third Party Beneficiaries. No third party beneficiary rights are created under this GIA, except, however, that, subject to modification of the payment terms stated in section 10 of this GIA pursuant to the Negotiated Contract Option, payment obligations imposed on Project Developer under this GIA are agreed and acknowledged to be for the benefit of the Transmission Owner(s). Project Developer expressly agrees that the Transmission Owner(s) shall be entitled to take such legal recourse as it deems appropriate against Project Developer for the payment of any Costs or charges authorized under this GIA or the GIP with respect to Interconnection Service for which Project Developer fails, in whole or in part, to pay as provided in this GIA, the GIP and/or the Operating Agreement.
- 15.0 Waiver. No waiver by either party of one or more defaults by the other in performance of any of the provisions of this GIA shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
- 16.0 Amendment. Except as set forth in Appendix 2, section 12.0 of this GIA, this GIA or any part thereof, may not be amended, modified, or waived other than by a written document signed by all parties hereto. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution, dates of any milestones, or obligations contained therein.
- 17.0 Construction With Other Parts of The Tariff. This GIA shall not be construed as an application for service under Part II or Part III of the Tariff.
- 18.0 Notices. Any notice or request made by either party regarding this GIA shall be made, in accordance with the terms of Appendix 2 to this GIA, to the representatives of the other party and as applicable, to the Transmission Owner(s), as indicated below:

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Project Developer:

Transmission Owner:

- 19.0 Incorporation of Other Documents. All portions of the Tariff and the Operating Agreement pertinent to the subject matter of this GIA and not otherwise made a part hereof are hereby incorporated herein and made a part hereof.
- 20.0 Addendum of Non-Standard Terms and Conditions for Interconnection Service. Subject to FERC approval, the parties agree that the terms and conditions set forth in Schedule F hereto are hereby incorporated herein by reference and be made a part of this GIA. In the event of any conflict between a provision of Schedule F that FERC has accepted and any provision of Appendix 2 to this GIA that relates to the same subject matter, the pertinent provision of Schedule F shall control.
- 21.0 Addendum of Project Developer's Agreement to Conform with IRS Safe Harbor Provisions for Non-Taxable Status. To the extent required, in accordance with section 24.1 of Appendix 2 to this GIA, Schedule G to this GIA shall set forth the Project Developer's agreement to conform with the IRS safe harbor provisions for non-taxable status.
- 22.0 Addendum of Interconnection Requirements for all Wind or Non-synchronous Generation Facilities. To the extent required, Schedule H to this GIA sets forth interconnection requirements for a wind or non-synchronous generation facilities and is hereby incorporated by reference and made a part of this GIA.
- 23.0 Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All interconnection parties agree to comply with all infrastructure security requirements of the North American Electric Reliability Corporation. All Transmission Providers, Transmission Owners, market participants, and Project Developers interconnected with electric systems are to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.
- 24.0 This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction.

IN WITNESS WHEREOF, Transmission Provider, Project Developer and Transmission Owner have caused this GIA to be executed by their respective authorized officials.

(Project Identifier # [redacted])

Transmission Provider: **PJM Interconnection, L.L.C.**

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Project Developer: **[Name of Party]**

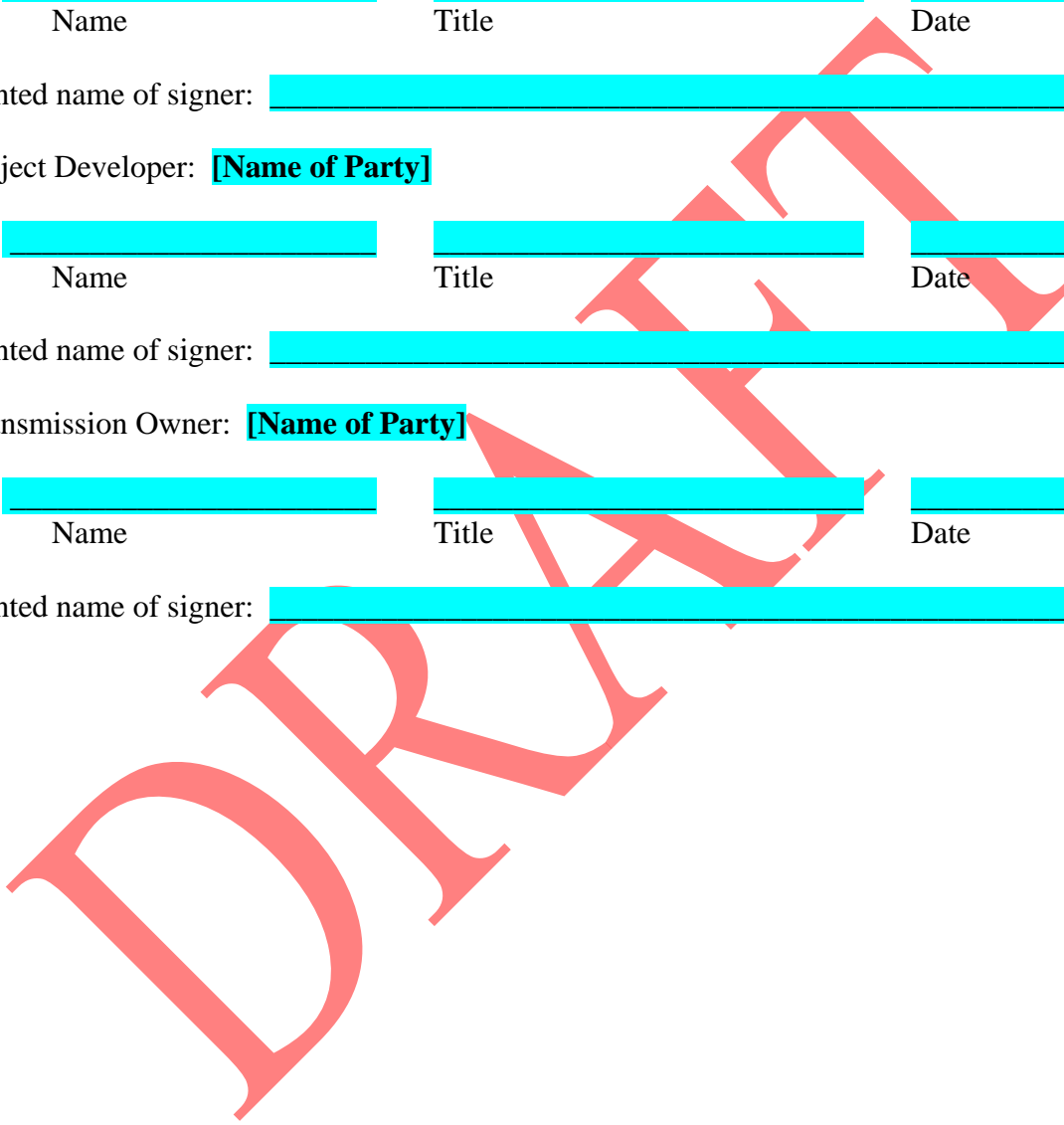
By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Transmission Owner: **[Name of Party]**

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]



**SPECIFICATIONS FOR
GENERATION INTERCONNECTION AGREEMENT
By and Among
PJM INTERCONNECTION, L.L.C.**

And

_____ **[Name of Project Developer]**

And

_____ **[Name of Transmission Owner]**

(Project Identifier # _____)

1.0 Description of **[Generating Facility]** **[Merchant Transmission Facilities]** to be interconnected with the Transmission System in the PJM Region:

a. Name of Generating Facility or Merchant Transmission Facility:

b. Location of Generating Facility or Merchant Transmission Facility:

c. Size in megawatts of Generating Facility or Merchant Transmission Facility:

{The following language should be included only for generating units

For Generation Project Developer:

{Use the following language for all resources }

Maximum Facility Output of _____ MW

{Include the following language for Energy Storage Resources }

Maximum load capacity of _____ MW)

{The following language applies when a Generation Interconnection Request involves an increase of the capacity of an existing Generating Facility:

The stated size of the generating unit includes an increase in the Maximum Facility Output of the generating unit of _____ MW over Project Developer's previous interconnection. This increase is a result of the Interconnection Request associated with this Generation Interconnection Agreement. }

{The following language should be included only for Merchant Transmission Facilities

For Transmission Project Developer:

Nominal Rated Capability: [redacted] MW}

[redacted]

d. Description of the equipment configuration:

[redacted]

2.0 Rights

[for Generation Project Developers]

2.1 Capacity Interconnection Rights: {Instructions: this section will not apply if the Generating Facility is exclusively an Energy Resource and thus is granted no CIRs; see alternate section 2.1 below }

Pursuant to and subject to the applicable terms of the GIP, the Project Developer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Generation Interconnection Agreement in the amount of [redacted] MW. {Instructions: this number is the total of the Capacity Interconnection Rights that are granted as a result of the Interconnection Request, plus any prior Capacity Interconnection Rights }

{OR: Instructions: include the following options when the projected Initial Operation is in advance of the study year used for the System Impact Study and Capacity Interconnection Rights are only interim until the study year: }

Pursuant to and subject to the applicable terms of the GIP, the Project Developer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this Generation Interconnection Agreement in the amount of [redacted] MW commencing [redacted] {e.g., June 1, 2023}. During the time period from the effective date of this GIA until [redacted] {e.g., May 31, 2023} (the “interim time period”), the Project Developer may be awarded interim Capacity Interconnection Rights in the amount not to exceed [redacted] MW. The availability and amount of such interim Capacity Interconnection Rights shall be dependent

upon completion and the results of an interim deliverability study. To the extent applicable, during the interim time period, PJM reserves the right to limit total injections of the Generating Facility consistent with the results of the interim deliverability study (which may be less than the Maximum Facility Output). . Any interim Capacity Interconnection Rights awarded during the interim time period shall terminate on [REDACTED] {e.g., May 31, 2023}.

{OR: Instructions: include the following options when there are a combination of previously awarded CIRs and interim CIRs that have a termination date or event:}

Pursuant to and subject to the applicable terms of the GIP, the Project Developer shall have Capacity Interconnection Rights at the Point(s) of Interconnection specified in this GIA in the amount of [REDACTED] MW commencing [REDACTED] {e.g., June 1, 2023}. From the effective date of this GIA until [REDACTED] {e.g., May 31, 2023} (the “interim time period”), in addition to the [REDACTED] MW of Capacity Interconnection Rights the Project Developer had at the same Point of Interconnection prior to its Interconnection Request associated with this GIA, the Project Developer also may be awarded interim Capacity Interconnection Rights in an amount not to exceed [REDACTED] MW. The availability and amount of such interim Capacity Interconnection Rights shall be dependent upon completion and results of an interim deliverability study. To the extent applicable, during the interim time period, PJM reserves the right to limit total injections of the Generating Facility consistent with the results of the interim deliverability study (which may be less than the Maximum Facility Output). Any interim Capacity Interconnection Rights awarded during the interim time period shall terminate on [REDACTED] {e.g., May 31, 2023}.

{OR: Instructions: include the following language in the case of combined Cycle Positions with a combination of (1) already studied, and confirmed deliverable, CIRs for the first Interconnection Request; and (2) potential interim CIRs for the second Interconnection Request, subject to an interim deliverability study:}

Pursuant to and subject to the applicable terms of the Tariff, the Project Developer shall have Capacity Interconnection Rights at the Point of Interconnection specified in this GIA in the amount of [REDACTED] MW commencing [REDACTED] {e.g., June 1, 2023}. From the effective date of this GIA until [REDACTED] {e.g., May 31, 2023} (the “interim time period”), in addition to the [REDACTED] MW of Capacity Interconnection Rights the Project Developer will have commencing [REDACTED] {e.g., June 1, 2022} at the Point of Interconnection pursuant to the [REDACTED] Interconnection Request, the Project Developer also may be awarded interim Capacity Interconnection Rights at the Point of Interconnection in an amount not to exceed [REDACTED] MW pursuant to the [REDACTED] Interconnection Request. Accordingly, during the interim time period, the Project Developer shall have [REDACTED] MW of previously studied and awarded Capacity Interconnection Rights, and may be awarded interim Capacity Interconnection Rights in an amount not to exceed [REDACTED] MW. The availability and amount of such

interim Capacity Interconnection Rights shall be dependent upon completion and results of an interim deliverability study. To the extent applicable, during the interim time period, PJM reserves the right to limit total injections of the Generating Facility consistent with the results of the interim deliverability study (which may be less than the Maximum Facility Output). Any interim Capacity Interconnection Rights awarded during the interim time period shall terminate on [redacted] {e.g., May 31, 2023}.

{Add to address partial deactivations:}

Pursuant to and subject to the applicable terms of the Tariff, the Interconnection Customer shall have Capacity Interconnection Rights at the Point of Interconnection specified in this Interconnection Service Agreement in the amount of ___ MW commencing ___ {e.g., June 1, 2022}. From the effective date of this ISA until ___ {e.g., May 31, 2023} (the "interim time period"), in addition to the ___ MW of Capacity Interconnection Rights the Interconnection Customer will have commencing ___ {e.g., June 1, 2023} at the Point of Interconnection pursuant to the ___ Interconnection Request, the Interconnection Customer also may be awarded interim Capacity Interconnection Rights at the Point of Interconnection in an amount not to exceed ___ MW pursuant to the ___ Interconnection Request. Accordingly, during the interim time period, the Interconnection Customer shall have ___ MW of previously studied and awarded Capacity Interconnection Rights, and may be awarded interim Capacity Interconnection Rights in an amount not to exceed ___ MW. The availability and amount of such interim Capacity Interconnection Rights shall be dependent upon completion and results of an interim deliverability study. To the extent applicable, during the interim time period, PJM reserves the right to limit total injections of the Generating Facility consistent with the results of the interim deliverability study (which may be less than the Maximum Facility Output). Any interim Capacity Interconnection Rights awarded during the interim time period shall terminate on ___ {e.g., May 31, 2023}.

{OR: Instruction: include the following language to the extent applicable for interconnection of additional generation at an existing Generating Facility:}

The amount of Capacity Interconnection Rights specified above ([redacted] MW) includes [redacted] MW of Capacity Interconnection Rights that the Project Developer had at the same Point(s) of Interconnection prior to its Interconnection Request associated with this GIA, and [redacted] MW of Capacity Interconnection Rights granted as a result of such Interconnection Request.

{OR: Instructions: include the following language when the CIRs are only interim and have a termination date or event:}

Project Developer shall have [redacted] MW of Capacity Interconnection Rights for the time period from [redacted] to [redacted]. These Capacity Interconnection Rights are interim

and will terminate upon {Instructions: explain circumstances – e.g. interim agreement; completion of another facility, etc.}

- 2.1a To the extent that any portion of the Generating Facility described in section 1.0 is not a Capacity Resource with Capacity Interconnection Rights, such portion of the Generating Facility shall be an Energy Resource. PJM reserves the right to limit total injections to the Maximum Facility Output in the event reliability would be affected by output greater than such quantity.

{Instructions: this version of section 2.1 will be used in lieu of section 2.1 above when a Generating Facility will be an Energy Resource and therefore will not be granted any CIRs:}

- [2.1 The generating unit(s) described in section 1.0 shall be an Energy Resource. Pursuant to this GIA, the generating unit will be permitted to inject [] MW (nominal) into the system. PJM reserves the right to limit injections to this quantity in the event reliability would be affected by output greater than such quantity.]

[for Transmission Project Developers]

- 2.1 Transmission Injection Rights: [applicable only to Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities that interconnect with a control area outside PJM]

Pursuant to section [to be determined] of the GIP, Project Developer shall have Transmission Injection Rights at each indicated Point of Interconnection in the following quantity(ies):

- 2.2 Transmission Withdrawal Rights: [applicable only to Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities that interconnect with a control area outside PJM]

Pursuant to section [to be determined] of the GIP, Project Developer shall have Transmission Withdrawal Rights at each indicated Point of Interconnection in the following quantity(ies):

[Include section 2.3 only if customer is interconnecting Controllable A.C. Merchant Transmission Facilities]

- 2.3 Project Developer is interconnecting Controllable A.C. Merchant Transmission Facilities as defined in the Part I of the Tariff, and has elected, pursuant to GIP, section [to be determined], to receive Transmission Injection Rights and Transmission Withdrawal Rights in lieu of the other applicable rights for which it may be eligible the GIP. Accordingly, Project Developer hereby agrees that the Transmission Injection Rights and Transmission Withdrawal Rights awarded to it pursuant to the GIP and this GIA are, and throughout the duration of this GIA shall

be, conditioned on Project Developer's continuous operation of its Controllable A.C. Merchant Transmission Facilities in a controllable manner, i.e., in a manner effectively the same as operation of D.C. transmission facilities. **[update?]**

{Instructions – use for Merchant Transmission Developers as applicable}

2.4 Incremental Deliverability Rights:

Pursuant to Tariff, Subpart VIII, section **[to be provided]**, Project Developer shall have Incremental Deliverability Rights at each indicated Point of Interconnection in the following quantity(ies):

2.5 Incremental Auction Revenue Rights:

Pursuant to Tariff, Subpart VIII, section **[to be provided]**, Project Developer shall have Incremental Auction Revenue Rights in the following quantities:

2.6 Incremental Capacity Transfer Rights:

Pursuant to Tariff, Subpart VIII, section **[to be provided]**, Project Developer shall have Incremental Capacity Transfer Rights between the following associated source(s) and sink(s) in the indicated quantities:

3.0 Construction Responsibility and Ownership of Interconnection Facilities and Transmission Owner Upgrades/Scope of Work.

a. Project Developer.

(1) Project Developer shall construct and, unless otherwise indicated, shall own, the following Interconnection Facilities:

[Specify Facilities to Be Constructed or state "None"]

[Use the following if facilities are to be constructed or owned]

i. Facilities for which the Project Developer has sole cost responsibility

ii. Facilities for which a Network Upgrade Cost Responsibility Agreement is required.

(2) In the event that, in accordance with Attachment L of this GIA, Project Developer has exercised the Option to Build, it is hereby permitted to build in accordance with and subject to the conditions and limitations set forth in Attachment L, the following portions of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades which constitute or are part of the Generating Facility or Merchant Transmission Facility:

[Specify Facilities to Be Constructed or state “None”]

Ownership of the facilities built by Project Developer pursuant to the Option to Build shall be as provided in Schedule L.

- b. Transmission Owner {or Name of Transmission Owners if more than one Transmission Owner}

[Specify Facilities to Be Constructed and Owned or state “None”]

[Use the following if facilities are to be constructed or owned]

- i. Facilities for which the Project Developer has sole cost responsibility
- ii. Facilities for which a Network Upgrade Cost Responsibility Agreement is required.

- c. [if applicable, include the following][Name of any additional Transmission Owner constructing facilities with which Project Developer and Transmission Provider will also execute an Interconnection Construction Service Agreement]

[Specify Facilities to Be Constructed and Owned]

[Use the following if facilities are to be constructed or owned]

- i. Facilities for which the Project Developer has sole cost responsibility
- ii. Facilities for which a Network Upgrade Cost Responsibility Agreement is required.

- d. [if applicable] Additional Contingent Facilities which must be completed prior to Commercial Operation of the Generating Facility or Merchant Transmission Facility

[Specify Facilities to Be Constructed and Owned]

- 4.0 Subject to modification pursuant to the Negotiated Contract Option and/or the Option to Build under Attachment L, Project Developer shall be subject to the estimated charges detailed below, which shall be billed and paid in accordance with Appendix 2, section 11 of this GIA and Schedule L, section 9.0 {instruction - to be included if there is an additional Transmission Owner that has a separate CSA [and in Appendix 2, section 3.2.3.2 of the Construction Service Agreement with [insert Transmission Owner name].]} {instruction - to be included if there is a Network Upgrade Cost Responsibility Agreement [and in

[insert reference to NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT provisions]}

4.1 Transmission Owner Interconnection Facilities Charge: \$ _____

[Optional: Provide Charge and Identify Transmission Owner]

4.1 Network Upgrades Charge: \$ _____

[Optional: Provide Breakdown of Charge Based on Transmission Owner responsibilities and costs subject to the Network Upgrade Cost Responsibility Agreement]

4.2 Distribution Upgrades Charge: \$ _____

[Optional: Provide Breakdown of Charge Based on Transmission Owner responsibilities]

4.3 Other Charges: \$ _____

[Optional: Provide Breakdown of Charge Based on Transmission Owner responsibilities]

4.4 Cost breakdown:

\$ Direct Labor
\$ Direct Material
\$ Indirect Labor
\$ Indirect Material

[Additional items for breakdown as necessary]

\$ Total

4.5 Security Amount Breakdown:

\$ Estimated Cost of Network Upgrades, Distribution Upgrades, and Other Charges

plus \$ Option to Build Security for Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades (including Cancellation Costs)

\$ Sum of Security required for costs listed in Specifications sections 4.1 through 4.4 of this GIA

less \$ Portion of Costs already paid by Project Developer

\$ Net Security {Instructions: if the resultant is negative, use: reduction with this GIA; if the resultant is zero or positive use: amount required} {Instructions: this value should be in section 5.0 of this GIA}

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SCHEDULES:

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APPENDIX 1

DEFINITIONS

From the Generation Interconnection Procedures accepted for filing by the Commission as of the effective date of this agreement

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APPENDIX 2

STANDARD TERMS AND CONDITIONS FOR INTERCONNECTIONS

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1 Commencement, Term of and Conditions Precedent to Interconnection Service

1.1 Commencement Date:

The effective date of a Generation Interconnection Agreement shall be the date provided in section 4.0 of the Generation Interconnection Agreement. Interconnection Service under this Generation Interconnection Agreement shall commence upon the satisfaction of the conditions precedent set forth in section 1.2 below.

1.2 Conditions Precedent:

The following conditions must be satisfied prior to the commencement of Interconnection Service under this Generation Interconnection Agreement:

(a) This Generation Interconnection Agreement, if filed with FERC, shall have been accepted for filing by the FERC;

(b) All requirements for Initial Operation as specified in section 1.4 below shall have been met and Initial Operation of the Generating Facility or Merchant Transmission Facility shall have been completed.

(c) Project Developer shall be in compliance with all Applicable Technical Requirements and Standards for interconnection under the Tariff (as determined by the Transmission Provider).

1.3 Term:

This Generation Interconnection Agreement shall remain in full force and effect until it is terminated in accordance with section 16 of this Appendix 2.

1.4 Initial Operation:

The following requirements shall be satisfied prior to Initial Operation of the Generating Facility or Merchant Transmission Facility:

1.4.1 The construction of all Interconnection Facilities and Transmission Owner Upgrades necessary for the interconnection of the Generating Facility or Merchant Transmission Facility has been completed;

1.4.2 The Transmission Owner has accepted any Interconnection Facilities and Stand Alone Network Upgrades constructed by Project Developer pursuant to this GIA;

1.4.3 The Project Developer and the Transmission Owner have all necessary systems and personnel in place to allow for parallel operation of their respective facilities;

1.4.4 The Transmission Owner has received all applicable documentation for the Interconnection Facilities built by the Project Developer, certified as correct, including, but not limited to, access

to the field copy of marked-up drawings reflecting the as-built condition, pre-operation test reports, and instruction books; and

1.4.5 Project Developer shall have received any necessary authorization from Transmission Provider to synchronize with the Transmission System or to energize, as applicable per the determination of Transmission Provider, the Generating Facility or Merchant Transmission Facility and Interconnection Facilities.

1.4A Other Interconnection Options

1.4A.1 Limited Operation:

If any of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades are not reasonably expected to be completed prior to the Project Developer's planned date of Initial Operation, and provided that the Transmission Owner has accepted the Project Developer Interconnection Facilities pursuant to this GIA, Transmission Provider shall, upon the request and at the expense of Project Developer, perform appropriate power flow or other operating studies on a timely basis to determine the extent to which the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities may operate prior to the completion of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and the Generation Interconnection Agreement. In accordance with the results of such studies and subject to such conditions as Transmission Provider determines to be reasonable and appropriate, Transmission Provider shall (a) permit Project Developer to operate the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities, and (b) grant Project Developer limited, interim Interconnection Rights commensurate with the extent to which operation of the Generating Facility or Merchant Transmission Facility is permitted.

1.4A.2 Provisional Interconnection Service:

Upon the request of Project Developer, and prior to completion of requisite Interconnection Facilities, Distribution Upgrades, Network Upgrades, Stand Alone Network Upgrades, or system protection facilities Project Developer may request limited Interconnection Service at the discretion of Transmission Provider based upon an evaluation that will consider the results of available studies, which terms shall be memorialized in the Generation Interconnection Agreement to be tendered by Transmission Provider to Project subject to the execution timelines and provisions set forth in Tariff, Part IX, section 1.

Transmission Provider shall determine, through available studies or additional studies as necessary, whether stability, short circuit, thermal, and/or voltage issues would arise if Project Developer interconnects without modifications to the Generating Facility or Merchant Transmission Facility or the Transmission System. Transmission Provider shall determine whether any Interconnection Facilities, Network Upgrades, Distribution Upgrades, or Stand Alone Network Upgrades, or system protection facilities that are necessary to meet the requirements of NERC, or any applicable Regional Entity for the interconnection of a new, modified and/or

expanded Generating Facility or Merchant Transmission Facility are in place prior to the commencement of Interconnection Service from the Generating Facility or Merchant Transmission Facility. Where available studies indicate that such Interconnection Facilities, Network Upgrades, Distribution Upgrades, or Stand Alone Network Upgrades, and/or system protection facilities that are required for the interconnection of a new, modified and/or expanded Generating Facility or Merchant Transmission Facility are not currently in place, Transmission Provider will perform a study, at the Project Developer's expense, to confirm the facilities that are required for Provisional Interconnection Service. The maximum permissible output of the Generating Facility or Merchant Transmission Facility shall be studied and updated annually and at the Project Developer's expense. The results will be communicated to the Project Developer in writing upon completion of the study. Project Developer assumes all risk and liabilities with respect to the Provisional Interconnection Service, including changes in output limits and Interconnection Facilities, Network Upgrades, Distribution Upgrades, or Stand Alone Network Upgrades, and/or system protection facilities cost responsibilities.

1.5 Survival:

The Generation Interconnection Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while the Generation Interconnection Agreement was in effect; and to permit each Interconnection Party to have access to the real property, including but not limited to leased property and easements of the other Interconnection Parties pursuant to section 16 of this Appendix 2 to disconnect, remove or salvage its own facilities and equipment.

2 Interconnection Service

2.1 Scope of Service:

Interconnection Service shall be provided to the Project Developer at the Point of Interconnection (a) in the case of interconnection of the Generating Facility of a Generation Project Developer, up to the Maximum Facility Output, and (b) in the case of interconnection of the Merchant Transmission Facility of a Transmission Project Developer, up to the Nominal Rated Capability. The location of the Point of Interconnection shall be mutually agreed by the Interconnected Entities, provided, however, that if the Interconnected Entities are unable to agree on the Point of Interconnection, the Transmission Provider shall determine the Point of Interconnection, provided that Transmission Provider shall not select a Point of Interconnection that would impose excessive costs on either of the Interconnected Entities and shall take material system reliability considerations into account in such selection. Specifications for the Generating Facility or Merchant Transmission Facility and the location of the Point of Interconnection shall be set forth in an appendix to the Generation Interconnection Agreement and shall conform to those stated in the System Impact Study(ies).

2.2 Non-Standard Terms:

The standard terms and conditions of this Appendix 2 shall not apply, to such extent as Transmission Provider determines to be reasonably necessary to accommodate such circumstances, in the event that the Project Developer acquires an ownership interest in facilities which, under the standard terms and conditions of this GIA would be part of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades. In such circumstances and to the extent determined by Transmission Provider to be reasonably necessary, non-standard terms and conditions mutually agreed upon by all Interconnection Parties shall apply, subject to FERC and any other necessary regulatory acceptance or approval. In addition, a Project Developer that acquires an ownership interest in such facilities shall become, and shall remain for so long as it retains such interest, a signatory to the Consolidated Transmission Owners Agreement.

2.3 No Transmission Services:

The execution of a Generation Interconnection Agreement does not constitute a request for transmission service, or entitle Project Developer to receive transmission service, under Part II or Part III of the Tariff. Nor does the execution of a Generation Interconnection Agreement obligate the Transmission Owner or Transmission Provider to procure, supply or deliver to Project Developer or the Generating Facility or Merchant Transmission Facility any energy, capacity, Ancillary Services or Station Power (and any associated distribution services).

2.4 Use of Distribution Facilities:

To the extent that a Generation Project Developer uses distribution facilities for the purpose of delivering energy to the Transmission System, Interconnection Service under this Tariff shall include the construction and/or use of such distribution facilities. In such cases, to such extent as Transmission Provider determines to be reasonably necessary to accommodate such circumstances, the Generation Interconnection Agreement may include non-standard terms and conditions mutually agreed upon by all Interconnection Parties as needed to conform with Applicable Laws and Regulations and Applicable Standards relating to such distribution facilities.

2.5 [Reserved]

3 Modification Of Facilities

3.1 General:

Subject to Applicable Laws and Regulations and to any applicable requirements or conditions of the Tariff and the Operating Agreement, either Interconnected Entity may undertake modifications to its facilities (“Planned Modifications”). In the event that an Interconnected Entity plans to undertake a modification, that Interconnected Entity, in accordance with Good Utility Practice, shall provide notice to the other Interconnection Parties with sufficient information regarding such modification, including any modification to its project that causes the project’s capacity, location, configuration or technology to differ from any corresponding information provided in the Interconnection Request, so that the other Interconnection Parties may evaluate the potential impact of such modification prior to commencement of the work. The Interconnected Entity desiring to perform such modification shall provide the relevant drawings,

plans, specifications and models to the other Interconnection Parties in advance of the beginning of the work. Transmission Provider and the applicable Interconnection Entity shall enter into a Necessary Studies Agreement, a form is located in the Tariff, Part IX, pursuant to which Transmission Provider agrees to conduct the necessary studies to determine whether the Planned Modifications will have a permanent material impact on the Transmission System or would constitute a Material Modification, and to identify the additions, modifications, or replacements to the Transmission System, if any, that are necessary, in accordance with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, to accommodate the Planned Modifications.

The Interconnected Entity shall provide the information required by the Necessary Study Agreement and provide the required deposit. Transmission Provider, upon completion of the Necessary Studies, shall provide the Interconnected Entity (i) the type and scope of the permanent material impact, if any, the Planned Modifications will have on the Transmission System; (ii) the additions, modifications, or replacements to the Transmission System required to accommodate the Planned Modifications; and (iii) a good faith estimate of the cost of the additions, modifications, or replacements to the Transmission System required to accommodate the Planned Modifications. In the event such Planned Modification have a permanent material impact on the Transmission System or would constitute a Material Modification, Project Developer shall then withdraw the proposed modification or proceed with a new Interconnection Request for such modification.

3.2 Interconnection Request:

This section 3 shall not apply to any proposed modifications by Project Developer to its facilities for which Project Developer must make an Interconnection Request under the Tariff. In such circumstances, the Project Developer and Transmission Provider shall follow the requirements set forth in the GIP.

3.3 Standards:

Any additions, modifications, or replacements made to an Interconnected Entity's facilities shall be constructed and operated in accordance with Good Utility Practice, Applicable Standards and Applicable Laws and Regulations.

3.4 Modification Costs:

Unless otherwise required by Applicable Laws and Regulations or this Appendix 2 and, with respect to a Transmission Project Developer, subject to the terms of GIP, section **[to be provided]**:

(a) Project Developer shall not be responsible for the costs of any additions, modifications, or replacements that the Transmission Owner in its discretion or at the direction of Transmission Provider makes to the Interconnection Facilities and Transmission Owner Upgrades or the Transmission System in order to facilitate the interconnection of a third party to the Interconnection Facilities and Transmission Owner Upgrades or the Transmission System, or to provide transmission service under the Tariff to a third party.

(b) Project Developer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities and Transmission Owner Upgrades or the Transmission System that are required, in accord with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, in order to accommodate additions, modifications, or replacements made by Project Developer to the Generating Facility or Merchant Transmission Facility or to the Project Developer Interconnection Facilities.

(c) Project Developer shall be responsible for the costs of any additions, modifications, or replacements to the Project Developer Interconnection Facilities or the Generating Facility or Merchant Transmission Facility that are required, in accord with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, in order to accommodate additions, modifications, or replacements that Transmission Provider or the Transmission Owner makes to the Transmission System or to the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades, but only to the extent that Transmission Provider's or the Transmission Owner's changes to the Transmission System or the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades are made pursuant to Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards.

4 Operations

4.1 General:

Each Interconnected Entity shall operate, or shall cause operation of, its facilities in a safe and reliable manner in accord with (i) the terms of this Appendix 2; (ii) Applicable Standards; (iii) applicable rules, procedures and protocols set forth in the Tariff and the Operating Agreement, as any or all may be amended from time to time; (iv) Applicable Laws and Regulations, and (v) Good Utility Practice.

4.1.1 Project Developer Initial Drawings:

On or before the applicable date specified in the Milestones of the Generation Interconnection Agreement, Project Developer shall submit to the Transmission Owner and Transmission Provider initial drawings, certified by a professional engineer, of the Project Developer Interconnection Facilities. Transmission Owner and Transmission Provider shall review the drawings to assess the consistency of Project Developer's design of the Project Developer Interconnection Facilities with the design that was analyzed in the planning model as described in PJM Manuals. After consulting with the Transmission Owner, Transmission Provider shall provide comments on the drawings to Project Developer within forty-five (45) days after its receipt thereof, after which time any drawings not subject to comment shall be deemed to be approved. All drawings provided hereunder shall be deemed to be Confidential Information.

4.1.1.1 Effect of Review:

Transmission Owner's and Transmission Provider's reviews of Project Developer's initial drawings of the Project Developer Interconnection Facilities shall not be construed as confirming, endorsing or providing a warranty as to the fitness, safety, durability or reliability of such facilities or the design thereof. At its sole cost and expense, Project Developer shall make such changes to the design of the Project Developer Interconnection Facilities as may reasonably be required by Transmission Provider, in consultation with the Transmission Owner, to ensure that the Project Developer Interconnection Facilities meet Applicable Standards and, to the extent that design of the Project Developer Interconnection Facilities is included in the System Impact Study(ies), to ensure that such facilities conform with the System Impact Study(ies).

4.1.2 Project Developer “As-Built” Drawings:

Within one hundred twenty (120) days after the date of Initial Operation, unless the Interconnection Parties agree on another mutually acceptable deadline, the Project Developer shall deliver to the Transmission Provider and the Transmission Owner final, “as-built” drawings, information and documents regarding the Project Developer Interconnection Facilities, including, as and to the extent applicable: a one-line diagram, a site plan showing the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities, plan and elevation drawings showing the layout of the Project Developer Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Project Developer's step-up transformers, the facilities connecting the Generating Facility or Merchant Transmission Facility to the step-up transformers and the Project Developer Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Generating Facility or Merchant Transmission Facility. As applicable, the Project Developer shall provide Transmission Provider and the Transmission Owner Specifications for the excitation system, automatic voltage regulator, Generating Facility or Merchant Transmission Facility control and protection settings, transformer tap settings, and communications. Transmission Provider shall have the right to review such drawings, and charge Project Developer its actual costs of conducting such review.

4.2 [Reserved.]

4.3 Project Developer Obligations:

Project Developer shall obtain Transmission Provider's approval prior to either synchronizing with the Transmission System or energizing, as applicable per the determination of Transmission Provider, the Generating Facility or Merchant Transmission Facility or, except in an Emergency Condition, disconnecting the Generating Facility or Merchant Transmission Facility from the Transmission System, and shall coordinate such synchronizations, energizations, and disconnections with the Transmission Owner.

4.4 Transmission Project Developer Obligations:

A Transmission Project Developer that will be a Merchant Transmission Provider is subject to the terms and conditions in GIP, section [to be provided].

4.5 Permits and Rights-of-Way:

Each Interconnected Entity at its own expense shall maintain in full force and effect all permits, licenses, rights-of-way and other authorizations as may be required to maintain the Generating Facility or Merchant Transmission Facility and the Interconnection Facilities and Transmission Owner Upgrades that the entity owns, operates and maintains and, upon reasonable request of the other Interconnected Entity, shall provide copies of such permits, licenses, rights-of-way and other authorizations at its own expense to the requesting party.

4.6 No Ancillary Services:

Except as provided in section 4.7 of this Appendix 2, nothing in this Appendix 2 is intended to obligate the Project Developer to supply Ancillary Services to either Transmission Provider or the Transmission Owner.

4.7 Reactive Power and Primary Frequency Response

4.7.1 Reactive Power

4.7.1.1 Reactive Power Design Criteria

4.7.1.1.1 New Facilities:

For all new Generating Facilities to be interconnected pursuant to the Tariff, other than wind-powered and other non-synchronous generation facilities, the Generation Project Developer shall design its Generating Facility to maintain a composite power delivery at continuous rated power output at a power factor of at least 0.95 leading to 0.90 lagging. For all new wind-powered and other non-synchronous generation facilities the Generation Project Developer shall design its Generating Facility with the ability to maintain a composite power delivery at a power factor of at least 0.95 leading to 0.95 lagging across the full range of continuous rated power output. For all wind-powered and other non-synchronous generation facilities that submitted a New Services Request on or after November 1, 2016, the power factor requirement shall be measured at the high-side of the facility substation transformers. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two.

For new generation resources of more than 20 MW, other than wind-powered and other non-synchronous Generating Facilities, the power factor requirement shall be measured at the generator's terminals. For new generation resources of 20 MW or less the power factor requirement shall be measured at the Point of Interconnection. Any different reactive power design criteria that Transmission Provider determines to be appropriate for a wind-powered or other non-synchronous generation facility shall be stated in the Generation Interconnection Agreement.

A Transmission Project Developer interconnecting Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities shall design its Generating Facility to maintain a power factor at the Point of Interconnection of at least 0.95 leading and 0.95 lagging,

when the Generating Facility is operating at any level within its approved operating range.

4.7.1.1.2 Increases in Generating Capacity or Energy Output:

All increases in the capacity or energy output of any generation facility interconnected with the Transmission System, other than wind-powered and other non-synchronous Generating Facilities, shall be designed with the ability to maintain a composite power delivery at continuous rated power output at a power factor for all incremental MW of capacity or energy output, of at least 1.0 (unity) to 0.90 lagging. Wind-powered generation facilities and other non-synchronous generation facilities that submitted a New Services Request on or after November 1, 2016, shall be designed with the ability to maintain a composite power delivery at a power factor for all incremental MW of capacity or energy output of at least 0.95 leading to 0.95 lagging measured at the high-side of the facility substation transformers across the full range of continuous rated power output. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two.

The power factor requirement associated with increases in capacity or energy output of more than 20 MW to synchronous generation facilities interconnected with the Transmission System shall be measured at the generator's terminals. The power factor requirement associated with increases in capacity or energy output of 20 MW or less to synchronous generation facilities interconnected to the Transmission System shall be measured at the Point of Interconnection; however, if the aggregate capacity or energy output of Generating Facility is or will be more than 20 MW, the power factor requirement shall be measure at the generator's terminals.

4.7.1.2 Obligation to Supply Reactive Power:

Project Developer agrees, as and when so directed by Transmission Provider or when so directed by the Transmission Owner acting on behalf or at the direction of Transmission Provider, to operate the Generating Facility to produce reactive power within the design limitations of the Generating Facility pursuant to voltage schedules, reactive power schedules or power factor schedules established by Transmission Provider or, as appropriate, the Transmission Owner. Transmission Provider shall maintain oversight over such schedules to ensure that all sources of reactive power in the PJM Region, as applicable, are treated in an equitable and not unduly discriminatory manner. Project Developer agrees that Transmission Provider and the Transmission Owner, acting on behalf or at the direction of Transmission Provider, may make changes to the schedules that they respectively establish as necessary to maintain the reliability of the Transmission System.

4.7.1.3 Deviations from Schedules:

In the event that operation of the Generating Facility or Merchant Transmission Facility of an Project Developer causes the Transmission System or the Transmission Owner's facilities to deviate from appropriate voltage schedules and/or reactive power schedules as specified by Transmission Provider or the Transmission Owner's operations control center (acting on behalf or

at the direction of Transmission Provider), or that otherwise is inconsistent with Good Utility Practice and results in an unreasonable deterioration of the quality of electric service to other customers of Transmission Provider or the Transmission Owner, the Project Developer shall, upon discovery of the problem or upon notice from Transmission Provider or the Transmission Owner, acting on behalf or at the direction of Transmission Provider, take whatever steps are reasonably necessary to alleviate the situation at its expense, in accord with Good Utility Practice and within the reactive capability of the Generating Facility or Merchant Transmission Facility. In the event that the Project Developer does not alleviate the situation within a reasonable period of time following Transmission Provider's or the Transmission Owner's notice thereof, the Transmission Owner, with Transmission Provider's approval, upon notice to the Project Developer and at the Project Developer's expense, may take appropriate action, including installation on the Transmission System of power factor correction or other equipment, as is reasonably required, consistent with Good Utility Practice, to remedy the situation cited in Transmission Provider's or the Transmission Owner's notice to the Project Developer under this section.

4.7.1.4 Payment for Reactive Power:

Any payments to the Project Developer for reactive power shall be in accordance with Schedule 2 of the Tariff.

4.7.2 Primary Frequency Response:

Generation Project Developer shall ensure the primary frequency response capability of its Generating Facility by installing, maintaining, and operating a functioning governor or equivalent controls. The term "functioning governor or equivalent controls" as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Generating Facility's real power output in accordance with the droop and deadband parameters and in the direction needed to correct frequency deviations. Generation Project Developer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5% droop and ± 0.036 Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from an approved NERC Reliability Standard providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Generating Facility, and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on an approved NERC Reliability Standard providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Generating Facility's real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Generating Facility's real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with an approved NERC Reliability Standard providing for an equivalent or more stringent parameter. Generation Project Developer shall notify Transmission Provider that the primary frequency response capability of the Generating Facility has been tested and confirmed during commissioning. Once Generation Project Developer has synchronized the Generating Facility

with the Transmission System, Generation Project Developer shall operate the Generating Facility consistent with the provisions specified in sections 4.7.2.1 and 4.7.2.2 of this agreement. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Generating Facilities.

4.7.2.1 Governor or Equivalent Controls:

Whenever the Generating Facility is operated in parallel with the Transmission System, Generation Project Developer shall operate the Generating Facility with its governor or equivalent controls in service and responsive to frequency. Generation Project Developer shall: (1) in coordination with Transmission Provider and/or the relevant balancing authority, set the deadband parameter to: (1) a maximum of ± 0.036 Hz and set the droop parameter to a maximum of 5%; or (2) implement the relevant droop and deadband settings from an approved NERC Reliability Standard that provides for equivalent or more stringent parameters. Generation Project Developer shall be required to provide the status and settings of the governor or equivalent controls to Transmission Provider and/or the relevant balancing authority upon request. If Generation Project Developer needs to operate the Generating Facility with its governor or equivalent controls not in service, Generation Project Developer shall immediately notify Transmission Provider and the relevant balancing authority, and provide both with the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and (3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Generation Project Developer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Generation Project Developer shall make Reasonable Efforts to keep outages of the Generating Facility's governor or equivalent controls to a minimum whenever the Generating Facility is operated in parallel with the Transmission System.

4.7.2.2 Timely and Sustained Response:

Generation Project Developer shall ensure that the Generating Facility's real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Generating Facility has operating capability in the direction needed to correct the frequency deviation. Generation Project Developer shall not block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Generating Facility shall sustain the real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A Commission-approved Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

4.7.2.3 Exemptions:

Generating Facilities that are regulated by the United States Nuclear Regulatory Commission shall be exempt from sections 4.7.2, 4.7.2.1, and 4.7.2.2 of this agreement. Generating Facilities that

are behind the meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in section 4.7.2, but shall be otherwise exempt from the operating requirements in sections 4.7.2, 4.7.2.1, 4.7.2.2, and 4.7.2.4 of this agreement.

4.7.2.4 Energy Storage Resources:

Generation Project Developer interconnecting an Energy Storage Resource shall establish an operating range in Schedule I of this GIA that specifies a minimum state of charge and a maximum state of charge between which the Energy Storage Resource will be required to provide primary frequency response consistent with the conditions set forth in sections 4.7.2, 4.7.2.1, 4.7.2.2, and 4.7.2.3 of this agreement. Schedule I shall specify whether the operating range is static or dynamic, and shall consider (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection; (4) the physical capabilities of the Energy Storage Resource; (5) operational limitations of the Energy Storage Resource due to manufacturer specifications; and (6) any other relevant factors agreed to by Transmission Provider and Generation Project Developer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Schedule I must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Generation Project Developer's Energy Storage Resource is required to provide timely and sustained primary frequency response consistent with section 4.7.2.2 of this agreement when it is online and dispatched to inject electricity to the Transmission System and/or receive electricity from the Transmission System. This excludes circumstances when the Energy Storage Resource is not dispatched to inject electricity to the Transmission System and/or dispatched to receive electricity from the Transmission System. If Generation Project Developer's Energy Storage Resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Generation Project Developer's Energy Storage Resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so and it is technically capable of making such a transition.

4.8 Under- and Over-Frequency and Under- and Over- Voltage Conditions:

The Generation Project Developer shall ensure "frequency ride through" capability and "voltage ride through" capability of its Generating Facility. The Generation Project Developer shall enable these capabilities such that its Generating Facility shall not disconnect automatically or instantaneously from the system or equipment of the Transmission Provider and any Affected Systems for a defined under-frequency or over-frequency condition, or an under-voltage or over-voltage condition, as tested pursuant to section 1.4.4 of Appendix 2 of this Generation

Interconnection Agreement. The defined conditions shall be in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other Generating Facilities in the PJM Region on a comparable basis. The Generating Facility's protective equipment settings shall comply with the Transmission Provider's automatic load-shed program. The Transmission Provider shall review the protective equipment settings to confirm compliance with the automatic load-shed program. The term "ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the system or equipment of the Transmission Provider and any Affected Systems during system disturbances within a range of conditions, in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other Generating Facilities in the PJM Region on a comparable basis. The term "frequency ride through" as used herein shall mean the ability of a Generation Project Developer's Generating Facility to stay connected to and synchronized with the Transmission System or equipment of the Transmission Provider and any Affected Systems during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other Generating Facilities in the PJM Region on a comparable basis. The term "voltage ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the system or equipment of the Transmission Provider and any Affected Systems during system disturbances within a range of under-voltage and over-voltage conditions, in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other Generating Facilities in the PJM Region on a comparable basis.

The Transmission System is designed to automatically activate a load-shed program as required by NERC and each Applicable Regional Entity in the event of an under-frequency system disturbance. A Generation Project Developer shall implement under-frequency and over-frequency relay set points for the Generating Facility as required by NERC and each Applicable Regional Entity to ensure "frequency ride through" capability of the Transmission System. The response of a Generation Project Developer's Generating Facility to frequency deviations of predetermined magnitudes, both under-frequency and over-frequency deviations shall be studied and coordinated with the Transmission Provider in accordance with Good Utility Practice.

4.9 System Protection and Power Quality

4.9.1 System Protection:

Project Developer shall, at its expense, install, operate and maintain such System Protection Facilities as may be required in connection with operation of the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities consistent with Applicable Technical Requirements and Standards. Transmission Owner shall install any System Protection Facilities that may be required, as determined by Transmission Provider, on the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades or the Transmission System in connection with the operation of the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities. Responsibility for the cost of any System Protection Facilities required on the Transmission Owner Interconnection

Facilities and Transmission Owner Upgrades or the Transmission System shall be allocated as provided in GIP, section [to be determined].

4.9.2 Power Quality:

The Generating Facility or Merchant Transmission Facility and Project Developer Interconnection Facilities shall not cause excessive deviations from the power quality criteria set forth in the Applicable Technical Requirements and Standards.

4.10 Access Rights:

Each Interconnected Entity shall provide the other Interconnected Entity access to areas under its control as reasonably necessary to permit the other Interconnected Entity to perform its obligations under this Appendix 2, including operation and maintenance obligations. An Interconnected Entity that obtains such access shall comply with all safety rules applicable to the area to which access is obtained. Each Interconnected Entity agrees to inform the other Interconnected Entity's representatives of safety rules applicable to an area.

4.11 Switching and Tagging Rules:

The Interconnected Entities shall comply with applicable Switching and Tagging Rules in obtaining clearances for work or for switching operations on equipment. Such Switching and Tagging Rules shall be developed in accordance with OSHA standards codified at 29 C.F.R. Part 1910, or successor standards. Each Interconnected Entity shall provide the other Interconnected Entity a copy of its Switching and Tagging Rules that are applicable to the other Interconnected Entity's activities.

4.12 Communications and Data Protocol:

The Interconnected Entities shall comply with any communications and data protocol that the Transmission Provider may establish.

4.13 Nuclear Generating Facilities:

In the event that the Generating Facility is a nuclear Generating Facility, the Interconnection Parties shall agree to such non-standard terms and conditions as are reasonably necessary to accommodate the Project Developer's satisfaction of Nuclear Regulatory Commission requirements relating to the safety and reliability of operations of such facilities.

5 Maintenance

5.1 General:

Each Interconnected Entity shall maintain, or shall cause the maintenance of, its facilities in a safe and reliable manner in accord with (i) the terms of this Appendix 2; (ii) Applicable Standards; (iii) applicable rules, procedures and protocols set forth in the Tariff and the Operating Agreement, as

any or all may be amended from time to time; (iv) Applicable Laws and Regulations, and (v) Good Utility Practice.

5.2 [Reserved.]

5.3 Outage Authority and Coordination

5.3.1 Coordination:

The Interconnection Parties agree to confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Generating Facility or Merchant Transmission Facility, the Project Developer Interconnection Facilities and any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades. In the event an Interconnection Construction Service Agreement is required, the Construction Parties acknowledge and agree that certain outages of transmission facilities owned by the Transmission Owner, as more specifically detailed in the Scope of Work, may be necessary in order to complete the process of constructing and installing all Interconnection Facilities and Transmission Owner Upgrades. The Interconnection Parties, and where applicable, any Construction Parties, further acknowledge and agree that any such outages shall be coordinated by and through the Transmission Provider.

5.3.2 Authority:

Each Interconnected Entity may, in accordance with Good Utility Practice, remove from service its facilities that may affect the other Interconnected Entity's facilities in order to perform maintenance or testing or to install or replace equipment. Except in the event of an Emergency Condition, the Project Developer proposing to remove such facilities from service shall provide prior notice of such activities to the Transmission Provider and the Transmission Owner, and the Interconnected Entities shall coordinate all scheduling of planned facility outages with Transmission Provider, in accordance with applicable sections of the Operating Agreement, the PJM Manuals and any other applicable operating guidelines or directives of the Transmission Provider. Subject to the foregoing, the Interconnected Entity scheduling a facility outage shall use Reasonable Efforts to coordinate such outage with the other Interconnected Entity's scheduled outages.

5.3.3 Outages Required for Maintenance:

Subject to any necessary approval by Transmission Provider, each Interconnected Entity shall provide necessary equipment outages to allow the other Interconnected Entity to perform periodic maintenance, repair or replacement of its facilities and such outages shall be provided at mutually agreeable times, unless conditions arise which an Interconnected Entity believes, in accordance with Good Utility Practice, may endanger persons or property.

5.3.4 Rescheduling of Planned Outages:

To the extent so provided by the Tariff, the Operating Agreement, and the PJM Manuals, an Interconnected Entity may seek compensation from Transmission Provider for any costs related to rejection by Transmission Provider of a request of such Interconnected Entity for a planned maintenance outage.

5.3.5 Outage Restoration:

If an outage on an Interconnected Entity's facilities adversely affects the other Interconnected Entity's facilities, the Interconnected Entity that owns or controls the facility that is out of service shall use Reasonable Efforts to restore the facility to service promptly.

5.4 Inspections and Testing:

Each Interconnected Entity shall perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Generating Facility or Merchant Transmission Facility with the Transmission System in a safe and reliable manner. Each Interconnected Entity shall have the right, upon advance written notice, to request reasonable additional testing of an Interconnected Entity's facilities for good cause, as may be in accordance with Good Utility Practice.

5.5 Right to Observe Testing:

Each Interconnected Entity shall notify the other Interconnected Entity in advance of its performance of tests of its portion of the Interconnection Facilities and Transmission Owner Upgrades. The other Interconnected Entity shall, at its own expense, have the right, but not the obligation, to:

- (a) Observe the other Party's tests and/or inspection of any of its system protection facilities and other protective equipment, including power system stabilizers;
- (b) Review the settings of the other Party's system protection facilities and other protective equipment;
- (c) Review the other Party's maintenance record relative to the Interconnection Facilities and Transmission Owner Upgrades, system protection facilities and other protective equipment; and
- (d) Exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party.

5.6 Secondary Systems:

Each Interconnected Entity agrees to cooperate with the other in the inspection, maintenance, and testing of those Secondary Systems directly affecting the operation of an Interconnected Entity's facilities and equipment which may reasonably be expected to affect the other Interconnected Entity's facilities. Each Interconnected Entity shall provide advance notice to the other

Interconnected Entity before undertaking any work on such equipment, especially in electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

5.7 Access Rights:

Each Interconnected Entity shall provide the other Interconnected Entity access to areas under its control as reasonably necessary to permit the other Interconnected Entity to perform its obligations under this Appendix 2, including operation and maintenance obligations. An Interconnected Entity that obtains such access shall comply with all safety rules applicable to the area to which access is obtained. Each Interconnected Entity agrees to inform the other Interconnected Entity's representatives of safety rules applicable to an area.

5.8 Observation of Deficiencies:

If an Interconnection Party observes any Abnormal Condition on, or becomes aware of a lack of scheduled maintenance and testing with respect to, an Interconnection Party's facilities and equipment that might reasonably be expected to adversely affect the observing Interconnection Party's facilities and equipment, the observing Interconnection Party shall provide prompt notice under the circumstances to the appropriate Interconnection Party, and such Interconnection Party shall consider such notice in accordance with Good Utility Practice. Any Interconnection Party's review, inspection, and approval related to the other Interconnection Party's facilities and equipment shall be limited to the purpose of assessing the safety, reliability, protection, and control of the Transmission System and shall not be construed as confirming or endorsing the design of such facilities and equipment, or as a warranty of any type, including safety, durability, or reliability thereof. Notwithstanding the foregoing, the observing Interconnection Party shall have no liability whatsoever for failure to give a deficiency notice to the other Interconnection Party and the Interconnected Entity that owns the relevant Interconnection Facilities and Transmission Owner Upgrades shall remain fully liable for its failure to determine and correct deficiencies and defects in its facilities and equipment.

6 Emergency Operations

6.1 Obligations:

Subject to Applicable Laws and Regulations, each Interconnection Party shall comply with the Emergency Condition procedures of NERC, the Applicable Regional Entity, Transmission Provider, the Transmission Owner and Project Developer.

6.2 Notice:

Each Interconnection Party shall notify the other parties promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect operation of the Generating Facility or Merchant Transmission Facility, the Project Developer Interconnection Facilities, the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades, or the Transmission System. To the extent information is known, the notification shall describe the

Emergency Condition, the extent of the damage or deficiency, the expected effect on the facilities and/or operation thereof, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

6.3 Immediate Action:

An Interconnection Party becoming aware of an Emergency Condition may take such action, including disconnection of the Generating Facility or Merchant Transmission Facility from the Transmission System, as is reasonable and necessary in accord with Good Utility Practice (i) to prevent, avoid, or mitigate injury or danger to, or loss of, life or property; (ii) to preserve the reliability of, in the case of Project Developer, the Generating Facility or Merchant Transmission Facility, or, in the case of Transmission Provider or the Transmission Owner, the Transmission System and interconnected sub-transmission and distribution facilities; or (iii) to expedite restoration of service. Unless, in Project Developer's reasonable judgment, immediate action is required to prevent imminent loss of life or property, Project Developer shall obtain the consent of Transmission Provider and the Transmission Owner prior to performing any manual switching operations at the Generating Facility or Merchant Transmission Facility or the Generation Interconnection Facilities. Each Interconnection Party shall use Reasonable Efforts to minimize the effect of its actions during an Emergency Condition on the facilities and operations of the other Interconnection Parties.

6.4 Record-Keeping Obligations:

Each Interconnection Party shall keep and maintain records of actions taken during an Emergency Condition that may reasonably be expected to affect the other parties' facilities and make such records available for audit in accordance with section 19.3 of this Appendix 2.

7 Safety

7.1 General:

Each Interconnected Entity and, as applicable, each Construction Party shall perform all work under this Appendix 2 that may reasonably be expected to affect the other Interconnected Entity and, as applicable, the other Construction Party in accordance with Good Utility Practice and all Applicable Laws and Regulations pertaining to the safety of persons or property. An Interconnected Entity and, as applicable, a Construction Party performing work within the boundaries of the other Interconnected Entity's facilities and, as applicable, the other Construction Party's facilities must abide by the safety rules applicable to the site. Each party agrees to inform the other party's representatives of applicable safety rules that must be obeyed on the premises. A Construction Party performing work within an area controlled by another Construction Party must abide by the safety rules applicable to the area.

7.2 Environmental Releases:

Each Interconnected Entity and, as applicable, each Construction Party shall notify the other Interconnection Parties and, as applicable, Construction Parties, first orally and promptly thereafter

in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities, related to the Generating Facility or Merchant Transmission Facility or the Interconnection Facilities and Transmission Owner Upgrades, any of which may reasonably be expected to affect one or both of the other parties. The notifying party shall (i) provide the notice as soon as possible; (ii) make a good faith effort to provide the notice within twenty-four (24) hours after the party becomes aware of the occurrence; and (iii) promptly furnish to the other parties copies of any publicly available reports filed with any governmental agencies addressing such events.

8 Metering

8.1 General:

Project Developer shall have the right to install, own, operate, test, and maintain the necessary Metering Equipment. In the event that Project Developer exercises this option, the Transmission Owner shall have the right to install its own check meter(s), at its own expense, at or near the location of the Metering Equipment. If both Project Developer and Transmission Owner install meters, the meter installed by the Project Developer shall control unless it is determined by testing to be inaccurate. If the Project Developer does not exercise the option provided by the first sentence of this section, the Transmission Owner shall have the option to install, own, operate, test and maintain all necessary Metering Equipment at Project Developer's expense. If the Transmission Owner does not exercise this option, the Project Developer shall install, own, operate, test and maintain all necessary Metering Equipment. Transmission Provider shall determine the location where the Metering Equipment shall be installed, after consulting with Project Developer and the Transmission Owner. All Metering Equipment shall be tested prior to any operation of the Generating Facility or Merchant Transmission Facility. Power flows to and from the Generating Facility or Merchant Transmission Facility shall be compensated to the Point of Interconnection, or, upon the mutual agreement of the Transmission Owner and the Project Developer, to another location.

8.2 Standards:

All Metering Equipment installed pursuant to this Appendix 2 to be used for billing and payments shall be revenue quality Metering Equipment and shall satisfy applicable ANSI standards and Transmission Provider's metering standards and requirements. Nothing in this Appendix 2 precludes the use of Metering Equipment for any retail services of the Transmission Owner provided, however, that in such circumstances Applicable Laws and Regulations shall control.

8.3 Testing of Metering Equipment:

The Interconnected Entity that, pursuant to section 8.1 of this Appendix 2, owns the Metering Equipment shall operate, maintain, inspect, and test all Metering Equipment upon installation and at least once every two (2) years thereafter. Upon reasonable request by the other Interconnected Entity, the owner of the Metering Equipment shall inspect or test the Metering Equipment more frequently than every two (2) years, but in no event more frequently than three (3) times in any 24-month period. The owner of the Metering Equipment shall give reasonable notice to the

Interconnection Parties of the time when any inspection or test of the owner's Metering Equipment shall take place, and the other parties may have representatives present at the test or inspection. If Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced in order to provide accurate metering. Where the Transmission Owner owns the Metering Equipment, the expense of such adjustment, repair or replacement shall be borne by the Project Developer, except that the Project Developer shall not be responsible for such expenses where the inaccuracy or defect is caused by the Transmission Owner. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than 1% from the measurement made by the standard meter used in the test, the owner of the Metering Equipment shall inform Transmission Provider, and the Transmission Provider shall inform the other Interconnected Entity, of the need to correct all measurements made by the inaccurate meter for the period during which the inaccurate measurements were made, if the period can be determined. If the period of inaccurate measurement cannot be determined, the correction shall be for the period immediately preceding the test of the Metering Equipment that is equal to one-half of the time from the date of the last previous test of the Metering Equipment, provided that the period subject to correction shall not exceed nine (9) months.

8.4 Metering Data:

At Project Developer's expense, the metered data shall be telemetered (a) to a location designated by Transmission Provider; (b) to a location designated by the Transmission Owner, unless the Transmission Owner agrees otherwise; and (c) to a location designated by Project Developer. Data from the Metering Equipment at the Point of Interconnection shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from or to the Generating Facility or Merchant Transmission Facility to the Point of Interconnection, provided that the Transmission Provider's rules applicable to Station Power as set forth at Tariff, Attachment K-Appendix, section 1.7.10(d) shall control with respect to a Generation Project Developer's consumption of Station Power.

8.5 Communications

8.5.1 Project Developer Obligations:

Project Developer shall install and maintain satisfactory operating communications with Transmission Provider's system dispatcher or its other designated representative and with the Transmission Owner. Project Developer shall provide standard voice line, dedicated voice line, and electronic communications at its Generating Facility or Merchant Transmission Facility control room. Project Developer also shall provide and maintain backup communication links with both Transmission Provider and Transmission Owner for use during abnormal conditions as specified by Transmission Provider and Transmission Owner, respectively. Project Developer further shall provide the dedicated data circuit(s) necessary to provide Project Developer data to the Transmission Provider and Transmission Owner as necessary to conform with Applicable Technical Requirements and Standards.

8.5.2 Remote Terminal Unit:

Unless otherwise deemed unnecessary by Transmission Provider and Transmission Owner, as indicated in the Generation Interconnection Agreement, prior to any operation of the Generating Facility or Merchant Transmission Facility, a remote terminal unit, or equivalent data collection and transfer equipment acceptable to the Interconnection Parties, shall be installed by Project Developer, or by the Transmission Owner at Project Developer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider and Transmission Owner through use of a dedicated point-to-point data circuit(s) as indicated in section 8.5.1 of this Appendix 2. Instantaneous, bi-directional real power and, with respect to a Generation Project Developer's Generating Facility or Merchant Transmission Facility, reactive power flow information, must be telemetered directly to the location(s) specified by Transmission Provider and the Transmission Owner.

8.5.3 Phasor Measurement Units (PMUs):

A Project Developer entering the New Services Queue on or after October 1, 2012, with a proposed new Generating Facility that has a Maximum Facility Output equal to or greater than 100 MW shall install and maintain, at its expense, phasor measurement units ("PMUs"). PMUs shall be installed on the Generating Facility low side of the generator step-up transformer, unless it is a non-synchronous generation facility, in which case the PMUs shall be installed on the Generating Facility side of the Point of Change of Ownership. The PMUs must be capable of performing phasor measurements at a minimum of 30 samples per second which are synchronized via a high-accuracy satellite clock. To the extent Project Developer installs similar quality equipment, such as relays or digital fault recorders, that can collect data at least at the same rate as PMUs and which data is synchronized via a high-accuracy satellite clock, such equipment would satisfy this requirement. As provided for in the PJM Manuals, a Project Developer shall be required to install and maintain, at its expense, PMU equipment which includes the communication circuit capable of carrying the PMU data to a local data concentrator, and then transporting the information continuously to the Transmission Provider; as well as store the PMU data locally for 30 days. Project Developer shall provide to Transmission Provider all necessary and requested information through the Transmission Provider synchrophasor system, including the following: (a) gross MW and MVAR measured at the Generating Facility side of the generator step-up transformer (or, for a non-synchronous generation facility, to be measured at the Generating Facility side of the Point of Interconnection); (b) generator terminal voltage; (c) generator terminal frequency; and (d) generator field voltage and current, where available. The Transmission Provider will install and provide for the ongoing support and maintenance of the network communications linking the data concentrator to the Transmission Provider. Additional details regarding the requirements and guidelines of PMU data and telecommunication of such data are contained in the PJM Manuals.

9 Force Majeure

9.1 Notice:

An Interconnection Party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify the other parties in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

9.2 Duration of Force Majeure:

A party shall not be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other parties in writing as soon as reasonably possible after the occurrence of the cause relied upon. Those notices shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. Written notices given pursuant to this Article shall be acknowledged in writing as soon as reasonably possible. The party affected shall exercise Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. The party affected has a continuing notice obligation to the other parties, and must update the particulars of the original Force Majeure notice and subsequent notices, in writing, as the particulars change. The affected party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such party shall resume performance and give prompt written notice thereof to the other parties.

9.3 Obligation to Make Payments:

Any Interconnection Party's obligation to make payments for services shall not be suspended by Force Majeure.

9.4 Definition of Force Majeure:

For the purposes of this section, shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond a party's control that, in any of the foregoing cases, by exercise of due diligence, such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force majeure does not include (i) a failure of performance that is due to an affected party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected party.

10 Charges

10.1 Specified Charges:

If and to the extent required by the Transmission Owner, after the Initial Operation of the Generating Facility or Merchant Transmission Facility, Project Developer shall pay one or more of the types of recurring charges described in this section to compensate the Transmission Owner

for costs incurred in performing certain of its obligations under this Appendix 2. All such charges shall be stated in Schedule E of the Generator Interconnection Agreement. Permissible charges under this section may include:

(a) Administration Charge – Any such charge may recover only the costs and expenses incurred by the Transmission Owner in connection with administrative obligations such as the preparation of bills, the processing of Generating Facility- or Merchant Transmission Facility-specific data on energy delivered at the Point of Interconnection and costs incurred in similar types of administrative processes related to Project Developer's Interconnection Service. An Administration Charge shall not be permitted to the extent that the Transmission Owner's other charges to the Project Developer under the same Generator Interconnection Agreement include an allocation of Transmission Owner's administrative and general expenses and/or other corporate overhead costs.

(b) Metering Charge – Any such charge may recover only the Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, and carrying or capital replacement charges for any Metering Equipment that is owned by the Transmission Owner.

(c) Telemetry Charge – Any such charge may recover only the Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, and carrying or capital replacement charges for any telemetry equipment that is owned by the Transmission Owner and that is used exclusively in conjunction with Interconnection Service for the Project Developer.

(d) Generating Facility or Merchant Transmission Facility Operations and Maintenance Charge – Any such charge may recover only the Transmission Owner's costs and expenses associated with operation, maintenance, inspection, testing, modifications, taxes, and carrying or capital replacement charges for Transmission Owner Interconnection Facilities and Transmission Owner Upgrades related to the Project Developer's Interconnection Service and that are owned by the Transmission Owner, provided that

(i) any such charge shall exclude costs and expenses associated with Transmission Owner Interconnection Facilities and Transmission Owner Upgrades owned by the Transmission Owner that are radial line facilities that serve load in addition to an Project Developer; and

(ii) except as otherwise provided by Applicable Laws and Regulations, any such charge may include only an allocated share, derived in accordance with the allocations contained in the System Impact Study(ies), of costs and expenses associated with Transmission Owner Interconnection Facilities and Transmission Owner Upgrades owned by the Transmission Owner that are radial line facilities that serve more than one Project Developer. At the discretion of the affected Interconnected Entities, a Generating Facility or Merchant Transmission Facility Operations and Maintenance Charge authorized under this section may apply on a per-incident basis or on a monthly or other periodic basis.

(e) Other Charges – Any other charges applicable to the Project Developer, as mutually agreed upon by the Project Developer and the Transmission Owner.

10.2 FERC Filings:

To the extent required by law or regulation, each Interconnection Party shall seek FERC acceptance or approval of its respective charges or the methodology for the calculation of such charges. If such filing is required, Transmission Owner shall provide Transmission Provider and Project Developer with appropriate cost data, schedules and/or written testimony in support of any charges under this section in such manner and at such time as to allow Transmission Provider to include such materials in its filing of the Generation Interconnection Agreement with the FERC.

11 Security, Billing and Payments

11.1 Recurring Charges Pursuant to section 10:

The following provisions shall apply with respect to recurring charges applicable to Interconnection Service after Initial Operation of the Generating Facility or Merchant Transmission Facility pursuant to section 10 of this Appendix 2.

11.1.1 General:

Except as, and to the extent, otherwise provided in the Generation Interconnection Agreement, billing and payment of any recurring charges applicable to Interconnection Service after Initial Operation of the Generating Facility or Merchant Transmission Facility pursuant to section 10 of this Appendix 2 shall be in accordance with section 7 of the Tariff. The Transmission Owner shall provide Transmission Provider with all necessary information and supporting data that Transmission Provider may reasonably require to administer billing for and payment of applicable charges under this Appendix 2. Transmission Provider shall remit to the Transmission Owner revenues received in payment of Transmission Owner's charges to Project Developer under this Appendix 2 upon Transmission Provider's receipt of such revenues. At Transmission Provider's reasonable discretion, charges to Project Developer and remittances to Transmission Owner under this Appendix 2 may be netted against other amounts owed by or to such parties under the Tariff.

11.1.2 Billing Disputes:

In the event of a billing dispute between Transmission Provider and Project Developer, Transmission Provider shall continue to provide interconnection service under this Appendix 2 as long as Project Developer (i) continues to make all payments not in dispute, and (ii) pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Project Developer fails to meet these two requirements for continuation of service, then Transmission Provider shall so inform the Interconnection Parties and may provide notice to Project Developer of a Breach pursuant to section 15 of this Appendix 2. Within 30 days after the resolution of the dispute, the Interconnection Party that owes money to the other Interconnection Party shall pay the amount due with interest calculated in accord with section 11.4.

11.2 Costs for Transmission Owner Interconnection Facilities and Transmission Owner Upgrades:

The following provisions shall apply with respect to charges for the Costs of the Transmission Owner for which the Project Developer is responsible.

11.2.1 Adjustments to Security:

The Security provided by Project Developer at or before execution of the Generation Interconnection Agreement (a) shall be reduced as portions of the work are completed, and/or (b) shall be increased or decreased as required to reflect adjustments to Project Developer's cost responsibility, as determined in accordance with GIP, section [to be determined], to correspond with changes in the Scope of Work developed in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals.

11.2.2 Invoice:

The Transmission Owner shall provide Transmission Provider a quarterly statement of the Transmission Owner's scheduled expenditures during the next three months for, as applicable (a) the design, engineering and construction of, and/or for other charges related to, construction of the Interconnection Facilities and Transmission Owner Upgrades for which the Transmission Owner is responsible under the GIA, or (b) in the event that the Project Developer exercises the Option to Build pursuant to this GIA, for the Transmission Owner's oversight costs (i.e. costs incurred by the Transmission Owner when engaging in oversight activities to satisfy itself that the Project Developer is complying with the Transmission Owner's standards and Specifications for the construction of facilities) associated with Project Developer's building Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades, including but not limited to Costs for tie-in work and Cancellation Costs. Transmission Owner oversight costs shall be consistent with Schedule L, section [to be determined] of this GIA. Transmission Provider shall bill Project Developer on behalf of the Transmission Owner, for the Transmission Owner's expected Costs during the subsequent three (3) months. Project Developer shall pay each bill within twenty (20) days after receipt thereof. Upon receipt of each of Project Developer's payments of such bills, Transmission Provider shall reimburse the Transmission Owner. Project Developer may request that the Transmission Provider provide a quarterly cost reconciliation. Such a quarterly cost reconciliation will have a one-quarter lag, e.g., reconciliation of Costs for the first calendar quarter of work will be provided at the start of the third calendar quarter of work, provided, however, that section 11.2.3 of this Appendix 2 shall govern the timing of the final cost reconciliation upon completion of the work.

11.2.3 Final Invoice:

Within 120 days after the Transmission Owner completes construction and installation of the Interconnection Facilities and Transmission Owner Upgrades for which the Transmission Owner is responsible under the Generation Interconnection Agreement, Transmission Provider shall provide Project Developer with an accounting of, and the appropriate Interconnection Party, and

where applicable, the Construction Party shall make any payment to the other that is necessary to resolve, any difference between (a) Project Developer's responsibility under the Tariff for the actual Cost of such facilities, and (b) Project Developer's previous aggregate payments to Transmission Provider for the Costs of such facilities. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment to either the Project Developer or the Transmission Owner that the preceding sentence requires it to make unless and until the Transmission Provider has received the payment that it is required to refund from the Interconnection Party, and where applicable, the Construction Party owing the payment.

11.2.4 Disputes:

In the event of a billing dispute between any of the Interconnection Parties, and where applicable, the Construction Parties, Transmission Provider and the Transmission Owner shall continue to perform their respective obligations pursuant to this Generation Interconnection Agreement and any related Interconnection Construction Service Agreements so long as (a) Project Developer continues to make all payments not in dispute, and (b) the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute, or (c) Project Developer pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Project Developer fails to meet any of these requirements, then Transmission Provider shall so inform the other Interconnection Parties and Construction Parties and Transmission Provider or the Transmission Owner may provide notice to Project Developer of a Breach pursuant to section 15 of this Appendix 2.

11.3 No Waiver:

Payment of an invoice shall not relieve Project Developer from any other responsibilities or obligations it has under this Appendix 2, nor shall such payment constitute a waiver of any claims arising hereunder.

11.4 Interest:

Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment.

12 Assignment

12.1 Assignment with Prior Consent:

Except as provided in section 12.2 to this Appendix 2, no Interconnection Party shall assign its rights or delegate its duties, or any part of such rights or duties, under the Generation Interconnection Agreement without the written consent of the other Interconnection Parties, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such assignment or delegation made without such written consent shall be null and void. An Interconnection Party may make an assignment in connection with the sale, merger, or transfer of a substantial portion or all of its properties including the Interconnection Facilities and Transmission Owner Upgrades

which it owns or will own upon completion of construction and the transfer of title required as set forth in section **[to be provided]** of Attachment L, so long as the assignee in such a sale, merger, or transfer assumes in writing all rights, duties and obligations arising under this Generation Interconnection Agreement. In addition, the Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign the Generation Interconnection Agreement to any Affiliate or successor that owns and operates all or a substantial portion of the Transmission Owner's transmission facilities.

Such written consent can be in the form of a consent to assignment or other written agreement. Such written consent of the other Interconnection Parties shall not be unreasonably withheld, conditioned, or delayed. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if Project Developer fails to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement unexecuted with the Commission. Transmission Provider may also file the agreement with FERC.

12.2 Assignment Without Prior Consent

12.2.1 Assignment to Owners:

Project Developer may assign the Generation Interconnection Agreement without the Transmission Owner's or Transmission Provider's prior consent to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities, provided that prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical and operational competence to comply with the requirements of this Generation Interconnection Agreement and assumes in a writing provided to the Transmission Owner and Transmission Provider all rights, duties, and obligations of Project Developer arising under this Generation Interconnection Agreement. However, any assignment described herein shall not relieve or discharge the Project Developer from any of its obligations hereunder absent the written consent of the Transmission Provider, such consent not to be unreasonably withheld, conditioned or delayed. Project Developer shall provide Transmission Provider with notice of any such assignment in accordance with the PJM Manuals.

An Interconnection Party may choose to enter a consent to assignment or other written agreement to effectuate an assignment allowed by section 12.2.1 of this Appendix 2. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if Project Developer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

12.2.2 Assignment to Lenders:

Project Developer may, without the consent of the Transmission Provider or the Transmission Owner, assign the Generation Interconnection Agreement to any Project Finance Entity(ies), provided that such assignment does not alter or diminish Project Developer's duties and obligations under this Generation Interconnection Agreement. If Project Developer provides the Transmission Owner with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entities as contacts for notice purposes pursuant to section 21 of this Appendix 2, the Transmission Provider or Transmission Owner shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this Generation Interconnection Agreement in accordance with this Generation Interconnection Agreement. Transmission Provider or Transmission Owner shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of the Generation Interconnection Agreement, provided that such documents do not alter or diminish the rights of the Transmission Provider or Transmission Owner under this Generation Interconnection Agreement, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider and/or the Transmission Owner's invoice therefor, Project Developer shall pay the Transmission Provider and/or the Transmission Owner's reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Project Developer from any of its obligations hereunder absent the written consent of the Transmission Owner and Transmission Provider.

12.3 Successors and Assigns:

This Generation Interconnection Agreement and all of its provisions are binding upon, and inure to the benefit of, the Interconnection Parties and their respective successors and permitted assigns.

13 Insurance

13.1 Required Coverages For Generation Resources Of More Than 20 Megawatts or Merchant Transmission Facilities:

Each Interconnected Entity and, as applicable, Constructing Entity shall maintain insurance at its own expense as described in paragraphs (a) through (d) below. In addition, if there are any construction activities associated with this GIA, each Interconnected Entity and, as applicable, Constructing Entity shall maintain insurance at its own expense as described in paragraph (e). All insurance shall be procured from insurance companies rated "A-", VII, or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities and Transmission Owner Upgrades are or will be located. Failure to maintain required insurance shall be a Breach of the Generation Interconnection Agreement.

(a) Workers Compensation insurance with statutory limits, as required by the state and/or jurisdiction in which the work is to be performed, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).

(b) Commercial General Liability Insurance and/or Excess Liability Insurance covering liability arising out of premises, operations, personal injury, advertising, products and completed operations coverage, independent contractors coverage, liability assumed under an insured contract, coverage for pollution to the extent normally available, and punitive damages to the extent allowable under applicable law, with limits of not less than one million dollars (\$1,000,000) per occurrence/one million dollars (\$1,000,000) general aggregate/one million dollars (\$1,000,000) products and completed operations aggregate.

(c) Business/Commercial Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of not less than one million dollars (\$1,000,000) each accident for bodily injury, including death, and property damage.

(d) Excess and/or Umbrella Liability Insurance with a limit of liability of not less than twenty million dollars (\$20,000,000) per occurrence. These limits apply in excess of the employer's liability, commercial general liability and business/commercial automobile liability coverages described above. This requirement can be met alone or via a combination of primary, excess and/or umbrella insurance.

(e) In addition, if there are construction activities required in connection with this GIA, the following Professional Liability Insurance requirements shall apply: Professional Liability, including Contractors Legal Liability, providing errors, omissions and/or malpractice coverage. Coverage shall be provided for the Interconnected Entity or Constructing Entity's duties, responsibilities and performance outlined in Schedule L to this GIA, with limits of liability as follows:

\$10,000,000 each occurrence
\$10,000,000 aggregate

(f)

An Interconnected Entity may meet the Professional Liability Insurance requirements by requiring third-party contractors, designers, or engineers, or other parties that are responsible for design work associated with the transmission facilities or Interconnection Facilities and Transmission Owner Upgrades necessary for the interconnection to procure professional liability insurance in the amounts and upon the terms prescribed by this section 13.1(e), and providing evidence of such insurance to the other Interconnected Entity. Such insurance shall be procured from companies rated “A-”, VII, or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities and Transmission Owner Upgrades are located. Nothing in this section relieves the Interconnected Entity from complying with the insurance requirements. In the event that the policies of the designers, engineers, or other parties used to satisfy the Interconnected Entity’s insurance obligations under this section become invalid for any reason, including but not limited to, (i) the policy(ies) lapsing or otherwise terminating or expiring; (ii) the coverage limits of such policy(ies) are decreased; or (iii) the policy(ies) do not comply with the terms and conditions of the Tariff; Interconnected Entity shall be required to procure insurance sufficient to meet the requirements of this section, such that there is no lapse in insurance coverage.

13.1A Required Coverages For Generation Resources Of 20 Megawatts Or Less:

Each Interconnected Entity and, as applicable, Constructing Entity shall maintain the types of insurance as described in section 13.1 paragraphs (a) through (e) in an amount sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. Additional insurance may be required by the Project Developer, as a function of owning and operating a Generating Facility. All insurance shall be procured from insurance companies rated “A-”, VII, or better by AM Best and authorized to do business in a state or states in which the Interconnection Facilities and Transmission Owner Upgrades are located. Failure to maintain required insurance shall be a Breach of the Generation Interconnection Agreement.

13.2 Additional Insureds:

The Commercial General Liability, Business/Commercial Automobile Liability and Excess and/or Umbrella Liability policies procured by each Interconnected Entity (the “Insuring Interconnected Entity”) shall include each other Interconnection Party (the “Insured Interconnection Party”), and its respective officers, agents and employees as additional insureds, and as applicable each other Construction Party (“Insured Construction Party”) its officers, agents and employees as additional insureds, providing all standard coverages and covering liability of the Insured Interconnection Party, and as applicable Insured Construction Party arising out of bodily injury and/or property damage (including loss of use) in any way connected with the operations, performance, or lack of performance under this Generation Interconnection Agreement.

13.3 Other Required Terms:

The above-mentioned insurance policies (except workers' compensation) shall provide the following:

(a) Each policy shall contain provisions that specify that it is primary and non-contributory for any liability arising out of that party's negligence, and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Insuring Interconnected Entity shall be responsible for its respective deductibles or retentions.

(b) If any coverage is written on a Claims First Made Basis, continuous coverage shall be maintained or an extended discovery period will be exercised for a period of not less than two (2) years after termination of the Generation Interconnection Agreement.

(c) Provide for a waiver of all rights of subrogation which the Insuring Interconnected Entity's insurance carrier might exercise against the Insured Interconnection Party.

13.3A No Limitation of Liability:

The requirements contained herein as to the types and limits of all insurance to be maintained by the Interconnected Entities are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Interconnection Parties under the Generation Interconnection Agreement.

13.4 Self-Insurance:

Notwithstanding the foregoing, each Interconnected Entity may self-insure to meet the minimum insurance requirements of this section 13 of this Appendix 2 to the extent it maintains a self-insurance program, provided that such Interconnected Entity's senior secured debt is rated at investment grade or better by Standard & Poor's and its self-insurance program meets the minimum insurance requirements of this section 13. For any period of time that an Interconnected Entity's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under this section 13. In the event that an Interconnected Entity is permitted to self-insure pursuant to this section, it shall notify the other Interconnection Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in section 13.5 of this Appendix 2.

13.5 Notices; Certificates of Insurance:

All policies of insurance shall provide for thirty (30) days prior written notice of cancellation or material adverse change. If the policies of insurance do not or cannot be endorsed to provide thirty

days prior notice of cancellation or material adverse change, each Interconnected Entity shall provide the other Interconnected Entities with thirty (30) days prior written notice of cancellation or material adverse change to any of the insurance required in this agreement. Each Interconnected Entity shall provide the other with certificates of insurance prior to Initial Operation of the Generating Facility or Merchant Transmission Facility and thereafter at such time intervals as they shall mutually agree upon, provided that such interval shall not be less than one (1) year. All certificates of insurance shall indicate that the certificate holder is included as an additional insured under the Commercial General Liability, Business/Commercial Automobile Liability and Excess and/or Umbrella Liability coverages, and that this insurance is primary with a waiver of subrogation included in favor of the other Interconnected Entities.

In the event the construction activities pursuant to Schedule L are required, the following provisions will apply, in addition to the provisions set forth above: Prior to the commencement of work pursuant to Schedule L, the Constructing Entities agree to furnish each other with certificates of insurance evidencing the insurance coverage obtained in accordance with section [to be determined] of Schedule L.

13.6 Subcontractor Insurance:

In accord with Good Utility Practice, each Interconnected Entity shall require each of its subcontractors to maintain and provide evidence of insurance coverage of types, and in amounts, commensurate with the risks associated with the services provided by the subcontractor. Bonding of contractors or subcontractors shall be at the hiring Interconnected Entity's discretion, but regardless of bonding, the hiring principal shall be responsible for the performance or non-performance of any contractor or subcontractor it hires.

13.7 Reporting Incidents

The Interconnection Parties shall report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of the Generation Interconnection Agreement.

14 Indemnity

14.1 Indemnity:

Each Interconnection Party shall indemnify and hold harmless the other Interconnection Parties, and the other Interconnection Parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss, liability, damage, cost or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property or persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with, or resulting from (i) the indemnifying Interconnection Party's breach of any of the representations or warranties made in, or failure of

the indemnifying Interconnection Party or any of its subcontractors to perform any of its obligations under, this Generation Interconnection Agreement (including Appendix 2), or (ii) the negligence or willful misconduct of the indemnifying Interconnection Party or its contractors; provided, however, that no Interconnection Party shall have any indemnification obligations under this section 14.1 in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the Interconnection Party seeking indemnity.

14.2 Indemnity Procedures:

Promptly after receipt by a Person entitled to indemnity (“Indemnified Person”) of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in section 14.1 may apply, the Indemnified Person shall notify the indemnifying Interconnection Party of such fact. Any failure of or delay in such notification shall not affect an Interconnection Party’s indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Interconnection Party. The Indemnified Person shall cooperate with the indemnifying Interconnection Party with respect to the matter for which indemnification is claimed. The indemnifying Interconnection Party shall have the right to assume the defense thereof with counsel designated by such indemnifying Interconnection Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying Interconnection Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying Interconnection Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Interconnection Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying Interconnection Party. Notwithstanding the foregoing, the indemnifying Interconnection Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying Interconnection Party, in such event the indemnifying Interconnection Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

14.3 Indemnified Person:

If an Indemnified Person is entitled to indemnification under this section 14 as a result of a claim by a third party, and the indemnifying Interconnection Party fails, after notice and reasonable opportunity to proceed under section 14.2 of this Appendix 2, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Interconnection Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

14.4 Amount Owing:

If an indemnifying Interconnection Party is obligated to indemnify and hold any Indemnified Person harmless under this section 14, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

14.5 Limitation on Damages:

Except as otherwise provided in this section 14, the liability of an Interconnection Party under this Appendix 2 shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any Interconnection Party or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another Interconnection Party, whether in tort, contract or other basis in law or equity for any special, indirect punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this section 14.5 are without regard to the cause or causes related thereto, including the negligence of any Interconnection Party, whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any Interconnection Party's rights to obtain equitable relief as otherwise provided in this Appendix 2. The provisions of this section 14.5 shall survive the termination or expiration of the Generation Interconnection Agreement.

14.6 Limitation of Liability in Event of Breach:

An Interconnection Party ("Breaching Party") shall have no liability hereunder to the other Interconnection Parties, and the other Interconnection Parties hereby release the Breaching Party, for all claims or damages that either of them incurs that are associated with any interruption in the availability of the Generating Facility or Merchant Transmission Facility, Interconnection Facilities and Transmission Owner Upgrades, Transmission System or Interconnection Service or damages to an Interconnection Party's facilities, except to the extent such interruption or damage is caused by the Breaching Party's gross negligence or willful misconduct in the performance of its obligations under this Generation Interconnection Agreement (including Appendix 2).

14.7 Limited Liability in Emergency Conditions:

Except as otherwise provided in the Tariff or the Operating Agreement, no Interconnection Party shall be liable to any other Interconnection Party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or of the Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Project Developer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Transmission Owner related to an Emergency Condition.

15 Breach, Cure And Default

15.1 Breach:

A Breach of this Generation Interconnection Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Appendix 2 or of the other portions of the Generation Interconnection Agreement or any attachments or Schedule hereto, including but not limited to any material breach of a representation, warranty or covenant (other than in subsections (a) and (c)-(e) of this section) made in this Appendix 2 or any provisions of Schedule L;
- (c) Assignment of the Generation Interconnection Agreement in a manner inconsistent with its terms;
- (d) Failure of an Interconnection Party to provide access rights, or an Interconnection Party's attempt to revoke or terminate access rights, that are provided under this Appendix 2; or
- (e) Failure of an Interconnection Party to provide information or data required to be determined under this Appendix 2 to another Interconnection Party for such other Interconnection Party to satisfy its obligations under this Appendix 2.

15.2 Continued Operation:

In the event of a Breach or Default by either Interconnected Entity, and subject to termination of the Generation Interconnection Agreement under section 16 of this Appendix 2, the Interconnected Entities shall continue to operate and maintain, as applicable, such DC power systems, protection and Metering Equipment, telemetering equipment, SCADA equipment, transformers, Secondary Systems, communications equipment, building facilities, software, documentation, structural components, and other facilities and appurtenances that are reasonably necessary for Transmission Provider and the Transmission Owner to operate and maintain the Transmission System and the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades and for Project Developer to operate and maintain the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities, in a safe and reliable manner.

15.3 Notice of Breach:

An Interconnection Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Interconnection Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider or the Transmission Owner agree to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided that the Project Developer has provided the notifying Interconnection Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 21 of this Appendix 2.

15.4 Cure and Default:

An Interconnection Party that commits a Breach and does not take steps to cure the Breach pursuant to this section 15.4 is automatically in Default of this Appendix 2 and of the Generation Interconnection Agreement, and its project and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

15.4.1 Cure of Breach:

15.4.1.1 Except for the event of Breach set forth in section 15.1(a) above, the Breaching Interconnection Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Interconnection Parties. Such agreement shall not be unreasonably withheld.

15.4.1.2 In an event of Breach set forth in section 15.1(a), the Breaching Interconnection Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Interconnection Party is the Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Project Developer shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn.

15.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Interconnection Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. Subject to section 20.1, no remedy conferred by any provision of this Appendix 2 is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies..

16 Termination

16.1 Termination of the Generation Interconnection Agreement:

This Generation Interconnection Agreement and Interconnection Service under this Generation Interconnection Agreement may be terminated by the following means:

16.1.1 By Mutual Consent:

Interconnection Service may be terminated as of the date on which the Interconnection Parties mutually agree to terminate the Generation Interconnection Agreement.

16.1.2 By Project Developer:

Subject to its payment of Cancellation Costs, Project Developer may unilaterally terminate the Generation Interconnection Agreement pursuant to Applicable Laws and Regulations upon providing Transmission Provider and the Transmission Owner sixty (60) days prior written notice thereof.

16.1.3 Upon Default of Project Developer:

Transmission Provider may terminate the Generation Interconnection Agreement upon the Default of Project Developer of its obligations under the Generation Interconnection Agreement by providing Project Developer and the Transmission Owner prior written notice of termination.

16.1.4 Cancellation Cost Responsibility Upon Termination

In the event of cancellation pursuant to Appendix 2, section 16.1 of this GIA, the Project Developer shall be liable to pay to the Transmission Owner or Transmission Provider all Cancellation Costs in connection with the GIA. Cancellation costs may include costs for Network Upgrades assigned to Project Developer, in accordance with the Tariff and as reflected in this GIA, that remain the responsibility of Project Developer under the Tariff. This shall include costs including, but not limited to, the costs, cost for such Network Upgrades to the extent such cancellation would be a Material Modification, or would have an adverse effect or impose costs on other Project Developers in the Cycle. In the event the Transmission Owner incurs Cancellation Costs, it shall provide the Transmission Provider, with a copy to the Project Developer, with a written demand for payment and with reasonable documentation of such Cancellation Costs. The Project Developer shall pay the Transmission Provider each bill for Cancellation Costs within thirty (30) days after, as applicable, the Transmission Owner's or Transmission Provider's presentation to the Project Developer of written demand therefor, provided that such demand includes reasonable documentation of the Cancellation Costs that the invoicing party seeks to collect. Upon receipt of each of Project Developer's payments of such bills of the Transmission Owner, Transmission Provider shall reimburse the Transmission Owner for Cancellation Costs incurred by the latter.

16.2 Disposition of Facilities Upon Termination

16.2.1 Disconnection:

Upon termination of the Generation Interconnection Agreement in accordance with this section 16, Transmission Provider and/or the Transmission Owner shall, in coordination with Project Developer, physically disconnect the Generating Facility or Merchant Transmission Facility from the Transmission System, except to the extent otherwise allowed by this Appendix 2.

16.2.2 Network Facilities:

At the time of termination, the Transmission Provider and the Interconnected Entities shall keep in place any portion of the Interconnection Facilities and Transmission Owner Upgrades that the Transmission Provider deems necessary for the safety, integrity and/or reliability of the Transmission System. Otherwise, Transmission Provider may, in its discretion, within 30 days following termination of Interconnection Service, require the removal of all or any part of the Interconnection Facilities and Transmission Owner Upgrades.

16.2.2.1 In the event that (i) the Generation Interconnection Agreement and Interconnection Service under this Appendix 2 are terminated and (ii) Transmission Provider determines that some or all of the Interconnection Facilities and Transmission Owner Upgrades that are owned by the Project Developer are necessary for the safety, integrity and/or reliability of the Transmission System, Project Developer, subject to Applicable Laws and Regulations, shall transfer to the Transmission Owner title to the Interconnection Facilities and Transmission Owner Upgrades that Transmission Provider has determined to be necessary for the safety, integrity and/or reliability of the Transmission System.

16.2.2.2 In the event that removal of some or all of the Interconnection Facilities and Transmission Owner Upgrades is necessary to maintain compliance with Applicable Standards, Project Developer shall be responsible for the costs of any such removal. Project Developer shall have the right to take or retain title to equipment and/or facilities that are removed pursuant to this section; alternatively, in the event that the Project Developer does not wish to retain title to removed equipment and/or facilities that it owns, the Transmission Owner may elect to pay the Project Developer a mutually agreed amount to acquire and own such equipment and/or facilities.

16.2.3 Request for Disposition Determination:

Project Developer may request a determination from the Transmission Provider whether any Interconnection Facilities and Transmission Owner Upgrades will be removed in the event of any termination of Interconnection Service to the Generating Facility or Merchant Transmission Facility within the following year. Transmission Provider shall respond to that request no later than sixty (60) days after receipt.

16.3 FERC Approval:

Notwithstanding any other provision of this Appendix 2, no termination hereunder shall become effective until the Interconnected Entities and/or Transmission Provider have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with the FERC of a notice of termination of the Generation Interconnection Agreement, and acceptance of such notice for filing by the FERC.

16.4 Survival of Rights:

Termination of this Generation Interconnection Agreement shall not relieve any Interconnection Party of any of its liabilities and obligations arising under this Generation Interconnection Agreement (including Appendix 2) prior to the date on which termination becomes effective, and

each Interconnection Party may take whatever judicial or administrative actions it deems desirable or necessary to enforce its rights hereunder. Applicable provisions of this Appendix 2 will continue in effect after termination to the extent necessary to provide for final billings, billing adjustments, and the determination and enforcement of liability and indemnification obligations arising from events or acts that occurred while the Generation Interconnection Agreement was in effect.

In the event activities under Schedule L are required, the following provisions will apply, in addition to the provisions set forth above:

The obligations of the Construction Parties hereunder with respect to payments, Cancellation Costs, warranties, liability and indemnification shall survive termination to the extent necessary to provide for the determination and enforcement of said obligations arising from acts or events that occurred while GIA was in effect. In addition, applicable provisions of this GIA will continue in effect after expiration, cancellation or termination to the extent necessary to provide for final billings, payments, and billing adjustments.

17 Confidentiality:

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Interconnection Party providing the information orally informs the Interconnection Party receiving the information that the information is confidential. If requested by any Interconnection Party, the disclosing Interconnection Party shall provide in writing the basis for asserting that the information referred to in this section warrants confidential treatment, and the requesting Interconnection Party may disclose such writing to an appropriate Governmental Authority. Any Interconnection Party shall be responsible for the costs associated with affording confidential treatment to its information.

17.1 Term:

During the term of the Generation Interconnection Agreement, and for a period of three (3) years after the expiration or termination of the Generation Interconnection Agreement, except as otherwise provided in this section 17, each Interconnection Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any other Interconnection Party.

17.2 Scope:

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

independently developed by the receiving Interconnection Party without reference to Confidential Information of the disclosing Interconnection Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Interconnection Party or breach of this Appendix 2; or (vi) is required, in accordance with section 17.7 of this Appendix 2, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under the Generation Interconnection Agreement. Information designated as Confidential Information shall no longer be deemed confidential if the Interconnection Party that designated the information as confidential notifies the other Interconnection Parties that it no longer is confidential.

17.3 Release of Confidential Information:

No Interconnection Party shall disclose Confidential Information to any other person, except to its Affiliates (limited by the Commission's Standards of Conduct requirements), subcontractors, employees, consultants or to parties who may be or considering providing financing to or equity participation in Project Developer or to potential purchasers or assignees of Project Developer, on a need-to-know basis in connection with the Generation Interconnection Agreement, unless such person has first been advised of the confidentiality provisions of this section 17 and has agreed to comply with such provisions. Notwithstanding the foregoing, an Interconnection Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this section 17.

17.4 Rights:

Each Interconnection Party retains all rights, title, and interest in the Confidential Information that it discloses to any other Interconnection Party. An Interconnection Party's disclosure to another Interconnection Party of Confidential Information shall not be deemed a waiver by any Interconnection Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

17.5 No Warranties:

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

17.6 Standard of Care:

Each Interconnection Party shall use at least the same standard of care to protect Confidential Information it receives as the Interconnection Party uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Interconnection Party may use Confidential Information solely to fulfill its obligations to the other Interconnection Parties under the Generation Interconnection Agreement or to comply with Applicable Laws and Regulations.

17.7 Order of Disclosure:

If a Governmental Authority with the right, power, and apparent authority to do so requests or requires an Interconnection Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Interconnection Party shall provide the Interconnection Party that provided the information with prompt prior notice of such request(s) or requirement(s) so that the providing Interconnection Party may seek an appropriate protective order or waive compliance with the terms of this Appendix 2 or the Generation Interconnection Agreement. Notwithstanding the absence of a protective order or agreement, or waiver, the Interconnection Party that is subjected to the request or order may disclose such Confidential Information which, in the opinion of its counsel, the Interconnection Party is legally compelled to disclose. Each Interconnection Party shall use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

17.8 Termination of Generation Interconnection Agreement:

Upon termination of the Generation Interconnection Agreement for any reason, each Interconnection Party shall, within ten (10) calendar days of receipt of a written request from another party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure and deletion certified in writing to the requesting party) or to return to the other party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting party.

17.9 Remedies:

The Interconnection Parties agree that monetary damages would be inadequate to compensate an Interconnection Party for another Interconnection Party's Breach of its obligations under this section 17. Each Interconnection Party accordingly agrees that the other Interconnection Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Interconnection Party breaches or threatens to breach its obligations under this section 17, which equitable relief shall be granted without bond or proof of damages, and the receiving Interconnection Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed to be an exclusive remedy for the breach of this section 17, but shall be in addition to all other remedies available at law or in equity. The Interconnection Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Interconnection Party, however, shall be liable for indirect, incidental or consequential or punitive damages of any nature or kind resulting from or arising in connection with this section 17.

17.10 Disclosure to FERC or its Staff:

Notwithstanding anything in this section 17 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Interconnection Parties that is otherwise required to be maintained in confidence

pursuant to this Generation Interconnection Agreement, the Interconnection Party, shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Interconnection Party must, consistent with 18 C.F.R. § 388.122, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Interconnection Parties are prohibited from notifying the other Interconnection Parties prior to the release of the Confidential Information to the Commission or its staff. An Interconnection Party shall notify the other Interconnection Parties to the Generation Interconnection Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Interconnection Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

17.11

Subject to the exception in section 17.10 of this Appendix 2, no Interconnection Party shall disclose Confidential Information of another Interconnection Party to any person not employed or retained by the Interconnection Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Interconnection Party to be required in connection with a dispute between or among the Interconnection Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the Interconnection Party that provided such Confidential Information, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Generation Interconnection Agreement or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. Prior to any disclosures of another Interconnection Party's Confidential Information under this subparagraph, the disclosing Interconnection Party shall promptly notify the other Interconnection Parties in writing and shall assert confidentiality and cooperate with the other Interconnection Parties in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

17.12

This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

17.13 Return or Destruction of Confidential Information:

If an Interconnection Party provides any Confidential Information to another Interconnection Party in the course of an audit or inspection, the providing Interconnection Party may request the other party to return or destroy such Confidential Information after the termination of the audit period and the resolution of all matters relating to that audit. Each Interconnection Party shall make Reasonable Efforts to comply with any such requests for return or destruction within ten (10) days of receiving the request and shall certify in writing to the other Interconnection Party that it has complied with such request.

18 Subcontractors

18.1 Use of Subcontractors:

Nothing in this Appendix 2 shall prevent the Interconnection Parties from utilizing the services of subcontractors as they deem appropriate to perform their respective obligations hereunder, provided, however, that each Interconnection Party shall require its subcontractors to comply with all applicable terms and conditions of this Appendix 2 in providing such services.

18.2 Responsibility of Principal:

The creation of any subcontract relationship shall not relieve the hiring Interconnection Party of any of its obligations under this Appendix 2. Each Interconnection Party shall be fully responsible to the other Interconnection Parties for the acts and/or omissions of any subcontractor it hires as if no subcontract had been made.

18.3 Indemnification by Subcontractors:

To the fullest extent permitted by law, an Interconnection Party that uses a subcontractor to carry out any of the Interconnection Party's obligations under this Appendix 2 shall require each of its subcontractors to indemnify, hold harmless and defend each other Interconnection Party, its representatives and assigns from and against any and all claims and/or liability for damage to property, injury to or death of any person, including the employees of any Interconnection Party or of any Affiliate of any Interconnection Party, or any other liability incurred by the other Interconnection Party or any of its Affiliates, including all expenses, legal or otherwise, to the extent caused by any act or omission, negligent or otherwise, by such subcontractor and/or its officers, directors, employees, agents and assigns, that arises out of or is connected with the operation of the facilities of either Interconnected Entity described in this Appendix 2; provided, however, that no Interconnection Party or Affiliate thereof shall be entitled to indemnity under this section 18.3 in respect of any injury, loss, or damage to the extent that such loss, injury, or damage results from the negligence or willful misconduct of the Interconnection Party or Affiliate seeking indemnity.

18.4 Subcontractors Not Beneficiaries:

No subcontractor is intended to be, or shall be deemed to be, a third-party beneficiary of a Generation Interconnection Agreement.

19 Information Access And Audit Rights

19.1 Information Access:

Consistent with Applicable Laws and Regulations, each Interconnection Party shall make available such information and/or documents reasonably requested by another Interconnection Party that are necessary to (i) verify the costs incurred by the other Interconnection Party for which the requesting Interconnection Party is responsible under this Appendix 2; and (ii) carry out obligations and responsibilities under this Appendix 2, provided that the Interconnection Parties

shall not use such information for purposes other than those set forth in this section 19.1 and to enforce their rights under this Appendix 2.

19.2 Reporting of Non-Force Majeure Events:

Each Interconnection Party shall notify the other Interconnection Parties when it becomes aware of its inability to comply with the provisions of this Appendix 2 for a reason other than an event of force majeure as defined in section 9.4 of this Appendix 2. The parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this section shall not entitle the receiving Interconnection Party to allege a cause of action for anticipatory breach of the Generation Interconnection Agreement.

19.3 Audit Rights:

Subject to the requirements of confidentiality under section 17 of this Appendix 2, each Interconnection Party shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent other Interconnection Party, to audit at its own expense the other Interconnection Party's accounts and records pertaining to such Interconnection Party's performance and/or satisfaction of obligations arising under this Appendix 2. Any audit authorized by this section shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Appendix 2. Any request for audit shall be presented to the Interconnection Party to be audited not later than twenty-four (24) months after the event as to which the audit is sought. Each Interconnection Party shall preserve all records held by it for the duration of the audit period.

20 Disputes

20.1 Submission:

Any claim or dispute that any Interconnection Party may have against another arising out of the Generation Interconnection Agreement may be submitted for resolution in accordance with the dispute resolution provisions of the Tariff.

20.2 Rights Under the Federal Power Act:

Nothing in this section shall restrict the rights of any Interconnection Party to file a complaint with FERC under relevant provisions of the Federal Power Act.

20.3 Equitable Remedies:

Nothing in this section shall prevent any Interconnection Party from pursuing or seeking any equitable remedy available to it under Applicable Laws and Regulations.

21 Notices

21.1 General:

Any notice, demand or request required or permitted to be given by any Interconnection Party to another and any instrument required or permitted to be tendered or delivered by any Interconnection Party, in writing to another shall be provided electronically or may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Interconnection Party, or personally delivered to the Interconnection Party, at the electronic or other address specified in the Generation Interconnection Agreement.

21.2 Emergency Notices:

Moreover, notwithstanding the foregoing, any notice hereunder concerning an Emergency Condition or other occurrence requiring prompt attention, or as necessary during day-to-day operations, may be made by telephone or in person, provided that such notice is confirmed in writing promptly thereafter. Notice in an Emergency Condition, or as necessary during day-to-day operations, shall be provided (i) if by the Transmission Owner, to the shift supervisor at, as applicable, a Generation Project Developer's Generating Facility or a Transmission Project Developer's control center; and (ii) if by the Project Developer, to the shift supervisor at the Transmission Owner's transmission control center.

21.3 Operational Contacts:

Each Interconnection Party shall designate, and provide to each other Interconnection Party contact information concerning, a representative to be responsible for addressing and resolving operational issues as they arise during the term of the Generation Interconnection Agreement.

22 Miscellaneous

22.1 Regulatory Filing:

In the event that this Generation Interconnection Agreement contains any terms that deviate materially from the form included in the Tariff, Transmission Provider shall file the Generation Interconnection Agreement on behalf of itself and the Transmission Owner with FERC as a service schedule under the Tariff within thirty (30) days after execution. Project Developer may request that any information so provided be subject to the confidentiality provisions of section 17 of this Appendix 2. An Project Developer shall have the right, with respect to any Generation Interconnection Agreement tendered to it, to request (a) dispute resolution under section 12 of the Tariff or, if concerning the Regional Transmission Expansion Plan, consistent with Schedule 5 of the Operating Agreement, or (b) that Transmission Provider file the agreement unexecuted with the Commission. With the filing of any unexecuted Generation Interconnection Agreement, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between or among the Interconnection Parties.

22.2 Waiver:

Any waiver at any time by an Interconnection Party of its rights with respect to a Breach or Default under this Generation Interconnection Agreement or with respect to any other matters arising in connection with this Appendix 2, shall not be deemed a waiver or continuing waiver with respect to any subsequent Breach or Default or other matter.

22.3 Amendments and Rights Under the Federal Power Act:

This Generation Interconnection Agreement may be amended or supplemented only by a written instrument duly executed by all Interconnection Parties. An amendment to the Generation Interconnection Agreement shall become effective and a part of this Generation Interconnection Agreement upon satisfaction of all Applicable Laws and Regulations. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if Project Developer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

Notwithstanding the foregoing, nothing contained in this Generation Interconnection Agreement shall be construed as affecting in any way any of the rights of any Interconnection Party with respect to changes in applicable rates or charges under section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any Interconnection Party under section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this Generation Interconnection Agreement and every appendix referred to therein shall be amended, as mutually agreed by the Interconnection Parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

22.4 Binding Effect:

This Generation Interconnection Agreement, including this Appendix 2, and the rights and obligations thereunder shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Interconnection Parties.

22.5 Regulatory Requirements:

Each Interconnection Party's performance of any obligation under this Generation Interconnection Agreement for which such party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving Interconnection Party, or the Interconnection Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Interconnection Party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

23 Representations And Warranties

23.1 General:

Each Interconnected Entity hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the Interconnected Entity during the time the Generation Interconnection Agreement is effective:

23.1.1 Good Standing:

Such Interconnected Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the Generation Interconnection Agreement.

23.1.2 Authority:

Such Interconnected Entity has the right, power and authority to enter into the Generation Interconnection Agreement, to become a party hereto and to perform its obligations hereunder. The Generation Interconnection Agreement is a legal, valid and binding obligation of such Interconnected Entity, enforceable against such Interconnected Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

23.1.3 No Conflict:

The execution, delivery and performance of the Generation Interconnection Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Interconnected Entity, or with any judgment, license, permit, order, material

agreement or instrument applicable to or binding upon the Interconnected Entity or any of its assets.

23.1.4 Consent and Approval:

Such Interconnected Entity has sought or obtained, or, in accordance with the Generation Interconnection Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of the Generation Interconnection Agreement and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

23.2 Transmission Outages

23.1 Outages; Coordination:

The Construction Parties acknowledge and agree that certain outages of transmission facilities owned by the Transmission Owner, as more specifically detailed in the Scope of Work, may be necessary in order to complete the process of constructing and installing all Interconnection Facilities and Transmission Owner Upgrades and Transmission Owner Upgrades. The Construction Parties further acknowledge and agree that any such outages shall be coordinated by and through the Transmission Provider.

23.3 Land Rights; Transfer of Title

In the event activities under Schedule L of this GIA are required, the following provisions will apply, in addition to the provisions set forth above:

23.3.1 Grant of Easements and Other Land Rights:

Project Developer at its sole cost and expense, shall grant such easements and other land rights to the Transmission Owner over the Site at such times and in such a manner as the Transmission Owner may reasonably require to perform its obligations under the GIA and/or to perform its operation and maintenance obligations under the Generation Interconnection Agreement.

23.3.2 Construction of Facilities on Project Developer Property:

To the extent that the Transmission Owner is required to construct and install any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades on land owned by the Project Developer, the Project Developer, at its sole cost and expense, shall legally transfer to the Transmission Owner all easements and other land rights required pursuant to section 23.1 above prior to the commencement of such construction and installation.

23.3.3 Third Parties:

If any of the easements and other land rights described in section 23.1 above must be obtained from a third party, the Transmission Owner's obligation for completing its construction responsibilities in accordance with the Schedule of Work set forth in Schedule L hereto, to the extent of the facilities that it is responsible for constructing for which such easements and land rights are necessary, shall be subject to Project Developer's acquisition of such easements and other land rights at such times and in such manner as the Transmission Owner may reasonably require to perform its obligations under this Appendix 2, and/or to perform its operation and maintenance obligations under the Generation Interconnection Agreement, provided, however, that upon Project Developer's request, the Transmission Owner shall assist the Project Developer in acquiring such land rights with efforts similar in nature and extent to those that the Transmission Owner typically undertakes in acquiring land rights for construction of facilities on its own behalf. The terms of easements and land rights acquired by Project Developer shall not unreasonably impede the Transmission Owner's timely completion of construction of the affected facilities.

23.3.4 Documentation:

Project Developer shall prepare, execute and file such documentation as the Transmission Owner may reasonably require to memorialize any easements and other land rights granted pursuant to this section 23.3. Documentation of such easements and other land rights, and any associated filings, shall be in a form acceptable to the Transmission Owner.

23.3.5 Transfer of Title to Certain Facilities Constructed By Project Developer:

Within thirty (30) days after the Project Developer's receipt of notice of acceptance following Stage Two energization of the Interconnection Facilities and Transmission Owner Upgrades, the Project Developer shall deliver to the Transmission Owner, for the Transmission Owner's review and approval, all of the documents and filings necessary to transfer to the Transmission Owner title to any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades constructed by the Project Developer, and to convey to the Transmission Owner any easements and other land rights to be granted by Project Developer in accordance with section 23.3.1 above that have not then already been conveyed. The Transmission Owner shall review and approve such documentation, such approval not to be unreasonably withheld, delayed, or conditioned. Within thirty (30) days after its receipt of the Transmission Owner's written notice of approval of the documentation, the Project Developer, in coordination and consultation with the Transmission Owner, shall make any necessary filings at the FERC or other governmental agencies for regulatory approval of the transfer of title. Within twenty (20) days after the issuance of the last order granting a necessary regulatory approval becomes final (i.e., is no longer subject to rehearing), the Project Developer shall execute all necessary documentation and shall make all necessary filings to record and perfect the Transmission Owner's title in such facilities and in the easements and other land rights to be conveyed to the Transmission Owner. Prior to such transfer to the Transmission Owner of title to the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades built by the Project Developer, the risk of loss or damages to, or in connection with, such facilities shall remain with the Project Developer. Transfer of title to facilities under this section shall not affect the Project Developer's receipt or use of the interconnection rights related to Network Upgrades, Distribution Upgrades, Stand Alone Network

Upgrades, or Transmission Owner Interconnection Facilities which it otherwise may be eligible as provided in the GIP.

23.3.6 Liens:

The Project Developer shall take all reasonable steps to ensure that, at the time of transfer of title in the Transmission Owner Interconnection Facilities built by the Project Developer to the Transmission Owner, those facilities shall be free and clear of any and all liens and encumbrances, including mechanics' liens. To the extent that the Project Developer cannot reasonably clear a lien or encumbrance prior to the time for transferring title to the Transmission Owner, Project Developer shall nevertheless convey title subject to the lien or encumbrance and shall indemnify, defend and hold harmless the Transmission Owner against any and all claims, costs, damages, liabilities and expenses (including without limitation reasonable attorneys' fees) which may be brought or imposed against or incurred by Transmission Owner by reason of any such lien or encumbrance or its discharge.

23.4 Warranties

23.4.1 Project Developer Warranty:

The Project Developer shall warrant that its work (or the work of any subcontractor that it retains) in constructing and installing the Transmission Owner Interconnection Facilities or Stand Alone Network Upgrades that it builds is free from defects in workmanship and design and shall conform to the requirements of this GIA for one (1) year (the "Project Developer Warranty Period") commencing upon the date title is transferred to Transmission Owner in accordance with section 23.3.5 of this Appendix 2. The Project Developer shall, at its sole expense and promptly after notification by the Transmission Owner, correct or replace defective work in accordance with Applicable Technical Requirements and Standards, during the Project Developer Warranty Period. The warranty period for such corrected or replaced work shall be the unused portion of the Project Developer Warranty Period remaining as of the date of notice of the defect. The Project Developer Warranty Period shall resume upon acceptance of such corrected or replaced work. All Costs incurred by Transmission Owner as a result of such defective work shall be reimbursed to the Transmission Owner by the Project Developer on demand; provided that the Transmission Owner submits the demand to the Project Developer within the Project Developer Warranty Period and provides reasonable documentation of the claimed costs. The Transmission Owner's acceptance, inspection and testing, or a third party's inspection or testing, of such facilities pursuant to section **[to be provided]** of this GIA shall not be construed to limit in any way the warranty obligations of the Project Developer, and this provision does not modify and shall not limit the Project Developer's indemnification obligations set forth in section **[to be provided]** of this GIA.

23.4.2 Manufacturer Warranties:

Prior to the transfer to the Transmission Owner of title to the Transmission Owner Interconnection Facilities built by the Project Developer, the Project Developer shall produce documentation satisfactory to the Transmission Owner evidencing the transfer to the Transmission Owner of all manufacturer warranties for equipment and/or materials purchased by the Project Developer for

use and/or installation as part of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades built by the Project Developer.

24 Tax Liability

24.1 Safe Harbor Provisions:

This section 24.1 is applicable only to Project Developers. Provided that Project Developer agrees to conform to all requirements of the Internal Revenue Service (“IRS”) (e.g., the “safe harbor” section 118(a) and 118(b) of the Internal Revenue Code of 1986, as amended and interpreted by Notice 2016-36, 2016-25 I.R.B. (6/20/2016)) that would confer nontaxable status on some or all of the transfer of property, including money, by Project Developer to the Transmission Owner for payment of the Costs of construction of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades, the Transmission Owner, based on such agreement and on current law, shall treat such transfer of property to it as nontaxable income and, except as provided in section 24.4.2 below, shall not include income taxes in the Costs of Transmission Owner Interconnection Facilities and Transmission Owner Upgrades that are payable by Project Developer under the Generation Interconnection Agreement. Project Developer shall document its agreement to conform to IRS requirements for such non-taxable status in the Generation Interconnection Agreement, the Interconnection Construction Service Agreement, and/or applicable agreement.

24.2 Tax Indemnity:

Project Developer shall indemnify the Transmission Owner for any costs that Transmission Owner incurs in the event that the IRS and/or a state department of revenue (“State”) determines that the property, including money, transferred by Project Developer to the Transmission Owner with respect to the construction of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades is taxable income to the Transmission Owner. Project Developer shall pay to the Transmission Owner, on demand, the amount of any income taxes that the IRS or a State assesses to the Transmission Owner in connection with such transfer of property and/or money, plus any applicable interest and/or penalty charged to the Transmission Owner. In the event that the Transmission Owner chooses to contest such assessment, either at the request of Project Developer or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, the Transmission Owner shall refund to Project Developer the excess of its demand payment made to the Transmission Owner over the amount of the tax, interest and penalty for which the Transmission Owner is finally determined to be liable. Project Developer’s tax indemnification obligation under this section shall survive any termination of the Generation Interconnection Agreement or Interconnection Construction Service Agreement.

24.3 Taxes Other Than Income Taxes:

Upon the timely request by Project Developer, and at Project Developer’s sole expense, the Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the Transmission Owner for which Project Developer may be required to reimburse Transmission Provider under the terms of this

Appendix 2 or the GIP. Project Developer shall pay to the Transmission Owner on a periodic basis, as invoiced by the Transmission Owner, the Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Project Developer and the Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Project Developer to the Transmission Owner for such contested taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Project Developer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Transmission Owner.

24.4 Income Tax Gross-Up

24.4.1 Additional Security:

In the event that Project Developer does not provide the safe harbor documentation required under section 24.1 prior to execution of the Generation Interconnection Agreement, within 15 days after such execution, Transmission Provider shall notify Project Developer in writing of the amount of additional Security that Project Developer must provide. The amount of Security that a Transmission Project Developer must provide initially pursuant to this Generation Interconnection Agreement shall include any amounts described as additional Security under this section 24.4 regarding income tax gross-up.

24.4.2 Amount:

The required additional Security shall be in an amount equal to the amount necessary to gross up fully for currently applicable federal and state income taxes the estimated Costs of any Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades for which Project Developer previously provided Security. Accordingly, the additional Security shall equal the amount necessary to increase the total Security provided to the amount that would be sufficient to permit the Transmission Owner to receive and retain, after the payment of all applicable income taxes ("Current Taxes") and taking into account the present value of future tax deductions for depreciation that would be available as a result of the anticipated payments or property transfers (the "Present Value Depreciation Amount"), an amount equal to the estimated Costs of Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades for which Project Developer is responsible under the Generation Interconnection Agreement. For this purpose, Current Taxes shall be computed based on the composite federal and state income tax rates applicable to the Transmission Owner at the time the additional Security is received, determined using the highest marginal rates in effect at that time (the "Current Tax Rate"); and the Present Value Depreciation Amount shall be computed by discounting the Transmission Owner's anticipated tax depreciation deductions associated with such payments or property transfers by its current weighted average cost of capital.

24.4.3 Time for Payment:

Project Developer must provide the additional Security, in a form and with terms as required by GIP, section [to be determined], within 15 days after its receipt of Transmission Provider's notice under this section.

24.5 Tax Status:

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Generation Interconnection Agreement or The GIP is intended to adversely affect any Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

DRAFT

SCHEDULE A

CUSTOMER FACILITY LOCATION/SITE PLAN

DRAFT

SCHEDULE B
SINGLE-LINE DIAGRAM

DRAFT

SCHEDULE C

LIST OF METERING EQUIPMENT

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SCHEDULE D

APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS

[Reference the appropriate PJM and TO technical standards]

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SCHEDULE E
SCHEDULE OF CHARGES

DRAFT

SCHEDULE F

SCHEDULE OF NON-STANDARD TERMS & CONDITIONS

DRAFT

SCHEDULE G

PROJECT DEVELOPER’S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS

{Include the appropriate language from the alternatives below: }

{Include the following language if not required: }

Not Required.

[OR]

{Include the following language if applicable to Project Developer: }

As provided in section 24.1 of Appendix 2 to this GIA and subject to the requirements thereof, Project Developer represents that it meets all qualifications and requirements as set forth in section 118(a) and 118(b) of the Internal Revenue Code of 1986, as amended and interpreted by Notice 2016-36, 2016-25 I.R.B. (6/20/2016) (the “IRS Notice”). Project Developer agrees to conform with all requirements of the safe harbor provisions specified in the IRS Notice, as they may be amended, as required to confer non-taxable status on some or all of the transfer of property, including money, by Project Developer to Transmission Owner with respect to the payment of the Costs of construction and installation of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades specified in this GIA.

Nothing in Project Developer’s agreement pursuant to this Schedule G shall change Project Developer’s indemnification obligations under section 24.2 of Appendix 2 to this GIA.

SCHEDULE H

INTERCONNECTION REQUIREMENTS FOR ALL WIND, SOLAR AND NON-SYNCHRONOUS GENERATION FACILITIES

{Include the appropriate language from the alternatives below }

{Include the following language if the Generating Facility is not a wind, solar or non-synchronous generation facility }

Not Required

[OR]

{Include the following language when the Generating Facility is a wind, solar or non-synchronous generation facility }

A. Voltage Ride Through Requirements

The Generating Facility shall be designed to remain in service (not trip) for voltages and times as specified for the Eastern Interconnection in Attachment 1 of NERC Reliability Standard PRC-024-1, and successor Reliability Standards, for both high and low voltage conditions, irrespective of generator size, subject to the permissive trip exceptions established in PRC-024-1 (and successor Reliability Standards).

B. Frequency Ride Through Requirements

The Generating Facility shall be designed to remain in service (not trip) for frequencies and times as specified in Attachment 2 of NERC Reliability Standard PRC-024-1, and successor Reliability Standards, for both high and low frequency condition, irrespective of generator size, subject to the permissive trip exceptions established in PRC-024-1 (and successor Reliability Standards).

C. Supervisory Control and Data Acquisition (“SCADA”) Capability

The wind, solar or non-synchronous generation facility shall provide SCADA capability to transmit data and receive instructions from the Transmission Provider to protect system reliability. The Transmission Provider and the wind, solar or non-synchronous generation facility Project Developer shall determine what SCADA information is essential for the proposed wind, solar or non-synchronous generation facility, taking into account the size of the facility and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability in its area.

D. Meteorological Data Reporting Requirement (Applicable to wind generation facilities only)

The wind generation facility shall, at a minimum, be required to provide the Transmission Provider with site-specific meteorological data including:

- Temperature (degrees Fahrenheit)
- Wind speed (meters/second)
- Wind direction (degrees from True North)
- Atmosphere pressure (hectopascals)
- Forced outage data (wind turbine and MW unavailability)

E. Meteorological Data Reporting Requirement (Applicable to solar generation facilities only)

The solar generation facility shall, at a minimum, be required to provide the Transmission Provider with site-specific meteorological data including:

- Temperature (degrees Fahrenheit)
- Irradiance
- Forced outage data

The Transmission Provider and Project Developer may mutually agree to any additional meteorological data that are required for the development and deployment of a power production forecast. All requirements for meteorological and forced outage data must be commensurate with the power production forecasting employed by the Transmission Provider. Such additional mutually agreed upon requirements for meteorological and forced outage data are set forth below: [STATE "NOT APPLICABLE UNDER THIS GIA" OR SPECIFY THE AGREED UPON METEOROLOGICAL AND FORCED OUTAGE DATA REQUIREMENTS]

SCHEDULE I
INTERCONNECTION SPECIFICATIONS FOR AN
ENERGY STORAGE RESOURCE

{Include the appropriate language from the alternatives below.}

{Include the following language if the Generating Facility is not an Energy Storage Resource:}

Not Required

{Include the following language if the Generating Facility is an Energy Storage Resource:}

This Schedule I specifies information for Energy Storage Resource will be required to provide primary frequency response consistent with the conditions set forth in Appendix 2, sections 4.7.2, 4.7.2.1, 4.7.2.2, 4.7.2.3, and 4.7.2.4 of this GIA.

1.0 Minimum State of Charge and Maximum State of Charge

Primary frequency response operating range for Energy Storage Resources:

Minimum State of Charge: _____; and

Maximum State of Charge: _____.

2.0 Static or Dynamic Operating Range

{Specify whether the operating range is static or dynamic. If the operating range is dynamic, then this Schedule I must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.}

SCHEDULE J

**SCHEDULE OF TERMS AND CONDITIONS FOR
SURPLUS INTERCONNECTION SERVICE**

DRAFT

SCHEDULE K
REQUIREMENTS FOR INTERCONNECTION SERVICE BELOW FULL
ELECTRICAL GENERATING CAPABILITY

DRAFT

SCHEDULE L

INTERCONNECTION CONSTRUCTION TERMS AND CONDITIONS

{Instructions: to be used if construction of facilities is required in connection with this GIA. If Interconnection Construction Terms and Conditions are not required, state “Not Applicable” and delete remainder of Schedule L}

DRAFT

**INTERCONNECTION CONSTRUCTION TERMS AND CONDITIONS
For the Generation Interconnection Agreement**

**By and Between
PJM Interconnection, L.L.C.**

And

[Name of Project Developer]

And

[Name of Transmission Owner]

(Project Identifier # [redacted])

- 1.0 These Interconnection Construction Terms and Conditions (“IC Terms & Conditions”), including the Schedules and Appendices attached hereto or incorporated by reference herein, shall apply to the Generation Interconnection Agreement (“GIA”) by and between Transmission Provider, Project Developer, and Transmission Owner. All capitalized terms herein shall have the meanings set forth in Appendix 1 to this Generation GIA.
- 2.0 The standard terms and conditions for construction included in Appendix 2 of the GIA associated with this Interconnection Request are hereby specifically incorporated herein.
- 3.0 Generating Facility or Merchant Transmission Facility. These IC Terms & Conditions specifically relate to the following Generating Facility or Merchant Transmission Facility at the following location:
- a. Name of Generating Facility or Merchant Transmission Facility:
[redacted]
 - b. Location of Generating Facility or Merchant Transmission Facility:
[redacted]
- 4.0 Commencement of Construction.
- 4.1 The Transmission Owner shall have no obligation to begin construction of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades prior to the Effective Date of this GIA. Construction shall commence as provided in the Schedule of Work set forth in section 8.0 of these IC Terms & Conditions.
- 5.0 Construction Responsibility for
- a. Project Developer Interconnection Facilities. Project Developer is responsible for designing and constructing the Project Developer Interconnection Facilities described in Specifications section 3.0(a)(1) of this GIA.
 - b. Construction of Transmission Owner Interconnection Facilities.

1. The Transmission Owner Interconnection Facilities and Transmission Owner Upgrades for which Transmission Owner shall be responsible for constructing are described in Specifications section 3.0(b) of this GIA.

2. Election of Construction Option. Specify below whether the Project Developer and Transmission Owner have mutually agreed to construction of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades that will be built by the Transmission Owner pursuant to the Standard Option or the Negotiated Contract Option.

Standard Option.

Negotiated Contract Option.

If the parties have mutually agreed to use the Negotiated Contract Option, the permitted, negotiated terms on which they have agreed and which are not already set forth as part of the Scope of Work and/or Schedule of Work set forth in sections 7.0 and 8.0 of these IC Terms & Conditions shall be as set forth in Appendix 1 to this Schedule L.

3. Exercise of Option to Build. Has Project Developer timely exercised the Option to Build in accordance with Specifications section 3.0(a)(2) of this GIA?

Yes

No

If Yes is indicated, Project Developer shall build, in accordance with and subject to the conditions and limitations set forth in section 15.3 of this Schedule L, those portions of the Transmission Owner Interconnection Facilities and Stand Alone described in Specifications section 3.0(a)(2) of this GIA.

6.0 Facilitation by Transmission Provider: Transmission Provider shall keep itself apprised of the status of the Transmission Owner's and Project Developer's construction-related activities and, upon request of either of them, Transmission Provider shall meet with the Transmission Owner and Project Developer separately or together to assist them in resolving issues between them regarding their respective activities, rights and obligations under this Schedule L and Appendix 2 of the this GIA. Each of Transmission Owner and Project Developer shall cooperate in good faith with the other in Transmission Provider's efforts to facilitate resolution of disputes.

7.0 Scope of Work. The Scope of Work for all construction shall be as set forth in Specifications section 3.0 of this GIA, provided, however, that the scope of work is subject to change in accordance with Transmission Provider's scope change process for interconnection projects as set forth in the PJM Manuals. The scope change process is

intended to be used for changes to the Scope of Work as defined herein, and is not intended to be used to change any of the milestone set forth in the GIA. Any change to the Scope of Work must be agreed to by all Parties in writing by executing a scope change document.

- 8.0 Schedule of Work. The Schedule of Work for all construction is set forth below, provided, however, that such schedule is subject to change in accordance with section 15.3 of this Schedule L.

Transmission Owner:

[Provide start and completion date for construction of Transmission Owner Interconnection Facilities and Transmission Owner Upgrades and listed in Schedule C, including any supervisory or other responsibilities associated with use of the Option to Build or state “Not Applicable”]

Project Developer:

[Provide start and completion date for construction of Project Developer Interconnection Facilities listed in Schedule C, including any facilities being constructed pursuant to the Option to Build, or state “Not Applicable”]

- 9.0 If Project Developer exercises the Option to Build, Project Developer shall pay Transmission Owner for Transmission Owner to execute the responsibilities enumerated to Transmission Owner under section 15.

10.0 Reserved,

11.0 Reserved.

12.0 Reserved.

13.0 Reserved.

14.0 Construction Obligations

14.1 Project Developer Obligations: Project Developer shall, at its sole cost and expense, design, procure, construct, own, and install the Generating Facility or Merchant Transmission Facility and the Project Developer Interconnection Facilities in accordance with this GIA, Applicable Standards, Applicable Laws and Regulations, Good Utility Practice, the Scope of Work, and the System Impact Study(ies) (to the extent that design of the Project Developer Interconnection Facilities is included therein), provided, however, that, in the event and to the extent that the Generating Facility or Merchant Transmission Facility is comprised of or includes Merchant Network Upgrades, subject to the terms of section 15.2.3 of this Schedule L, the Transmission Owner shall design, procure, construct and install such Merchant Network Upgrades.

14.2 Transmission Owner Interconnection Facilities and Transmission Owner Upgrades

14.2.1 Generally: All Transmission Owner Interconnection Facilities and Transmission Owner Upgrades necessary for the interconnection of the Generating Facility or Merchant Transmission Facility shall be designed, procured, installed and constructed in accordance with this GIA, Applicable Standards, Applicable Laws and Regulations, Good Utility Practice, the System Impact Study(ies), and the Scope of Work.

14.2.2 Cost Responsibility: Responsibility for the Costs of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades shall be assigned in accordance with GIP, section [to be determined], as applicable, and shall be stated in this GIA.

14.2.3 Construction Responsibility: Except as otherwise permitted under, or as otherwise agreed upon by the Project Developer and the Transmission Owner pursuant to this GIA, the Transmission Owner shall be responsible for the design, procurement, construction and installation of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades. In the event that there are multiple Transmission Owners, the Transmission Provider shall determine how to allocate the construction responsibility among them unless they have reached agreement among themselves on how to proceed.

14.2.4 Ownership of Transmission Owner Interconnection Facilities and Transmission Owner Upgrades: The Transmission Owner shall own all Transmission Owner Interconnection Facilities and Transmission Owner Upgrades that it builds. In addition, the Project Developer will convey to the Transmission Owner, as provided in section 23.3.5 of Appendix 2 of this GIA, title to all Transmission Owner Interconnection Facilities and Transmission Owner Upgrades built by the Project Developer pursuant to the terms of this Schedule L. Nothing in this section shall affect the interconnection rights otherwise available to a Transmission Project Developer under the GIP.

14.2A Scope of Applicable Technical Requirements and Standards: Applicable Technical Requirements and Standards shall apply to the design, procurement, construction and installation of the Interconnection Facilities, Transmission Owner Upgrades and Merchant A.C. Transmission Facilities only to the extent that the provisions thereof relate to the design, procurement, construction and/or installation of such facilities. Such provisions relating to the design, procurement, construction and/or installation of facilities shall be appended as Schedule D to this GIA. The Interconnection Parties shall mutually agree upon, or in the absence of such agreement, Transmission Provider shall determine, which provisions of the Applicable Technical Requirements and Standards should be identified in this GIA.

In the event of any conflict between the provisions of the Applicable Technical Requirements and Standards that are appended as Schedule D to this GIA and any later-modified provisions that are stated in the pertinent PJM Manual, the provisions appended as Schedule D to this GIA shall control.

14.3 Construction By Project Developer

14.3.1 Construction Prior to Execution of GIA: If the Project Developer procures materials for, and/or commences construction of, the Project Developer Interconnection Facilities, any Transmission Owner Interconnection Facilities or Stand Alone Network Upgrades that it has elected to construct by exercising the Option to Build under section 15.2.3 of this Schedule L, or for any subsequent modification thereto, prior to the execution of this GIA or, if this GIA has been executed, before the Transmission Owner and Transmission Provider have accepted the Project Developer's initial design, or any subsequent modification to the design, of such Interconnection Facilities or Stand Alone Network Upgrades, such procurement and/or construction shall be at the Project Developer's sole risk, cost and expense.

14.3.2 Monitoring and Inspection: The Transmission Owner may monitor construction and installation of Interconnection Facilities and Transmission Owner Upgrades that the Project Developer is constructing. Upon reasonable notice, authorized personnel of the Transmission Owner may inspect any or all of such Interconnection Facilities and Transmission Owner Upgrades to assess their conformity with Applicable Standards.

14.3.3 Notice of Completion: The Project Developer shall notify the Transmission Provider and the Transmission Owner in writing when it has completed construction of (i) the Generating Facility or Merchant Transmission Facility; (ii) the Project Developer Interconnection Facilities; and (iii) any Transmission Owner Interconnection Facilities and Stand Alone for which it has exercised the Option to Build under this Schedule L.

14.4 Construction-Related Access Rights: The Transmission Owner and the Project Developer herein grant each other at no charge such rights of access to areas that it owns or otherwise controls as may be necessary for performance of their respective obligations, and exercise of their respective rights, pursuant to this Schedule L, provided that either of them performing the construction will abide by the safety, security and work rules applicable to the area where construction activity is occurring.

14.5 Coordination Among Parties: The Transmission Provider, the Project Developer, and all Transmission Owners shall communicate and coordinate their activities as necessary to satisfy their obligations under this Schedule L.

15.0 Construction Requirements

15.1 Construction by Project Developer:

The Project Developer shall use Reasonable Efforts to design, procure, construct and install the Project Developer Interconnection Facilities and any Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that it elects to build by exercise of the Option to Build (defined in section 15.2.3.1 below) in accordance with the Schedule of Work.

15.2 Construction by Transmission Owner

15.2.1 Standard Option:

The Transmission Owner shall use Reasonable Efforts to design, procure, construct and install the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades that it is responsible for constructing in accordance with the Schedule of Work.

15.2.1.1 Construction Sequencing:

In general, the sequence of the proposed dates of Initial Operation of Project Developers seeking interconnection to the Transmission System will determine the sequence of construction of Network Upgrades.

15.2.2 Negotiated Contract Option:

As an alternative to the Standard Option set forth in section 15.2.1 above, the Transmission Owner and the Project Developer may mutually agree to a Negotiated Contract Option for the Transmission Owner's design, procurement, construction and installation of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades. Under the Negotiated Contract Option, the Project Developer and the Transmission Owner may agree to terms different from those included in the Standard Option of section 15.2.1 above and the corresponding standard terms set forth in the applicable provisions of the GIP. Under the Negotiated Contract Option, negotiated terms may include the work schedule applicable to the Transmission Owner's construction activities and changes to same; payment provisions, including the schedule of payments; incentives, penalties and/or liquidated damages related to timely completion of construction; use of third party contractors; and responsibility for Costs, but only as between the Project Developer and the Transmission Owner that are parties to this GIA; no other Project Developer's responsibility for Costs may be affected. No other terms of the Tariff or this Schedule L shall be subject to modification under the Negotiated Contract Option. The terms and conditions of the Tariff that may be negotiated pursuant to the Negotiated Contract Option shall not be affected by use of the Negotiated Contract Option except as and to the extent that they are modified by the parties' agreement pursuant to such option. All terms agreed upon pursuant to

the Negotiated Contract Option are set forth in Schedule L, Appendix 1 to this GIA. The Negotiated Option can only be used in connection with a Network Upgrade subject to the Network Upgrade Cost Responsibility Agreement all Project Developers and the relevant Transmission Owner agree.

15.2.3 Option to Build

15.2.3.1 Option:

Project Developer shall have the option, (“Option to Build”) to assume responsibility for the design, procurement, and construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades on the dates specified in the Schedule of Work in section 8.0 of this Schedule L. Transmission Provider and Project Developer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Specifications section 3.0(a)(2) of this GIA. If the Transmission Provider and Project Developer disagree about whether a particular Network Upgrade is a Stand Alone Network Upgrade, the Transmission Provider must provide the Project Developer with a written technical explanation outlining why the Transmission Provider does not consider the Network Upgrade to be a Stand Alone Network Upgrade within fifteen (15) days of its determination. Except for Stand Alone Network Upgrades, Project Developer shall have no right to construct Network Upgrades under this option. In order to exercise this Option to Build, Project Developer must provide Transmission Provider and the Transmission Owner with written notice of Project Developer’s election to exercise the option no later than thirty (30) days from the date the Project Developer receives the results of the System Impact Study(ies). Project Developer may not elect Option to Build after such date.

15.2.3.2 General Conditions Applicable to Option:

In addition to the other terms and conditions applicable to the construction of facilities under this Schedule L, the Option to Build is subject to the following conditions:

(a) If the Project Developer assumes responsibility for the design, procurement and construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades:

(i) Project Developer shall engineer, procure equipment, and construct Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and Specifications provided in advance by Transmission Owner;

(ii) Project Developer's engineering, procurement and construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which Transmission Owner shall be subject in the engineering, procurement or construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades;

(iii) Transmission Owner shall review and approve engineering design, equipment acceptance tests, and the construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades;

(iv) Prior to commencement of construction, Project Developer shall provide to Transmission Owner a schedule for construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades and shall promptly respond to requests for information from Transmission Owner;

(v) At any time during construction, Transmission Owner shall have the right to gain unrestricted access to Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;

(vi) At any time during construction, should any phase of the engineering, equipment procurement, or construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and Specifications provided by Interconnection Transmission Owner, Project Developer shall be obligated to remedy deficiencies in that portion of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades;

(vii) Project Developer shall indemnify Transmission Owner and Transmission Provider for claims arising from Project Developer's construction of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to section 16 of Appendix 2 of this GIA;

(viii) Project Developer shall transfer control of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades to Transmission Owner;

(ix) Unless Parties otherwise agree, Project Developer shall transfer ownership of Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades to Transmission Owner;

(x) Transmission Owner shall approve and accept for operation and maintenance Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with section 15.2.3.2 of this Schedule L; and

(xi) Project Developer shall deliver to Transmission Owner “as-built” drawings, information, and any other documents that are reasonably required by Transmission Provider to assure that the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades are built to the standards and Specifications required by Transmission Provider.

(b) In addition to the General Conditions applicable to Option to Build set forth in section 15.2.3.2(a) above, the following conditions also apply:

(i) The Project Developer must obtain or arrange to obtain all necessary permits and authorizations for the construction and installation of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that it is building, provided, however, that when the Transmission Owner’s assistance is required, the Transmission Owner shall assist the Project Developer in obtaining such necessary permits or authorizations with efforts similar in nature and extent to those that the Transmission Owner typically undertakes in acquiring permits and authorizations for construction of facilities on its own behalf;

(ii) The Project Developer must obtain all necessary land rights for the construction and installation of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that it is building, provided, however, that upon Project Developer’s reasonable request, the Transmission Owner shall assist the Project Developer in acquiring such land rights with efforts similar in nature and extent to those that the Transmission Owner typically undertakes in acquiring land rights for construction of facilities on its own behalf;

(iii) Notwithstanding anything stated herein, each Transmission Owner shall have the exclusive right and obligation to perform the line attachments (tie-in work), and to calibrate remote terminal units and relay settings, required for the interconnection to such Transmission Owner’s existing facilities of any Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that the Project Developer builds; and

(iv) The Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades built by the Project Developer shall be

successfully inspected, tested and energized pursuant to sections 15.7 and 15.8 of this Schedule L.

15.2.3.3 Additional Conditions Regarding Network Facilities:

To the extent that the Project Developer utilizes the Option to Build for design, procurement, construction and/or installation of (a) any Transmission Owner Interconnection Facilities that are Stand Alone Network Upgrades to Transmission System facilities that are in existence or under construction by or on behalf of the Transmission Owner on the date that the Project Developer solicits bids under section 15.2.3.7 below, or (b) Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that are to be located on land or in right-of-way owned or controlled by the Transmission Owner, and in addition to the other terms and conditions applicable to the design, procurement, construction and/or installation of facilities under this GIA, all work shall comply with the following further conditions:

(i) All work performed by or on behalf of the Project Developer shall be conducted by contractors, and using equipment manufacturers or vendors, that are listed on the Transmission Owner's List of Approved Contractors;

(ii) The Transmission Owner shall have full site control of, and reasonable access to, its property at all times for purposes of tagging or operation, maintenance, repair or construction of modifications to, its existing facilities and/or for performing all tie-ins of Interconnection Facilities and Stand Alone Network Upgrades built by or for the Project Developer; and for acceptance testing of any equipment that will be owned and/or operated by the Transmission Owner;

(iii) The Transmission Owner shall have the right to have a reasonable number of appropriate representatives present for all work done on its property/facilities or regarding the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades and the right to stop, or to order corrective measures with respect to, any such work that reasonably could be expected to have an adverse effect on reliability, safety or security of persons or of property of the Transmission Owner or any portion of the Transmission System, provided that, unless circumstances do not reasonably permit such consultations, the Transmission Owner shall consult with the Project Developer and with Transmission Provider before directing that work be stopped or ordering any corrective measures;

(iv) The Project Developer and its contractors, employees and agents shall comply with the Transmission Owner's safety, security and work rules, environmental guidelines and training requirements applicable

to the area(s) where construction activity is occurring and shall provide all reasonably required documentation to the Transmission Owner, provided that the Transmission Owner previously has provided its safety, security and work rules and training requirements applicable to work on its facilities to Transmission Provider and the Project Developer within 20 Business Days after a request therefor made by Project Developer;

(v) The Project Developer shall be responsible for controlling the performance of its contractors, employees and agents; and

(vi) All activities performed by or on behalf of the Project Developer pursuant to its exercise of the Option to Build shall be subject to compliance with Applicable Laws and Regulations, including those governing union staffing and bargaining unit obligations, and Applicable Standards.

15.2.3.4 Administration of Conditions:

To the extent that the Transmission Owner exercises any discretion in the application of any of the conditions stated in sections 15.2.3.2 and 15.2.3.3 of this Schedule L, it shall apply each such condition in a manner that is reasonable and not unduly discriminatory and it shall not unreasonably withhold, condition, or delay any approval or authorization that the Project Developer may require for the purpose of complying with any of those conditions.

15.2.3.5 Approved Contractors:

(a) Each Transmission Owner shall develop and shall provide to Transmission Provider a List of Approved Contractors. Each Transmission Owner shall include on its List of Approved Contractors no fewer than three contractors and no fewer than three manufacturers or vendors of major transmission-related equipment, unless a Transmission Owner demonstrates to Transmission Provider's reasonable satisfaction that it is feasible only to include a lesser number of construction contractors, or manufacturers or vendors, on its List of Approved Contractors. Transmission Provider shall publish each Transmission Owner's List of Approved Contractors in a PJM Manual and shall make such manual available on its internet website.

(b) Upon request of a Project Developer, a Transmission Owner shall add to its List of Approved Contractors (1) any design or construction contractor regarding which the Project Developer provides such information as the Transmission Owner may reasonably require which demonstrates to the Transmission Owner's reasonable satisfaction that the candidate contractor is qualified to design, or to install and/or construct new

facilities or upgrades or modifications to existing facilities on the Transmission Owner's system, or (2) any manufacturer or vendor of major transmission-related equipment (e.g., high-voltage transformers, transmission line, circuit breakers) regarding which the Project Developer provides such information as the Transmission Owner may reasonably require which demonstrates to the Transmission Owner's reasonable satisfaction that the candidate entity's major transmission-related equipment is acceptable for installation and use on the Transmission Owner's system. No Transmission Owner shall unreasonably withhold, condition, or delay its acceptance of a contractor, manufacturer, or vendor proposed for addition to its List of Approved Contractors.

15.2.3.6 Construction by Multiple Project Developers:

In the event that there are multiple Project Developers that wish to exercise an Option to Build with respect to Interconnection Facilities and Stand Alone Network Upgrades of the types described in section 15.2.3.3 of this Schedule L, the Transmission Provider shall determine how to allocate the construction responsibility among them unless they reach agreement among themselves on how to proceed.

15.2.3.7 Option Procedures:

(a) Within 10 days after notifying Transmission Provider and the Transmission Owner of its election to exercise the Option to Build, Project Developer shall solicit bids from one or more Approved Contractors named on the Transmission Owner's List of Approved Contractors to procure equipment for, and/or to design, construct and/or install, the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that the Project Developer seeks to build under the Option to Build on terms (i) that will meet the Project Developer's proposed schedule; (ii) that, if the Project Developer seeks to have an Approved Contractor construct or install Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades, will satisfy all of the conditions on construction specified in sections 15.2.3.2 and 15.2.3.3 of this Schedule L; and (iii) that will satisfy the obligations of a Constructing Entity (other than those relating to responsibility for the costs of facilities).

(b) Any additional costs arising from the bidding process or from the final bid of the successful Approved Contractor shall be the sole responsibility of the Project Developer.

(c) Upon receipt of a qualifying bid acceptable to it, the Project Developer shall contract with the Approved Contractor that submitted the qualifying bid. Such contract shall meet the standards stated in paragraph (a) of this section.

(d) In the absence of a qualifying bid acceptable to the Project Developer in response to its solicitation, the Transmission Owner(s) shall be responsible for the design, procurement, construction and installation of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades in accordance with the Standard Option described in section 15.2.1 of this Schedule L.

15.2.3.8 Project Developer Drawings:

Project Developer shall submit to the Transmission Owner and Transmission Provider initial drawings, certified by a professional engineer, of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades to be constructed under the Option to Build. The Transmission Owner shall review and approve the initial drawings and engineering design of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades to be constructed under the Option to Build. The Transmission Owner shall review the drawings to assess the consistency of Project Developer's design of the pertinent Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades with Applicable Standards and the System Impact Study(ies). Transmission Owner, with facilitation and oversight by Transmission Provider, shall provide comments on such drawings to Project Developer within sixty (60) days after its receipt thereof, after which time any drawings not subject to comment shall be deemed to be approved. All drawings provided hereunder shall be deemed to be Confidential Information.

15.2.3.9 Effect of Review:

Transmission Owner's review of Project Developer's initial drawings of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that the Project Developer is building shall not be construed as confirming, endorsing or providing a warranty as to the fitness, safety, durability or reliability of such facilities or the design thereof. At its sole cost and expense, Project Developer shall make such changes to the design of the pertinent Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades as may reasonably be required by Transmission Provider, in consultation with the Transmission Owner, to ensure that the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that Project Developer is building meet Applicable Standards and conform with the System Impact Study(ies).

15.3 Revisions to Schedule of Work:

The Schedule of Work shall be revised as required in accordance with Transmission Provider's scope change process for interconnection projects set forth in the PJM Manuals,

or otherwise by mutual agreement of the Interconnection Parties, which agreement shall not be unreasonably withheld, conditioned or delayed. The scope change process is intended to be used for changes to the Scope of Work as defined herein, and is not intended to be used to change any of the milestone set forth in the GIA.

15.4 Right to Complete Transmission Owner Interconnection Facilities and Transmission Owner Upgrades:

In the event that, at any time prior to successful Stage Two energization of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades pursuant to section 15.8 of this Schedule L, the Project Developer terminates its obligations under this GIA pursuant to Appendix 2, section 16.2. of this GIA due to a Default by the Transmission Owner, the Project Developer may elect to complete the design, procurement, construction and installation of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades. The Project Developer shall notify the Transmission Owner and Transmission Provider in writing of its election to complete the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades within 10 days after the date of Project Developer's notice of termination pursuant to Appendix 2, section 16.2. of this GIA. In the event that the Project Developer elects to complete the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades, it shall do so in accordance with the terms and conditions of the Option to Build under section 15.2.3 of this Schedule L and shall be responsible for paying all costs of completing the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades incurred after the date of its notice of election to complete the facilities. Project Developer may take possession of, and may use in completing the Transmission Owner Interconnection Facilities, any materials and supplies and equipment (other than equipment and facilities that already have been installed or constructed) acquired by the Transmission Owner for construction, and included in the Costs, of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades, provided that Project Developer shall pay Transmission Provider, for the benefit of the Transmission Owner and upon presentation by Transmission Owner of reasonable and appropriate documentation thereof, any amounts expended by the Transmission Owner for such materials, supplies and equipment that Project Developer has not already paid. Title to all Transmission Owner Interconnection Facilities and Transmission Owner Upgrades constructed by Project Developer under this section 15 shall be transferred to the Transmission Owner in accordance with Appendix 2, section 23.3.5 of this GIA.

15.5 Suspension of Work Upon Default:

Upon the occurrence of a Default by Project Developer as defined in Appendix 2, section 16 of this GIA, the Transmission Provider or the Transmission Owner may by written notice to Project Developer suspend further work associated with the construction and installation of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades that the Transmission Owner is responsible for constructing. Such suspension shall not constitute a waiver of any termination rights under this GIA. In the event of a suspension by Transmission Provider or Transmission Owner, the Project

Developer shall be responsible for the Costs incurred in connection with any suspension hereunder in accordance with Appendix 2, section 16 of this GIA.

15.6 Construction Reports:

Each of Project Developer and Transmission Owner shall issue reports to each other on a monthly basis, and at such other times as reasonably requested, regarding the status of the construction and installation of the Interconnection Facilities and Transmission Owner Upgrades. Each of Project Developer and Transmission Owner shall promptly identify, and shall notify each other of, any event that the party reasonably expects may delay completion, or may significantly increase the cost, of the Interconnection Facilities and Transmission Owner Upgrades. Should either Project Developer or Transmission Owner report such an event, Transmission Provider shall, within fifteen (15) days of such notification, convene a technical meeting with Project Developer and Transmission Owner to evaluate schedule alternatives.

15.7 Inspection and Testing of Completed Facilities

15.7.1 Coordination:

Project Developer and the Transmission Owner shall coordinate the timing and schedule of all inspection and testing of the Interconnection Facilities and Transmission Owner Upgrades.

15.7.2 Inspection and Testing:

Each of Project Developer and Transmission Owner shall cause inspection and testing of the Interconnection Facilities and Transmission Owner Upgrades that it constructs in accordance with the provisions of this section. Project Developer and Transmission Owner acknowledge and agree that inspection and testing of facilities may be undertaken as facilities are completed and need not await completion of all of the facilities that a party is building.

15.7.2.1 Of Project Developer-Built Facilities:

Upon the completion of the construction and installation, but prior to energization, of any Interconnection Facilities and Transmission Owner Upgrades constructed by the Project Developer and related portions of the Generating Facility or Merchant Transmission Facility, the Project Developer shall have the same inspected and/or tested by an authorized electric inspection agency or qualified third party reasonably acceptable to the Transmission Owner to assess whether the facilities substantially comply with Applicable Standards. Said inspection and testing shall be held on a mutually agreed-upon date, and the Transmission Owner and Transmission Provider shall have the right to attend and observe, and to obtain the written results of, such testing.

15.7.2.2 Of Transmission Owner-Built Facilities:

Upon the completion of the construction and installation, but prior to energization, of any Interconnection Facilities and Transmission Owner Upgrades constructed by the Transmission Owner, the Transmission Owner shall have the same inspected and/or tested by qualified personnel or a qualified contractor to assess whether the facilities substantially comply with Applicable Standards. Subject to Applicable Laws and Regulations, said inspection and testing shall be held on a mutually agreed-upon date, and the Project Developer and Transmission Provider shall have the right to attend and observe, and to obtain the written results of, such testing.

15.7.3 Review of Inspection and Testing by Transmission Owner:

In the event that the written report, or the observation of either of Project Developer and Transmission Owner or Transmission Provider, of the inspection and/or testing pursuant to section 15.7.2 of this Schedule L reasonably leads the Transmission Provider or Transmission Owner to believe that the inspection and/or testing of some or all of the Interconnection Facilities and Stand Alone Network Upgrades built by the Project Developer was inadequate or otherwise deficient, the Transmission Owner may, within 20 days after its receipt of the results of inspection or testing and upon reasonable notice to the Project Developer, perform its own inspection and/or testing of such Interconnection Facilities and Stand Alone Network Upgrades to determine whether the facilities are acceptable for energization, which determination shall not be unreasonably delayed, withheld or conditioned.

15.7.4 Notification and Correction of Defects

15.7.4.1 If the Transmission Owner, based on inspection or testing pursuant to section 15.7.2 or 15.7.3 of this Schedule L, identifies any defects or failures to comply with Applicable Standards in the Interconnection Facilities and Stand Alone Network Upgrades constructed by the Project Developer, the Transmission Owner shall notify the Project Developer and Transmission Provider of any identified defects or failures within 20 days after the Transmission Owner's receipt of the results of such inspection or testing. The Project Developer shall take appropriate actions to correct any such defects or failure at its sole cost and expense, and shall obtain the Transmission Owner's acceptance of the corrections, which acceptance shall not be unreasonably delayed, withheld or conditioned. Such acceptance does not modify and shall not limit the Project Developer's indemnification obligations set forth in section 15.2.3.2(e) of this Schedule L.

15.7.4.2 In the event that inspection and/or testing of any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades built by the Transmission Owner identifies any defects or failures to comply with Applicable Standards in such facilities, Transmission Owner shall take appropriate action to correct any such defects or failures within 20 days after it learns thereof. In the event that such a defect or failure cannot reasonably be corrected within such 20-day period, Transmission Owner shall commence the necessary correction within that time and shall thereafter diligently pursue it to completion.

15.7.5 Notification of Results:

Within 10 days after satisfactory inspection and/or testing of Interconnection Facilities and Stand Alone Network Upgrades built by the Project Developer (including, if applicable, inspection and/or testing after correction of defects or failures), the Transmission Owner shall confirm in writing to the Project Developer and Transmission Provider that the successfully inspected and tested facilities are acceptable for energization.

15.8 Energization of Completed Facilities

(A) Unless otherwise provided in the Schedule of Work, energization of the Interconnection Facilities and Transmission Owner Upgrades related to interconnection of a Generation Project Developer and, when applicable as determined by Transmission Provider, of the Interconnection Facilities and Transmission Owner Upgrades related to interconnection of a Transmission Project Developer, shall occur in two stages. Stage One energization shall consist of energization of the Project Developer Interconnection Facilities and of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades and will occur prior to initial energization of the Generating Facility. Stage Two energization shall consist of (1) initial synchronization to the Transmission System of any completed generator(s) at the Generating Facility of a Generation Project Developer, or of applicable facilities, as determined by the Transmission Provider, associated with Merchant Transmission Facilities of a Transmission Project Developer, and (2) energization of the remainder of the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades. Stage Two energization shall be completed prior to Initial Operation of the Generating Facility or Merchant Transmission Facility.

(B) In the case of Interconnection Facilities and Transmission Owner Upgrades related to interconnection of a Transmission Project Developer for which the Transmission Provider determines that two-stage energization is inapplicable, energization shall occur in a single stage, consisting of energization of the Interconnection Facilities and Transmission Owner Upgrades and the Generating Facility or Merchant Transmission Facility. Such a single-stage energization shall be regarded as Stage Two energization for the purposes of the remaining provisions of this section 15.8.

15.8.1 Stage One energization of the Interconnection Facilities and Transmission Owner Upgrades may not occur prior to the satisfaction of the following additional conditions:

(a) The Project Developer shall have delivered to the Transmission Owner and Transmission Provider a writing transferring to the Transmission Owner and Transmission Provider operational control over any Transmission Owner Interconnection Facilities that Project Developer has constructed; and

(b) The Project Developer shall have provided a mark-up of construction drawings to the Transmission Owner to show the “as-built” condition of all Transmission Owner Interconnection Facilities and Stand Alone that Project Developer has constructed.

15.8.2 As soon as practicable after the satisfaction of the conditions for Stage One energization specified in sections 15.7 and 15.8.1 of this Schedule L, the Transmission Owner and the Project Developer shall coordinate and undertake the Stage One energization of facilities.

15.8.3 Stage Two energization of the Interconnection Facilities and Transmission Owner Upgrades may not occur prior to the satisfaction of the following additional conditions:

(a) The Project Developer shall have delivered to the Transmission Owner and Transmission Provider a writing transferring to the Transmission Owner and Transmission Provider operational control over any Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that Project Developer has constructed and operational control of which it has not previously transferred pursuant to section 15.8.1 of this Schedule L;

(b) The Project Developer shall have provided a mark-up of construction drawings to the Transmission Owner to show the “as-built” condition of all Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades that Project Developer has constructed and which were not included in the Stage One energization, but are included in the Stage Two energization; and

(c) Telemetry systems shall be operational and shall be providing Transmission Provider and the Transmission Owner with telemetered data as specified pursuant to section 8.5.2 of Appendix 2 to this GIA.

15.8.4 As soon as practicable after the satisfaction of the conditions for Stage Two energization specified in sections 15.7 and 15.9.3 of this Schedule L, the Transmission Owner and the Project Developer shall coordinate and undertake the Stage Two energization of facilities.

15.8.5 To the extent defects in any Interconnection Facilities and Transmission Owner Upgrades are identified during the energization process, the energization will not be deemed successful. In that event, the Constructing Entity shall take action to correct such defects in any Interconnection Facilities and Transmission Owner Upgrades that it built as promptly as practical after the defects are identified. The affected Constructing Entity shall so notify the other Construction Parties when it has corrected any such defects, and the Constructing Entities shall recommence efforts, within 10 days thereafter, to energize the appropriate Interconnection Facilities and Transmission Owner Upgrades in accordance with section 15.9; provided that the Transmission Owner may, in the reasonable exercise of its discretion and with the approval of Transmission Provider, require that further inspection and testing be performed in accordance with section 15.7 of this Schedule L.

15.9 Transmission Owner's Acceptance of Facilities Constructed by Project Developer:

Within five days after determining that Interconnection Facilities and Transmission Owner Upgrades have been successfully energized, the Transmission Owner shall issue a written notice to the Project Developer accepting the Interconnection Facilities and Transmission Owner Upgrades built by the Project Developer that were successfully energized. Such acceptance shall not be construed as confirming, endorsing or providing a warranty by the Transmission Owner as to the design, installation, construction, fitness, safety, durability or reliability of any Interconnection Facilities and Transmission Owner Upgrades built by the Project Developer, or their compliance with Applicable Standards.

15.10 Addendum of Non-Standard Terms and Conditions for Construction Service. In the event of any conflict between a provision of Schedule F of this GIA that FERC has accepted and any provision of the standard terms and conditions set forth in this Schedule L and Appendix 2 of this GIA that relates to the same subject matter, the pertinent provision of Schedule F of this GIA shall control.

SCHEDULE L, APPENDIX 1
NEGOTIATED CONTRACT OPTION TERMS

DRAFT

Tariff, Part IX, Subpart C

**Form of
Wholesale Market Participation Agreement**

(Project Identifier # [redacted])

WHOLESALE MARKET PARTICIPATION AGREEMENT

Among

PJM INTERCONNECTION, L.L.C.

And

[redacted]

And

[redacted]

DRAFT

WHOLESALE MARKET PARTICIPATION AGREEMENT

By and Among
PJM Interconnection, L.L.C.

And

[Name of Wholesale Market Participant]

And

[Name of Transmission Owner]

(Project Identifier # [])

This Wholesale Market Participation Agreement (“WMPA”), including the Specifications, Appendices, and Schedules attached hereto and incorporated herein, is entered into by and among PJM Interconnection, L.L.C., the Regional Transmission Organization for the PJM Region (“Transmission Provider” or “PJM”), [] (“Project Developer” or “Wholesale Market Participant” [OPTIONAL: or “[short name]”]), and [] (“Transmission Owner” {OPTIONAL: or “[short name]”}) (referred to individually as a “Party” and collectively as the “Parties”) in order to effectuate Wholesale Transactions by Wholesale Market Participant in PJM’s markets. [Use as/when applicable: This WMPA supersedes the [] {insert details to identify the agreement being superseded, the effective date of the agreement, the service agreement number designation, the prior position number or project identifier, and the FERC docket number, if applicable.}]

WITNESSETH

WHEREAS, Wholesale Market Participant is developing and will own and control a generation or storage resource that it intends to use to engage in Wholesale Transactions in PJM’s markets (the “Generating Facility”), and desires to maintain its proposed Generating Facility in the Cycle of projects that PJM studies for potential reliability impacts to the Transmission System;

WHEREAS, Wholesale Market Participant is seeking to physically interconnect its Generating Facility at a local distribution or sub-transmission facility that at this time is not subject to the PJM Open Access Transmission Tariff (“Tariff”) under Federal Energy Regulatory Commission (“FERC” or “Commission”) jurisdiction;

WHEREAS, Wholesale Market Participant and ([Transmission Owner] [or if there is a point of common coupling {point of common coupling is where the Generating Facility attaches to the Municipality/Cooperative facilities, and should be depicted as a blue pyramid in Schedule B} with a Municipality/Cooperative, insert the name of the Municipality/Cooperative []]) or its affiliate have entered into a separate non-FERC jurisdictional two-party interconnection agreement in order to address issues of physical interconnection, local upgrades, and local charges that may be presented by the interconnection of the Generating Facility to the local distribution or sub-transmission facility (the “Interconnection Agreement”); and

WHEREAS, the Interconnection Agreement is a Condition Precedent to this WMPA, and this WMPA is hereby made expressly contingent upon the satisfaction of the Condition Precedent

as described in section 3.0 below, and, in the event the Condition Precedent is not satisfied, then this WMPA automatically will be null and void *ab initio* and will have no further force or effect, and, moreover, the Interconnection Agreement must remain in full force and effect in order for Wholesale Market Participant to use the Generating Facility to engage in Wholesale Transactions in PJM's markets under this WMPA.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, along with other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged by Transmission Provider, Transmission Owner, and Wholesale Market Participant; the Parties agree to assume all of the rights and obligations consistent with the rights and obligations relating to Network Upgrades and metering requirements as set forth in the Tariff as of the effective date of this WMPA, required for Wholesale Market Participant to engage in Wholesale Transactions in PJM's markets using the Generating Facility; and the Parties mutually covenant and agree as follows:

Article 1 – DEFINITIONS and EFFECTIVE DATE

- 1.0 Defined Terms.** All capitalized terms used and not otherwise defined herein shall have the meanings set forth in Appendix 1 hereto.
- 1.1 Effective Date.** This WMPA shall become effective on the date it is executed by all Parties, or, if this WMPA is filed with FERC unexecuted, on the date specified by FERC. This WMPA shall terminate on such date as mutually agreed upon by the Parties, unless earlier terminated consistent with the provisions of section 3.0 or Appendix 2, section 8 of this WMPA.

Article 2 - NOTICES and MISCELLANEOUS

- 2.0 Notices.** Any notice, demand, or request required or permitted to be given by any Party to another Party and any instrument required or permitted to be tendered or delivered by any Party in writing to another Party shall be provided electronically or may be so given, tendered, or delivered by recognized national courier or by depositing the same with the United States Postal Service, with postage prepaid for delivery by certified or registered mail addressed to the Party, or by personal delivery to the Party, at the electronic or other address specified below.

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403-2497
interconnectionagreementnotices@pjm.com

Wholesale Market Participant:

Transmission Owner:

Any Party may change its address or designated representative for notice by giving notice to the other Parties in the manner provided for above.

- 2.1 Construction with Other Parts of the Tariff.** This WMPA shall not be construed as an application for service under Tariff, Part II or Tariff, Part III.
- 2.2 Warranty for System Impact Studies.** In analyzing and preparing the System Impact Studies, and in specifying the Network Upgrades that are required for reliability reasons as described in Schedule D of this WMPA, Transmission Provider, Transmission Owner, and any other subcontractors employed by Transmission Provider have had to, and shall have to, rely upon information provided by Wholesale Market Participant and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, TRANSMISSION OWNER, NOR SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER OR TRANSMISSION OWNER MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE SYSTEM IMPACT STUDIES, OR OF THE NETWORK UPGRADES. Wholesale Market Participant acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.
- 2.3 Waiver.** No waiver by any Party of one or more defaults by another Party in performance of any of the provisions of this WMPA shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
- 2.4 Amendment.** This WMPA or any part thereof may not be amended, modified, or waived other than by a written document signed by all Parties. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the Parties, without modifying or altering the original date of execution, dates of any milestones, or obligations contained therein.

If an amendment is desired, then, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend to Wholesale Market Participant for execution. No later than fifteen (15) Business Days after Transmission Provider tenders for execution the agreement, Wholesale Market Participant shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., Schedule 5 (“Operating Agreement”); or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. The agreement shall be deemed to be terminated and withdrawn if Wholesale Market Participant fails to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Wholesale Market Participant, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) file the agreement unexecuted with the Commission. Transmission Provider also may file the agreement unexecuted with the Commission if Transmission Owner does not comply with the requirements above.

2.5 Assignment

2.5.1 Assignment by Wholesale Market Participant with Prior Consent

Except as provided in section 2.5.2 of this WMPA, Wholesale Market Participant shall not assign its rights or delegate its duties under this WMPA without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned, or delayed, and any such assignment or delegation made without such prior written consent shall be null and void.

If written consent is desired, then, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Wholesale Market Participant for execution. No later than fifteen (15) Business Days after Transmission Provider tenders for execution the agreement, Wholesale Market Participant shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. The agreement shall be deemed to be terminated and withdrawn if Wholesale Market Participant fails to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Wholesale Market Participant, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) file

the agreement unexecuted with the Commission. Transmission Provider also may file the agreement unexecuted with the Commission if Transmission Owner does not comply with the requirements above.

2.5.2 Assignment by Wholesale Market Participant without Prior Consent

2.5.2.1 Assignment to Owners:

If the Interconnection Agreement provides that it may be assigned, and the Interconnection Agreement was assigned, then Wholesale Market Participant may assign its rights or delegate its duties under this WMPA, without Transmission Provider's or Transmission Owner's prior consent, to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all of the Generating Facility, provided that prior to the effective date of any such assignment (1) the assignee shall demonstrate to Transmission Provider that, as of the effective date of the assignment, the assignee has the technical and operational competence to comply with the requirements of this WMPA and (2) assignee assumes all rights, duties, and obligations of Wholesale Market Participant under this WMPA in a writing to Transmission Provider and Transmission Owner. Any assignment described herein shall not relieve or discharge Wholesale Market Participant from any of its obligations hereunder absent the written consent of Transmission Provider, such consent not to be unreasonably withheld, conditioned, or delayed.

Wholesale Market Participant may elect to enter into a consent to assignment agreement to effectuate an assignment allowed by this section 2.5.2.1. If so elected, then, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Wholesale Market Participant for execution. No later than fifteen (15) Business Days after Transmission Provider tenders for execution the agreement, Wholesale Market Participant shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. The agreement shall be deemed to be terminated and withdrawn if Wholesale Market Participant fails to comply with these requirements. No later than fifteen (15) Business Days after execution by Wholesale Market Participant, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) file the agreement unexecuted with the Commission. Transmission Provider also may file the agreement unexecuted with the Commission if Transmission Owner does not comply with the requirements above.

2.5.2.2 Assignment to Lenders:

If the Interconnection Agreement provides that it may be assigned to any Project Finance Entity(ies), and the Interconnection Agreement was so assigned, then Wholesale Market Participant may assign this WMPA to such Project Finance Entity(ies) without Transmission Provider's or Transmission Owner's consent, provided that such assignment does not alter or diminish Wholesale Market Participant's duties and obligations under this WMPA. If Wholesale Market Participant provides Transmission Provider and Transmission Owner with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contact(s) for notice of Breach consistent with Appendix 2, section 7.3 hereto, then Transmission Provider and Transmission Owner shall provide notice and reasonable opportunity for such Project Finance Entity(ies) to cure any Breach under this WMPA in accordance with this WMPA. Transmission Provider or Transmission Owner shall, if requested by such Project Finance Entity(ies), provide such customary and reasonable documents, including consents to assignment, as may reasonably be requested with respect to the assignment and status of this WMPA, provided that such documents do not alter or diminish the rights of Transmission Provider or Transmission Owner under this WMPA, except with respect to providing notice of Breach to such Project Finance Entity(ies) consistent with Appendix 2, section 7.3 hereto. Upon presentation of Transmission Provider's or Transmission Owner's invoice therefor, Wholesale Market Participant shall pay Transmission Provider's or Transmission Owner's reasonable documented cost of providing such documents and certificates as requested by such Project Finance Entity(ies). Any assignment described herein shall not relieve or discharge Wholesale Market Participant from any of its obligations hereunder absent the written consent of Transmission Provider and Transmission Owner.

2.5.3 Assignment by Transmission Owner

Transmission Owner shall be entitled, subject to applicable laws and regulations, to assign this WMPA to an Affiliate or successor that owns and operates all or a substantial portion of Transmission Owner's transmission facilities.

2.5.4 Successors and Assigns:

This WMPA and all of its provisions are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

Article 3 – CONTINGENCIES and PROJECT-SPECIFIC MILESTONES

- 3.0 Contingencies.** This WMPA is hereby made expressly contingent on Wholesale Market Participant having entered into the Interconnection Agreement (the "Condition Precedent"). Notwithstanding anything to the contrary in this WMPA, in the event that the Condition Precedent is not satisfied, then this WMPA automatically will be null and void

ab initio and will have no further force or effect. Further, the Interconnection Agreement must remain in full force and effect in order for Wholesale Market Participant to use the Generating Facility to engage in Wholesale Transactions in PJM’s markets under this WMPA. The effectiveness of this WMPA is expressly contingent on the effectiveness of the Interconnection Agreement, and this WMPA shall automatically terminate upon termination of the Interconnection Agreement.

3.1 Project-Specific Milestones. During the term of this WMPA, Wholesale Market Participant shall ensure that it meets each of the following milestones:

[Specify Project-Specific Milestones]

[As appropriate include the following standard Milestones]

3.1.1 Substantial Site work completed. On or before [redacted], Wholesale Market Participant must demonstrate completion of at least 20% of project site construction.

3.1.2 Commercial Operation. On or before [redacted], Wholesale Market Participant must demonstrate commercial operation of all generating units in order to achieve the full Maximum Facility Output set forth in section 1.0(c) of the Specifications to this WMPA. Failure to achieve this Maximum Facility Output may result in a permanent reduction in Maximum Facility Output of the Generating Facility, and, if necessary, a permanent reduction of the Capacity Interconnection Rights to the level achieved. Demonstrating commercial operation includes achieving Initial Operation and making commercial sales or use of energy, as well as, if applicable, obtaining capacity qualification in accordance with the requirements of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region.

3.1.3 Documentation. Within one (1) month following full commercial operation of the Generating Facility, Wholesale Market Participant must provide certified documentation demonstrating that the “as-built” Generating Facility is consistent with the applicable PJM studies and agreements. Wholesale Market Participant must also provide PJM with “as-built” electrical modeling data or confirm that previously submitted data remain valid.

[Add Additional Project Specific Milestones as appropriate]

Wholesale Market Participant shall demonstrate the occurrence of each of the foregoing milestones to Transmission Provider’s reasonable satisfaction. Transmission Provider may reasonably extend any such milestone dates in the event of delays that Wholesale Market Participant (i) did not cause and (ii) could not have remedied through the exercise of due diligence.

[Include the below optional Article 4 when Municipality/Cooperative facilities reside between the Generating Facility and Transmission Owner facilities.]

Article 4 – POINT of COMMON COUPLING

4.0 Rights to Facilities. Nothing in this WMPA provides any rights with regard to the use of the non-FERC jurisdictional distribution or sub-transmission facilities owned, operated, and maintained by [insert name of Municipality/Cooperative].

4.1 Point of Common Coupling. The electrical Point of Interconnection for the Generating Facility under this WMPA, for the purpose of engaging in Wholesale Transactions in PJM's markets, is located at a point where Transmission Owner's facilities are interconnected to facilities owned by [insert name of Municipality/Cooperative], to which Wholesale Market Participant's facilities are or will be physically connected, at a point of common coupling, pursuant to the Interconnection Agreement referenced in this WMPA. Therefore, the Parties acknowledge and agree that interconnection of the Generating Facility under this WMPA depends upon the physical availability of, and Wholesale Market Participant's right to utilize, the [insert name of Municipality/Cooperative] facilities and the interconnection of the [insert name of Municipality/Cooperative] facilities with those of Wholesale Market Participant and Transmission Owner. Accordingly, the following shall apply:

4.1.1 Wholesale Market Participant shall obtain [insert name of Municipality/Cooperative]'s agreement to grant to Wholesale Market Participant the rights to utilize the [insert name of Municipality/Cooperative] facilities to transport energy produced by the Generating Facility to the Point of Interconnection as shown in Schedule B of this WMPA.

4.1.2 Concurrently with execution of this WMPA, Wholesale Market Participant shall provide Transmission Provider with copies of any and all agreements pursuant to which [insert name of Municipality/Cooperative] agrees to grant to Wholesale Market Participant the rights as described in section 4.1.1.

4.1.3 In the event that any of the [insert name of Municipality/Cooperative] facilities used to provide interconnection of the Generating Facility become unavailable for any reason to carry energy produced by the Generating Facility to and across the Point of Interconnection as shown in Schedule B of this WMPA, Wholesale Market Participant's rights to interconnect under this WMPA, and thus Wholesale Market Participant's rights to inject energy into the Transmission System as set forth in Specifications, section 2 of this WMPA, will be suspended for the duration of such unavailability, and Transmission Provider and Transmission Owner shall incur no liability to Wholesale Market Participant in connection with such suspension.

4.1.4 In the event that [insert name of Municipality/Cooperative] ceases operations at its facility where the Generating Facility is located, or removes from service any of the electrical facilities on which the Generating Facility's physical interconnection depends, it shall be Wholesale Market Participant's responsibility to acquire and install, or to obtain rights to utilize, any facilities necessary to enable Wholesale Market Participant to deliver energy produced by the Generating Facility to and across the Point of Interconnection as shown in Schedule B of this WMPA.

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IN WITNESS WHEREOF, Transmission Provider, Wholesale Market Participant, and Transmission Owner have caused this WMPA to be executed by their respective authorized officials. By each individual signing below, each represents to the others that they are duly authorized to sign on behalf of their company and have the actual and/or apparent authority to bind the respective company to this WMPA.

(Project Identifier # [redacted])

Transmission Provider: **PJM Interconnection, L.L.C.**

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Wholesale Market Participant: **[Name of Party]**

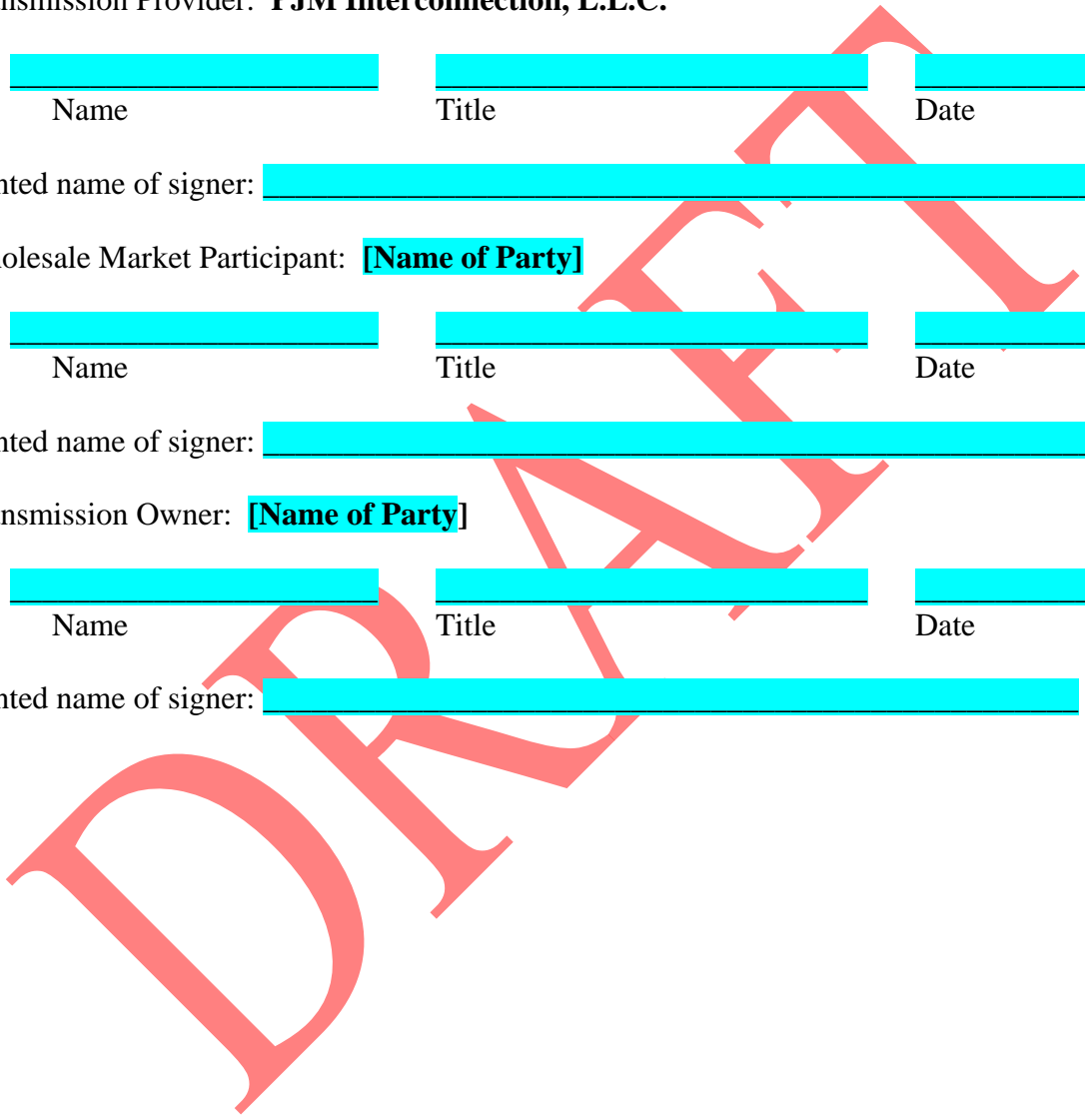
By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Transmission Owner: **[Name of Party]**

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]



**SPECIFICATIONS FOR
WHOLESALE MARKET PARTICIPATION AGREEMENT**

**By and Among
PJM INTERCONNECTION, L.L.C.**

And

[Name of Wholesale Market Participant]

And

[Name of Transmission Owner]

(Project Identifier # [redacted])

1.0 Description of Generating Facility owned and controlled by Wholesale Market Participant to engage in Wholesale Transactions in PJM's markets under this WMPA:

a. Name of Generating Facility:

[redacted]
[redacted]

b. Location of Generating Facility:

[redacted]
[redacted]

c. Size in megawatts of Generating Facility:

Maximum Facility Output of [redacted] MW

d. Description of the equipment configuration, including the interconnection facilities owned by Wholesale Market Participant that physically interconnect the Generating Facility to the local distribution or sub-transmission facility:

[redacted]
[redacted]
[redacted]

2.0 Rights

2.1 Capacity Interconnection Rights: {Instructions: This section will not apply if the Generating Facility is exclusively an Energy Resource and thus is granted no CIRs; see alternate section 2.1 below.}

Consistent with the applicable terms of the Tariff, and subject to construction of any Network Upgrades required for reliability reasons as described in Schedule D of this WMPA, Wholesale Market Participant shall have Capacity Interconnection Rights at the Point of Interconnection specified in Schedule B of this WMPA in the amount of [redacted] MW; provided, however, that nothing in this WMPA provides any rights with regard to the use of local distribution or sub-transmission facilities. {Instructions: This number is the total of the CIRs granted under this WMPA, plus any prior CIRs if this is a superseding WMPA. }

[Instructions: Include the following language when the projected Initial Operation is in advance of the study year used for the System Impact Studies, and CIRs are only interim until the study year.

Consistent with the applicable terms of the Tariff, and subject to construction of any Network Upgrades required for reliability reasons as described in Schedule D of this WMPA, Wholesale Market Participant shall have Capacity Interconnection Rights at the Point of Interconnection specified in Schedule B of this WMPA in the amount of [redacted] MW commencing [redacted] {e.g., June 1, 2023}. From the effective date of this WMPA until [redacted] {e.g., May 31, 2023} (the “interim time period”), Wholesale Market Participant may be awarded interim Capacity Interconnection Rights in an amount not to exceed [redacted] MW. The availability and amount of such interim Capacity Interconnection Rights shall depend upon the completion and results of an interim deliverability study. To the extent applicable, during the interim time period, PJM reserves the right to limit total injections of the Generating Facility consistent with the results of the interim deliverability study (which may be less than the Maximum Facility Output). Any interim Capacity Interconnection Rights awarded during the interim time period shall terminate on [redacted] {e.g., May 31, 2023}.]

- 2.1a** To the extent that any portion of the Generating Facility is not a Capacity Resource with Capacity Interconnection Rights, such portion of the Generating Facility shall be an Energy Resource. Pursuant to this WMPA, Wholesale Market Participant may sell energy into PJM’s markets in an amount equal to the Generating Facility’s Maximum Facility Output indicated in section 1.0c of these Specifications. PJM reserves the right to limit injections in the event reliability would be affected by output greater than such quantity.

{Instructions: This version of section 2.1 will be used in lieu of section 2.1 above when a Generating Facility will be an Energy Resource and therefore will not be granted CIRs. }

- [2.1] Energy Resource:** The Generating Facility described in section 1.0 of these Specifications shall be an Energy Resource. Pursuant to this WMPA, Wholesale Market Participant may sell energy into PJM’s markets in an amount equal to the Generating Facility’s Maximum Facility Output indicated in section 1.0c of these Specifications. PJM reserves the right to limit injections in the event reliability would be affected by output greater than such quantity.

3.0 Ownership and Location of Metering Equipment. The metering equipment to be constructed, the capability of the metering equipment to be constructed, and the ownership thereof as required for Wholesale Market Participant to use the Generating Facility to engage in Wholesale Transactions in PJM's markets shall be identified in Schedule B to this WMPA, and provided consistent with the PJM Manuals.

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APPENDICES:

- **APPENDIX 1 - DEFINITIONS**
- **APPENDIX 2 - STANDARD TERMS AND CONDITIONS**

SCHEDULES:

- **SCHEDULE A - SITE PLAN**
- **SCHEDULE B - SINGLE-LINE DIAGRAM**
- **SCHEDULE C - LIST OF METERING EQUIPMENT**
- **SCHEDULE D - LIST OF NETWORK UPGRADES**
- **SCHEDULE E - APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS**
- **SCHEDULE F - SCHEDULE OF NON-STANDARD TERMS AND CONDITIONS**

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APPENDIX 1

DEFINITIONS

From the Generation Interconnection Procedures accepted for filing by the Commission as of the effective date of this agreement

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APPENDIX 2

STANDARD TERMS AND CONDITIONS

1 Survival:

The Wholesale Market Participation Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments, and to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while the Wholesale Market Participation Agreement was in effect.

2 No Transmission Services:

The execution of a Wholesale Market Participation Agreement does not constitute a request for transmission service, or entitle Project Developer to receive transmission service, under Tariff, Part II or Tariff, Part III. Nor does the execution of a Wholesale Market Participation Agreement obligate Transmission Owner or Transmission Provider to procure, supply, or deliver to Project Developer or the Generating Facility any energy, capacity, Ancillary Services, or Station Power (and any associated distribution services).

3 Metering

3.1 General:

Project Developer shall have the right to install, own, operate, test, and maintain the necessary Metering Equipment. In the event that Project Developer exercises this option, Transmission Owner shall have the right to install its own check meter(s), at its own expense, at or near the location of the Metering Equipment. If both Project Developer and Transmission Owner install meters, the meter installed by Project Developer shall control unless it is determined by testing to be inaccurate. If Project Developer does not exercise the option provided by the first sentence of this section, Transmission Owner shall have the option to install, own, operate, test, and maintain all necessary Metering Equipment at Project Developer's expense. If Transmission Owner does not exercise this option, Project Developer shall install, own, operate, test, and maintain all necessary Metering Equipment. Transmission Provider shall determine the location where the Metering Equipment shall be installed, after consulting with Project Developer and Transmission Owner. All Metering Equipment shall be tested prior to any operation of the Generating Facility. Power flows to and from the Generating Facility shall be compensated to the Point of Interconnection, or, upon the mutual agreement of Transmission Owner and Project Developer, to another location.

3.2 Standards:

All Metering Equipment installed pursuant to this Appendix 2 to be used for billing and payments shall be revenue quality Metering Equipment and shall satisfy applicable ANSI standards and Transmission Provider's metering standards and requirements. Nothing in this Appendix 2

precludes the use of Metering Equipment for any retail services of Transmission Owner provided, however, that in such circumstances Applicable Laws and Regulations shall control.

3.3 Testing of Metering Equipment:

The Interconnected Entity that, pursuant to section 3.1 of this Appendix 2, owns the Metering Equipment shall operate, maintain, inspect, and test all Metering Equipment upon installation and at least once every two (2) years thereafter. Upon reasonable request by the other Interconnected Entity, the owner of the Metering Equipment shall inspect or test the Metering Equipment more frequently than every two (2) years, but in no event more frequently than three (3) times in any 24-month period. The owner of the Metering Equipment shall give reasonable notice to the other Parties of the time when any inspection or test of the owner's Metering Equipment shall take place, and the other Parties may have representatives present at the test or inspection. If Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired, or replaced in order to provide accurate metering. Where Transmission Owner owns the Metering Equipment, the expense of such adjustment, repair, or replacement shall be borne by Project Developer, except that Project Developer shall not be responsible for such expenses where the inaccuracy or defect is caused by Transmission Owner. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than 1% from the measurement made by the standard meter used in the test, the owner of the Metering Equipment shall inform Transmission Provider, and Transmission Provider shall inform the other Interconnected Entity, of the need to correct all measurements made by the inaccurate meter for the period during which the inaccurate measurements were made, if the period can be determined. If the period of inaccurate measurement cannot be determined, the correction shall be for the period immediately preceding the test of the Metering Equipment that is equal to one-half of the time from the date of the last previous test of the Metering Equipment, provided that the period subject to correction shall not exceed nine (9) months.

3.4 Metering Data:

At Project Developer's expense, the metered data shall be telemetered (a) to a location designated by Transmission Provider; (b) to a location designated by Transmission Owner, unless Transmission Owner agrees otherwise; and (c) to a location designated by Project Developer. Data from the Metering Equipment at the Point of Interconnection shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Generating Facility to the Point of Interconnection, provided that Transmission Provider's rules applicable to Station Power as set forth at Tariff, Attachment K-Appendix, section 1.7.10(d) shall control with respect to a Project Developer's consumption of Station Power.

4 Communications

4.1 Project Developer Obligations:

Project Developer shall install and maintain satisfactory operating communications with Transmission Provider's system dispatcher or its other designated representative, and with Transmission Owner. Project Developer shall provide standard voice line, dedicated voice line, and electronic communications at its Generating Facility control room. Project Developer also

shall provide and maintain backup communication links with both Transmission Provider and Transmission Owner for use during abnormal conditions as specified by Transmission Provider and Transmission Owner, respectively. Project Developer further shall provide the dedicated data circuit(s) necessary to provide Project Developer data to Transmission Provider and Transmission Owner as necessary to conform with Applicable Technical Requirements and Standards.

4.2 Remote Terminal Unit:

Unless otherwise deemed unnecessary by Transmission Provider and Transmission Owner, prior to any operation of the Generating Facility, a remote terminal unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Project Developer, or by Transmission Owner at Project Developer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider and Transmission Owner through use of a dedicated point-to-point data circuit(s). Instantaneous bi-directional real power and, with respect to the Generating Facility, reactive power flow information must be telemetered directly to the location(s) specified by Transmission Provider and Transmission Owner.

5 Force Majeure

5.1 Notice:

A Party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify the other Parties in writing or by telephone within a reasonable time after the occurrence of the cause relied upon.

5.2 Duration of Force Majeure:

A Party shall not be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Parties in writing as soon as reasonably possible after the occurrence of the cause relied upon. Those notices shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. Written notices given pursuant to this Article shall be acknowledged in writing as soon as reasonably possible. The Party affected shall exercise Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. The Party affected has a continuing notice obligation to the other Parties, and must update the particulars of the original Force Majeure notice and subsequent notices, in writing, as the particulars change. The Party affected shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Party shall resume performance and give prompt written notice thereof to the other Parties.

5.3 Obligation to Make Payments:

A Party's obligation to make payments for services shall not be suspended by Force Majeure.

5.4 Definition of Force Majeure:

For the purposes of this section, Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond a Party's control that, in any of the foregoing cases, by exercise of due diligence, such Party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force majeure does not include (i) a failure of performance that is due to an affected Party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected Party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected Party.

6 Indemnity

6.1 Indemnity:

Each Party shall indemnify and hold harmless the other Parties, and the other Parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents, and employees, and Affiliates, from and against any and all loss, liability, damage, cost, or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property or persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with, or resulting from (i) the indemnifying Party's breach of any of the representations or warranties made in, or failure of the indemnifying Party or any of its subcontractors to perform any of its obligations under, this Wholesale Market Participation Agreement (including Appendix 2), or (ii) the negligence or willful misconduct of the indemnifying Party or its contractors; provided, however, that no Party shall have any indemnification obligations under this section 6.1 in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the Party seeking indemnity.

6.2 Indemnity Procedures:

Promptly after receipt by a Person entitled to indemnity ("Indemnified Person") of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in section 6.1 may apply, the Indemnified Person shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party. The Indemnified Person shall cooperate with the indemnifying Party with respect to the matter for which indemnification is claimed. The indemnifying Party shall have the right to assume the defense thereof with counsel designated by such indemnifying Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include

one or more Indemnified Persons and the indemnifying Party, and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit, or proceeding, the defense of which has been assumed by the indemnifying Party. Notwithstanding the foregoing, the indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit, or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit, or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying Party, in such event the indemnifying Party shall pay the reasonable expenses of the Indemnified Person; and (ii) shall not settle or consent to the entry of any judgment in any action, suit, or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned, or delayed.

6.3 Indemnified Person:

If an Indemnified Person is entitled to indemnification under this section 6 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under section 6.2 of this Appendix 2, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Party contest, settle, or consent to the entry of any judgment with respect to, or pay in full, such claim.

6.4 Amount Owing:

If an indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this section 6, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

6.5 Limitation on Damages:

Except as otherwise provided in this section 6, the liability of a Party under this Appendix 2 shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any Party or its Affiliates, directors, officers, employees, and agents, or any of them, be liable to another Party, whether in tort, contract, or other basis in law or equity for any special, indirect, punitive, exemplary, or consequential damages, including lost profits. The limitations on damages specified in this section 6.5 are without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint, or concurrent, or active or passive. This limitation on damages shall not affect any Party's rights to obtain equitable relief as otherwise provided in this Appendix 2. The provisions of this section 6.5 shall survive the termination or expiration of the Wholesale Market Participation Agreement.

6.6 Limitation of Liability in Event of Breach:

A breaching Party (“Breaching Party”) shall have no liability hereunder to the other Parties, and the other Parties hereby release the Breaching Party, for all claims or damages that either of them incurs that are associated with any interruption in the availability of the Generating Facility, Interconnection Facilities and Transmission Owner Upgrades, Transmission System, or Interconnection Service, or damages to a Party’s facilities, except to the extent such interruption or damage is caused by the Breaching Party’s gross negligence or willful misconduct in the performance of its obligations under this Wholesale Market Participation Agreement (including Appendix 2).

6.7 Limited Liability in Emergency Conditions:

Except as otherwise provided in the Tariff or Operating Agreement, no Party shall be liable to any other Party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice, and is not contrary to the directives of Transmission Provider or Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Project Developer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or Transmission Owner related to an Emergency Condition.

7 Breach, Cure, and Default

7.1 Breach:

A Breach of this Wholesale Market Participation Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Appendix 2 or of the other portions of the Wholesale Market Participation Agreement or any attachments or Schedule hereto, including but not limited to any material breach of a representation, warranty, or covenant (other than in subsections (a), (c), and (d) of this section) made in this Appendix 2;
- (c) Assignment of the Wholesale Market Participation Agreement in a manner inconsistent with its terms;
- (d) Failure of a Party to provide information or data required to be determined under this Appendix 2 to another Party for such other Party to satisfy its obligations under this Appendix 2.

7.2 Continued Operation:

In the event of a Breach or Default by either Interconnected Entity, and subject to termination of the Wholesale Market Participation Agreement under section 8 of this Appendix 2, the Interconnected Entities shall continue to operate and maintain, as applicable, such DC power systems, protection and Metering Equipment, telemetering equipment, SCADA equipment, transformers, Secondary Systems, communications equipment, building facilities, software, documentation, structural components, and other facilities and appurtenances that are reasonably

necessary for Transmission Provider and Transmission Owner to operate and maintain the Transmission System, and for Project Developer to operate and maintain the Generating Facility, in a safe and reliable manner.

7.3 Notice of Breach:

A Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider, and to other persons that the Breaching Party identifies in writing to the other Parties in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider or Transmission Owner agree to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided that Project Developer has provided the notifying Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 12 of this Appendix 2.

7.4 Cure and Default:

A Breaching Party that does not take steps to cure the Breach pursuant to this section 7.4 is automatically in Default of this Appendix 2 and of the Wholesale Market Participation Agreement, and this Wholesale Market Participation Agreement shall be deemed terminated. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

7.4.1 Cure of Breach:

The Breaching Party (a) may cure the Breach within thirty (30) days from the receipt of notice of the Breach; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Parties. Such agreement shall not be unreasonably withheld.

7.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. Subject to section 11.1 of this Appendix 2, no remedy conferred by any provision of this Appendix 2 is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

8 Termination

8.1 Termination of the Wholesale Market Participation Agreement:

This Wholesale Market Participation Agreement may be terminated by the following means:

8.1.1 By Mutual Consent:

The Wholesale Market Participation Agreement may be terminated as of the date on which the Parties mutually agree.

8.1.2 By Project Developer:

Subject to its payment of Cancellation Costs, Project Developer may unilaterally terminate the Wholesale Market Participation Agreement pursuant to Applicable Laws and Regulations upon providing Transmission Provider and the Transmission Owner sixty (60) days prior written notice thereof.

8.1.3 Upon Default of Project Developer:

Transmission Provider may terminate the Wholesale Market Participation Agreement upon the Default of Project Developer of its obligations under the Wholesale Market Participation Agreement by providing Project Developer and Transmission Owner prior written notice of termination.

8.1.4 Cancellation Cost Responsibility Upon Termination

In the event of cancellation pursuant to section 8.1 of this Appendix 2, Project Developer shall be liable to pay to Transmission Owner or Transmission Provider all Cancellation Costs in connection with the Wholesale Market Participation Agreement. Cancellation costs may include costs for Network Upgrades assigned to Project Developer, in accordance with the Tariff and as reflected in this Wholesale Market Participation Agreement, that remain the responsibility of Project Developer under the Tariff. This shall include costs including, but not limited to, the costs for such Network Upgrades to the extent such cancellation would be a Material Modification, or would have an adverse effect or impose costs on other Project Developers in the Cycle. In the event Transmission Owner incurs Cancellation Costs, it shall provide Transmission Provider, with a copy to Project Developer, with a written demand for payment and with reasonable documentation of such Cancellation Costs. Project Developer shall pay Transmission Provider each invoice for Cancellation Costs within thirty (30) days after, as applicable, Transmission Owner's or Transmission Provider's presentation to Project Developer of written demand therefor, provided that such demand includes reasonable documentation of the Cancellation Costs that the invoicing Party seeks to collect. Upon receipt of each of Project Developer's payments of such invoices of Transmission Owner, Transmission Provider shall reimburse Transmission Owner for Cancellation Costs incurred by the latter.

8.2 FERC Approval:

Notwithstanding any other provision of this Appendix 2, no termination hereunder shall become effective until the Interconnected Entities and/or Transmission Provider have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with the

FERC of a notice of termination of the Wholesale Market Participation Agreement, and acceptance of such notice for filing by the FERC.

8.3 Survival of Rights:

Termination of this Wholesale Market Participation Agreement shall not relieve any Party of any of its liabilities and obligations arising under this Wholesale Market Participation Agreement (including Appendix 2) prior to the date on which termination becomes effective, and each Party may take whatever judicial or administrative actions it deems desirable or necessary to enforce its rights hereunder. Applicable provisions of this Appendix 2 will continue in effect after termination to the extent necessary to provide for final billings, billing adjustments, and the determination and enforcement of liability and indemnification obligations arising from events or acts that occurred while the Wholesale Market Participation Agreement was in effect.

9 Confidentiality:

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential. If requested by any Party, the disclosing Party shall provide in writing the basis for asserting that the information referred to in this section warrants confidential treatment, and the requesting Party may disclose such writing to an appropriate Governmental Authority. Any Party shall be responsible for the costs associated with affording confidential treatment to its information.

9.1 Term:

During the term of the Wholesale Market Participation Agreement, and for a period of three (3) years after the expiration or termination of the Wholesale Market Participation Agreement, except as otherwise provided in this section 9, each Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any other Party.

9.2 Scope:

Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this Appendix 2; or (vi) is required, in accordance with section 9.7 of this Appendix 2, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under the Wholesale Market Participation Agreement. Information designated as Confidential Information

shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

9.3 Release of Confidential Information:

No Party shall disclose Confidential Information to any other person, except to its Affiliates (limited by the Commission's Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be or considering providing financing to or equity participation in Project Developer or to potential purchasers or assignees of Project Developer, on a need-to-know basis in connection with the Wholesale Market Participation Agreement, unless such person has first been advised of the confidentiality provisions of this section 9 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this section 9.

9.4 Rights:

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

9.5 No Warranties:

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

9.6 Standard of Care:

Each Party shall use at least the same standard of care to protect Confidential Information it receives as the Party uses to protect its own Confidential Information from unauthorized disclosure, publication, or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under the Wholesale Market Participation Agreement or to comply with Applicable Laws and Regulations.

9.7 Order of Disclosure:

If a Governmental Authority with the right, power, and apparent authority to do so requests or requires a Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the Party that provided the information with prompt prior notice of such request(s) or requirement(s) so that the providing Party may seek an appropriate protective order or waive compliance with the terms of this Appendix 2 or the Wholesale Market Participation Agreement. Notwithstanding the absence of a protective order or agreement, or waiver, the Party that is subjected to the request or order may disclose such Confidential Information which, in the opinion

of its counsel, the Party is legally compelled to disclose. Each Party shall use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

9.8 Termination of Wholesale Market Participation Agreement:

Upon termination of the Wholesale Market Participation Agreement for any reason, each Party shall, within ten (10) calendar days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the requesting Party) or to return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting Party.

9.9 Remedies:

The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this section 9. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party breaches or threatens to breach its obligations under this section 9, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed to be an exclusive remedy for the breach of this section 9, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental or consequential, or punitive damages of any nature or kind resulting from or arising in connection with this section 9.

9.10 Disclosure to FERC or its Staff:

Notwithstanding anything in this section 9 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Wholesale Market Participation Agreement, the Party shall provide the requested information to FERC or its staff within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.122, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties prior to the release of the Confidential Information to the Commission or its staff. A Party shall notify the other Parties to the Wholesale Market Participation Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

9.11 Non-Disclosure

Subject to the exception in section 9.10 of this Appendix 2, no Party shall disclose Confidential Information of another Party to any person not employed or retained by the Party, except to the

extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the Party that provided such Confidential Information, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Wholesale Market Participation Agreement or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. Prior to any disclosures of another Party's Confidential Information under this subparagraph, the disclosing Party shall promptly notify the other Parties in writing and shall assert confidentiality and cooperate with the other Parties in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order, or other reasonable measures.

9.12 Information in the Public Domain

This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

9.13 Return or Destruction of Confidential Information:

If a Party provides any Confidential Information to another Party in the course of an audit or inspection, the providing Party may request the other Party to return or destroy such Confidential Information after the termination of the audit period and the resolution of all matters relating to that audit. Each Party shall make Reasonable Efforts to comply with any such requests for return or destruction within ten (10) days of receiving the request and shall certify in writing to the other Party that it has complied with such request.

10 Information Access and Audit Rights

10.1 Information Access:

Consistent with Applicable Laws and Regulations, each Party shall make available such information and/or documents reasonably requested by another Party that are necessary to (i) verify the costs incurred by the other Party for which the requesting Party is responsible under this Appendix 2; and (ii) carry out obligations and responsibilities under this Appendix 2, provided that the Parties shall not use such information for purposes other than those set forth in this section 10.1 and to enforce their rights under this Appendix 2.

10.2 Reporting of Non-Force Majeure Events:

Each Party shall notify the other Parties when it becomes aware of its inability to comply with the provisions of this Appendix 2 for a reason other than an event of Force Majeure as defined in section 5.4 of this Appendix 2. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation, or information provided under this section shall not entitle the receiving Party to allege a cause of action for anticipatory breach of the Wholesale Market Participation Agreement.

10.3 Audit Rights:

Subject to the requirements of confidentiality under section 9 of this Appendix 2, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent other Party, to audit at its own expense the other Party's accounts and records pertaining to such Party's performance and/or satisfaction of obligations arising under this Appendix 2. Any audit authorized by this section shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Appendix 2. Any request for audit shall be presented to the Party to be audited not later than twenty-four (24) months after the event as to which the audit is sought. Each Party shall preserve all records held by it for the duration of the audit period.

11 Disputes

11.1 Submission:

Any claim or dispute that any Party may have against another arising out of the Wholesale Market Participation Agreement may be submitted for resolution in accordance with the dispute resolution provisions of the Tariff.

11.2 Rights Under the Federal Power Act:

Nothing in this section shall restrict the rights of any Party to file a complaint with FERC under relevant provisions of the Federal Power Act.

11.3 Equitable Remedies:

Nothing in this section shall prevent any Party from pursuing or seeking any equitable remedy available to it under Applicable Laws and Regulations.

12 Notices

12.1 General:

Any notice, demand, or request required or permitted to be given by any Party to another, and any instrument required or permitted to be tendered or delivered by any Party in writing to another, shall be provided electronically or may be so given, tendered, or delivered by recognized national courier or by depositing the same with the United States Postal Service with postage prepaid for delivery by certified or registered mail addressed to the Party, or personally delivered to the Party, at the electronic or other address specified in the Wholesale Market Participation Agreement.

12.2 Emergency Notices:

Moreover, notwithstanding the foregoing, any notice hereunder concerning an Emergency Condition or other occurrence requiring prompt attention, or as necessary during day-to-day operations, may be made by telephone or in person, provided that such notice is confirmed in

writing promptly thereafter. Notice in an Emergency Condition, or as necessary during day-to-day operations, shall be provided (i) if by Transmission Owner, to the shift supervisor at, as applicable, a Project Developer's Generating Facility; and (ii) if by Project Developer, to the shift supervisor at Transmission Owner's transmission control center.

12.3 Operational Contacts:

Each Party shall designate, and provide to each other Party, contact information concerning, a representative to be responsible for addressing and resolving operational issues as they arise during the term of the Wholesale Market Participation Agreement.

13 Miscellaneous

13.1 Regulatory Filing:

In the event that this Wholesale Market Participation Agreement contains any terms that deviate materially from the form included in the Tariff, Transmission Provider shall file the Wholesale Market Participation Agreement on behalf of itself and Transmission Owner with FERC as a service schedule under the Tariff within thirty (30) days after execution. Project Developer may request that any information so provided be subject to the confidentiality provisions of section 9 of this Appendix 2. Project Developer shall have the right, with respect to a Wholesale Market Participation Agreement tendered to it, to request (a) dispute resolution under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (b) that Transmission Provider file the agreement unexecuted with the Commission. With the filing of any unexecuted Wholesale Market Participation Agreement, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between or among the Parties.

13.2 Waiver:

Any waiver at any time by a Party of its rights with respect to a Breach or Default under this Wholesale Market Participation Agreement, or with respect to any other matters arising in connection with this Appendix 2, shall not be deemed a waiver or continuing waiver with respect to any subsequent Breach or Default or other matter.

13.3 Amendments and Rights Under the Federal Power Act:

This Wholesale Market Participation Agreement may be amended or supplemented only by a written instrument duly executed by all Parties. An amendment to the Wholesale Market Participation Agreement shall become effective and a part of this Wholesale Market Participation Agreement upon satisfaction of all Applicable Laws and Regulations. If an amendment is desired, then, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend to Wholesale Market Participant for execution. No later than fifteen (15) Business Days after Transmission Provider tenders for execution the agreement, Wholesale Market Participant shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. The agreement shall be deemed to be terminated and withdrawn if Wholesale Market Participant fails to comply with

these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Wholesale Market Participant, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) request that Transmission Provider file the agreement unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12, or consistent with Operating Agreement, Schedule 5; or (iii) file the agreement unexecuted with the Commission. Transmission Provider also may file the agreement unexecuted with the Commission if Transmission Owner does not comply with the requirements above.

Notwithstanding the foregoing, nothing contained in this Wholesale Market Participation Agreement shall be construed as affecting in any way any of the rights of any Party with respect to changes in applicable rates or charges under section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any Party under section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this Wholesale Market Participation Agreement and every appendix referred to therein shall be amended, as mutually agreed by the Parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

13.4 Binding Effect:

This Wholesale Market Participation Agreement, including this Appendix 2, and the rights and obligations thereunder shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Parties.

13.5 Regulatory Requirements:

Each Party's performance of any obligation under this Wholesale Market Participation Agreement for which such Party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

14 Representations And Warranties

14.1 General:

Each Interconnected Entity hereby represents, warrants, and covenants as follows with these representations, warranties, and covenants effective as to the Interconnected Entity during the time the Wholesale Market Participation Agreement is effective:

14.1.1 Good Standing:

Such Interconnected Entity is duly organized or formed, as applicable, validly existing, and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the Wholesale Market Participation Agreement.

14.1.2 Authority:

Such Interconnected Entity has the right, power, and authority to enter into the Wholesale Market Participation Agreement, to become a party hereto, and to perform its obligations hereunder. The Wholesale Market Participation Agreement is a legal, valid, and binding obligation of such Interconnected Entity, enforceable against such Interconnected Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

14.1.3 No Conflict:

The execution, delivery, and performance of the Wholesale Market Participation Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Interconnected Entity, or with any judgment, license, permit, order, material agreement, or instrument applicable to or binding upon the Interconnected Entity or any of its assets.

14.1.4 Consent and Approval:

Such Interconnected Entity has sought or obtained, or, in accordance with the Wholesale Market Participation Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery, and performance of the Wholesale Market Participation Agreement and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

SCHEDULE A
SITE PLAN

DRAFT

SCHEDULE B

SINGLE-LINE DIAGRAM

{If Municipality/Cooperative: Make sure the point of common coupling is designated in the Single-Line Diagram *in addition to* the Point of Interconnection.}

DRAFT

SCHEDULE C

LIST OF METERING EQUIPMENT

{Include the following language if not required:}

Not Required.

{If Municipality/Cooperative: Make sure to account for the fact that metering may be installed at the point of common coupling. *For example:*

Wholesale Market Participant shall be responsible for the installation of metering and telemetry at the point of common coupling (as shown in Schedule B) between the Generating Facility and the [insert name of Municipality/Cooperative] system as required by PJM Manuals M-01 and M14D. [Insert name of Municipality/Cooperative] and Wholesale Market Participant will together determine meter ownership.

Wholesale Market Participant shall make its metering data at the point of common coupling available to [insert name of Municipality/Cooperative], or its affiliate, via telemetry for use by [insert name of Municipality/Cooperative] and Transmission Owner for balancing, settlement, and audit purposes. Wholesale Market Participant may purchase and install its own backup metering. }

DRAFT

SCHEDULE D

LIST OF NETWORK UPGRADES

{Include the following language if not required:}

Not Required.

{Otherwise, list the Network Upgrades identified through the System Impact Studies, with Stand Alone Network Upgrades, if any, listed separately, and include the sentence below.}

[List]

Construction of these Network Upgrades listed in Schedule D of this WMPA is subject to the terms and conditions of a separate facilities construction agreement between Wholesale Market Participant and Transmission Owner.

DRAFT

SCHEDULE E

APPLICABLE TECHNICAL REQUIREMENTS AND STANDARDS

{Include the following language if not required:}

Not Required.

{Otherwise, include the following language:}

Except as otherwise provided in the Interconnection Agreement, as applicable, the following technical requirements and standards shall apply:

*{Instructions: If the relevant TO Applicable Technical Requirements and Standards **are** posted on the PJM website, use the following language:}*

[Name of TO Standards] [version number (if known and applicable)] dated [insert effective date of the Standards] shall apply. The [Name of TO Standards] [version number (if known and applicable)] dated [insert effective date of the Standards] is available on the PJM website. To the extent that these Applicable Technical Requirements and Standards conflict with the terms and conditions of the Tariff or any other provision of this WMPA, the Tariff and/or this WMPA shall control.

*{Instructions. If the relevant TO Applicable Technical Requirements and Standards **are not** posted on the PJM website, use the following language:}*

[Name of TO Standards] [version number (if known and applicable)] dated [insert effective date of the Standards] shall apply. To the extent that these Applicable Technical Requirements and Standards conflict with the terms and conditions of the Tariff or any other provision of this WMPA, the Tariff and/or this WMPA shall control.

SCHEDULE F

SCHEDULE OF NON-STANDARD TERMS & CONDITIONS

{Include the following language if not required:}

Not Required.

DRAFT

**Tariff, Part IX, Subpart D
Engineering and Procurement Agreement**

DRAFT

(Project Identifier # [])

**ENGINEERING AND PROCUREMENT
AGREEMENT**

**By and Among
PJM INTERCONNECTION, L.L.C.**

And

[]

And

[]

DRAFT

**ENGINEERING AND PROCUREMENT
AGREEMENT**

**By and Among
PJM Interconnection, L.L.C.**

And

And

(Project Identifier # [])

- 1.0 This Engineering and Procurement Agreement (“E&P Agreement”), including the Specifications attached hereto and incorporated herein, is entered into by and among PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”), [], (“Project Developer” [OPTIONAL: or [“short name”]]), and [] (“Transmission Owner” [OPTIONAL: or [“short name”]]). Transmission Provider, Project Developer and Transmission Owner are individually, a “Party” and together, the “Parties” and collectively are “Parties”. [Use as/when applicable: This E&P Agreement supersedes the _____ {insert details to identify the agreement being superseded, such as whether it is an E&P Agreement or Generator Interconnection Agreement, the effective date of the agreement, the service agreement number designation, and the FERC docket number, if applicable, for the agreement being superseded.}] For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in {Instructions: use Tariff, Part VII if this is a transition period agreement, or use Tariff, Part VIII if this is a post-transition period agreement}.
- 2.0 The location and a description of the Generating Facility or Merchant Transmission Facility that Project Developer proposes to interconnect to the Transmission Provider’s Transmission System is attached hereto. In the event that Project Developer will not own the facilities, Project Developer represents and warrants that it is authorized by the owners of such facilities to enter into this E&P Agreement and to represent such control.
- 3.0 In order to advance the completion of its interconnection under the PJM Open Access Transmission Tariff (“Tariff”), Project Developer has requested an E&P Agreement and Transmission Provider has determined that Project Developer is eligible under the Tariff to obtain this E&P Agreement. This E&P Agreement is not intended to be used for the actual construction of any Interconnection Facilities or Transmission Upgrades.
- 4.0 (a) In accord with GIP, section [to be provided], Project Developer, on or before the effective date of this E&P Agreement, shall provide Transmission Provider (for the benefit of the Transmission Owner) with a letter of credit from an agreed provider or other form of security reasonably acceptable to Transmission Provider in the amount of \$ [], which amount equals the estimated costs, determined in accordance with GIP, section [to be provided], of the engineering and procurement activities described in

section 2.0 of the Attached Specifications. Should Project Developer fail to provide such security in the amount or form required, this E&P Agreement shall be terminated. Project Developer acknowledges (1) that it will be responsible for the actual costs of the facilities described in the Specifications, whether greater or lesser than the amount of the payment security provided under this section, and (2) that the payment security under this section does not include any additional amounts that it will owe in the event that it executes a final Generator Interconnection Agreement, as described in section 7.0(a) below.

(b) Project Developer acknowledges (1) that the purpose of this E&P Agreement is to expedite, at Project Developer's request, the engineering and procurement of certain long-lead items, as described in the Specifications, necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request; and (2) that Transmission Provider's Interconnection Studies related to such facilities have not been completed, but that the [identify completed System Impact or other study(ies)], dated [], that included Project Developer's project sufficiently demonstrated, in Project Developer's sole opinion, the necessity of facilities additions to the Transmission System to accommodate Project Developer's project to warrant, in Project Developer's sole judgment, its request that the Transmission Owner provide engineering and procurement for the equipment indicated in the Specifications for use in interconnecting Project Developer's project with the Transmission System.

5.0 This E&P Agreement shall be effective on the date it is executed by all Interconnection Parties and shall terminate upon the execution and delivery by Project Developer and Transmission Provider of the final Generator Interconnection Agreement described in section 7.0(a) below, or on such other date as mutually agreed upon by the parties, unless earlier terminated in accordance with the Tariff.

6.0 In addition to the milestones stated in GIP, section [to be provided], during the term of this E&P Agreement, Project Developer shall ensure that its generation project meets each of the following development milestones:

[SPECIFY MILESTONES]

OR

[NOT APPLICABLE FOR THIS E&P AGREEMENT]

OR

[MILESTONE REQUIREMENTS WILL BE SPECIFIED IN THE FURTHER GENERATOR INTERCONNECTION AGREEMENT DESCRIBED IN SECTION 7.0(a)]

7.0 (a) Transmission Provider and the Transmission Owner agree to provide for the engineering and procurement of the facilities identified, and to the extent described, in section 2.0 of the Specifications in accordance with the GIP, as amended from time to

time, and this E&P Agreement. The parties agree that (1) this E&P Agreement shall not provide for or authorize Interconnection Service or rights associated therewith for the Project Developer, and (2) Interconnection Service will commence only after Project Developer has entered into a final Generator Interconnection Agreement with Transmission Provider and the Transmission Owner (or, alternatively, the Project Developer, Transmission Owner or Transmission Provider has exercised its right to initiate dispute resolution or to have the final Generator Interconnection Agreement filed with the FERC unexecuted) after completion of the System Impact Studies related to Project Developer's Interconnection Request and otherwise in accordance with the Tariff. The final Generator Interconnection Agreement may further provide for construction of, and payment for, transmission facilities additional to those identified in the attached Specifications. Should Project Developer fail to enter into such final Generator Interconnection Agreement (or, alternatively, to initiate dispute resolution or request that the agreement be filed with the FERC unexecuted) within the time prescribed by the Tariff, Transmission Provider shall have the right, upon providing written notice to Project Developer, to terminate this E&P Agreement.

(b) In the event that Project Developer decides not to interconnect its proposed facilities, as described in section 1.0 of the Specifications to the Transmission System, it shall immediately give Transmission Provider written notice of its determination. Project Developer shall be responsible for the Costs incurred pursuant to this E&P Agreement by Transmission Provider and/or by the Transmission Owner (1) on or before the date of such notice, and (2) after the date of such notice, if the costs could not reasonably be avoided despite, or were incurred by reason of, Project Developer's determination not to interconnect. Project Developer's liability under the preceding sentence shall include all Cancellation Costs in connection with the engineering and procurement of the facilities described in section 2.0 of the Specifications. In the event the Transmission Owner incurs Cancellation Costs, it shall provide the Transmission Provider, with a copy to the Project Developer, with a written demand for payment and with reasonable documentation of such Cancellation Costs. Within 60 days after the date of Project Developer's notice, Transmission Provider shall provide an accounting of, and the appropriate party shall make any payment to the other that is necessary to resolve, any difference between (i) Project Developer's cost responsibility under this E&P Agreement and the Tariff for Costs, including Cancellation Costs, of the facilities described in section 2.0 of the Specifications and (ii) Project Developer's previous payments under this E&P Agreement. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment that the preceding sentence requires it to make unless and until the Transmission Owner has returned to it the portion of Project Developer's previous payments that Transmission Provider must pay under that sentence. This E&P Agreement shall be deemed to be terminated upon completion of all payments required under this paragraph (b).

(c) Disposition of the facilities related to this E&P Agreement after receipt of Project Developer's notice of its determination not to interconnect shall be decided in accordance with GIP, section [to be provided].

- 8.0 Project Developer agrees to abide by all rules and procedures pertaining to generation and transmission in the PJM Region, including but not limited to the rules and procedures concerning the dispatch of generation set forth in the Operating Agreement and the PJM Manuals.
- 9.0 In analyzing and preparing the System Impact Study, and in designing and constructing the Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades described in the Specifications attached to this E&P Agreement, Transmission Provider, the Transmission Owner(s), and any other subcontractors employed by Transmission Provider have had to, and shall have to, rely on information provided by Project Developer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER OR TRANSMISSION OWNER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE FACILITIES STUDY OR THE SYSTEM IMPACT STUDY IF NO FACILITIES STUDY IS REQUIRED OR OF THE TRANSMISSION OWNER INTERCONNECTION FACILITIES, DISTRIBUTION UPGRADES AND/OR NETWORK UPGRADES. Project Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.
- 10.0 Within 120 days after the Transmission Owner completes the engineering and procurement of the facilities described in section 2.0 of the Specifications, Transmission Provider shall provide Project Developer with an accounting of, and the appropriate party shall make any payment to the other that is necessary to resolve, any difference between (a) Project Developer's responsibility under this E&P Agreement and the Tariff for the actual cost of such equipment, and (b) Project Developer's previous aggregate payments to Transmission Provider and the Transmission Owner hereunder. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment that the preceding sentence requires it to make unless and until the Transmission Owner has returned to it the portion of Project Developer's previous payments that Transmission Provider must pay under that sentence.
- 11.0 No third party beneficiary rights are created under this E&P Agreement, provided, however, that payment obligations imposed on Project Developer hereunder are agreed and acknowledged to be for the benefit of the Transmission Owner actually performing the services associated with the interconnection of the Generating Facilities and any associated upgrades of other facilities.

- 12.0 No waiver by either party of one or more defaults by the other in performance of any of the provisions of this E&P Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
- 13.0 This E&P Agreement or any part thereof, may not be amended, modified, assigned, or waived other than by a writing signed by all parties hereto. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution, dates of any milestones, or obligations contained therein.

If the event an amendment is desired, Transmission Provider shall tender for execution an agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

- 14.0 This E&P Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assigns.
- 15.0 This E&P Agreement shall not be construed as an application for service under Part II or Part III of the Tariff.
- 16.0 Any notice or request made to or by either Party regarding this E&P Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Project Developer

[CONTACT NAME/ADDRESS]

Transmission Owner

[CONTACT NAME/ADDRESS]

- 17.0 All portions of the Tariff and the Operating Agreement pertinent to the subject of this E&P Agreement are incorporated herein and made a part hereof.
- 18.0 This E&P Agreement is entered into pursuant to the GIP.
- 19.0 Neither party shall be liable for consequential, incidental, special, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise with respect to any claim, controversy or dispute arising under this E&P Agreement.
- 20.0 Addendum of Project Developer's Agreement to Conform with IRS Safe Harbor Provisions for Non-Taxable Status. To the extent required, in accordance with section 20.1, Schedule A to this E&P Agreement shall set forth the Project Developer's agreement to conform with the IRS safe harbor provisions for non-taxable status.
- 20.1 Tax Liability
- 20.1.1 Safe Harbor Provisions:

This section 20.1.1 is applicable only to Generation Project Developers. Provided that Project Developer agrees to conform to all requirements of the Internal Revenue Service ("IRS") (e.g., the "safe harbor" provisions of IRS Notices 2001-82 and 88-129) that would confer nontaxable status on some or all of the transfer of property, including money, by Project Developer to the Transmission Owner for payment of the Costs of construction of the Transmission Owner Interconnection Facilities, the Transmission Owner, based on such agreement and on current law, shall treat such transfer of property to it as nontaxable income and, except as provided in section 20.1.2 below, shall not include income taxes in the Costs of Transmission Owner Interconnection Facilities that are payable by Project Developer under the E&P Agreement, the Generator Interconnection Agreement or the Interconnection Construction Service Agreement. Project Developer shall document its agreement to conform to IRS requirements for such non-taxable status in the E&P Agreement, Generator Interconnection Agreement, and/or the Interconnection Construction Service Agreement.

20.1.2 Tax Indemnity:

Project Developer shall indemnify the Transmission Owner for any costs that Transmission Owner incurs in the event that the IRS and/or a state department of revenue (State) determines that the property, including money, transferred by Project Developer to the Transmission Owner with respect to the construction of the Transmission Owner Interconnection Facilities is taxable income to the Transmission Owner. Project

Developer shall pay to the Transmission Owner, on demand, the amount of any income taxes that the IRS or a State assesses to the Transmission Owner in connection with such transfer of property and/or money, plus any applicable interest and/or penalty charged to the Transmission Owner. In the event that the Transmission Owner chooses to contest such assessment, either at the request of Project Developer or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, the Transmission Owner shall refund to Project Developer the excess of its demand payment made to the Transmission Owner over the amount of the tax, interest and penalty for which the Transmission Owner is finally determined to be liable. Project Developer's tax indemnification obligation under this section shall survive any termination of the E&P Agreement, the GIA or the Interconnection Construction Service Agreement.

20.1.3 Taxes Other Than Income Taxes:

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

20.1.4 Income Tax Gross-Up

20.1.4.1 Additional Security:

In the event that Project Developer does not provide the safe harbor documentation required under section 20.1.1 prior to execution of this E&P, within 15 days after such execution, Transmission Provider shall notify Project Developer in writing of the amount of additional Security that Project Developer must provide. The amount of Security that a Transmission Project Developer must provide initially pursuant to this E&P Agreement shall include any amounts described as additional Security under this section 20.1.4 regarding income tax gross-up.

20.1.4.2 Amount:

The required additional Security shall be in an amount equal to the amount necessary to gross up fully for currently applicable federal and state income taxes the estimated Costs of Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades for which Project Developer previously provided Security. Accordingly, the additional Security

shall equal the amount necessary to increase the total Security provided to the amount that would be sufficient to permit the Transmission Owner to receive and retain, after the payment of all applicable income taxes ("Current Taxes") and taking into account the present value of future tax deductions for depreciation that would be available as a result of the anticipated payments or property transfers (the "Present Value Depreciation Amount"), an amount equal to the estimated Costs of Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades for which Project Developer is responsible under the Generator Interconnection Agreement. For this purpose, Current Taxes shall be computed based on the composite federal and state income tax rates applicable to the Transmission Owner at the time the additional Security is received, determined using the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Transmission Owner's anticipated tax depreciation deductions associated with such payments or property transfers by its current weighted average cost of capital.

20.1.4.3 Time for Payment:

Project Developer must provide the additional Security, in a form and with terms as required by GIP, section [to be determined], within 15 days after its receipt of Transmission Provider's notice under this section. The requirement for additional Security under this section shall be treated as a milestone included in the Generator Interconnection Agreement pursuant to GIP, section [to be determined].

20.1.5 Tax Status:

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this E&P Agreement or the Tariff is intended to adversely affect any Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

21 Breach, Cure And Default

21.1 Breach:

A Breach of this E&P Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this E&P Agreement, including but not limited to any material breach of a representation, warranty or covenant;
- (c) Assignment of the E&P Agreement in a manner inconsistent with its terms; or
- (d) Failure of a Party to provide information or data required to be determined under to another Party for such other Party to satisfy its obligations under this E&P Agreement.

21.2 Notice of Breach:

A Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider or the Transmission Owner agree to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided that the Project Developer has provided the notifying Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies).

21.3 Cure and Default:

A Party that commits a Breach and does not take steps to cure the Breach pursuant to this section 21.3 is automatically in Default of this E&P Agreement, and its project and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

21.4.1 Cure of Breach:

21.41.1 Except for the event of Breach set forth in section 21.1(a) above, the Breaching Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Parties. Such agreement shall not be unreasonably withheld.

21.4.1.2 In an event of Breach set forth in section 21.1(a), the Breaching Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Party is the Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Project Developer shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn.

21.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. No remedy conferred by any provision of this E&P Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies

- 22.0 Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All Transmission Providers, Transmission Owners, market participants, and Project Developers interconnected with electric systems are to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.
- 23.0 This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction.

DRAFT

IN WITNESS WHEREOF, Transmission Provider, Project Developer and Transmission Owner have caused this E&P Agreement to be executed by their respective authorized officials.

(Project Identifier # [redacted])

Transmission Provider: PJM Interconnection, L.L.C.

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Project Developer: [Name of Party]

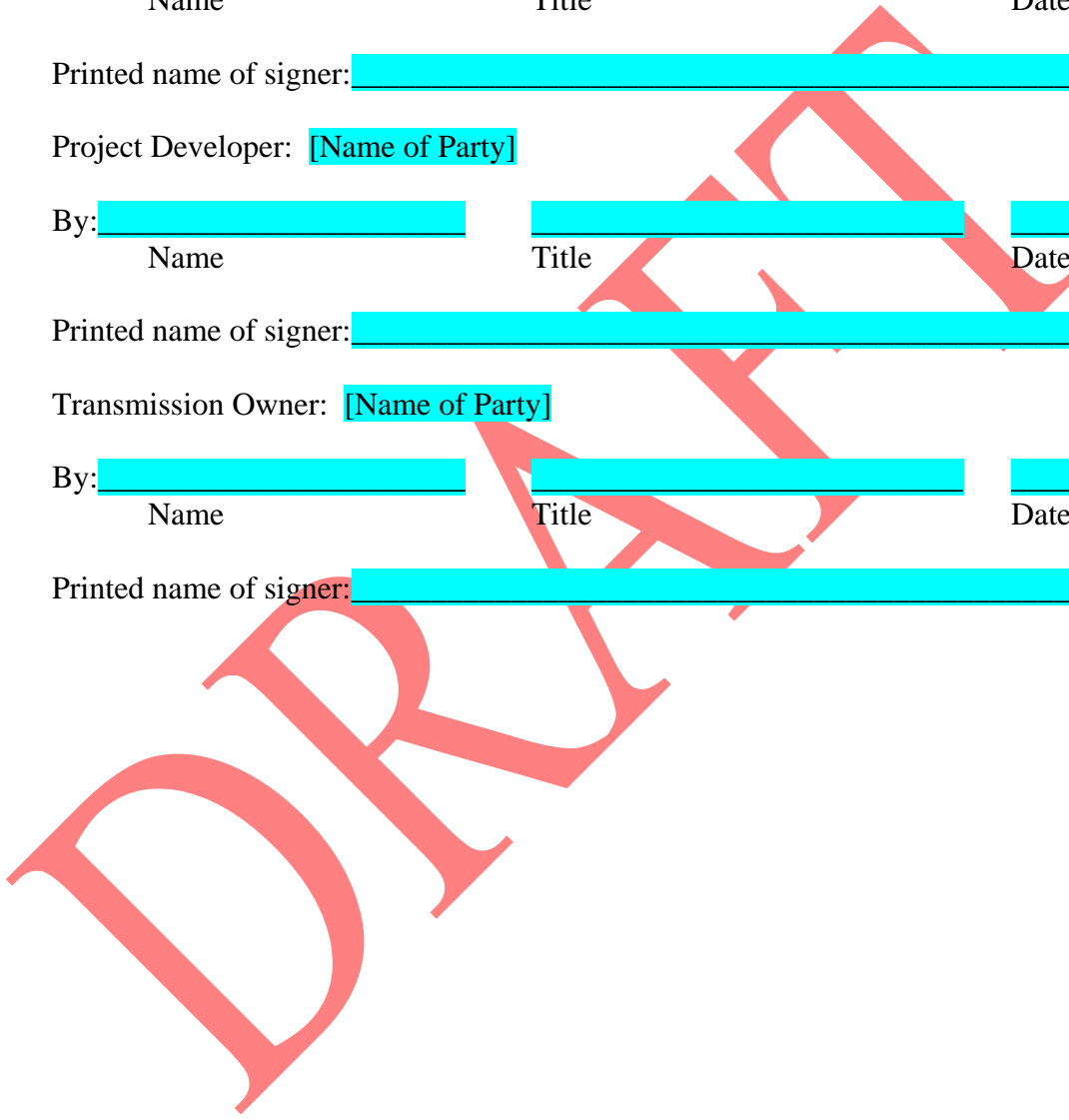
By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Transmission Owner: [Name of Party]

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]



**SPECIFICATIONS FOR
ENGINEERING AND PROCUREMENT
AGREEMENT
BY AND AMONG
PJM INTERCONNECTION, L.L.C.
AND
[REDACTED]
AND
[REDACTED]
(Project Identifier # [REDACTED])**

1.0 Description of Generating Facility or Merchant Transmission Facility to be interconnected with the Transmission System in the PJM Region:

a. Name of Generating Facility or Merchant Transmission Facility:

[REDACTED]

b. Location of Generating Facility or Merchant Transmission Facility:

[REDACTED]

2.0.A Facilities to be designed or procured by the Transmission Owner under this E&P Agreement: **[List or state None]**

2.0.B Facilities to be designed or procured by the Project Developer under this E&P Agreement: **[List or state None]**

3.0 Project Developer shall be subject to the charges detailed below:

3.1 Transmission Owner Interconnection Facilities Charge:

3.2 Distribution Upgrades Charge:

3.3 Network Upgrades Charge:

3.4 Cost Breakdown:

\$ Direct Labor
\$ Direct Material
\$ Indirect Labor
\$ Indirect Material

\$

Total

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SCHEDULES: {Note: Schedules A through C are required, others are optional; add if applicable and desirable for clarity.}

SCHEDULE A – INTERCONNECTION CUSTOMER’S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS

SCHEDULE B - ADDITIONAL PROVISIONS FOR BILLINGS AND PAYMENTS

SCHEDULE ■ - CUSTOMER FACILITY LOCATION/SITE PLAN

SCHEDULE ■ - SINGLE-LINE DIAGRAM

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SCHEDULE A

INTERCONNECTION CUSTOMER'S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS

{ Include the appropriate language from the alternatives below: }

{ Include the following language if not required: }

Not Required.

[OR]

{ Include the following language if applicable to Project Developer: }

As provided in section 20.1 of this E&P Agreement and subject to the requirements thereof, Project Developer represents that it meets all qualifications and requirements as set forth in section 118(a) and 118(b) of the Internal Revenue Code of 1986, as amended and interpreted by Notice 2016-36, 2016-25 I.R.B. (6/20/2016) (the "IRS Notice"). Project Developer agrees to conform with all requirements of the safe harbor provisions specified in the IRS Notice, as they may be amended, as required to confer non-taxable status on some or all of the transfer of property, including money, by Project Developer to Transmission Owner with respect to the payment of the Costs of engineering and procurement the Transmission Owner Interconnection Facilities specified in this E&P Agreement.

Nothing in Project Developer's agreement pursuant to this Schedule A shall change Project Developer's indemnification obligations under section 20.1 of this E&P Agreement.

SCHEDULE B

ADDITIONAL PROVISIONS FOR BILLINGS AND PAYMENTS

The following provisions shall apply with respect to charges for the Costs of the Transmission Owner for which the Project Developer is responsible.

Transmission Provider shall invoice Project Developer on behalf of the Transmission Owner, for the Transmission Owner's expected Costs during the next three months. Upon receipt of each of Project Developer's payments of such invoices, Transmission Provider shall reimburse the Transmission Owner. Project Developer shall pay each invoice received from Transmission Provider within twenty (20) days after receipt thereof. Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. Section 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment. If Project Developer fails to pay any invoice when and as due, Transmission Provider or Transmission Owner can provide notice of such failure to Project Developer and the other party, and Project Developer shall pay the amounts due within five (5) days from the receipt of such notice. Subject to obtaining any necessary authorizations from FERC, if Project Developer fails to make payment within five (5) days from the receipt of such notice, Transmission Provider and Transmission Owner shall each have the right to suspend performance hereunder. If Project Developer fails to make payment within fifteen (15) days from the receipt of such notice, Transmission Provider and Transmission Owner shall each have the right to terminate this Agreement, or exercise such other rights and remedies, as each may have in equity or at law.

Tariff, Part IX, Subpart E

**Form of
Upgrade Construction Service Agreement**

DRAFT

(Project Identifier # [])

UPGRADE CONSTRUCTION SERVICE AGREEMENT

**By and Among
PJM Interconnection, L.L.C.**

And

[] [Upgrade Customer]

And

[] [Name of Transmission Owner]

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UPGRADE CONSTRUCTION SERVICE AGREEMENT

**By and Among
PJM Interconnection, L.L.C.**

And

_____ **[Upgrade Customer]**
And
_____ **[Name of Transmission Owner]**

(Project Identifier # _____)

This Upgrade Construction Service Agreement, including the Appendices attached hereto and incorporated herein (collectively, "Upgrade CSA") is made and entered into as of the Effective Date (as defined in the attached Appendix III) by and among PJM Interconnection, L.L.C. ("Transmission Provider" or "PJM"), _____ ("Upgrade Customer" [OPTIONAL: or "[short name]"]) and _____ ("Transmission Owner" [OPTIONAL: or "[short name]"]). Transmission Provider, Upgrade Customer and Transmission Owner are referred to herein individually as "Party" and collectively as "the Parties."

WITNESSETH

WHEREAS, Upgrade Customer has requested (1) Incremental Auction Revenue Rights pursuant to Section 7.8 of Schedule 1 of the Operating Agreement of PJM Interconnection L.L.C. ("Operating Agreement") and Generation Interconnection Procedures ("GIP") set forth in PJM Interconnection, L.L.C. Open Access Transmission Tariff ("Tariff"), Part { [instruction: {use Part VII if this is a transition period Agreement subject to Tariff Part VII} {use Part VIII if this a new rules Agreement subject to Part VIII}]; or (2) installation of one or more Merchant Network Upgrades pursuant to the GIP;

WHEREAS, pursuant to Upgrade Customer's Upgrade Request proposing Merchant Network Upgrades only and in accordance with the PJM Tariff, Transmission Provider has conducted the required studies to determine whether such requests can be accommodated, and if so, under what terms and conditions, including the identification of any Customer-Funded Upgrades that must be constructed in order to provide the service or rights requested by Upgrade Customer;

WHEREAS, Transmission Provider's studies have identified the Customer-Funded Upgrades described in Appendix I of this Upgrade CSA as necessary to provide Upgrade Customer the service or rights it has requested; and

WHEREAS, Upgrade Customer: (i) desires that Transmission Owner construct the required Customer-Funded Upgrades; and (ii) agrees to assume cost responsibility for the design, engineering, procurement and construction of such or Customer-Funded Upgrades in accordance with the PJM Tariff.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, together with other good and valuable consideration, the receipt and sufficiency is hereby mutually acknowledged by each Party, the Parties mutually covenant and agree as follows:

Article 1 – Definitions And Other Documents

1.0 Defined Terms.

All capitalized terms used in this Upgrade CSA shall have the meanings ascribed to them in the GIA or in definitions either in the body of this Upgrade CSA or its attached appendices. In the event of any conflict between defined terms set forth in the PJM Tariff or defined terms in this Upgrade CSA, such conflict will be resolved in favor of the terms as defined in this Upgrade CSA. Any provision of the PJM Tariff relating to this Upgrade CSA that uses any such defined term shall be construed using the definition given to such defined term in this Upgrade CSA.

1.1 Incorporation of Other Documents.

Subject to the provisions of Section 1.0 above, all portions of the PJM Tariff and the Operating Agreement as of the date of this Upgrade CSA, and as pertinent to the subject of this Upgrade CSA, are hereby incorporated herein and made a part hereof.

Article 2 – Responsibility For Customer-Funded Upgrades

2.0 Upgrade Customer Financial Responsibilities.

Upgrade Customer shall pay all Costs for the design, engineering, procurement and construction of the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA. An estimate of such Costs is provided in Appendix I to this Upgrade CSA.

2.1 Obligation to Provide Security.

Upgrade Customer shall provide Security to collateralize Upgrade Customer's obligation to pay the Costs incurred by Transmission Owner to construct the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA, less any Costs already paid by Upgrade Customer, in accordance with Tariff, section 16.1 and GIP, sections [to be provided]. Upgrade Customer shall deliver such Security to Transmission Provider prior to the Effective Date of this Upgrade CSA, as described in Appendix III. Unless otherwise specified by the Transmission Provider, such Security shall take the form of a letter of credit, in the amount of \$ [REDACTED] naming the Transmission Provider and Transmission Owner as beneficiaries.

2.2 Failure to Provide Security.

If the Upgrade Customer fails to provide Security in the amount, in the time or in the form required by Section 2.1, then this Upgrade CSA shall terminate immediately and the Upgrade Customer's Upgrade Request shall be deemed terminated and withdrawn.

2.3 Costs.

In accordance with Tariff, section 16.1 and GIP, section [to be provided], the Upgrade Customer shall pay for the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA based upon the Costs of the Customer-Funded Upgrades described in Appendix I.

2.4 Charges.

In accordance with Sections 9, 24, and 25 of Appendix III to this Upgrade CSA, the Upgrade Customer shall pay to the Transmission Provider the charges applicable after Initial Operation of the Merchant Network Upgrades, as set forth in SCHEDULE B to this Upgrade CSA. Promptly after receipt of such payments, the Transmission Provider shall forward such payments to the appropriate Transmission Owner.

2.5 Transmission Owner Responsibilities.

If the Upgrade Customer satisfies all requirements of this Article 2 and applicable requirements set forth in the PJM Tariff, Transmission Owner shall use Reasonable Efforts to construct or cause to be constructed the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, on its transmission system. Transmission Owner shall own the Customer-Funded Upgrades it has, or has arranged to have, constructed and shall have ongoing responsibility to maintain such Customer-Funded Upgrades consistent with the Operating Agreement and the Transmission Owner's Agreement.

Article 3 – Rights To Transmission Service

3.0 No Transmission Service.

This Upgrade CSA does not entitle the Upgrade Customer to take Transmission Service under the PJM Tariff.

Article 4 – Early Termination

4.0 Termination by Upgrade Customer.

Subject to the terms of Section 14 of Appendix III, Upgrade Customer may terminate this Upgrade CSA at any time by providing written notice of termination to Transmission Provider and Transmission Owner. Upgrade Customer's notice of termination shall become effective sixty (60) calendar days after either the Transmission Provider or Transmission Owner receives such notice.

Article 5 – Rights

5.0 Rights.

Transmission Provider shall make available to Upgrade Customer the rights attributable to the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA. The rights, allocation and assignment procedures, duration and all other terms and procedures set forth in the GIP and applicable PJM Manuals referenced therein regarding a Upgrade Customer assuming responsibility for Customer-Funded Upgrades to accommodate an Upgrade Request shall apply under this Agreement for the benefit of Upgrade Customer.

5.1 Amount of Rights Granted.

Upgrade Customer shall receive the following rights, subject to Section 5.2 below and the applicable terms of the PJM Tariff:

Incremental Auction Revenue Rights. Pursuant to GIP, section **[to be provided]**, Upgrade Customer shall have Incremental Auction Revenue Rights in the following quantities between the indicated source(s) and sink(s):

Incremental Capacity Transfer Rights. Pursuant to GIP, section **[to be provided]**, Upgrade Customer shall have Incremental Capacity Transfer Rights in the following quantities into the indicated Locational Deliverability Area:

5.2 Availability of Rights Granted.

Upgrade Customer’s rights as described in Section 5.1 shall become effective upon the completion of (i) the Customer-Funded Upgrades identified in this Upgrade CSA, and, if applicable, (ii) the transmission upgrade projects noted as contingencies in Appendix I of this Upgrade CSA.

Article 6 – Miscellaneous

6.0 Notices.

Any notice or request made to or by any Party regarding this Upgrade CSA shall be made to the Parties, as indicated below:

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Upgrade Customer:

Transmission Owner:

6.1 Waiver.

No waiver by any Party of one or more Defaults by another in performance of any of the provisions of this Upgrade CSA shall operate or be construed as a waiver of any other or further Default or Defaults, whether of a like or different character.

6.2 Amendment.

This Upgrade CSA or any part thereof, may not be amended, modified or waived other than by a writing signed by all Parties. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Upgrade Customer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Upgrade Customer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above,

Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution or obligations contained therein.

6.3 No Partnership.

Notwithstanding any provision of this Upgrade CSA, the Parties do not intend to create hereby any joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit.

6.4 Counterparts.

This Upgrade CSA may be executed in multiple counterparts to be construed as one effective as of the Effective Date.

[Signature Page Follows]

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IN WITNESS WHEREOF, the Parties have caused this Upgrade CSA to be executed by their respective authorized officials.

(Project Identifier # [redacted])

Transmission Provider: PJM Interconnection, L.L.C.

By: _____
Name Title Date

Printed name of signer: _____

Upgrade Customer: [Name of Upgrade Customer]

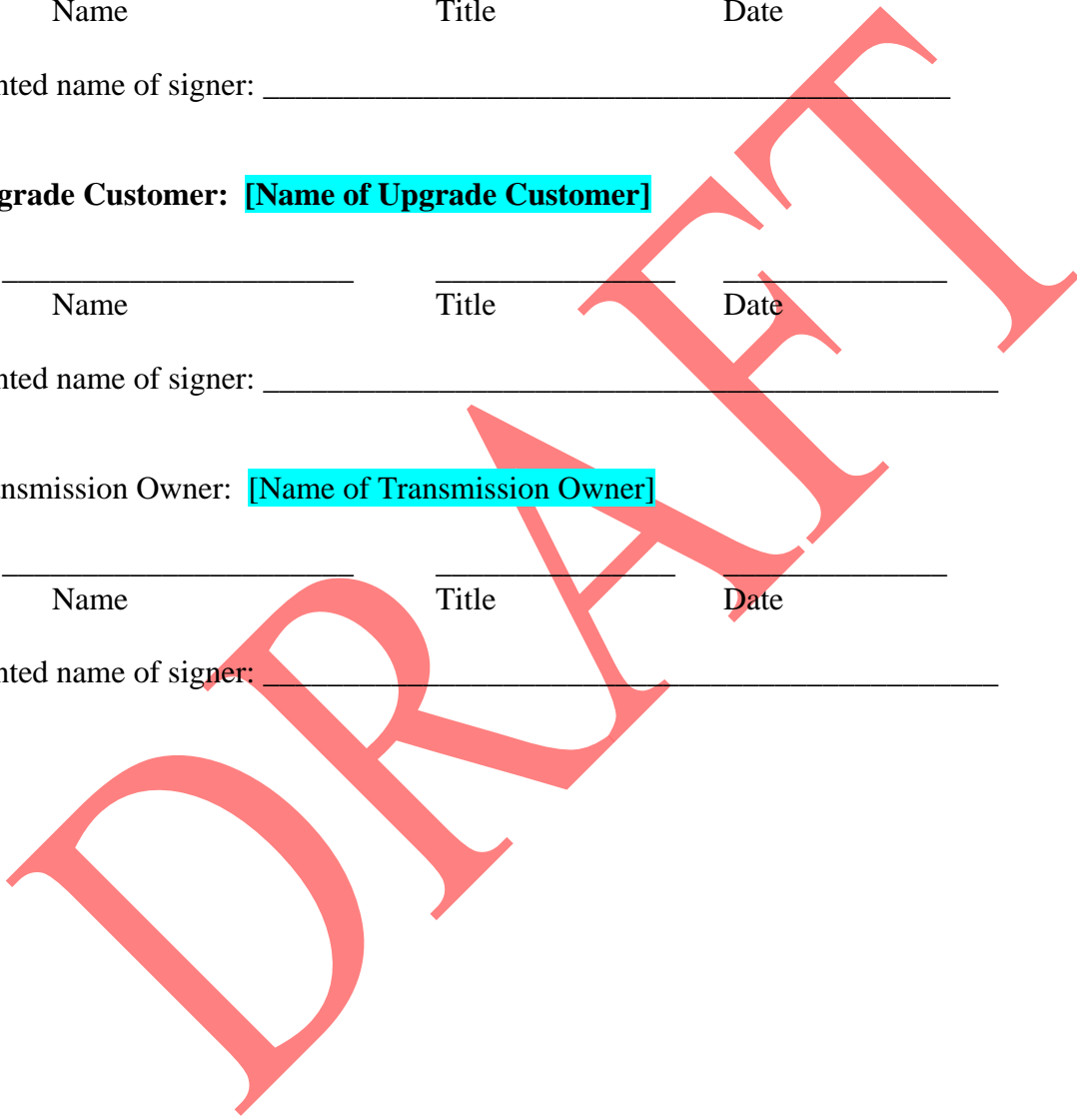
By: _____
Name Title Date

Printed name of signer: _____

Transmission Owner: [Name of Transmission Owner]

By: _____
Name Title Date

Printed name of signer: _____



APPENDIX I

SCOPE AND SCHEDULE OF WORK FOR CUSTOMER-FUNDED UPGRADES TO BE BUILT BY TRANSMISSION OWNER

A. Scope of Work

Transmission Owner hereby agrees to provide the following or Customer-Funded Upgrades pursuant to the terms of this Upgrade CSA:

[Identify Customer-Funded Upgrades to be constructed]

B. Schedule of Work

[Add schedule for construction work to be completed]

C. Costs.

Upgrade Customer shall be subject to the estimated charges detailed below, which shall be billed and paid in accordance with Section 9.0 of Appendix III to this Upgrade CSA.

Merchant Network Upgrades Charge: \$ [redacted]

[Add additional sections to list: any Contingencies, Applicable Technical Requirements, and Estimate of Tax Gross-ups, as required pursuant to Appendix III]

D. Construction of Customer Funded Upgrades

1. The Merchant Network Upgrades regarding which Transmission Owner shall be the Constructing Entity are described on the attached Appendix I, Section A to this Upgrade CSA.

2. Election of Construction Option. Specify below whether the Constructing Entities have mutually agreed to construction of the Merchant Network Upgrades that will be built by the Transmission Owner pursuant to the Standard Option or the Negotiated Contract Option. (See Sections 6.1 and 6.1.1 of Appendix III to this Upgrade CSA.)

[redacted] Standard Option.

[redacted] Negotiated Contract Option.

If the parties have mutually agreed to use the Negotiated Contract Option, the permitted, negotiated terms on which they have agreed and which are not already set forth as part of the Scope of Work and/or Schedule of Work attached to this Upgrade CSA, respectively,

shall be as set forth in Schedule A attached to this Upgrade CSA.

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APPENDIX II

DEFINITIONS

From the Generation Interconnection Procedures accepted for filing by the Commission as of the effective date of this agreement

DRAFT

APPENDIX III
GENERAL TERMS AND CONDITIONS

DRAFT

1.0 Effective Date and Term

1.1 Effective Date.

Subject to regulatory acceptance, this Upgrade CSA shall become effective on the date the agreement has been executed by all Parties, or if the agreement is filed with FERC unexecuted, upon the date specified by FERC. The Transmission Owner shall have no obligation to begin construction or preparation for construction of the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, until: (i) thirty days after such agreement, if executed and nonconforming, has been filed with the Commission; (ii) such agreement, if unexecuted and nonconforming, has been filed with and accepted by the Commission; or (iii) the earlier of thirty days after such agreement, if conforming, has been executed or has been reported in Transmission Provider's Electronic Quarterly Reports.

1.2 Term.

This Upgrade CSA shall continue in full force and effect from the Effective Date until the termination hereof.

1.3 Survival.

This Upgrade CSA shall continue in effect after termination to the extent necessary to provide for final billings and payments, including billings and payments pursuant to this Upgrade CSA, and to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Upgrade CSA was in effect.

2.0 Facilitation by Transmission Provider

Transmission Provider shall keep itself apprised of the status of the Transmission Owner's construction-related activities and, upon request of Upgrade Customer or Transmission Owner, Transmission Provider shall meet with the Upgrade Customer and Transmission Owner separately or together to assist them in resolving issues between them regarding their respective activities, rights and obligations under this Upgrade CSA. Transmission Owner shall cooperate in good faith with the other Parties in Transmission Provider's efforts to facilitate resolution of disputes.

3.0 Construction Obligations.

3.1 Customer-Funded Upgrades.

3.1.1 Generally.

All Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA shall be designed, engineered, procured, installed and constructed in accordance with this Section 3.0, Applicable Standards, Applicable Laws and Regulations, Good Utility Practice, the Facilities Study and the Scope of Work under this Upgrade CSA.

3.2 Scope of Applicable Technical Requirements and Standards.

Applicable technical requirements and standards shall apply to the design, engineering, procurement, construction and installation of the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA only to the extent that the provisions thereof relate to the design, engineering, procurement, construction and/or installation of such or Customer-Funded Upgrades. Such provisions relating to the design, engineering, procurement, construction and/or installation of such Customer-Funded Upgrades shall be contained in Appendix I appended to this Upgrade CSA. The Parties shall mutually agree upon, or in the absence of such agreement, Transmission Provider shall determine, which provisions of the applicable technical requirements and standards should be appended to this Upgrade CSA. In the event of any conflict between the provisions of the applicable technical requirements and standards that are appended to this Upgrade CSA and any later-modified provisions that are stated in the pertinent PJM Manuals, the provisions appended to this Upgrade CSA shall control.

4.0 Tax Liability

4.1 Upgrade Customer Payments Taxable.

The Parties shall treat all payments or property transfers made by Upgrade Customer to Transmission Owner for the installation of the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, as taxable contributions in aid of construction under section 118(b) of the Internal Revenue Code and any applicable State income tax laws, except in the event, and to the extent, there exists a Favorable Tax Determination, as defined in Section 4.4, indicating otherwise.

4.2 Income Tax Gross-Up.

All payments and property transfers by Upgrade Customer and Transmission Owner in connection with the installation of the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, shall be made on a fully grossed-up basis. This means that Upgrade Customer will pay Transmission Owner an amount equal to (1) the current taxes imposed on Transmission Owner ("Current Taxes") on the excess of (a) the amount of any payments and the fair market value of any property transferred to Transmission Owner by Upgrade Customer under this Upgrade CSA in connection with the installation of the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, (without regard to any payments under this Article) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Transmission Owner to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1). For this purpose, (i) Current Taxes shall be computed based on Transmission Owner's composite federal, State, and local tax rates at the time the payments or property transfers are received and Transmission Owner will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Transmission Owner's anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Owner's current weighted average cost of capital. Thus, the formula for calculating Upgrade Customer's liability to Transmission Owner pursuant to this Article can be expressed as follows: $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$. The estimated tax gross-up payments

with respect to the facilities, identified in Appendix I to this Upgrade CSA, are stated in Appendix I.

4.3 Private Letter Ruling.

At Upgrade Customer's request, made no later than one year after the termination of this Upgrade CSA pursuant to Section 14 hereof, and expense, Transmission Owner may file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Upgrade Customer to Transmission Owner under this Upgrade CSA are subject to federal income taxation. Upgrade Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Upgrade Customer's knowledge. The Parties shall cooperate in good faith with respect to the submission of such request. Transmission Owner shall keep Upgrade Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Upgrade Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. Transmission Owner shall allow Upgrade Customer to attend all meetings with IRS officials about the request and shall permit Upgrade Customer to prepare the initial drafts of any follow-up letters in connection with the request.

4.4 Refund.

In the event that (a) a private letter ruling is issued to Transmission Owner which holds that any amount paid or the value of any property transferred by Upgrade Customer to Transmission Owner under the terms of this Upgrade CSA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Transmission Owner in good faith that any amount paid or the value of any property transferred by Upgrade Customer to Transmission Owner under the terms of this Upgrade CSA is not taxable to Transmission Owner, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Upgrade Customer to Transmission Owner are not subject to federal income tax, or (d) if Transmission Owner receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Upgrade Customer to Transmission Owner pursuant to this Upgrade CSA (each of (a), (b), (c), or (d), a "Favorable Tax Determination"), Transmission Owner shall promptly refund to Upgrade Customer the following: (i) any payment made by Upgrade Customer under this Section 4 for taxes that are attributable to the amount determined to be non-taxable, together with interest thereon; (ii) interest on any amounts paid by Upgrade Customer to Transmission Owner for such taxes which Transmission Owner did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(ii) from the date payment was made by Upgrade Customer to the date Transmission Owner refunds such payment to Upgrade Customer; and (iii) with respect to any such taxes paid by Transmission Owner, any refund or credit Transmission Owner receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Transmission Owner for such overpayment of taxes (including any reduction in interest otherwise payable by Transmission Owner to any Governmental Authority resulting from an offset or credit); provided, however, that Transmission Owner will remit such amount promptly

to Upgrade Customer only after and to the extent that Transmission Owner has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA.

4.5 Contests.

If, following a Favorable Tax Determination, Upgrade Customer receives a refund pursuant to Section 4.4, and, notwithstanding the Favorable Tax Determination, any Governmental Authority determines that Transmission Owner's receipt of payments or property constitutes income that is subject to taxation, Transmission Owner shall notify Upgrade Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Upgrade Customer and at Upgrade Customer's sole expense, Transmission Owner may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Upgrade Customer's written request and sole expense, Transmission Owner may file a claim for refund with respect to any taxes paid under this Article, whether or not it has received such a determination. Transmission Owner reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Owner shall keep Upgrade Customer informed, shall consider in good faith suggestions from Upgrade Customer about the conduct of the contest, and shall reasonably permit Upgrade Customer or a Upgrade Customer representative to attend contest proceedings. Upgrade Customer shall pay to Transmission Owner on a periodic basis, as invoiced by Transmission Owner, Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. At any time during the contest, Transmission Owner may agree to a settlement either with Upgrade Customer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Owner, but reasonably acceptable to Upgrade Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Upgrade Customer's obligation shall be based on the amount of the settlement agreed to by Upgrade Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding sentence.

4.6 Taxes Other Than Income Taxes.

Upon the timely request by Upgrade Customer, and at Upgrade Customer's sole expense, Transmission Owner may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or State income tax) asserted or assessed against Transmission Owner for which Upgrade Customer may be required to reimburse Transmission Owner under the terms of this Upgrade CSA. Upgrade Customer shall pay to Transmission Owner on a periodic basis, as invoiced by Transmission Owner, Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Upgrade Customer and Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Upgrade Customer to Transmission Owner for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction.

4.7 Tax Status.

Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this Upgrade CSA is intended to adversely affect the Transmission Owner's tax-exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

5.0 Safety

5.1 General.

Transmission Owner shall perform all work hereunder in accordance with Good Utility Practice, Applicable Standards and Applicable Laws and Regulations pertaining to the safety of persons or property.

5.2 Environmental Releases.

Transmission Owner shall notify Transmission Provider and Upgrade Customer, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the facility or the facilities, any of which may reasonably be expected to affect Transmission Provider or Upgrade Customer. Transmission Owner shall: (i) provide the notice as soon as possible; (ii) make a good faith effort to provide the notice within twenty-four hours after it becomes aware of the occurrence; and (iii) promptly furnish to Transmission Provider and Upgrade Customer copies of any publicly available reports filed with any governmental agencies addressing such events.

6.0 Schedule Of Work.

6.1 Standard Option.

The Transmission Owner shall use Reasonable Efforts to design, engineer, procure, construct and install Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, in accordance with the Schedule and Scope of Work.

6.2 Negotiated Contract Option.

As an alternative to the Standard Option set forth in Section 6.1 of this Appendix III, the Transmission Owner and the Upgrade Customer may mutually agree to a Negotiated Contract Option for the Transmission Owner's design, procurement, construction and installation of the Customer-Funded Upgrades. Under the Negotiated Contract Option, the Upgrade Customer and the Transmission Owner may agree to terms different from those included in the Standard Option of Section 6.1 above and the corresponding standard terms set forth in the applicable provisions of the GIP and this Appendix III. Under the Negotiated Contract Option, negotiated terms may include the work schedule applicable to the Transmission Owner's construction activities and changes to same; payment provisions, including the schedule of payments; incentives, penalties and/or liquidated damages related to timely completion of construction; use of third party contractors; and responsibility for Costs, but only as between the Upgrade Customer and the Transmission Owner that are parties to this Upgrade CSA; no other Upgrade Customer's

responsibility for Costs may be affected. No other terms of the Tariff or this Appendix III shall be subject to modification under the Negotiated Contract Option. The terms and conditions of the Tariff that may be negotiated pursuant to the Negotiated Contract Option shall not be affected by use of the Negotiated Contract Option except as and to the extent that they are modified by the parties' agreement pursuant to such option. All terms agreed upon pursuant to the Negotiated Contract Option shall be stated in full in an appendix to this Upgrade CSA.

6.3 Revisions to Schedule and Scope of Work.

The Schedule and Scope of Work shall be revised as required in accordance with Transmission Provider's scope change process for projects set forth in the PJM Manuals, or otherwise by mutual agreement of the Transmission Provider and Transmission Owner, which agreement shall not be unreasonably withheld, conditioned or delayed. The scope change process is intended to be used for changes to the Scope of Work as defined herein, and is not intended to be used to change any of the milestone set forth in the GIA. Any change to the Scope of Work must be agreed to by all Parties in writing by executing a scope change document.

7.0 Suspension of Work Upon Default.

Upon the occurrence of a Default by Upgrade Customer, the Transmission Provider or the Transmission Owner may, by written notice to Upgrade Customer, suspend further work associated with the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, Transmission Owner is responsible for constructing. Such suspension shall not constitute a waiver of any termination rights under this Section 7.0. In the event of a suspension by Transmission Provider or Transmission Owner, the Upgrade Customer shall be responsible for the Costs incurred in connection with any suspension hereunder.

7.1 Notification and Correction of Defects

7.1.1 In the event that inspection and/or testing of any Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, built by Transmission Owner identifies any defects or failures to comply with Applicable Standards in such Customer-Funded Upgrades, then Transmission Owner shall take appropriate action to correct any such defects or failures within 20 days after it learns thereof. If such a defect or failure cannot reasonably be corrected within such 20-day period, Transmission Owner shall commence the necessary correction within that time and shall thereafter diligently pursue it to completion.

8.0 Transmission Outages

8.1 Outages; Coordination.

The Transmission Provider and Transmission Owner acknowledge and agree that certain outages of transmission facilities owned by the Transmission Owner, as more specifically detailed in the Scope of Work, may be necessary in order to complete the process of constructing and installing

the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA. The Transmission Provider and Transmission Owner further acknowledge and agree that any such outages shall be coordinated by and through Transmission Provider.

9.0 Security, Billing And Payments

The following provisions shall apply with respect to charges for the Costs of the Transmission Owner for which the Upgrade Customer is responsible.

9.1 Adjustments to Security.

The Security provided by Upgrade Customer at or before the Effective Date of this Upgrade CSA shall be: (a) reduced as portions of the work on Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, are completed; and/or (b) increased or decreased as required to reflect adjustments to Upgrade Customer's cost responsibility, to correspond with changes in the Scope of Work developed in accordance with Transmission Provider's scope change process for projects set forth in the PJM Manuals.

9.2 Invoice.

Transmission Owner shall provide Transmission Provider a quarterly statement of its scheduled expenditures during the next three months for, as applicable the design, engineering and construction of, and/or for other charges related to, construction of the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA. Transmission Provider shall bill Upgrade Customer, on behalf of Transmission Owner, for Transmission Owner's expected costs during the subsequent three months. Upgrade Customer shall pay each bill within twenty (20) days after receipt thereof. Upon receipt of each of Upgrade Customer's payments of such bills, Transmission Provider shall reimburse the Transmission Owner. Upgrade Customer may request that the Transmission Provider provide quarterly cost reconciliation. Such a quarterly cost reconciliation will have a one-quarter lag, e.g., reconciliation of costs for the first calendar quarter of work will be provided at the start of the third calendar quarter of work, provided, however, that Section 9.3 of this Appendix III shall govern the timing of the final cost reconciliation upon completion of the work.

9.4 Final Invoice.

Within 120 days after Transmission Owner completes construction and installation of the Customer-Funded Upgrades under this Upgrade CSA, Transmission Provider shall provide Upgrade Customer with an accounting of, and the appropriate Party shall make any payment to the other that is necessary to resolve, any difference between: (a) Upgrade Customer's responsibility under the PJM Tariff for the Costs of the or Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA; and (b) Upgrade Customer's previous aggregate payments to Transmission Provider for the Costs of the facilities identified in Appendix I to this Upgrade CSA. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment to the Upgrade Customer or the Transmission Owner that the preceding sentence

requires it to make unless and until the Transmission Provider has received the payment that it is required to refund from the Party owing the payment.

9.5 Disputes.

In the event of a billing dispute among the Transmission Provider, Transmission Owner, and Upgrade Customer, Transmission Provider and the Transmission Owner shall continue to perform their respective obligations pursuant to this Upgrade CSA so long as: (a) the Upgrade Customer continues to make all payments not in dispute, and the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute; or (b) the Upgrade Customer pays to Transmission Provider, or into an independent escrow account established by the Upgrade Customer, the portion of the invoice in dispute, pending resolution of such dispute. If the Upgrade Customer fails to meet any of these requirements, then Transmission Provider shall so inform the other Parties and Transmission Provider or the Transmission Owner may provide notice to Upgrade Customer of a Breach pursuant to Section 13 of this Appendix III. Within 30 days after the resolution of the dispute, the party that owes money to the other party shall pay the amount due with interest calculated in accord with section 9.6 (interest).

9.6 Interest.

Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment.

9.7 No Waiver.

Payment of an invoice shall not relieve Upgrade Customer from any other responsibilities or obligations it has under this Upgrade CSA, nor shall such payment constitute a waiver of any claims arising hereunder.

10.0 Assignment

10.1 Assignment with Prior Consent.

Subject to Section 10.2 of this Appendix III, no Party shall assign its rights or delegate its duties, or any part of such rights or duties, under this Upgrade CSA without the written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Any such assignment or delegation made without such written consent shall be null and void. In addition, the Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign this Upgrade CSA to any Affiliate or successor of the Transmission Owner that owns and operates all or a substantial portion of such Transmission Owner's transmission facilities.

Such written consent can be in the form of a consent to assignment or other written agreement. Such written consent of the other Parties to this Upgrade CSA shall not be unreasonably withheld, conditioned, or delayed. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Project Developer. No later than fifteen (15) Business

Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that the assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that the agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above

10.2 Assignment Without Prior Consent

10.2.1 Assignment by Upgrade Customer.

Upgrade Customer may assign this Upgrade CSA without the Transmission Owner's or Transmission Provider's prior consent to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Upgrade Customer's assets provided that, prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical competence and financial ability to comply with the requirements of this Upgrade CSA and assumes in a writing provided to the Transmission Owner and Transmission Provider all rights, duties, and obligations of Upgrade Customer arising under this Upgrade CSA. However, any assignment described herein shall not relieve or discharge the Upgrade Customer from any of its obligations hereunder absent the written consent of the Transmission Owner, such consent not to be unreasonably withheld, conditioned, or delayed.

Such written consent can be in the form of a consent to assignment or other written agreement. Such written consent of the other Parties to this Upgrade CSA shall not be unreasonably withheld, conditioned, or delayed. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Upgrade Customer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Upgrade Customer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Upgrade Customer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Upgrade Customer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent

with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above

10.2.2 Assignment by Transmission Owner.

Transmission Owner shall be entitled, subject to applicable laws and regulations, to assign this Upgrade CSA to an Affiliate or successor that owns and operates all or a substantial portion of Transmission Owner's transmission facilities.

10.2.3 Assignment to Lenders.

Upgrade Customer may, without the consent of the Transmission Provider or the Transmission Owner, assign this Upgrade CSA to any Project Finance Entity(ies), provided that such assignment shall not alter or diminish Upgrade Customer's duties and obligations under this Upgrade CSA. If Upgrade Customer provides the Transmission Owner with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to Article 6 of this Upgrade CSA, the Transmission Provider or Transmission Owner shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this Upgrade CSA in accordance with this Upgrade CSA. Transmission Provider or Transmission Owner shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of this Upgrade CSA, provided that such documents do not alter or diminish the rights of the Transmission Provider or Transmission Owner under this Upgrade CSA, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider's and/or the Transmission Owner's invoice therefore, Upgrade Customer shall pay the Transmission Provider and/or the Transmission Owner's reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Upgrade Customer from any of its obligations hereunder absent the written consent of the Transmission Owner and Transmission Provider.

10.3 Successors and Assigns.

This Upgrade CSA and all of its provisions are binding upon, and inure to the benefit of, the Transmission Provider and Transmission Owner and their respective successors and permitted assigns.

11.0 Insurance

11.1 Required Coverages.

Constructing Entity shall maintain, at its own expense, insurance as described in paragraphs A through E below. All insurance shall be procured from insurance companies rated "A-," VII or better by AM Best and authorized to do business in a State or States in which the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, will be located. Failure to maintain required insurance shall be a Breach of this Upgrade CSA.

A. Workers Compensation Insurance with statutory limits, as required by the State and/or jurisdiction in which the work is to be performed, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).

B. Commercial General Liability Insurance and/or Excess Liability Insurance covering liability arising out of premises, operations, personal injury, advertising, products and completed operations coverage, independent contractors coverage, liability assumed under an insured contract, coverage for pollution to the extent normally available and punitive damages to the extent allowable under applicable law, with limits of not less than one million dollars (\$1,000,000) per occurrence/one million dollars (\$1,000,000) general aggregate/one million dollars (\$1,000,000) each accident products and completed operations aggregate.

C. Business/Commercial Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of no less than one million dollars (\$1,000,000) each accident for bodily injury, including death, and property damage.

D. Excess and/or Umbrella Liability Insurance with a limit of liability of twenty million dollars (\$20,000,000) per occurrence. These limits apply in excess of the employer's liability, commercial general liability and business/commercial automobile liability coverages described above. This requirement can be met alone or via a combination of primary, excess and/or umbrella insurance.

E. Professional Liability, including Contractors Legal Liability, providing errors, omissions and/or malpractice coverage. Coverage shall be provided for the Constructing Entity's duties, responsibilities and performance outlined in this Upgrade CSA, with limits of liability as follows:

\$10,000,000 each occurrence

\$10,000,000 aggregate

An entity may meet the Professional Liability Insurance requirements by requiring third-party contractors, designers, or engineers, or other parties that are responsible for design and engineering work associated with the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, necessary for the transmission service to procure professional liability insurance in the amounts and upon the terms prescribed by this section, and providing evidence of such insurance to the other entity. Such insurance shall be procured from companies rated "A-," VII or better by

AM Best and authorized to do business in a State or States in which the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, are located. Nothing in this section relieves the entity from complying with the insurance requirements. In the event that the policies of the designers, engineers, or other parties used to satisfy the entity's insurance obligations under this section become invalid for any reason, including but not limited to: (i) the policy(ies) lapsing or otherwise terminating or expiring; (ii) the coverage limits of such policy(ies) are decreased; or (iii) the policy(ies) do not comply with the terms and conditions of the PJM Tariff; entity shall be required to procure insurance sufficient to meet the requirements of this section, such that there is no lapse in insurance coverage. Notwithstanding the foregoing, in the event an entity will not design, engineer or construct or cause to design, engineer or construct any new Customer-Funded Upgrades, Transmission Provider, in its discretion, may waive the requirement that an entity maintain the Professional Liability Insurance pursuant to this section.

11.2 Additional Insureds.

The Commercial General Liability, Business/Commercial Automobile Liability and Excess and/or Umbrella Liability policies procured by each Constructing Entity ("Insuring Constructing Entity") shall include each other party (the "Insured Party"), its officers, agents and employees as additional insureds, providing all standard coverages and covering liability of the Insured Party arising out of bodily injury and/or property damage (including loss of use) in any way connected with the operations, performance, or lack of performance under this Upgrade CSA.

11.3 Other Required Terms.

The above-mentioned insurance policies (except workers' compensation) shall provide the following:

(a) Each policy shall contain provisions that specify that it is primary and non contributory for any liability arising out of that party's negligence, and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Insuring Constructing Entity shall be responsible for its respective deductibles or retentions.

(b) If any coverage is written on a Claims First Made Basis, continuous coverage shall be maintained or an extended discovery period will be exercised for a period of not less than two (2) years after termination of this Upgrade CSA.

(c) Provide for a waiver of all rights of subrogation which the Insuring Constructing Entity's insurance carrier might exercise against the Insured Party.

11.4 No Limitation of Liability.

The requirements contained herein as to the types and limits of all insurance to be maintained by the Constructing Entities are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this Upgrade CSA.

11.5 Self-Insurance.

Notwithstanding the foregoing, each Constructing Entity may self-insure to meet the minimum insurance requirements of this section to the extent it maintains a self-insurance program; provided that such Constructing Entity's senior secured debt is rated at investment grade or better by Standard & Poor's and its self-insurance program meets the minimum insurance requirements of this Section 11. For any period of time that a Constructing Entity's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, it shall comply with the insurance requirements applicable to it under this Section 11. In the event that a Constructing Entity is permitted to self-insure pursuant to this section, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Section 11.6 of this Appendix III.

11.6 Notices; Certificates of Insurance.

Prior to the commencement of work pursuant to this Upgrade CSA, the Constructing Entities agree to furnish certificate(s) of insurance evidencing the insurance coverage obtained in accordance with Section 11 of this Appendix III. All certificates of insurance shall indicate that the certificate holder is included as an additional insured under the Commercial General Liability, Business/Commercial Automobile Liability and Excess and/or Umbrella Liability coverages, and that this insurance is primary with a waiver of subrogation in favor of the other Interconnected Entities. All policies of insurance shall provide for thirty days prior written notice of cancellation or material adverse change. If the policies of insurance do not or cannot be endorsed to provide thirty days prior written notice of cancellation or material adverse change, each Constructing Entity shall provide the other Constructing Entities with thirty days prior written notice of cancellation or material adverse change to any of the insurance required in this Upgrade CSA.

11.7 Subcontractor Insurance.

In accord with Good Utility Practice, each Constructing Entity shall require each of its subcontractors to maintain and provide evidence of insurance coverage of types, and in amounts, commensurate with the risks associated with the services provided by the subcontractor. Bonding of contractors or subcontractors shall be at the hiring Constructing Entity's discretion, but regardless of bonding, the Transmission Owner shall be responsible for the performance or non-performance of any contractor or subcontractor it hires.

11.8 Reporting Incidents:

The Parties shall report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Upgrade CSA.

12.0 Indemnity

12.1 Indemnity.

Each Constructing Entity shall indemnify and hold harmless the other Parties, and the other Parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss, liability, damage, cost or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property of persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with or resulting from: (i) the indemnifying Constructing Entity's breach of any of the representations or warranties made in, or failure of the indemnifying Constructing Entity or any of its subcontractors to perform any of its obligations under, this Upgrade CSA; or (ii) the negligence or willful misconduct of the indemnifying Constructing Entity or its contractors; provided, however, that the neither Constructing Entity shall not have any indemnification obligations under this Section in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the Party seeking indemnity.

12.2 Indemnity Procedures.

Promptly after receipt by a person entitled to indemnity ("Indemnified Person") of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Section 12 may apply, the Indemnified Person shall notify the indemnifying Constructing Entity of such fact. Any failure of or delay in such notification shall not affect a Constructing Entity's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Constructing Entity. The Indemnified Person shall cooperate with the indemnifying Constructing Entity with respect to the matter for which indemnification is claimed. The indemnifying Constructing Entity shall have the right to assume the defense thereof with counsel designated by such indemnifying Constructing Entity and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying Constructing Entity and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying Constructing Entity, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Constructing Entity shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying Constructing Entity. Notwithstanding the foregoing, the indemnifying Constructing Entity shall not: (i) be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on

the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying Constructing Entity, in such event the indemnifying Constructing Entity shall pay the reasonable expenses of the Indemnified Person; and (ii) settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

12.3 Indemnified Person.

If an Indemnified Person is entitled to indemnification under this Section 12 as a result of a claim by a third party, and the indemnifying Constructing Entity fails, after notice and reasonable opportunity to proceed under this Section 12, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Constructing Entity contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

12.4 Amount Owning.

If the indemnifying Constructing Entity is obligated to indemnify and hold any Indemnified Person harmless under this Section 12, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

12.5 Limitation on Damages.

Except as otherwise provided in this Section 12, the liability of a Party shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any Party or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this Section 12.5 are without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any Party's rights to obtain equitable relief as otherwise provided in this Upgrade CSA. The provisions of this Section 12 shall survive the termination or expiration of this Upgrade CSA.

12.6 Limitation of Liability in Event of Breach.

A Breaching Party shall have no liability hereunder to any other Party, and each other Party hereby releases the Breaching Party, for all claims or damages it incurs that are associated with any interruption in the availability of the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA, the Transmission System, or Transmission Service, or associated with damage to the Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA, except to the extent such interruption or damage is caused by the Breaching Party's gross negligence or willful misconduct in the performance of its obligations under this Upgrade CSA.

12.7 Limited Liability in Emergency Conditions.

Except as otherwise provided in the PJM Tariff or the Operating Agreement, no Party shall be liable to any other Party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or the Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Upgrade Customer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Transmission Owner related to an Emergency Condition.

13.0 Breach, Cure And Default

13.1 Breach.

A Breach of this Upgrade CSA shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Upgrade CSA including but not limited to any material breach of a representation, warranty or covenant made in this Upgrade CSA;
- (c) Assignment of this Upgrade CSA in a manner inconsistent with the terms of this Upgrade CSA; or
- (d) Failure of any Party to provide information or data required to be provided to another Party under this Upgrade CSA for such other Party to satisfy its obligations under this Upgrade CSA.

13.2 Notice of Breach.

In the event of a Breach, a Party not in Breach of this Upgrade CSA shall give written notice of such Breach to the Breaching Party, the other Party and to any other persons that the Breaching Party identifies in writing prior to the Breach. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Upgrade Customer, Transmission Provider or the Transmission Owner agree to provide notice of such Breach, in the same manner as its or their notice to Upgrade Customer, to any Project Finance Entity, provided that the Upgrade Customer has provided Transmission Provider and the Transmission Owner with notice of an assignment to such Project Finance Entity(ies) and has identified such Project Finance Entities as contacts for notice.

13.3 Cure and Default.

A Party that commits a Breach and does not take steps to cure the Breach pursuant to this Section is automatically in Default of this Upgrade CSA, and its Upgrade Request and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

13.3.1 Cure of Breach.

- 13.3.1.1 Except for the event of Breach set forth in section 13.1(a) above, the Breaching Interconnection Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Interconnection Parties. Such agreement shall not be unreasonably withheld.
- 13.3.1.2 In an event of Breach set forth in section 13.1(a), the Breaching Interconnection Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Interconnection Party is the Upgrade Customer, and the Upgrade Customer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Upgrade Customer shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn.

13.4 Right to Compel Performance.

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Interconnection Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. Subject to section 9.5, no remedy conferred by any provision of this Upgrade CSA is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

13.5 Remedies Cumulative.

No remedy conferred by any provision of this Upgrade CSA is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

14.0 Termination

14.1 Termination

14.1.1 Upon Completion of Construction:

14.1.1.1 Conforming Upgrade CSAs

If this Upgrade CSA is conforming and, therefore, is only reported to the Commission on PJM's Electric Quarterly Report, it shall terminate upon the date Transmission Provider receives written notice, in a form acceptable to the Transmission Provider from the Transmission that the following conditions have occurred: (i) completion of construction of all Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA; (ii) final payment of all Costs due and owing under this Upgrade CSA; and (iii) termination of all rights provided under this Upgrade CSA.

14.1.1.2 Non-Conforming Upgrade CSAs

If this Upgrade CSA is non-conforming and, therefore, has been filed with and accepted by the Commission, it shall terminate upon (a) Transmission Provider receiving written notice, in a form acceptable to Transmission Provider, from Transmission Owner that the following conditions have occurred: (i) completion of construction of Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA;; (ii) final payment of all Costs due and owing under this Upgrade CSA; (iii) termination of all rights provided under this Upgrade CSA; and (b) the effective date of Transmission Provider's cancellation of the Upgrade CSA in accordance with Commission rules and regulations. Transmission Provider shall serve the Transmission Owner and Upgrade Customer with a copy of the notice of cancellation of any Upgrade CSA in accordance with Commission rules and regulations.

14.2 Cancellation By Upgrade Customer

14.2.1 Applicability.

The following provisions shall apply in the event that Upgrade Customer terminates this Upgrade CSA:

14.2.2 Cancellation Cost Responsibility.

Upon the cancellation of this Upgrade CSA by the Upgrade Customer, the Upgrade Customer shall be liable to pay to the Transmission Owner or Transmission Provider all Cancellation Costs in connection with the Upgrade CSA. Cancellation costs may include costs for Network Upgrades assigned to Upgrade Customer, in accordance with the Tariff and as reflected in this Upgrade CSA, that remain the responsibility of Upgrade Customer under the Tariff. This shall include costs including, but not limited to, the costs, cost for such Network Upgrades to the extent such cancellation would be a Material Modification, or would have an adverse effect or impose costs on other Upgrade Customers in the Cycle. In the event the Transmission Owner incurs Cancellation Costs, it shall provide the Transmission Provider, with a copy to the Upgrade Customer, with a written demand for payment and with reasonable documentation of such Cancellation Costs. The Upgrade Customer shall pay the Transmission Provider each bill for Cancellation Costs within thirty (30) days after, as applicable, the Transmission Owner's or Transmission Provider's presentation to the Upgrade Customer of written demand therefor, provided that such demand includes reasonable documentation of the Cancellation Costs that the invoicing party seeks to collect. Upon receipt of each of Upgrade Customer's payments of such bills of the Transmission Owner, Transmission Provider shall reimburse the Transmission Owner for Cancellation Costs incurred by the latter.

14.2.3 Disposition of Customer-Funded Upgrades Upon Cancellation.

Upon cancellation of this Upgrade CSA by the Upgrade Customer, Transmission Provider, after consulting with the Transmission Owner, may, at the sole cost and expense of the Upgrade Customer, authorize the Transmission Owner to: (a) cancel supplier and contractor orders and agreements entered into by the Transmission Owner to design, engineer, construct, install, operate, maintain and own Customer-Funded Upgrades identified in Appendix I to this Upgrade CSA, provided, however, that Upgrade Customer shall have the right to choose to take delivery of any equipment ordered by the Transmission Owner for which Transmission Provider otherwise would authorize cancellation of the purchase order; (b) remove any Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, built by the Transmission Owner; (c) partially or entirely complete the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA, as necessary to preserve the integrity or reliability of the Transmission System, provided that Upgrade Customer shall be entitled to receive any rights associated with such Customer-Funded Upgrades as determined in accordance with the PJM Tariff; or (d) undo any of the changes to the Transmission System that were made pursuant to this Upgrade CSA. To the extent that the Upgrade Customer has fully paid for equipment that is unused upon cancellation or which is removed pursuant to this Section, the Upgrade Customer shall have the right to take back title to such equipment; alternatively, in the event that the Upgrade Customer does not wish to take back title, the Transmission Owner may elect to pay the Upgrade Customer a mutually agreed amount to acquire and own such equipment.

14.2.4 Termination Upon Default.

In the event that Upgrade Customer exercises its right to terminate under this Section notwithstanding any other provision of this Upgrade CSA, the Upgrade Customer shall be liable for payment of the Transmission Owner's Costs incurred up to the date of Upgrade Customer's notice of termination pursuant to this Section and the costs of completion of some or all of the Customer-Funded Upgrades, or specific unfinished portions thereof, and/or removal of any or all of such Customer-Funded Upgrades that have been installed, to the extent that Transmission Provider determines such completion or removal to be required for the Transmission Provider and/or the Transmission Owner to perform their respective obligations under the PJM Tariff, provided, however, that Upgrade Customer's payment of such costs shall be without prejudice to any remedies that otherwise may be available to it under this Upgrade CSA for the Default of the Transmission Owner.

14.3 Survival of Rights.

The obligations of the Parties hereunder with respect to payments, Cancellation Costs, warranties, liability and indemnification shall survive termination to the extent necessary to provide for the determination and enforcement of said obligations arising from acts or events that occurred while this Upgrade CSA was in effect. In addition, applicable provisions of this Upgrade CSA will continue in effect after expiration, cancellation or termination to the extent necessary to provide for final billings, payments, and billing adjustments.

14.4 Filing at FERC.

The Transmission Provider shall make a filing with FERC pursuant to Section 205 of the Federal Power Act effectuating the termination of this Upgrade CSA as required.

15.0 Force Majeure

15.1 Notice.

A Party that is unable to carry out an obligation imposed on it by this Upgrade CSA due to Force Majeure shall notify the other Parties in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

15.2 Duration of Force Majeure.

A Party shall not be responsible for any non-performance or considered in Breach or Default under this Upgrade CSA, for any non-performance, any interruption or failure of service, deficiency in the quality or quantity of service, or any other failure to perform any obligation hereunder to the extent that such failure or deficiency is due to Force Majeure. A Party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Party shall resume performance and give prompt notice thereof to the other Party.

15.3 Obligation to Make Payments.

Any Party's obligation to make payments for services shall not be suspended by Force Majeure.

16.0 Confidentiality.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the other Party receiving the information that the information is confidential. If requested by any Party, the disclosing Party shall provide in writing the basis for asserting that the information referred to in this section warrants confidential treatment, and the requesting Party may disclose such writing to an appropriate Governmental Authority. Any Party shall be responsible for the costs associated with affording confidential treatment to its information.

16.1 Term.

During the term of this Upgrade CSA, and for a period of three (3) years after the termination of this Upgrade CSA, except as otherwise provided in Section 16 of this Upgrade CSA, each Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any Party.

16.2 Scope.

Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this Upgrade CSA; or (vi) is required, in accordance with Section 16.7 of this Appendix III, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Upgrade CSA. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

16.3 Release of Confidential Information.

No Party shall disclose Confidential Information of another Party to any other person, except to its Affiliates (in accordance with the Commission's Standards of Conduct requirements), subcontractors, employees, consultants or to parties who may be or considering providing financing to or equity participation in Upgrade Customer on a need-to-know basis in connection with this Upgrade CSA, unless such person has first been advised of the confidentiality provisions of this Section and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party that provides Confidential Information of another Party to any person shall remain responsible for any release of Confidential Information in contravention of this Section.

16.4 Rights.

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

16.5 No Warranties.

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

16.6 Standard of Care.

Each Party shall use at least the same standard of care to protect Confidential Information it receives as the Party uses to protect its own Confidential Information from unauthorized

disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this Upgrade CSA or to comply with Applicable Laws and Regulations.

16.7 Order of Disclosure.

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

16.8 Termination of Upgrade Construction Service Agreement.

Upon termination of this Upgrade CSA for any reason, each Party shall, within ten (10) calendar days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure and deletion certified in writing to the requesting Party) or to return to the requesting Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting Party.

16.9 Remedies.

The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Section 16. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party breaches or threatens to breach its obligations under this Section, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed to be an exclusive remedy for the breach of this Section, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, consequential, or punitive damages of any nature or kind resulting from or arising in connection with a Breach of any obligation under this Section 16.

16.10 Disclosure to FERC or its Staff.

Notwithstanding anything in this Section to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Upgrade CSA, the Party, shall provide the requested information to FERC or its staff, within the

time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Upgrade CSA prior to the release of the Confidential Information to the Commission or its staff. A Party shall notify the other Parties when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

16.11

Subject to the exception noted above in Section 16.10 of this Appendix III, no Party shall disclose Confidential Information of Party to any person not employed or retained by the disclosing Party, except to the extent disclosure is: (i) required by law; (ii) reasonably deemed by the disclosing Party to be required in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the Party that provided such Confidential Information, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Upgrade CSA or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. Prior to any disclosures of another Party's Confidential Information under this subparagraph, the disclosing Party shall promptly notify the other Parties in writing and shall assert confidentiality and cooperate with the other Parties in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

16.12

This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

16.13 Return or Destruction of Confidential Information.

If any Party provides any Confidential Information to another Party in the course of an audit or inspection, the providing Party may request the other Party to return or destroy such Confidential Information after the termination of the audit period and the resolution of all matters relating to that audit. Each Party shall make Reasonable Efforts to comply with any such requests for return or destruction within ten days after receiving the request and shall certify in writing to the requesting Party that it has complied with such request.

17.0 Information Access And Audit Rights

17.1 Information Access.

Subject to Applicable Laws and Regulations, each Party shall make available to the other Parties information necessary: (i) to verify the Costs incurred by the other Party for which the requesting Party is responsible under this Upgrade CSA and the PJM Tariff; and (ii) to carry out obligations

and responsibilities under this Upgrade CSA and the PJM Tariff. The Parties shall not use such information for purposes other than those set forth in this Section 17 and to enforce their rights under this Upgrade CSA and the PJM Tariff.

17.2 Reporting of Non-Force Majeure Events.

Each Party shall notify the other Parties when it becomes aware of its inability to comply with the provisions of this Upgrade CSA for a reason other than an event of force majeure as defined in Section 1.21 of Appendix 2 of this Attachment GG. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Section 17 shall not entitle the receiving Party to allege a cause of action for anticipatory breach of this Upgrade CSA and the PJM Tariff.

17.3 Audit Rights.

Subject to the requirements of confidentiality of this Upgrade CSA and the PJM Tariff, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent Party, to audit at its own expense the other Party's accounts and records pertaining to such Party's performance and/or satisfaction of obligations arising under this Upgrade CSA and the PJM Tariff. Any audit authorized by this Section 17 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Upgrade CSA. Any request for audit shall be presented to the other Party not later than twenty-four months after the event as to which the audit is sought. Each Party shall preserve all records held by it for the duration of the audit period.

17.4 Waiver.

Any waiver at any time by any Party of its rights with respect to a Breach or Default under this Upgrade CSA, or with respect to any other matters arising in connection with this Upgrade CSA, shall not be deemed a waiver or continuing waiver with respect to any other Breach or Default or other matter.

17.5 Amendments and Rights under the Federal Power Act.

Except as set forth in this Section 17, this Upgrade CSA may be amended, modified, or supplemented only by written agreement of the Parties. Such amendment shall become effective and a part of this Upgrade CSA upon satisfaction of all Applicable Laws and Regulations. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if Project Developer

fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

Notwithstanding the foregoing, nothing contained in this Upgrade CSA shall be construed as affecting in any way any of the rights of any Party with respect to changes in applicable rates or charges under Section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any Party under Section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this Upgrade CSA shall be amended, as mutually agreed by the Parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

17.6 Regulatory Requirements.

Each Party's performance of any obligation under this Upgrade CSA for which such Party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

18.0 Representations and Warranties

18.1 General.

Each Constructing Entity hereby represents, warrants and covenants as follows, with these representations, warranties, and covenants effective as to the Constructing Entity during the full time this Upgrade CSA is effective:

18.1.1 Good Standing.

Such Constructing Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated.

18.1.2 Authority.

Such Constructing Entity has the right, power and authority to enter into this Upgrade CSA, to become a Party thereto and to perform its obligations thereunder. This Upgrade CSA is a legal, valid and binding obligation of such Constructing Entity, enforceable against such Constructing Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

18.1.3 No Conflict.

The execution, delivery and performance of this Upgrade CSA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Constructing Entity, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Constructing Entity or any of its assets.

19.0 Inspection and Testing of Completed Facilities

19.1 Coordination.

Upgrade Customer and the Transmission Owner shall coordinate the timing and schedule of all inspection and testing of the Customer-Funded Upgrades, identified in Appendix I to this Upgrade CSA.

19.2 Inspection and Testing.

Each Constructing Entity shall cause inspection and testing of any Customer-Funded Upgrades that it constructs in accordance with the provisions of this section. The Parties acknowledge and agree that inspection and testing of facilities may be undertaken as facilities are completed and need not await completion of all of the facilities that a Constructing Entity is building.

Upon the completion of the construction and installation, but prior to energization, of any Customer-Funded Upgrades constructed by the Transmission Owner, the Transmission Owner shall have the same inspected and/or tested by qualified personnel or a qualified contractor to assess whether the facilities substantially comply with Applicable Standards. Subject to Applicable Laws and Regulations, said inspection and testing shall be held on a mutually agreed-upon date, and the Upgrade Customer and Transmission Provider shall have the right to attend and observe, and to obtain the written results of, such testing.

19.4 Notification and Correction of Defects

In the event that inspection and/or testing of any Customer-Funded Upgrades built by the Transmission Owner identifies any defects or failures to comply with Applicable Standards in such facilities, Transmission Owner shall take appropriate action to correct any such defects or failures within 20 days after it learns thereof. In the event that such a defect or failure cannot reasonably

be corrected within such 20-day period, Transmission Owner shall commence the necessary correction within that time and shall thereafter diligently pursue it to completion.

20.0 [Reserved]

24.0 Operation and Maintenance of Merchant Network Upgrades.

Unless otherwise provided in this Upgrade CSA, the Transmission Owner that owns Merchant Network Upgrades constructed on behalf of and at the expense of the Upgrade Customer shall operate and maintain such Merchant Network Upgrades at the expense of the Upgrade Customer. The charge for operation and maintenance of such Merchant Network Upgrade charges is set forth in SCHEDULE B of this Upgrade CSA.

25.0 Charges

25.1 Specified Charges.

If and to the extent required by the Transmission Owner, after the Initial Operation of the Merchant Network Upgrade, Upgrade Customer shall pay one or more of the types of recurring charges described in this section to compensate the Transmission Owner for costs incurred in performing certain of its obligations under this Appendix III. All such charges shall be stated in SCHEDULE B of the Upgrade CSA. Permissible charges under this section may include:

(a) Administration Charge - Any such charge may recover only the costs and expenses incurred by the Transmission Owner in connection with administrative obligations such as the preparation of bills. An Administration Charge shall not be permitted to the extent that the Transmission Owner's other charges to the Upgrade Customer under the same Upgrade CSA include an allocation of the Transmission Owner's administrative and general expenses and/or other corporate overhead costs.

(b) Merchant Network Upgrade Operations and Maintenance Charge - Any such charge may recover only the Transmission Owner's costs and expenses associated with operation and maintenance charges related to the Upgrade Customer's Merchant Network Upgrade owned by the Transmission Owner.

(c) Other Charges - Any other charges applicable to the Upgrade Customer, as mutually agreed upon by the Upgrade Customer and the Transmission Owner and as accepted by the FERC as part of an Upgrade CSA.

25.2 FERC Filings.

To the extent required by law or regulation, each Party shall seek FERC acceptance or approval of its respective charges or the methodology for the calculation of such charges.

SCHEDULE A

NEGOTIATED CONTRACT OPTIONS

List or state "None."

DRAFT

SCHEDULE B

**OPERATION AND MAINTENANCE CHARGES FOR
MERCHANT NETWORK UPGRADES**

List or state "None."

DRAFT

SCHEDULE C

A. Network Upgrades to be Built By Transmission Owner

[Specify Facilities To Be Constructed or state “None”]

[Use the following if facilities are to be constructed or owned]

- i. Facilities for which the Developer Party has sole cost responsibility
- ii. Facilities for which a Network Upgrade Cost Responsibility Service Agreement is required.

DRAFT

**Tariff, Part IX, Subpart F
Cost Responsibility Agreement**

DRAFT

(Project Identifier # [REDACTED])

COST RESPONSIBILITY AGREEMENT
By and Between
PJM INTERCONNECTION, L.L.C.
And

DRAFT

COST RESPONSIBILITY AGREEMENT

By and Between

PJM INTERCONNECTION, L.L.C.

And

[REDACTED]
(Project Identifier # [REDACTED])

RECITALS

This Cost Responsibility Agreement (“Agreement”), dated as of [Insert Date], is made and entered into by and between [Insert Project Developer Name] (“Project Developer”) and PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”). Project Developer and Transmission Provider each may be referred to herein as a “Party” or, collectively, “Parties.” Capitalized terms used in this Agreement, unless otherwise indicated, shall have the meanings ascribed to them in the PJM Open Access Transmission Tariff (“Tariff”). For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in [Instructions: use Tariff, Part VII if this is a transition period agreement, or use Tariff, Part VIII if this is a post-transition period agreement]. [Possible Language: This Agreement supersedes the (name of agreement) between PJM Interconnection, L.L.C. and (former agreement Project Developer name), dated (insert date of former agreement). This paragraph and the following WHEREAS clauses can be edited as appropriate if there is no former agreement, and this CRA is being into in connection with a merger/re-organization or other agreement or transaction].

WHEREAS, Project Developer owns or operates an existing generating facility within the PJM Region and is currently a party to [an existing Power Purchase Agreement[s] (the [“PPA[s]”])].

WHEREAS, Project Developer has notified the Transmission Provider its [PPA[s]] expire on [Insert Expiration Date[s]].

WHEREAS, the Project Developer proposes to enter into a form of Generation Interconnection Agreement (“GIA”) with PJM and the Transmission Owner coincident with the

expiration of the [PPA[s]] in order to establish an interconnection with the PJM Transmission System for the purposes of making wholesale sales in the PJM Region (the “Project Developer Request”).

WHEREAS, consistent with Order No. 2003¹, Project Developer need not submit an Interconnection Request pursuant to GIP, Section [to be determined], provided it represents that it is a Qualifying Facility and the output and operating characteristics of its existing generation facility (“Generating Facility”) will continue to be substantially the same as the output and operating characteristics of the Generating Facility as set forth in the existing Project Developer [PPA[s]].

WHEREAS, the Transmission Provider must perform certain modeling, studies or analysis to determine whether the Project Developer may enter into a GIA with PJM and the Transmission Owner.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, the Parties agree as follows:

COST RESPONSIBILITY

1. Project Developer elects, and PJM agrees to perform certain modeling, studies or analysis to verify and ensure that the interconnection of Generating Facility meets the necessary system interconnection requirements as specified in the Tariff and associated PJM Manuals, as appropriate.
2. The scope of the modeling, studies or analysis shall be subject to the assumptions as set forth in Attachment A to this Agreement.

¹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003 at PP 814 and 815, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh’g*, Order No. 2003-A, FERC Stats and Regs. ¶ 31,160, *order on reh’g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh’g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff’d sub nom, Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert denied*, 552 U.S. 1230 (2008).

3. If required, studies shall identify Interconnection Facilities, Network Upgrades and Distribution Upgrades including the estimated cost thereof that may be required to provide interconnection service under the Tariff based upon the information specified by the Project Developer in Attachment A.
4. Project Developer shall submit an upfront deposit in the amount of \$10,000 for the performance of the modeling, studies or analysis at the time Project Developer submits this executed Agreement to the Transmission Provider. If in-depth studies are required (e.g., System Impact Study), the Transmission Provider's good faith estimate for the time to complete such studies is {instructions: provide estimated time to complete studies} months.
5. Project Developer agrees that it shall reimburse the Transmission Provider for the actual costs incurred or expended by the Transmission Provider and Transmission Owner in connection with the modeling, studies or analysis (above and beyond the deposits submitted pursuant to paragraph 4 above) within twenty (20) days of receiving an invoice for such costs. Actual costs may exceed the study deposit.
6. Within one hundred and twenty (120) days after the Transmission Provider completes the modeling, studies or analysis, Transmission Provider shall provide a final invoice ("Final Invoice") which will include an accounting of the actual costs incurred in performing the modeling, studies or analysis. Within twenty (20) days of receiving the Final Invoice, the Project Developer shall make any payment due to the Transmission Provider and/or the Transmission Owner that is necessary to resolve any differences between (a) the Project Developer's cost responsibility under this Agreement and the Tariff for the actual cost of the modeling, studies or analysis; and (b) Project Developer's aggregate payments (including deposits submitted pursuant to paragraph 4 above) remitted pursuant to this Agreement prior to the issuance of the Final Invoice.
7. In the event that the Transmission Provider anticipates that the actual costs of the modeling, studies or analysis will exceed the deposits submitted in accordance with paragraph 4 above, the Transmission Provider shall provide the Project Developer with an estimate of the modeling, studies or analysis costs. Upon receipt of the estimate of such modeling,

studies or analysis costs, the Project Developer may withdraw its Project Developer Request and terminate this Agreement by providing written notice of such withdrawal and termination to the Transmission Provider within 20 Business Days of receiving such estimate. If Project Developer fails to pay such amounts, then Transmission Provider shall deem this Agreement to be terminated and withdrawn. If the Project Developer withdraws its Project Developer Request and terminates this Agreement prior to the completion of the modeling, studies or analysis work, Project Developer agrees to pay actual costs of the modeling, studies or analysis performed up until the time of such request to withdraw and terminate.

CONFIDENTIALITY

8. Project Developer agrees to provide all information requested by the Transmission Provider necessary to complete the required modeling, studies or analysis. Subject to paragraph 9 of this Agreement and to the extent required by GIP, Section **[to be determined]** (relating to confidentiality of information provided by Project Developers), information provided pursuant to this paragraph 8 shall be and remain confidential.
9. Upon completion of all requisite modeling, studies or analysis, the Transmission Provider shall keep confidential all information provided to it by the Project Developer. Upon completion of the modeling, studies or analysis, the results shall be listed on the Transmission Provider's OASIS to the extent required and, to the extent required by Commission regulations, will be made publicly available upon request, except that the identity of the Project Developer shall be remain confidential and will not be posted on OASIS.
10. Project Developer acknowledges that, consistent with the Tariff, the Transmission Provider may contract with consultants, including the Transmission Owners, to provide services or expertise in the modeling, studies or analysis process and that the Transmission Provider may disseminate information to the Transmission Owner.

DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

11. In modeling, studying or analyzing Project Developer's Request, the Transmission Provider, the Interconnected Transmission Owner(s), and any other subcontractors employed by the Transmission Provider shall have to rely on information provided by the Project Developer and possibly by third-parties and may not have control over the accuracy of such information. Accordingly, NEITHER THE TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTOR EMPLOYED BY THE TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS, OF THE MODELING, STUDIES OR ANALYSIS. The Project Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement, nor any modeling, studies or analysis prepared hereunder is intended, nor shall either be interpreted, to constitute agreement by the Transmission Provider or the Transmission Owner(s) to provide any interconnection service to or on behalf of the Project Developer at this point in time or in the future.
12. Project Developer agrees that in no event will the Transmission Provider, Transmission Owner(s) or other subcontractors employed by the Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this Agreement or otherwise, even if the Transmission Provider, Transmission Owner(s), or other subcontractors employed by the Transmission Provider have been advised of the possibility of such a loss. Nor shall the Transmission Provider, Transmission Owner(s), or other subcontractors employed by the Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of the Transmission Provider's obligations under this Agreement or otherwise.

Without limitation of the foregoing, Project Developer further agrees that Transmission Owner(s)

and other subcontractors employed by the Transmission Provider to prepare or assist in the preparation of any modeling, studies or analysis arising out of the Project Developer Request shall be deemed third party beneficiaries of this provision entitled “Disclaimer of Warranty/Limitation of Liability.”

ASSIGNMENT

13. No Party herein shall assign its rights or delegate its duties, or any part of such rights or duties, under this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such assignment or delegation made without such written consent shall be null and void. A Party may make an assignment in connection with the sale, merger, or transfer of a substantial portion or all of its properties which it owns, so long as the assignee in such a sale, merger, or transfer assumes in writing all rights, duties and obligations arising under this Agreement.

MISCELLANEOUS

14. Any notice or request made to or by either party regarding this Agreement shall be made to the representative of the other party as indicated below. **Transmission Provider**

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Project Developer

[Insert Project Developer Notice Info]

Either Party may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

15. Subject to any necessary regulatory acceptance, this Agreement shall become effective on the date that it is executed by all Parties, or, if this Agreement is filed with Federal Energy Regulatory Commission (“FERC”) unexecuted, upon the date specified by the FERC.
16. Breach:

a. A breach of this Agreement shall include:

- i. The failure to pay any amount when due;
- ii. The failure to comply with any material term or condition of this Agreement or the Tariff, including but not limited to any material breach of a representation, warranty or covenant made in this Agreement;
- iii. Assignment of this Agreement in a manner inconsistent with the terms of this Agreement;
- iv. Failure of Project Developer to provide information or data required to be provided pursuant to this Agreement in order for Transmission Provider to perform the modeling, studies or analysis associated with this Agreement.

b. Notice of Breach:

A Party not in breach shall give written notice of an event of breach to the breaching Party. Such notice shall set forth, in reasonable detail, the nature of the breach, and where known and applicable, the steps necessary to cure such breach. A Party that commits a Breach and does not take steps to cure the Breach pursuant to this section 16 automatically in Default of this Agreement, and its project and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

c. Cure of Breach or Termination Pursuant to Breach:

- i. Except for the event of Breach set forth in section 16.a.i above, the Breaching Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends from the receipt of such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Interconnection Parties. Such agreement shall not be unreasonably withheld.
- ii. In an event of Breach set forth in section 16.a.i, the Breaching Interconnection Party shall may cure the Breach within five (5) days from

the receipt of notice of the Breach. If the Breaching Interconnection Party is the Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Project Developer shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn

17. In addition to Section 16 above, this Agreement may be terminated by the following means:
 - a. By Mutual Consent: This Agreement may be terminated as of the date on which the Parties mutually agree to terminate this Agreement.
 - b. By Project Developer: The Project Developer may unilaterally terminate this Agreement in accordance with the terms set forth in section 7 of this Agreement or pursuant to Applicable Laws and Regulations upon providing Transmission Provider thirty (30) days prior written notice thereof, provided that Project Developer is not in breach under this Agreement.
 - c. By Transmission Provider: Transmission Provider may unilaterally terminate this Agreement in accordance with the Applicable Laws and Regulations upon providing Project Developer thirty (30) days prior written notice thereof.
18. No waiver by either Party of one or more breaches by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further breach, whether of a like or different character.
19. This Agreement or any part thereof may not be amended, modified or waived other than by a writing signed by all Parties hereto. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed be terminated and withdrawn if Project Developer fails to comply with these requirements. Following

execution by Project Developer, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5. Transmission Provider may also file the agreement with FERC in unexecuted form.

Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution or obligations contained therein.

20. This Agreement shall be binding upon the Parties hereto, their heirs, executors, administrators, successors and assigns.
21. This Agreement shall not be construed as an application for service under Part II or Part III of the Tariff.
22. The provisions of the GIP of the Tariff are incorporated herein and made a part hereof.
23. Governing Law, Regulatory Authority and Rules: This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders or regulations of a Governmental Authority.
24. No Third-party Beneficiaries: This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

25. Multiple Counterparts: This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.
26. No Partnership: The Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership, obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
27. Severability: If any provision of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.
28. Reservation of Rights: The Transmission Provider shall have the right to make a unilateral filing with FERC to implement or modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Project Developer shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials. By each individual signing below, each represents to the other that they are duly authorized to sign on behalf of that company and have the actual and/or apparent authority to bind the respective company to this Agreement.

Transmission Provider: PJM Interconnection, L.L.C.

By: _____
Name Title Date

Printed name of signer: _____

Project Developer: [Insert Project Developer Name]

By: _____
Name Title Date

Printed name of signer: _____

DRAFT

ATTACHMENT A

INFORMATION TO BE SUPPLIED BY PROJECT DEVELOPER

Name of Interconnection Project Developer (as it will appear in the GIA):

Name of the Generating Facility:

Location of the Generating Facility:

Company name:

Address:

City, State, Zip Code:

Legal Notices:

Company name:

Address:

City, State, Zip Code:

Attn:

Phone:

Email:

Tax ID for the Generating Facility:

Maximum Facility Output:

Capacity Interconnection Rights

Description of the equipment configuration (as it is to appear in the GIA):

Requested effective date of the GIA (if other than upon execution by all parties, e.g., to coincide with the termination of a PPA):

Provide Generating Facility Location/Site Plan (generally, an aerial photo with cross streets labeled and the Generating Facility pinpointed in red):

Provide one-line diagram of the Generating Facility and clearly indicate Point of Interconnection and the Point of Change of Ownership:

Provide a list of metering equipment and indicate ownership of same:

Addendum 1
[Insert Project Developer Name] Site Overview

DRAFT

Addendum 2
[Insert Project Developer Name] One Line Diagram

DRAFT

**Tariff, Part IX, Subpart G
Necessary Study Agreement**

DRAFT

(Project Identifier # [])

NECESSARY STUDIES AGREEMENT

By And Among

PJM INTERCONNECTION, L.L.C.

And

[]

DRAFT

**Necessary Studies Agreement
By and Among
PJM Interconnection, L.L.C.
and**

[REDACTED]

(Project Identifier # [REDACTED])

RECITALS

1. This Necessary Studies Agreement (“Agreement”) entered into by and between [REDACTED] (“Project Developer”) and PJM Interconnection, L.L.C. (“PJM” or “Transmission Provider”) (individually, a “Party” and together, the “Parties”) is effective as of the date this Agreement is fully executed by the Parties (“Effective Date”). Capitalized terms used in this Agreement, unless otherwise indicated, shall have the meanings ascribed to them in the PJM Open Access Transmission Tariff (“Tariff”), or Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“Operating Agreement”). For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in {Instructions: use Tariff, Part VII if this is a transition period agreement, use Part VIII if this is a new rules period agreement}.
2. Consistent with Tariff, Part IX, Subpart B, and pursuant to that certain [Generation Interconnection Agreement] related to PJM {Project Identifier #} [REDACTED], designated as [Original, First Revised, etc.] Service Agreement No. [REDACTED], with an effective date of [Date] [and filed with the Federal Energy Regulatory Commission (“FERC”) in Docket No. [REDACTED]] [which was a conforming agreement reported to the Federal Energy Regulatory Commission (“FERC”) in PJM’s Electric Quarterly Reports] (the “Service Agreement”), Project Developer has notified Transmission Provider that it plans to undertake modifications to its Generating Facility or Merchant Transmission Facility located at [REDACTED] that, upon completion, reasonably may have a material impact on the Transmission System (“Planned Modifications”).

[or]
3. Subject to sections 5 through 15 of this Agreement, Project Developer shall provide sufficient information regarding the Planned Modifications, including but not limited to relevant data, drawings, models, plans, and specifications, to enable Transmission Provider to evaluate the impact, if any, on the Transmission System of the Planned Modifications. The Planned Modifications consist of [REDACTED]. Attachment 1 to this Agreement contains a detailed description of the Planned Modifications.

4. Project Developer represents and warrants that the information provided in section 3 of this Agreement is accurate and complete as of the Effective Date.
5. The obligation(s) of Transmission Provider are conditioned on receipt from Project Developer of all required information regarding the Planned Modifications within 30 days of the Effective Date. Project Developer is obligated to update the data following any requests from PJM. If Project Developer does not provide all required information regarding the Planned Modifications within 30 days of the Effective Date, this Agreement shall be null and void and any and all obligations on the part of Transmission Provider shall cease.

PURPOSE OF THE NECESSARY STUDIES UNDER THIS AGREEMENT

6. Consistent with **Tariff, Part IX, Subpart B**, Appendix 2, section 3, and the Service Agreement, Transmission Provider agrees to conduct the necessary studies to determine whether the Planned Modifications will have a permanent material impact on the Transmission System and to identify the additions, modifications, or replacements to the Transmission System, if any, that are necessary, in accordance with Good Utility Practice and/or to maintain compliance with Applicable Laws and Regulations or Applicable Standards, to accommodate the Planned Modifications (“Necessary Studies”). The Necessary Studies are expected to include, but are not limited to, a **_____**. Upon completion of the Necessary Studies, Transmission Provider shall provide Project Developer with preliminary determinations of: (i) the type and scope of the permanent material impact, if any, the Planned Modifications will have on the Transmission System; (ii) the additions, modifications, or replacements to the Transmission System required to accommodate the Planned Modifications; and (iii) a good faith estimate of the cost of the additions, modifications, or replacements to the Transmission System required to accommodate the Planned Modifications. In the event that Transmission Provider is unable to complete the Necessary Studies within two hundred and seventy (270) days of the date the Transmission Provider approves the dynamic model and data submitted by the Project Developer and Transmission Provider’s receipt of the information required under section 3 of this Agreement, Transmission Provider shall notify Project Developer and explain the reasons for the delay.

CONFIDENTIALITY

7. Subject to section 8 below, information provided pursuant to this Agreement that is Confidential Information as defined by the Tariff, and to the extent consistent with PJM's confidentiality obligations in Operating Agreement, section 18.17, shall be and remain confidential. To the extent Transmission Provider contracts with consultants or with one or more Transmission Owner(s) for services or expertise in the preparation of the Necessary Studies, the consultants and/or Transmission Owner(s) shall keep all information provided by Project Developer confidential and shall use such information solely for the purpose of the study for which it was provided and for no other purpose.

8. Project Developer acknowledges that, consistent with GIP, section **[to be provided]**, Transmission Provider may contract with consultants, including Transmission Owner(s), to provide services or expertise in the study process and that Transmission Provider may disseminate information to Transmission Owner(s).
9. During the longer of the terms of this Agreement or the Service Agreement, and for a period of three (3) years after the expiration or termination thereof, and except as otherwise provided herein, each Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by the other Party.
10. Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of the requirements of this Agreement, the Tariff, or the Operating Agreement; or (vi) is required, in accordance with this Agreement, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Agreement. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.
11. Each Party retains all rights, title, and interest in the Confidential Information that it discloses to the other Party. A Party's disclosure to the other Party of Confidential Information shall not be deemed a waiver by the disclosing Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
12. By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Party nor to enter into any further agreements or proceed with any other relationship or joint venture.
13. Each Party shall use at least the same standard of care to protect Confidential Information it receives as the Party uses to protect its own Confidential Information from unauthorized disclosure, publication, or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or the Tariff.
14. If a Governmental Authority with the right, power, and apparent authority to do so requests or requires a Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential

Information, that Party shall provide the Party that provided the information with prompt prior notice of such request(s) or requirement(s) so that the providing Party may seek an appropriate protective order or waive compliance with the terms of the [GIP] or any applicable agreement entered into pursuant to the [GIP]. Notwithstanding the absence of a protective order or agreement, or waiver, the Party that is subjected to the request or order may disclose such Confidential Information that, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party shall use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

15. Notwithstanding anything in this Agreement to the contrary, and pursuant to 18 C.F.R. § 1b.20, if the FERC or its staff, during the course of an investigation or otherwise, requests information from a Party that is otherwise required to be maintained in confidence pursuant to this Agreement or the Service Agreement, the Party receiving such request shall provide the requested information to FERC or its staff, within the time provided for in the request for information.

In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. The providing Party is prohibited from notifying the other Party prior to the release of the Confidential Information to the Commission or its staff. The providing Party shall notify the other Party when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time either of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

COST RESPONSIBILITY

16. Project Developer shall provide to Transmission Provider, as of the Effective Date, an initial deposit of \$25,000 for the performance of the Necessary Studies. Transmission Provider's good faith estimate for the time of completion of the Necessary Studies is within two-hundred and seventy (270) days of the date the Transmission Provider approves the dynamic model and data submitted by the Project Developer, and Transmission Provider's receipt of the information under section 3 of this agreement.
 - a. If Project Developer fails to submit an initial deposit of \$25,000 for the performance of the Necessary Studies, this Agreement shall be deemed to be terminated and withdrawn effective as of the end of the next Business Day after the date by which the initial deposit was due to be paid to Transmission Provider.
 - b. If any additional study costs beyond the initial deposit of \$25,000 are anticipated, then, prior to conducting any of the Necessary Studies, Transmission Provider shall provide an estimate of the additional study costs. The estimated additional study costs are non-binding, and additional actual study costs may exceed the estimated additional study cost increases provided by Transmission Provider. Regardless of whether Transmission Provider provides Project Developer with

estimated additional studies, Project Developer is responsible for and must pay all actual study costs.

- i. If Transmission Provider sends notification to Project Developer of estimated additional study costs, then Project Developer must either:
 - (a) Withdraw the request for the Necessary Studies; or
 - (b) Pay all estimated additional study costs within ten (10) days of such estimate being sent to Project Developer by Transmission Provider.
- ii. If Project Developer fails to complete either 16(b)(i)(a) or 16(b)(i)(b), above, this Agreement shall be deemed to be terminated and withdrawn effective as of the end of the next Business Day after the date by which the additional study costs were due to be paid to Transmission Provider.
- c. Within one hundred and twenty (120) days after Transmission Provider completes and delivers the Necessary Studies, Transmission Provider shall provide a final invoice that will include an accounting of the actual costs incurred in performing the Necessary Studies (“Final Invoice”). Within twenty (20) days of receiving the Final Invoice, Project Developer shall make any payment due to Transmission Provider. If Project Developer withdraws its Necessary Studies request and terminates this Agreement prior to the completion of the Necessary Studies or analysis work, Project Developer agrees to pay Transmission Provider actual costs of the modeling, studies, or analysis performed up until the time of such request to withdraw and terminate.

DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

17. In analyzing and preparing the Necessary Studies, Transmission Provider, Transmission Owner(s), and any other subcontractors employed by Transmission Provider shall have to rely on information provided by Project Developer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE NECESSARY STUDIES. Project Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement nor the Necessary Studies performed hereunder are intended, nor shall either be interpreted, to constitute agreement by Transmission Provider or Transmission Owner(s) to provide any transmission or

interconnection service to or on behalf of Project Developer either at this point in time or in the future.

18. In no event will Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this Agreement or otherwise, even if Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider have been advised of the possibility of such a loss. Nor shall Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for any delay in delivery of, or of the non-performance or delay in performance of, Transmission Provider's obligations under this Agreement. Without limitation of the foregoing, Project Developer further agrees that Transmission Owner(s) and other subcontractors employed by Transmission Provider to prepare or assist in the preparation of any Necessary Studies shall be deemed third party beneficiaries of this provision entitled "Disclaimer of Warranty/Limitation of Liability."

MISCELLANEOUS

19. Any notice, demand, or request required or permitted to be given by any Party to another and any instrument required or permitted to be tendered or delivered by any Party in writing to another may be so given, tendered, or delivered electronically, or by recognized national courier or by depositing the same with the United States Postal Service, with postage prepaid for delivery by certified or registered mail addressed to the Party, or by personal delivery to the Party, at the address specified below.

Transmission Provider

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403-2497
interconnectionagreementnotices@pjm.com

Project Developer

Attn: _____
Phone _____
Email _____

20. No waiver by either Party of one or more defaults by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.

21. This Agreement, or any part thereof, may not be amended, modified, or waived other than by a writing signed by all Parties. In the event a Party seeks to amend, modify or supplement this Agreement. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, shall tender a revised agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Following execution by Project Developer, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5. Transmission Provider may also file the agreement with FERC in unexecuted form if Project Developer does not comply with the requirements above.

Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution or obligations contained therein.

22 Breach, Cure And Default

22.1 Breach:

A Breach of this Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Agreement, including but not limited to any material breach of a representation, warranty or covenant;
- (c) Assignment of the Agreement in a manner inconsistent with its terms; or
- (d) Failure of a Party to provide information or data required to be determined under to another Party for such other Party to satisfy its obligations under this Agreement.

22.2 Notice of Breach:

A Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider agrees to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided

that the Project Developer has provided the notifying Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies).

22.3 Cure and Default:

A Party that commits a Breach and does not take steps to cure the Breach pursuant to this section 22.3 is automatically in Default of this Agreement, and its project and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

22.4.1 Cure of Breach:

22.41.1 Except for the event of Breach set forth in section 22.1(a) above, the Breaching Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Parties. Such agreement shall not be unreasonably withheld.

22.4.1.2 In an event of Breach set forth in section 22.1(a), the Breaching Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Party is the Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Project Developer shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn.

22.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. No remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies

23. This Agreement shall be binding upon the Parties, their heirs, executors, administrators, successors, and assigns.

24. Neither this Agreement nor the Necessary Studies performed hereunder shall be construed as an application for any service under the Tariff.

25. All portions of the Tariff and Operating Agreement pertinent to the subject matter of this Agreement and not otherwise made a part hereof are hereby incorporated herein and made a part hereof.
25. Unless otherwise defined in this Agreement, all capitalized terms herein shall have the meanings as set forth in the definitions of such terms as stated in the PJM Tariff.
 - i.
26. In addition to section 22 above, this Agreement may be terminated by the following means:
 - a. By Mutual Consent: This Agreement may be terminated as of the date on which the Parties mutually agree to terminate this Agreement.
 - b. By Project Developer: Project Developer may unilaterally terminate this Agreement in accordance with the terms set forth in section 16(b)(i)(a) of this Agreement or pursuant to Applicable Laws and Regulations upon providing Transmission Provider thirty (30) days prior written notice thereof, provided that Project Developer is not in breach under this Agreement.
 - c. By Transmission Provider: Transmission Provider may unilaterally terminate this Agreement in accordance with Applicable Laws and Regulations upon providing Project Developer thirty (30) days prior written notice thereof.
278. No waiver by either Party of one or more breaches by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further breach, whether of a like or different character.
28. This Agreement or any part thereof may not be amended, modified, or waived other than by a writing signed by all Parties hereto.
29. This Agreement shall be binding upon the Parties hereto, their heirs, executors, administrators, successors, and assigns.
30. The provisions of the GIP are incorporated herein and made a part hereof.
31. Governing Law, Regulatory Authority, and Rules: This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials. By each individual signing below each represents to the other that they are duly authorized to sign on behalf of that company and have actual and/or apparent authority to bind the respective company to this Agreement.

Transmission Provider:

By: _____
Name Title Date

Printed name of signer: _____

Project Developer:

By: _____
Name Title Date

Printed name of signer: _____

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ATTACHMENT #1

Describe work to be done.

DRAFT

**Tariff, Part IX, Subpart H
NUCRA**

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**NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT
FORM TEMPLATE**

**To be used when a separate NUCRA is required
(From Part IX of the PJM Tariff)**

DRAFT

(Network Upgrade # [])

NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT

By and Among

PJM INTERCONNECTION, L.L.C.

And

[]

And

[]

And

[]

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NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT

**By and Among
PJM Interconnection, L.L.C.**

And

[Name of Project Developer]

And

[Name of Project Developer]

And

[Name of Transmission Owner]

(Network Upgrade # [])

1.0 Parties. This Network Upgrade Cost Responsibility Agreement (“NUCRA”) including the Schedules and Appendices attached hereto and incorporated herein, is entered into by and between PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”) and the following Project Developers and Transmission Owner:

Project Developer (includes Eligible Customer and Affected System Customer):

[full name], Project Identifier #___ [OPTIONAL: (also referred to as “[short name”])] _____

Name and location of Generating Facility or Merchant Transmission Facility

Project Developer:

[full name] and Project Identifier #___ [OPTIONAL: (also referred to as “[short name”])] _____

Name and location of Generating Facility or Merchant Transmission Facility

{instructions – for the above, also provide Service Agreement No. or other identifying information if known}

Transmission Owner:

[full name] [OPTIONAL: (also referred to as “[short name”])] _____

All capitalized terms herein shall have the meanings set forth in the appended definitions of such terms as stated in Part I of the Tariff. [Use as/when applicable: This NUCRA supersedes the _____ {insert details to identify the agreement being superseded, the effective date of the agreement, the service agreement number designation, and the FERC docket number, if applicable, for the agreement being

superseded. }]] For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in {Instructions: use Tariff, Part VII if this is a transition period agreement, or use Tariff, Part VIII if this is a post-transition period agreement}.

- 2.0 Authority. This NUCRA is entered into pursuant to [{use Part VII if this is a transition period CSA subject to Tariff Part VII} {use Part VIII if this is a new rules NUCRA subject to Part VIII}] of the Tariff. The standard terms and conditions set forth in Appendix 2 to this NUCRA are hereby specifically incorporated as provisions of this NUCRA.
- 3.0 Effective Date and Term.
- 3.1 Effective Date. This NUCRA shall become effective on the later of (i) the date the agreement has been executed by all parties to this NUCRA, or (ii) the date that all Project Developers have delivered Security to the Transmission Provider, provided, however, that if the NUCRA is filed with the FERC unexecuted, the Effective Date shall be the date specified by the FERC.
- 3.2 Term. This NUCRA shall continue in full force and effect from the Effective Date until the termination thereof pursuant to section 7 of Appendix 2 to this NUCRA.
- 4.0 Common Use Upgrades Construction and Scope. Common Use Upgrades subject to this NUCRA shall be described in the attached Schedule A. Construction of the Common Use Upgrades and changes to the scope of work shall be as set forth in the applicable agreements or projects as identified in section 1.0 above.
- 5.0 Schedule of Work. The Schedule of Work for construction of the Common Use Upgrades shall be as set forth in the applicable agreements or projects as identified in section 1.0 above.
- 6.0 Common Use Upgrade Cost Responsibility. The cost responsibility of each Project Developer for each Common Use Upgrade described in the attached Schedule A shall be described in the attached Schedule B. Cost responsibility shall be described as a percentage of the total estimated cost of each Common Use Upgrade.
- 7.0 Security. Security associated with this NUCRA shall be the Security provided by each Project Developer as set forth in the Project Developer’s GIA, section 5, or the Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party.
- 8.0 Notices. Any notice or request made to or by any party regarding this NUCRA shall be made in accordance with the standard terms and conditions for construction set forth in Appendix 2 to this NUCRA to the representatives of the other parties, as indicated below:

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Project Developer:

[Redacted]

Project Developer:

[Redacted]

Transmission Owner:

[Redacted]

- 9.0 Waiver. No waiver by any party of one or more defaults by another in performance of any of the provisions of this NUCRA shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
- 10.0 Amendment. Except as set forth in Appendix 2, sections 4 and 13.3 of this NUCRA, this NUCRA or any part thereof, may not be amended, modified, assigned, or waived other than by a writing signed by all parties. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and initialed by the parties, without modifying or altering the original date of execution, dates of any milestones, or obligations contained therein.
- 11.0 Incorporation of Other Documents. All portions of the agreements identified in section 1.0 above, and the Tariff and the Operating Agreement pertinent to the subject of this NUCRA and not otherwise made a part hereof are hereby incorporated herein and made a part hereof. To the extent there is a conflict between the NUCRA and other documents, the terms of this NUCRA shall control.
- 12.0 Addendum of Non-Standard Terms and Conditions. Subject to FERC acceptance, the parties agree that the terms and conditions set forth in the attached Schedule C are hereby incorporated by reference into, and made a part of, this NUCRA. In the event of any conflict between a provision of the attached Schedule C that FERC has accepted and any provision of the standard terms and conditions set forth in Appendix 2 to this NUCRA that relates to the same subject matter, the pertinent provision of the attached Schedule C shall control.

13.0 This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal laws and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction.

IN WITNESS WHEREOF, the parties have caused this Network Upgrade Cost Responsibility Agreement to be executed by their respective authorized officials.

(Network Identifier # [redacted])

Transmission Provider: PJM Interconnection, L.L.C.

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Project Developer: [Name of Party]

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Project Developer: [Name of Party]

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Transmission Owner: [Name of Party]

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: _____

APPENDICES:

- **APPENDIX 1 - DEFINITIONS**
- **APPENDIX 2 - STANDARD TERMS AND CONDITIONS**

SCHEDULES:

- **SCHEDULE A – COMMON USE UPGRADES**
- **SCHEDULE B – COST RESPONSIBILITY**
- **SCHEDULE C – SCHEDULE OF NON-STANDARD TERMS AND CONDITIONS**

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APPENDIX 1

DEFINITIONS

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**From the Generation Interconnection Procedures accepted for filing by the Commission as
of the effective date of this agreement**

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APPENDIX 2

STANDARD TERMS AND CONDITIONS

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Preamble

The cost responsibility of any Common Use Upgrades required to interconnect a Generating Facility or Merchant Transmission Facility with the Transmission System shall be in accordance with the following Standard Construction Terms and Conditions.

1 Facilitation by Transmission Provider

Transmission Provider shall keep itself apprised of the status of the construction-related activities of the parties to this NUCRA and, upon request of any of them, Transmission Provider shall meet with the parties separately or together to assist them in resolving issues between them regarding their respective activities, rights and obligations under this NUCRA. Each party shall cooperate in good faith with the other parties in Transmission Provider's efforts to facilitate resolution of disputes.

2 Common Use Upgrade Cost Responsibility:

Responsibility for the Costs of Common Use Upgrades shall be assigned in accordance with the GIP, Subpart __, section **[to be provided] (cost allocation rules)**. The cost responsibility of each Project Developer shall be shown in Schedule B.

3 Security, Billing And Payments:

3.1 Security:

Security associated with this NUCRA shall be the Security provided by each Project Developer as set forth in section 9 of this NUCRA above.

3.2 Adjustments to Security:

The Security provided by each Project Developer at or before execution of the applicable GIA, Construction Service Agreement or other relevant NUCRAs the Project Developer is a party to shall be increased or decreased in accordance with the provisions of the applicable GIA, Construction Service Agreement or other relevant NUCRAs the Project Developer is a party to, , and consistent with the Project Developer's cost responsibility set forth in Schedule B of this NUCRA.

3.3 Invoice:

In addition to the invoice provisions set forth in the applicable GIA Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party, for purposes of this NUCRA, Transmission Provider shall bill the Project Developers in accordance with the cost responsibility set forth in Schedule B of this NUCRA.

3.4 Final Invoice:

In addition to the final invoice provisions set forth in the applicable GIA Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party, for purposes of this NUCRA, , the accounting and payments shall be in accordance with the cost responsibility set forth in Schedule B of this NUCRA.

3.5 Disputes:

In the event of a billing dispute between any of the parties to this NUCRA, Transmission Provider and the Transmission Owner shall continue to perform their respective obligations pursuant to this NUCRA so long as (a) Project Developer continues to make all payments not in dispute, and (b) the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute, or (c) Project Developer pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Project Developer fails to meet any of these requirements, then Transmission Provider shall so inform the other parties to this NUCRA and Transmission Provider or the Transmission Owner may provide notice to Project Developer of a Breach pursuant to section 6 of this Appendix 2.

3.6 No Waiver:

Payment of an invoice shall not relieve Project Developer from any other responsibilities or obligations it has under this NUCRA, nor shall such payment constitute a waiver of any claims arising hereunder.

3.7 Interest:

Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. Sections 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment.

4 Assignment

4.1 Assignment with Prior Consent:

Except as provided in section 4.2 to this Appendix 2, no party to this NUCRA shall assign its rights or delegate its duties, or any part of such rights or duties, under this NUCRA without the written consent of the other parties, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such assignment or delegation made without such written consent shall be null and void. A party may make an assignment in connection with the sale, merger, or transfer of a substantial portion or all of the Common Use Upgrades which it owns or will own upon completion of construction and the transfer of title required as set forth in section **[to be provided]** of the applicable GIA or Construction Service Agreement, so long as the assignee in such a sale, merger, or transfer assumes in writing all rights, duties and obligations arising under this NUCRA. In addition, the Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign the NUCRA to any Affiliate or successor that owns and operates all or a substantial portion of the Transmission Owner's transmission facilities.

Such written consent can be in the form of a consent to assignment or other written agreement. Such written consent of the other parties shall not be unreasonably withheld, conditioned, or delayed. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to the Project Developers. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developers shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if the Project Developers fail to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by the Project Developers, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Transmission Provider may also file the agreement with FERC if Transmission Owner does not comply with the requirements above.

4.2 Assignment Without Prior Consent

4.2.1 Assignment to Owners:

Project Developer may assign the NUCRA without the prior consent of any other party to the NUCRA to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Common Use Upgrades, provided that prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical and operational competence to comply with the requirements of this NUCRA and assumes in a writing provided to the Transmission Owner and Transmission Provider all rights, duties, and obligations of Project Developer arising under this NUCRA. However, any assignment described herein shall not relieve or discharge the Project Developer from any of its obligations hereunder absent the written consent of the Transmission Provider, such consent not to be unreasonably withheld, conditioned or delayed. Project Developer shall provide Transmission Provider with notice of any such assignment in accordance with the PJM Manuals.

A party to this NUCRA may choose to enter a consent to assignment or other written agreement to effectuate an assignment allowed by section 4.2.1 of this Appendix 2. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to the Project Developers. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, the Project Developers shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such

agreement shall be deemed to be terminated and withdrawn if the Project Developers fail to comply with these requirements. Not later than fifteen (15) Business Days after execution by the Project Developers, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

4.2.2 Assignment to Lenders:

Project Developer may, without the consent of any other party to this NUCRA, assign the NUCRA to any Project Finance Entity(ies), provided that such assignment shall not alter or diminish Project Developer's duties and obligations under this NUCRA. If Project Developer provides the parties to this NUCRA with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 12 of this Appendix 2, the Transmission Provider or Transmission Owner shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this Appendix 2 in accordance with this Appendix 2. Transmission Provider or Transmission Owner shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of the NUCRA, provided that such documents do not alter or diminish the rights of the Transmission Provider or Transmission Owner under this Appendix 2, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider's and/or the Transmission Owner's invoice therefor, Project Developer shall pay the Transmission Provider and/or the Transmission Owner's reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Project Developer from any of its obligations hereunder absent the written consent of the Transmission Owner and Transmission Provider.

4.3 Successors and Assigns:

This NUCRA and all of its provisions are binding upon, and inure to the benefit of, the parties to this NUCRA and their respective successors and permitted assigns.

5 Indemnity

5.1 Indemnity:

Each Project Developer to this NUCRA shall indemnify and hold harmless the other parties to this NUCRA, and the other parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss,

liability, damage, cost or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property or persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with, or resulting from (i) the indemnifying party's breach of any of the representations or warranties made in, or failure of the indemnifying party or any of its subcontractors to perform any of its obligations under, this NUCRA (including Appendix 2), or (ii) the negligence or willful misconduct of the indemnifying party or its contractors; provided, however, that no party shall have any indemnification obligations under this section 5.1 in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the party seeking indemnity.

5.2 Indemnity Procedures:

Promptly after receipt by a party entitled to indemnity ("Indemnified Person") of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in section 5.1 may apply, the Indemnified Person shall notify the indemnifying party(ies) of such fact. Any failure of or delay in such notification shall not affect the indemnifying party's(ies') indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying party(ies). The Indemnified Person shall cooperate with the indemnifying party(ies) with respect to the matter for which indemnification is claimed. The indemnifying party(ies) shall have the right to assume the defense thereof with counsel designated by such indemnifying party(ies) and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying party(ies) and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying party(ies), the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying party(ies) shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying party(ies). Notwithstanding the foregoing, the indemnifying party(ies) (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying party(ies), in such event the indemnifying party(ies) shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

5.3 Indemnified Person:

If an Indemnified Person is entitled to indemnification under this section 5 as a result of a claim by a third party, and the indemnifying party(ies) fails, after notice and reasonable opportunity to proceed under section 5.2 of this Appendix 2, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying party(ies) contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

5.4 Amount Owning:

If an indemnifying party(ies) is obligated to indemnify and hold any Indemnified Person harmless under this section 5, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

5.5 Limitation on Damages:

Except as otherwise provided in this section 5, the liability of a party(ies) under this Appendix 2 shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any party(ies) or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another party, whether in tort, contract or other basis in law or equity for any special, indirect punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this section 5.5 are without regard to the cause or causes related thereto, including the negligence of any party(ies), whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any party's rights to obtain equitable relief as otherwise provided in this Appendix 2. The provisions of this section 5.5 shall survive the termination or expiration of this NUCRA.

5.7 Limited Liability in Emergency Conditions:

Except as otherwise provided in the Tariff or the Operating Agreement, no party shall be liable to any other party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or of the Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Project Developer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Transmission Owner related to an Emergency Condition.

6 Breach, Cure And Default

6.1 Breach:

A Breach of the NUCRA shall include, but not be limited to:

- (a) The failure to pay any amount when due;

(b) The failure to comply with any material term or condition of this NUCRA including but not limited to any material breach of a representation, warranty or covenant (other than in sections 6.1(a) and (c)-(d) hereof) made in this Appendix 2;

(c) Assignment of the NUCRA in a manner inconsistent with the terms of this Appendix 2; or

(d) Failure of any party to provide information or data required to be provided to another party under this Appendix 2 for such other party to satisfy its obligations under this NUCRA.

6.2 Notice of Breach:

A party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider or the Transmission Owner agree to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided that the Project Developer has provided the notifying party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 12 of this Appendix 2.

6.3 Cure and Default:

A party that commits a Breach and does not take steps to cure the Breach pursuant to this section 6.3 is automatically in Default of this Appendix 2 and of the NUCRA without further notice from the non-Breaching Parties.

6.4 Cure of Breach:

6.4.1 Except for the event of Breach set forth in section 6.1(a) above, the Breaching Party (a) may cure the Breach within thirty (30) days of the time the non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the parties to the NUCRA. Such agreement shall not be unreasonably withheld.

6.4.2 In an event of Breach set forth in section 6.1(a), the Breaching Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Party is a Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use the Security provided by the Project Developer as

set forth in section 7.0 of this NUCRA. Upon drawing on such Security, Project Developer shall automatically be deemed in default of this NUCRA.

6.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting party(ies) shall be entitled to exercise such other rights and remedies as it may have in equity or at law. Subject to section 11 of this Appendix 2, no remedy conferred by any provision of this Appendix 2 is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

7 Termination

7.1 Termination of the NUCRA:

This NUCRA may be terminated by the following means:

7.1.1 By Mutual Consent:

This NUCRA may be terminated as of the date on which the parties mutually agree to terminate this NUCRA.

7.1.2 By All Project Developers:

Subject to payment of Cancellation Costs and of all other unpaid Costs, all Project Developers that are parties to this NUCRA may at the same time unilaterally terminate the NUCRA pursuant to Applicable Laws and Regulations upon providing Transmission Provider and the Transmission Owner sixty (60) days prior written notice thereof. Termination under this section must be performed in parallel with the termination provisions of the applicable GIA, Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party. Project Developers' terminating under this section forfeit Security provided related to the applicable GIA, Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party.

7.1.3 Notification of Final Payment:

This NUCRA shall terminate upon the date Transmission Provider receives written notice, in a form acceptable to the Transmission Provider from the Transmission Owner that Transmission Owner has received final payment of all Costs for the Common Use Upgrades shown on Schedule A.

7.2 Upon Default By Project Developer:

7.2.1 Consequences of Default By Project Developer:

If one or more, but not all, Project Developers that are parties to this NUCRA are in Default, such Project Developers shall remain liable for any portion of their cost responsibility for the Costs of the Common Use Upgrades, and Cancellation Costs, in accordance with Schedule B of this NUCRA. Transmission Provider shall draw on and apply such defaulting Project Developer's Security to any amount under this NUCRA not paid by that Project Developer. Upon drawing on such Security, Project Developer is automatically in default of this NUCRA, and Project Developer's GIA and Construction Service Agreement; and all such agreements shall be deemed terminated and withdrawn, and Project Developer's project shall be removed from the relevant Cycle.

7.2.2 Reallocation of Costs Upon Default By Project Developer:

If a defaulting Project Developer cannot pay its amount due after exhausting all available Security, the unpaid costs shall be reallocated to the remaining Project Developers in proportion to the cost responsibility percentages set forth in Schedule B. A remaining Project Developer shall be entitled to exercise such other rights and remedies as it may have in equity or at law against the defaulting Project Developer that caused the reallocation of Costs under this section.

7.4 Survival of Rights:

The obligations of the parties to this NUCRA with respect to payments, Cancellation Costs, warranties, liability and indemnification shall survive termination to the extent necessary to provide for the determination and enforcement of said obligations arising from acts or events that occurred while the NUCRA was in effect. In addition, applicable provisions of this NUCRA will continue in effect after expiration, cancellation or termination to the extent necessary to provide for final billings, payments, and billing adjustments.

8 Force Majeure

8.1 Notice:

A party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify each other party in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

8.2 Duration of Force Majeure:

A party shall not be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other parties in writing as soon as reasonably possible after the occurrence of the cause relied upon. Those notices shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. Written notices given pursuant to this Article shall be acknowledged in writing

as soon as reasonably possible. The party affected shall exercise Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. The party affected has a continuing notice obligation to the other parties, and must update the particulars of the original Force Majeure notice and subsequent notices, in writing, as the particulars change. The affected party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such party shall resume performance and give prompt written notice thereof to the other parties.

8.3 Obligation to Make Payments:

Any party's obligation to make payments pursuant to applicable GIA, Construction Service Agreement, this NUCRA, or other relevant NUCRAs to which the Project Developer is a party shall not be suspended by Force Majeure.

8.4 Definition of Force Majeure:

For the purposes of this section, shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond a party's control that, in any of the foregoing cases, by exercise of due diligence, such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force majeure does not include (i) a failure of performance that is due to an affected party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected party.

9 Confidentiality:

The Confidentiality provisions of the applicable GIA Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party are incorporated by reference and shall apply to this NUCRA.

10 Information Access And Audit Rights

10.1 Information Access:

Subject to Applicable Laws and Regulations, each party to this NUCRA shall make available to each other party information necessary (i) to verify the costs incurred by the other party for which the requesting party is responsible under this Appendix 2, and (ii) to carry out obligations and responsibilities under this Appendix 2. The parties shall not use such information for purposes other than those set forth in this section and to enforce their rights under this Appendix 2.

10.2 Reporting of Non-Force Majeure Events:

Each party to this NUCRA shall notify each other party when it becomes aware of its inability to comply with the provisions of this Appendix 2 for a reason other than an event of force majeure as defined in section 8 of this Appendix 2. The parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this section shall not entitle the receiving party to allege a cause of action for anticipatory breach of this Appendix 2.

10.3 Audit Rights:

Subject to the requirements of confidentiality under section 9 of this Appendix 2, each party to this NUCRA shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent party, to audit at its own expense the other party's accounts and records pertaining to such party's performance and/or satisfaction of obligations arising under this NUCRA. Any audit authorized by this section shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Appendix 2. Any request for audit shall be presented to the other party not later than twenty-four months after the event as to which the audit is sought. Each party shall preserve all records held by it for the duration of the audit period.

11 Disputes

11.1 Submission:

Any claim or dispute that any party to this NUCRA may have against another party arising out of this Appendix 2 may be submitted for resolution in accordance with the dispute resolution provisions of Tariff, Part I, section 12.

11.2 Rights Under The Federal Power Act:

Nothing in this section shall restrict the rights of any party to file a complaint with FERC under relevant provisions of the Federal Power Act.

11.3 Equitable Remedies:

Nothing in this section shall prevent any party from pursuing or seeking any equitable remedy available to it under Applicable Laws and Regulations.

12 Notices

12.1 General:

Any notice, demand or request required or permitted to be given by any party to this NUCRA to another and any instrument required or permitted to be tendered or delivered by any party, in writing to another shall be provided electronically or may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the party, or personally delivered to the party, at the electronic or other address specified in the NUCRA.

12.2 Operational Contacts:

Each party shall designate, and shall provide to each other party contact information concerning, a representative to be responsible for addressing and resolving operational issues as they arise during the term of the NUCRA.

13 Miscellaneous

13.1 Regulatory Filing:

In the event that this NUCRA contains any terms that deviate materially from the form included in Tariff, Part IX or from the standard terms and conditions in this Appendix 2, the Transmission Provider shall file the executed NUCRA on behalf of itself and the Transmission Owner with FERC as a service schedule under the Tariff. Project Developer may request that any information so provided be subject to the confidentiality provisions of section 9 of this Appendix 2. A Project Developer shall have the right, with respect to any NUCRA tendered to it, to request (a) dispute resolution under section 12 of the Tariff or, if concerning the Regional Transmission Expansion Plan, consistent with Schedule 5 of the Operating Agreement, or (b) that Transmission Provider file the agreement unexecuted with the Commission. With the filing of any unexecuted NUCRA, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between any parties to this NUCRA.

13.2 Waiver:

Any waiver at any time by any party of its rights with respect to a Breach or Default under this Appendix 2, or with respect to any other matters arising in connection with this Appendix 2, shall not be deemed a waiver or continuing waiver with respect to any other Breach or Default or other matter.

13.3 Amendments and Rights under the Federal Power Act:

This NUCRA may be amended or supplemented only by a written instrument duly executed by all parties to this NUCRA. An amendment to the NUCRA shall become effective and a part of this NUCRA upon satisfaction of all Applicable Laws and Regulations. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or

request that a consent to assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

Notwithstanding the foregoing, nothing contained in this NUCRA shall be construed as affecting in any way any of the rights of any party with respect to changes in applicable rates or charges under section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any party under section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this NUCRA and every appendix referred to therein shall be amended, as mutually agreed by the parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

13.4 Binding Effect:

This NUCRA, including this Appendix 2, and the rights and obligations thereunder shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties.

13.5 Regulatory Requirements:

Each party's performance of any obligation under this NUCRA for which such party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving party, or the party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

14 Representations and Warranties

14.1 General:

Each party to this NUCRA hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the party during the time the NUCRA is effective:

14.1.1 Good Standing:

Such party is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the NUCRA.

14.1.2 Authority:

Such party has the right, power and authority to enter into the NUCRA, to become a party hereto and to perform its obligations hereunder. The NUCRA is a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

14.1.3 No Conflict:

The execution, delivery and performance of the NUCRA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the party, or with any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the party or any of its assets.

14.1.4 Consent and Approval:

Such party has sought or obtained, or, in accordance with the NUCRA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of the NUCRA and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

SCHEDULE A
COMMON USE UPGRADES

DRAFT

SCHEDULE B

COST RESPONSIBILITY

[provide as a percentage of estimated cost per Common Use Upgrade]

DRAFT

SCHEDULE C

NON-STANDARD TERMS AND CONDITIONS

[add provisions agreed to by the parties and accepted by FERC]

DRAFT

Tariff, Part IX, Subpart I
Form of Surplus Interconnection Service Study Agreement

DRAFT

**Form of
Surplus Interconnection Study Agreement**
(Project Identifier # [redacted])

RECITALS

1. This Surplus Interconnection Study Agreement (the “Agreement”), dated as of [redacted], is entered into, by and between [redacted] (“Surplus Project Developer”) and PJM Interconnection, L.L.C. (“Transmission Provider”) (individually referred to as a “Party,” or collectively referred to as the “Parties”) pursuant to the Generation Interconnection Procedures (“GIP”) set forth in PJM Interconnection, L.L.C. Open Access Transmission Tariff (“Tariff”), Part {[instruction: {use Part VII if this is a transition period Agreement subject to Tariff Part VII} {use Part VIII if this a new rules Agreement subject to Part VIII}]}. Capitalized terms used in this agreement, unless otherwise indicated, shall have the meanings ascribed to them in the Tariff.
2. By submitting this Agreement and complying with GIP, sections [to be provided], the Surplus Project Developer has submitted a Surplus Interconnection Request. In accordance with Tariff, section [to be provided], the Surplus Project Developer has also submitted with this Agreement the applicable required deposit to the Transmission Provider.
3. By submitting this Agreement to the Transmission Provider, the Surplus Project Developer requests to utilize Surplus Interconnection Service on the Transmission System of an existing Generating Facility with the following specifications:
 - a. Identification of the specific, existing Generating Facility already interconnected to the PJM Transmission System providing Surplus Interconnection Service, including whether the Surplus Project Developer requesting Surplus Interconnection Service is the owner or affiliate of the existing Generating Facility, and details regarding the existing Generating Facility’s current Generator Interconnection Agreement or Interconnection Service Agreement (“Service Agreement”).

If the Surplus Project Developer is an unaffiliated third party, the Surplus Project Developer must submit with this Agreement the following information and documentation acceptable to the Transmission Provider:

- i. Name and address of the current owner of the existing Generating Facility, including details specific to the existing Generating Facility’s most current Service Agreement, including the Service Agreement Number:
-

-
- ii. Written evidence from the owner of the existing Generating Facility granting Surplus Project Developer permission to utilize the existing Generating Facility's unused portion of Interconnection Service established in the existing Generating Facility's Service Agreement; and
 - iii. Written documentation stating that the owner of the surplus generating unit and the owner of the existing Generating Facility will have entered into, prior to the owner of the existing Generating Facility executing a revised Generator Interconnection Agreement, a shared facilities agreement between the owner of the existing Generating Facility and the owner of the surplus generating unit detailing their respective roles and responsibilities relative to the Surplus Interconnection Service.
- b. Evidence of ownership interest in, or right to acquire or control, the surplus generating unit site for a minimum of three years, such as a deed, option agreement, lease or other similar document acceptable to the Transmission Provider. Include both a written description of the evidence to be relied upon and attach a Word or PDF version copy thereof.
-
-
- c. Location of proposed surplus generating unit site or existing surplus generating unit (include both a written description (e.g., street address, global positioning coordinates) and attach a map in PDF format depicting the property boundaries and the location of the surplus generating unit site):
-
-
- d. The megawatt size of the proposed surplus generating unit or the amount of increase in megawatt capability of an existing surplus generating unit.
-
-
- e. Identify the fuel type of the surplus generating unit or upgrade thereto:
-
- f. A PDF format attachment of the site plan/single line diagram together with a description of the equipment configuration, including a set of preliminary electrical

design specifications, and if the surplus generating unit is a wind generation facility, then also submit a set of preliminary electrical design specifications depicting the wind generation facility as a single equivalent generator:

- g. Planned date the new surplus generating unit (or increase in megawatt capability of an existing surplus generating unit) will be in service:

- h. Other related information, including for example, but not limited to, identifying: all of Surplus Project Developer's prior Interconnection Requests or Surplus Interconnection Requests; and stating whether the Surplus Project Developer has submitted a previous Surplus Interconnection Request for this particular project:

- i. Describe the circumstances under which Surplus Interconnection Service will be available at the existing Point of Interconnection:

- j. If any Energy Storage Resource, the primary frequency response operating range for a surplus generating unit:

Minimum State of Charge: _____; and

Maximum State of Charge: _____.

PURPOSE OF THE SURPLUS INTERCONNECTION STUDY

4. Consistent with GIP, section **[to be provided]**, the Transmission Provider shall conduct a Surplus Interconnection Study to provide the Surplus Project Developer with a determination of whether the surplus generating unit is eligible for Surplus Interconnection Service. In the event that the Transmission Provider is unable to complete the Surplus Interconnection Study within the timeframe prescribed in GIP, section **[to be provided]**, the Transmission Provider shall notify the Surplus Project Developer and explain the reasons for the delay.

5. The Surplus Interconnection Study conducted hereunder will provide only a sensitivity analysis based on the data specified by the Surplus Project Developer in its Surplus Interconnection Request. The Surplus Interconnection Study necessarily will employ various assumptions regarding the Surplus Interconnection Request, other pending New Service Requests and PJM's Regional Transmission Expansion Plan at the time of the study. The Surplus Interconnection Study will not obligate the Transmission Provider or the Transmission Owner(s) to interconnect with the Surplus Project Developer or construct any facilities or upgrades.

CONFIDENTIALITY

6. The Surplus Project Developer agrees to provide all information requested by the Transmission Provider necessary to complete the Surplus Interconnection Study. Subject to Paragraph 7 of this Agreement and to the extent required by GIP, section [to be provided], information provided pursuant to this Paragraph 6 shall be and remain confidential.
7. Until completion of the Surplus Interconnection Study, the Transmission Provider shall keep confidential all information provided to it by the Surplus Project Developer. Upon completion of the Surplus Interconnection Study and, to the extent required by Commission regulations, will be made publicly available upon request, except that the identity of the Surplus Project Developer shall remain confidential.
8. Surplus Project Developer acknowledges that, consistent with the Tariff, the Transmission Provider may contract with consultants, including the Transmission Owners, to provide services or expertise in the Surplus Interconnection Study process and that the Transmission Provider may disseminate information to the Transmission Owners.

COST RESPONSIBILITY

9. The Surplus Project Developer shall reimburse the Transmission Provider for the actual cost of the Surplus Interconnection Study. The deposit paid by the Surplus Project Developer described in Paragraph 2 of this Agreement shall be applied toward the Surplus Project Developer's Surplus Interconnection Study cost responsibility. The Surplus Project Developer shall be responsible for and must pay all actual study costs. If at any time the Transmission Provider notifies the Surplus Project Developer of estimated additional study costs, the Surplus Project Developer must pay such estimated additional study costs within twenty (20) Business Days of Transmission Provider sending the Surplus Project Developer notification of such estimated additional study costs. If the Surplus Project Developer fails to pay such estimated additional study costs within twenty (20) Business Days of Transmission Provider sending the Surplus Project Developer notification of such estimated additional study costs, then the Surplus Interconnection Request shall be deemed to be terminated and withdrawn.

DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

10. In analyzing and preparing the Surplus Interconnection Study, the Transmission Provider, the Transmission Owner(s), and any other subcontractors employed by the Transmission Provider shall have to rely on information provided by the Surplus Project Developer and possibly by third parties, including the owner of the existing Generating Facility, and may not have control over the accuracy of such information. Accordingly, NEITHER THE TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY THE TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE SURPLUS INTERCONNECTION STUDY. The Surplus Project Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement nor the Surplus Interconnection Study prepared hereunder is intended, nor shall either be interpreted, to constitute agreement by the Transmission Provider or the Transmission Owner(s) to provide any transmission or interconnection service to or on behalf of the Surplus Project Developer either at this point in time or in the future.
11. In no event will the Transmission Provider, Transmission Owner(s) or other subcontractors employed by the Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this Agreement or otherwise, even if the Transmission Provider, Transmission Owner(s), or other subcontractors employed by the Transmission Provider have been advised of the possibility of such a loss. Nor shall the Transmission Provider, Transmission Owner(s), or other subcontractors employed by the Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of the Transmission Provider's obligations under this Surplus Interconnection Study Agreement.

Without limitation of the foregoing, the Surplus Project Developer further agrees that Transmission Owner(s) and other subcontractors employed by the Transmission Provider to prepare or assist in the preparation of any Surplus Interconnection Study shall be deemed third party beneficiaries of this provision entitled "Disclaimer of Warranty, Limitation of Liability."

MISCELLANEOUS

- 12. Any notice or request made to or by any Party regarding this Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Surplus Project Developer

- 13. No waiver by either Party of one or more defaults by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
- 14. This Agreement or any part thereof, may not be amended, modified, or waived other than by a writing signed by all Parties hereto. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution or obligations contained therein.
- 15. This Agreement shall be binding upon the Parties hereto, their heirs, executors, administrators, successors, and assigns.
- 16. Neither this Agreement nor the Surplus Interconnection Study performed hereunder shall be construed as an application for service under Tariff, Part II or Tariff, Part III.
- 17. The provisions of the GIP that relate to Surplus Interconnection Service are incorporated herein and made a part hereof.
- 18. **Governing Law, Regulatory Authority, and Rules**

This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

- 19. **No Third-Party Beneficiaries**

Except as stated in Paragraph 11 of this Agreement, this Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

20. **Multiple Counterparts**

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

21. **No Partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

22. **Severability**

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

23. **Reservation of Rights**

The Transmission Provider shall have the right to make a unilateral filing with the Federal Energy Regulatory Commission ("FERC") to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Surplus Project Developer Surplus Project Developer shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered.

CERTIFICATION

By initialing the line next to each of the following required elements, Surplus Project Developer hereby certifies that it has submitted with this executed Agreement each of the required elements (if this Surplus Interconnection Request is being submitted electronically,

each of the required elements must be submitted electronically as individual PDF files, together with an electronic PDF copy of this signed Agreement):

- _____ **Specification of the location of the proposed surplus generating unit site or existing surplus generating unit (including both a written description (e.g., street address, global positioning coordinates) and attach a map in PDF format depicting the property boundaries and the location of the surplus generating unit site)**

- _____ **If the Surplus Project Developer is an unaffiliated third party, the information and evidence set forth in Paragraph 3(a)(i) – (iii) of this Agreement**

- _____ **Evidence of an ownership interest in, or right to acquire or control the surplus generating unit site**

- _____ **The megawatt size of the proposed surplus generating unit or the amount of increase in megawatt capability of an existing surplus generating unit**

- _____ **Identification of the fuel type of the proposed surplus generating unit**

- _____ **Description of the equipment configuration and a set of preliminary electrical design specifications, and, if the surplus generating unit is a wind generation facility, then the set of preliminary electrical design specifications must depict the wind plant as a single equivalent generator**

- _____ **The planned date that the proposed surplus generating unit (or increase in megawatt capability of an existing surplus generating unit) will be in service**

- _____ **All additional information prescribed by the Transmission Provider in the PJM Manuals**

- _____ **The full amount of the required deposit**

IN WITNESS WHEREOF, the Transmission Provider and the Surplus Project Developer have caused this Agreement to be executed by their respective authorized officials.

Transmission Provider: PJM Interconnection, L.L.C.

By: _____
Name Title Date

Printed Name

Surplus Project Developer: [Name of Party]

By: _____
Name Title Date

Printed Name

DRAFT

Tariff, Part IX, Subpart J
Form of Construction Service Agreement

DRAFT

**FORM OF
CONSTRUCTION
SERVICE AGREEMENT**

DRAFT

(Project Identifier # [])

CONSTRUCTION SERVICE AGREEMENT

By and Among

PJM Interconnection, L.L.C.

And

[Name of Project Developer, Eligible Customer,
or Affected System Customer]

And

[Name of Transmission Owner]

DRAFT

CONSTRUCTION SERVICE AGREEMENT

**By and Among
PJM Interconnection, L.L.C.**

And

_____ **[Name of Project Developer, Eligible Customer, or
Affected System Customer]**

And

_____ **[Name of Transmission Owner]**

(Project Identifier # _____)

This Construction Service Agreement, including the Appendices attached hereto and incorporated herein (collectively, “CSA”) is made and entered into as of the Effective Date (as defined in the attached Appendix III) by and among PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”), _____ (“Developer Party” [OPTIONAL: or “[short name]”]) and _____ (“Transmission Owner” [OPTIONAL: or “[short name]”]). Transmission Provider, Developer Party and Transmission Owner are referred to herein individually as “Party” and collectively as “the Parties.” Developer Party is a {instruction: select [Project Developer, Eligible Customer or Affected System Customer] as defined in in this GIP. For purposes of this Upgrade CSA, For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in {Instructions: use Tariff, Part VII if this is a transition period agreement, or use Tariff, Part VIII if this is a post-transition period agreement}.

WITNESSETH

WHEREAS, Developer Party (1) has requested Long-Term Firm Point-To-Point Transmission Service or Network Integration Transmission Service (“Transmission Service”) from Transmission Provider pursuant to Transmission Provider’s Open Access Transmission Tariff (the “PJM Tariff”); (2) is an Affected System Customer that requires Network Upgrades; or (3) is a Project Developer that requires Network Upgrades to the system of a Transmission Owner with which its Generation Facility or Merchant Transmissin Facility does not directly interconnect;

WHEREAS, pursuant to Developer Party’s Completed Application, Affected System Customers Facility Study or Interconnection Request, Transmission Provider has conducted the required studies to determine whether such requests can be accommodated, and if so, under what terms and conditions, including the identification of any Network Upgrades that must be constructed in order to provide the service or rights requested by Developer Party;

WHEREAS, Transmission Provider’s studies have identified the Network Upgrades described in Appendix I of this CSA as necessary to provide Developer Party the service or rights it has requested; and

WHEREAS, Developer Party: (i) desires that Transmission Owner construct the required Network Upgrades; and (ii) agrees to assume cost responsibility for the design, engineering, procurement and construction of such Network Network Upgrades in accordance with the PJM Tariff.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, together with other good and valuable consideration, the receipt and sufficiency is hereby mutually acknowledged by each Party, the Parties mutually covenant and agree as follows:

Article 1 – Definitions And Other Documents

1.0 Defined Terms.

All capitalized terms used in this CSA shall have the meanings ascribed to them in the GIP or in definitions either in the body of this CSA or its attached appendices. In the event of any conflict between defined terms set forth in the PJM Tariff or defined terms in this CSA, such conflict will be resolved in favor of the terms as defined in this CSA. Any provision of the PJM Tariff relating to this CSA that uses any such defined term shall be construed using the definition given to such defined term in this CSA.

1.1 Incorporation of Other Documents.

Subject to the provisions of Section 1.0 above, all portions of the PJM Tariff and the Operating Agreement as of the date of this CSA, and as pertinent to the subject of this CSA, are hereby incorporated herein and made a part hereof.

Article 2 – Responsibility For Network Upgrades

2.0 Developer Party Financial Responsibilities.

Developer Party shall pay all Costs for the design, engineering, procurement and construction of the Network Upgrades identified in Appendix I to this CSA. An estimate of such Costs is provided in Appendix I to this CSA.

2.1 Obligation to Provide Security.

Unless Security is provided pursuant to a Generation Interconnection Agreement Developer Party shall provide Security to collateralize Developer Party's obligation to pay the Costs incurred by Transmission Owner to construct the Network Network Upgrades identified in Appendix I to this CSA, less any Costs already paid by Developer Party, in accordance with Sections 16.1, and GIP, sections [to be provided]. Developer Party shall deliver such Security to Transmission Provider prior to the Effective Date of this CSA, as described in Appendix III. Unless otherwise specified by the Transmission Provider, such Security shall take the form of a letter of credit, in the amount of \$ [redacted] naming the Transmission Provider and Transmission Owner as beneficiaries.

2.2 Failure to Provide Security.

If the Developer Party fails to provide Security in the amount, in the time or in the form required by Section 2.1, then this CSA shall terminate immediately and the Developer Party's Completed Application or Interconnection Request shall be deemed terminated and withdrawn.

2.3 Costs.

In accordance with Sections 16.1 and GIP, section **[to be provided]**, the Developer Party shall pay for the Network Upgrades identified in Appendix I to this CSA based upon the Costs of the Network Upgrades described in Appendix I. The Developer Party's obligation to pay the Costs for the Network Upgrades identified in Appendix I to this CSA, whether greater or lesser than the amount of the Security specified in Section 2.1, will continue regardless of whether the Developer Party takes Transmission Service pursuant to the terms of the Transmission Service Agreement as defined in Section 3.0 of this CSA, if applicable.

2.4 Transmission Owner Responsibilities.

If the Developer Party satisfies all requirements of this Article 2 and applicable requirements set forth in the PJM Tariff, Transmission Owner shall use Reasonable Efforts to construct or cause to be constructed the Network Upgrades, identified in Appendix I to this CSA, on its transmission system. Transmission Owner shall own the Network Upgrades it has, or has arranged to have, constructed and shall have ongoing responsibility to maintain such Network Upgrades consistent with the Operating Agreement and the Transmission Owner's Agreement.

Article 3 – Rights To Transmission Service

3.0 No Transmission Service.

This CSA does not entitle the Developer Party to take Transmission Service under the PJM Tariff. Transmission Provider shall provide Transmission Service to Developer Party pursuant to a separate service agreement by and between Developer Party and Transmission Provider dated as of the same effective date as this CSA (the "Transmission Service Agreement"), if applicable.

Article 4 – Early Termination

4.0 Termination by Developer Party.

Subject to the terms of Section 14 of Appendix III, Developer Party may terminate this CSA at any time by providing written notice of termination to Transmission Provider and Transmission Owner. Developer Party's notice of termination shall become effective sixty (60) calendar days after either the Transmission Provider or Transmission Owner receives such notice.

Article 5 – [Reserved]

Article 6 – Miscellaneous

6.0 Notices.

Any notice or request made to or by any Party regarding this CSA shall be made to the Parties, as indicated below:

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Developer Party:

[Redacted]

Transmission Owner:

[Redacted]

6.1 Waiver.

No waiver by any Party of one or more Defaults by another in performance of any of the provisions of this CSA shall operate or be construed as a waiver of any other or further Default or Defaults, whether of a like or different character.

6.2 Amendment.

This CSA or any part thereof, may not be amended, modified or waived other than by a writing signed by all Parties. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Developer Party shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Developer Party, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement,

Schedule 5, or (iii) file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above,

6.3 No Partnership.

Notwithstanding any provision of this CSA, the Parties do not intend to create hereby any joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit.

6.4 Counterparts.

This CSA may be executed in multiple counterparts to be construed as one effective as of the Effective Date.

[Signature Page Follows]

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IN WITNESS WHEREOF, the Parties have caused this CSA to be executed by their respective authorized officials.

(Project Identifier # [REDACTED])

Transmission Provider: PJM Interconnection, L.L.C.

By: _____
Name Title Date

Printed name of signer: _____

Developer Party: [Name of Developer Party]

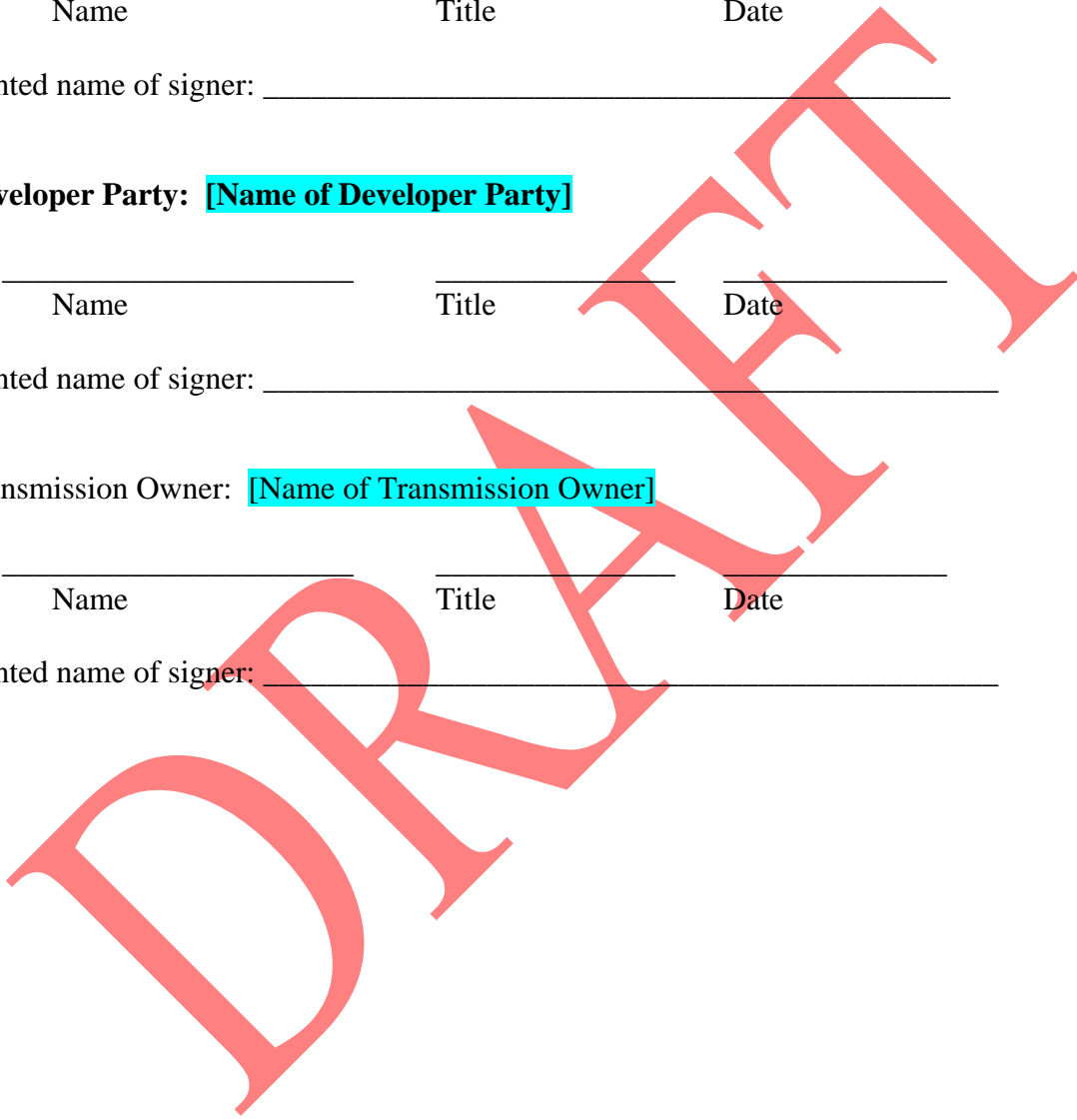
By: _____
Name Title Date

Printed name of signer: _____

Transmission Owner: [Name of Transmission Owner]

By: _____
Name Title Date

Printed name of signer: _____



APPENDIX I

SCOPE AND SCHEDULE OF WORK FOR NETWORK UPGRADES TO BE BUILT BY TRANSMISSION OWNER

A. Scope of Work

Transmission Owner hereby agrees to provide the following Network Upgrades pursuant to the terms of this CSA:

[Identify Network Upgrades to be constructed]

B. Schedule of Work

[Add schedule for construction work to be completed]

C. Costs.

Developer Party shall be subject to the estimated charges detailed below, which shall be billed and paid in accordance with Section 9.0 of Appendix III to this CSA.

Network Upgrades Charge: \$ [redacted]

[Add additional sections to list: any Contingencies, Applicable Technical Requirements, and Estimate of Tax Gross-ups, as required pursuant to Appendix III]

D. Construction of Network Upgrades

[include 1 through 3 below only for Project Developers or Affected System Customers]

1. The Network Upgrades regarding which Transmission Owner shall be the Constructing Entity are described on the attached Appendix I, Section A to this CSA.

2. Election of Construction Option. Specify below whether the Constructing Entities have mutually agreed to construction of the Network Upgrades that will be built by the Transmission Owner pursuant to the Standard Option or the Negotiated Contract Option. (See Sections 6.1 and 6.1.1 of Appendix III to this CSA.)

[redacted] Standard Option.

[redacted] Negotiated Contract Option.

If the parties have mutually agreed to use the Negotiated Contract Option, the permitted, negotiated terms on which they have agreed and which are not already set forth as part of the Scope of Work and/or Schedule of Work attached to this CSA, respectively, shall be as

set forth in Schedule A attached to this CSA. The Negotiated Option can only be used in connection with a Network Upgrade subject to the Network Upgrade Cost Responsibility Agreement all Project Developers and the relevant Transmission Owner agree.

3. Specify whether Developer Party has exercised the Option to Build in accordance with Section 6.2 of Appendix III to this CSA with respect to some or all of the Stand Alone Network Upgrades:

Yes

No

If Yes is indicated, Developer Party shall build, in accordance with and subject to the conditions and limitations set forth in section 6.2.3 of Appendix III to this CSA, those portions of the Stand Alone Network Upgrades described below:

[The following section applies only to Eligible Customers]

Specify whether Developer Party has exercised the Option to Build in accordance with Section 6.2 of Appendix III to this CSA with respect to some or all of the Stand Alone Network Upgrades:

Yes

No

If Yes is indicated, Developer Party shall build, in accordance with and subject to the conditions and limitations set forth in section 6.2.3 of Appendix III to this CSA, those portions of the Stand Alone Network Upgrades described below:

APPENDIX II

DEFINITIONS

From the Generation Interconnection Procedures accepted for filing by the Commission as of the effective date of this agreement

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APPENDIX III
GENERAL TERMS AND CONDITIONS

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1.0 Effective Date and Term

1.1 Effective Date.

Subject to regulatory acceptance, this CSA shall become effective on the date the agreement has been executed by all Parties, or if the agreement is filed with FERC unexecuted, upon the date specified by FERC. The Transmission Owner shall have no obligation to begin construction or preparation for construction of the Network Upgrades, identified in Appendix I to this CSA, until: (i) thirty days after such agreement, if executed and nonconforming, has been filed with the Commission; (ii) such agreement, if unexecuted and non-conforming, has been filed with and accepted by the Commission; or (iii) the earlier of thirty days after such agreement, if conforming, has been executed or has been reported in Transmission Provider's Electronic Quarterly Reports.

1.2 Term.

This CSA shall continue in full force and effect from the Effective Date until the termination hereof.

1.3 Survival.

This CSA shall continue in effect after termination to the extent necessary to provide for final billings and payments, including billings and payments pursuant to this CSA, and to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this CSA was in effect.

2.0 Facilitation by Transmission Provider

Transmission Provider shall keep itself apprised of the status of the Transmission Owner's construction-related activities and, upon request of Developer Party or Transmission Owner, Transmission Provider shall meet with the Developer Party and Transmission Owner separately or together to assist them in resolving issues between them regarding their respective activities, rights and obligations under this CSA. Transmission Owner shall cooperate in good faith with the other Parties in Transmission Provider's efforts to facilitate resolution of disputes.

3.0 Construction Obligations.

3.1 Network Upgrades.

3.1.1 Generally.

All Network Upgrades identified in Appendix I to this CSA shall be designed, engineered, procured, installed and constructed in accordance with this Section 3.0, Applicable Standards, Applicable Laws and Regulations, Good Utility Practice, the Facilities Study and the Scope of Work under this CSA.

3.2 Scope of Applicable Technical Requirements and Standards.

Applicable technical requirements and standards shall apply to the design, engineering, procurement, construction and installation of the Network Upgrades identified in Appendix I to this CSA only to the extent that the provisions thereof relate to the design, engineering, procurement, construction and/or installation of such Network Upgrades. Such provisions relating to the design, engineering, procurement, construction and/or installation of such Network Upgrades shall be contained in Appendix I appended to this CSA. The Parties shall mutually agree upon, or in the absence of such agreement, Transmission Provider shall determine, which provisions of the applicable technical requirements and standards should be appended to this CSA. In the event of any conflict between the provisions of the applicable technical requirements and standards that are appended to this CSA and any later-modified provisions that are stated in the pertinent PJM Manuals, the provisions appended to this CSA shall control.

4.0 Tax Liability

4.1 Safe Harbor Provisions.

Provided that Developer Party agrees to conform to all requirements of the Internal Revenue Service (“IRS”) (e.g., the “safe harbor” section 118(a) and 118(b) of the Internal Revenue Code of 1986, as amended and interpreted by Notice 2016-36, 2016-25 I.R.B. (6/20/2016)) that would confer nontaxable status on some or all of the transfer of property, including money, by Developer Party to the Transmission Owner for payment of the Costs of construction of the Network Upgrades, the Transmission Owner, based on such agreement and on current law, shall treat such transfer of property to it as nontaxable income and, except as provided in section 4.4.2 below, shall not include income taxes in the Costs of Network Upgrades that are payable by Developer Party under the Generation Interconnection Agreement or this Agreement. Developer Party shall document its agreement to conform to IRS requirements for such non-taxable status in the Generation Interconnection Agreement or this Agreement.

4.2 Tax Indemnity:

Developer Party shall indemnify the Transmission Owner for any costs that Transmission Owner incurs in the event that the IRS and/or a state department of revenue (“State”) determines that the property, including money, transferred by Developer Party to the Transmission Owner with respect to the construction of the Network Upgrades is taxable income to the Transmission Owner. Developer Party shall pay to the Transmission Owner, on demand, the amount of any income taxes that the IRS or a State assesses to the Transmission Owner in connection with such transfer of property and/or money, plus any applicable interest and/or penalty charged to the Transmission Owner. In the event that the Transmission Owner chooses to contest such assessment, either at the request of Developer Party or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, the Transmission Owner shall refund to Developer Party the excess of its demand payment made to the Transmission Owner over the amount of the tax, interest and penalty for which the Transmission Owner is finally determined to be liable. Developer Party’s tax indemnification obligation under this section shall survive any termination of the Generation Interconnection Agreement or this Agreement.

4.3 Taxes Other Than Income Taxes:

Upon the timely request by Developer Party, and at Developer Party's sole expense, the Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the Transmission Owner for which Developer Party may be required to reimburse Transmission Provider under the terms of this Appendix 2 or the GIP. Developer Party shall pay to the Transmission Owner on a periodic basis, as invoiced by the Transmission Owner, the Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Developer Party and the Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Developer Party to the Transmission Owner for such contested taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Developer Party will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Transmission Owner.

4.4 Income Tax Gross-Up

4.4.1 Additional Security:

In the event that Developer Party does not provide the safe harbor documentation required under section 4.1 prior to execution of the Generation Interconnection Agreement or this Agreement, within the later of 15 days after execution of the Generation Interconnection Agreement or this Agreement, Transmission Provider shall notify Developer Party in writing of the amount of additional Security that Developer Party must provide. The amount of Security that a Transmission Developer Party must provide initially pursuant to the Generation Interconnection Agreement or this Agreement shall include any amounts described as additional Security under this section 4.4 regarding income tax gross-up.

4.4.2 Amount:

The required additional Security shall be in an amount equal to the amount necessary to gross up fully for currently applicable federal and state income taxes the estimated Costs of any Network Upgrades for which Developer Party previously provided Security. Accordingly, the additional Security shall equal the amount necessary to increase the total Security provided to the amount that would be sufficient to permit the Transmission Owner to receive and retain, after the payment of all applicable income taxes ("Current Taxes") and taking into account the present value of future tax deductions for depreciation that would be available as a result of the anticipated payments or property transfers (the "Present Value Depreciation Amount"), an amount equal to the estimated Costs of the Network Upgrades for which Developer Party is responsible under the Generation Interconnection Agreement or this Agreement. For this purpose, Current Taxes shall be computed based on the composite federal and state income tax rates applicable to the Transmission Owner at the time the additional Security is received, determined using the highest marginal rates in effect at that time (the "Current Tax Rate"); and the Present Value Depreciation Amount shall be computed by discounting the Transmission Owner's anticipated tax depreciation deductions associated with such payments or property transfers by its current weighted average cost of capital.

4.4.3 Time for Payment:

Developer Party must provide the additional Security, in a form and with terms as required by GIP, section **[to be determined]**, within 15 days after its receipt of Transmission Provider's notice under this section.

4.5 Tax Status:

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in the Generation Interconnection Agreement, this Agreement or the GIP is intended to adversely affect any Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

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5.0 Safety

5.1 General.

Transmission Owner shall perform all work hereunder in accordance with Good Utility Practice, Applicable Standards and Applicable Laws and Regulations pertaining to the safety of persons or property.

5.2 Environmental Releases.

Transmission Owner shall notify Transmission Provider and Developer Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the facility or the facilities, any of which may reasonably be expected to affect Transmission Provider or Developer Party. Transmission Owner shall: (i) provide the notice as soon as possible; (ii) make a good faith effort to provide the notice within twenty-four hours after it becomes aware of the occurrence; and (iii) promptly furnish to Transmission Provider and Developer Party copies of any publicly available reports filed with any governmental agencies addressing such events.

6.0 Schedule Of Work.

6.1 Standard Option.

The Transmission Owner shall use Reasonable Efforts to design, engineer, procure, construct and install the Network Upgrades, identified in Appendix I to this CSA, in accordance with the Schedule and Scope of Work.

6.1.1 Negotiated Contract Option.

Consistent with Appendix 1, section D.2 (negotiated contract option), as an alternative to the Standard Option set forth in Section 6.1 of this Appendix III, the Transmission Owner and the Developer Party may mutually agree to a Negotiated Contract Option for the Transmission Owner's design, procurement, construction and installation of the Network Upgrades. Under the Negotiated Contract Option, the Affected System Customer and the Transmission Owner may agree to terms different from those included in the Standard Option of Section 6.1 above and the corresponding standard terms set forth in the applicable provisions of Part VI of the Tariff and this Appendix III. Under the Negotiated Contract Option, negotiated terms may include the work schedule applicable to the Transmission Owner's construction activities and changes to same; payment provisions, including the schedule of payments; incentives, penalties and/or liquidated damages related to timely completion of construction; use of third party contractors; and responsibility for Costs, but only as between the Affected System Customer and the Transmission Owner that are parties to this CSA; no other Developer Party's

responsibility for Costs may be affected (Section 217 of the Tariff). No other terms of the Tariff or this Appendix III shall be subject to modification under the Negotiated Contract Option. The terms and conditions of the Tariff that may be negotiated pursuant to the Negotiated Contract Option shall not be affected by use of the Negotiated Contract Option except as and to the extent that they are modified by the parties' agreement pursuant to such option. All terms agreed upon pursuant to the Negotiated Contract Option shall be stated in full in an appendix to this CSA.

6.2 Option to Build.

6.2.1 Option.

Developer Party shall have the option, ("Option to Build"), to design, procure, construct and install all or any portion of the Stand Alone Network Upgrades on the dates specified in Appendix I of this Agreement. Transmission Provider and Developer Party must agree as to what constitutes Stand Alone Network Upgrades in Schedule C of this Agreement. If the Transmission Provider and Developer Party disagree about whether a particular Network Upgrade is a Stand Alone Network Upgrade, the Transmission Provider must provide the Developer Party a written technical explanation outlining why the Transmission Provider does not consider the Network Upgrade to be a Stand Alone Network Upgrade within fifteen (15) days of its determination. Transmission Provider and Developer Party must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Schedule C (Option to Build) of this Agreement. Except for Stand Alone Network Upgrades, Developer Party shall have no right to construct Network Upgrades under this option. Unless a Developer party is subject to a Generation Interconnection Agreement, in order to exercise this Option to Build, the Developer Party must provide Transmission Provider and the Transmission Owner with written notice of its election to exercise the option no later than thirty (30) days from the date the Developer Party receives the results of the Facility Study (or, if no Facilities Study was required completion of the System Impact Study). Developer Party may not elect Option to Build after such date. Developer Party shall indicate its election to exercise the option in this CSA.

6.2.2 General Conditions Applicable to Option.

In addition to the other terms and conditions applicable to the construction of facilities under this Appendix III, the Option to Build is subject to the following conditions:

(a) If Developer Party assumes responsibility for the design, procurement and construction of Stand Alone Network Upgrades:

(i) Developer Party shall engineer, procure equipment, and construct Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by Transmission Owner;

(ii) Developer Party's engineering, procurement and construction of Stand Alone Network Upgrades shall comply with all requirements of law to which Transmission Owner shall be subject in the engineering, procurement or construction of Stand Alone Network Upgrades;

(iii) Transmission Owner shall review and approve engineering design, equipment acceptance tests, and the construction of Stand Alone Network Upgrades;

(iv) Prior to commencement of construction, Developer Party shall provide to Transmission Owner a schedule for construction of Stand Alone Network Upgrades and shall promptly respond to requests for information from Transmission Owner;

(v) At any time during construction, Transmission Owner shall have the right to gain unrestricted access to the Stand Alone Network Upgrades and to conduct inspections of the same;

(vi) At any time during construction, should any phase of the engineering, equipment procurement, or construction of Stand Alone Network Upgrades not meet the standards and specifications provided by Transmission Owner, Developer Party shall be obligated to remedy deficiencies in that portion of the Stand Alone Network Upgrades;

(vii) Developer Party shall indemnify Transmission Owner and Transmission Provider for claims arising from Developer Party's construction of Network Upgrades that are Direct Connection Network Upgrades under the terms and procedures applicable to this Appendix III, sections 12.1, 12.2, 12.3, and 12.4;

(viii) Developer Party shall transfer control of Network Upgrades that are Direct Connection Network Upgrades to Transmission Owner;

(ix) Unless Parties otherwise agree, Developer Party shall transfer ownership of Stand Alone Network Upgrades to Transmission Owner;

(x) Transmission Owner shall approve and accept for operation and maintenance for Stand Alone to the extent engineered, procured, and constructed in accordance with this Agreement, Appendix 2, section 3.2.3.2;

(xi) Developer Party shall deliver to Transmission Owner "as-built" drawings, information, and any other documents that are reasonably required by Transmission Provider to assure that the Stand Alone Network Upgrades are built to the standards and specifications required by Transmission Owner; and

(xii) If Developer Party exercises the Option to Build pursuant to section 6.2.1, Developer Party shall pay Transmission Owner to execute the responsibilities enumerated to Transmission Owner under section 6.2.2. Transmission

Owner shall invoice Developer Party for this total amount to be divided on a monthly basis pursuant to Appendix III, section 9.3.

(b) The Developer Party must obtain or arrange to obtain all necessary permits and authorizations for the construction and installation of the Stand Alone Network Upgrades that it is building, provided, however, that when the Transmission Owner's assistance is required, the Transmission Owner shall assist the Developer Party in obtaining such necessary permits or authorizations with efforts similar in nature and extent to those that the Transmission Owner typically undertakes in acquiring permits and authorizations for construction of facilities on its own behalf;

(c) The Developer Party must obtain all necessary land rights for the construction and installation of the Stand Alone Network Upgrades that it is building, provided, however, that upon Developer Party's reasonable request, the Transmission Owner shall assist the Developer Party in acquiring such land rights with efforts similar in nature and extent to those that the Transmission Owner typically undertakes in acquiring land rights for construction of facilities on its own behalf;

(d) Notwithstanding anything stated herein, each Transmission Owner shall have the exclusive right and obligation to perform the line attachments (tie-in work), and to calibrate remote terminal units and relay settings, required for the interconnection to such Transmission Owner's existing facilities of any Stand Alone Network Upgrades that the Developer Party builds; and

(e) The Stand Alone Network Upgrades built by the Developer Party shall be successfully inspected, tested and energized pursuant to Sections 19 and 20 of this Appendix III.

6.2.3 Additional Conditions Regarding Network Facilities.

To the extent that the Developer Party utilizes the Option to Build for design, procurement, construction and/or installation of Stand Alone Network Upgrades in existence or under construction by or on behalf of the Transmission Owner on the date that the Developer Party solicits bids under Section 6.2.7 below, or Stand Alone Network Upgrades to be located on land or in right-of-way owned or controlled by the Transmission Owner, and in addition to the other terms and conditions applicable to the design, procurement, construction and/or installation of facilities under this Appendix III, all work shall comply with the following further conditions:

(i) All work performed by or on behalf of the Developer Party shall be conducted by contractors, and using equipment manufacturers or vendors, that are listed on the Transmission Owner's List of Approved Contractors;

(ii) The Transmission Owner shall have full site control of, and reasonable access to, its property at all times for purposes of tagging or operation, maintenance, repair or construction of modifications to, its existing facilities and/or for performing all

tie-ins of Network Upgrades built by or for the Developer Party; and for acceptance testing of any equipment that will be owned and/or operated by the Transmission Owner;

(iii) The Transmission Owner shall have the right to have a reasonable number of appropriate representatives present for all work done on its property/facilities or regarding the Stand Alone Network Upgrades, and the right to stop, or to order corrective measures with respect to, any such work that reasonably could be expected to have an adverse effect on reliability, safety or security of persons or of property of the Transmission Owner or any portion of the Transmission System, provided that, unless circumstances do not reasonably permit such consultations, the Transmission Owner shall consult with the Developer Party and with Transmission Provider before directing that work be stopped or ordering any corrective measures;

(iv) The Developer Party and its contractors, employees and agents shall comply with the Transmission Owner's safety, security and work rules, environmental guidelines and training requirements applicable to the area(s) where construction activity is occurring and shall provide all reasonably required documentation to the Transmission Owner, provided that the Transmission Owner previously has provided its safety, security and work rules and training requirements applicable to work on its facilities to Transmission Provider and the Developer Party within 20 business days after a request therefore made by Developer Party following its receipt of the Facilities Study;

(v) The Developer Party shall be responsible for controlling the performance of its contractors, employees and agents; and

(vi) All activities performed by or on behalf of the Developer Party pursuant to its exercise of the Option to Build shall be subject to compliance with Applicable Laws and Regulations, including those governing union staffing and bargaining unit obligations, and Applicable Standards.

6.2.4 Administration of Conditions.

To the extent that a Transmission Owner exercises any discretion in the application of any of the conditions stated in Sections 6.2.2 and 6.2.3 of this Appendix III, it shall apply each such condition in a manner that is reasonable and not unduly discriminatory and it shall not unreasonably withhold, condition, or delay any approval or authorization that the Developer Party may require for the purpose of complying with any of those conditions.

6.2.5 Approved Contractors.

(a) Each Transmission Owner shall develop and shall provide to Transmission Provider a List of Approved Contractors. Each Transmission Owner shall include on its List of Approved Contractors no fewer than three contractors and no fewer than three manufacturers or vendors of major transmission-related equipment, unless a Transmission Owner demonstrates to Transmission Provider's reasonable satisfaction

that it is feasible only to include a lesser number of construction contractors, or manufacturers or vendors, on its List of Approved Contractors. Transmission Provider shall publish each Transmission Owner's List of Approved Contractors in a PJM Manual and shall make such manual available on its internet website.

(b) Upon request of a Developer Party, a Transmission Owner shall add to its List of Approved Contractors (1) any design or construction contractor regarding which the Developer Party provides such information as the Transmission Owner may reasonably require which demonstrates to the Transmission Owner's reasonable satisfaction that the candidate contractor is qualified to design, or to install and/or construct new facilities or upgrades or modifications to existing facilities on the Transmission Owner's system, or (2) any manufacturer or vendor of major transmission-related equipment (e.g., high-voltage transformers, transmission line, circuit breakers) regarding which the Developer Party provides such information as the Transmission Owner may reasonably require which demonstrates to the Transmission Owner's reasonable satisfaction that the candidate entity's major transmission-related equipment is acceptable for installation and use on the Transmission Owner's system. No Transmission Owner shall unreasonably withhold, condition, or delay its acceptance of a contractor, manufacturer, or vendor proposed for addition to its List of Approved Contractors.

6.2.6 Construction by Multiple Developer Partys:

In the event that there are multiple Developer Partys that wish to exercise an Option to Build with respect to facilities of the types described in Section 6.2.3 to this Appendix III, the Transmission Provider shall determine how to allocate the construction responsibility among them unless they reach agreement among themselves on how to proceed.

6.2.7 Option Procedures

(a) Within 10 days after notifying Transmission Provider and the Transmission Owner of its election to exercise the Option to Build, Developer Party shall solicit bids from one or more Approved Contractors named on the Transmission Owner's List of Approved Contractors to procure equipment for, and/or to design, construct and/or install, the Network Upgrades that the Developer Party seeks to build under the Option to Build on terms (i) that will meet the Developer Party's proposed schedule; (ii) that, if the Developer Party seeks to have an Approved Contractor construct or install Stand Alone Network Upgrades, will satisfy all of the conditions on construction specified in Sections 6.2.2 and 6.2.3 of this Appendix III; and (iii) that will satisfy the obligations of a Constructing Entity (other than those relating to responsibility for the costs of facilities) under this CSA.

(b) Any additional costs arising from the bidding process or from the final bid of the successful Approved Contractor shall be the sole responsibility of the Developer Party.

(c) Upon receipt of a qualifying bid acceptable to it, the Developer Party shall contract with the Approved Contractor that submitted the qualifying bid. Such contract shall meet the standards stated in paragraph (a) of this section.

(d) In the absence of a qualifying bid acceptable to the Developer Party in response to its solicitation, the Transmission Owner(s) shall be responsible for the design, procurement, construction and installation of the Network Upgrades in accordance with the Standard Option described in Section 6.2.1 of this Appendix III.

6.2.8 Developer Party Drawings.

Developer Party shall submit to the Transmission Owner and Transmission Provider initial drawings, certified by a professional engineer, of the Network Upgrades that Developer Party arranges to build under the Option to Build. The Transmission Owner and Transmission Provider shall review the drawings to assess the consistency of Developer Party's design of the pertinent Network Upgrades with Applicable Standards and the Facilities Study. After consulting with the Transmission Owner, Transmission Provider shall provide comments on such drawings to Developer Party within sixty days after its receipt thereof, after which time any drawings not subject to comment shall be deemed to be approved. All drawings provided hereunder shall be deemed to be Confidential Information.

6.2.9 Effect of Review.

Transmission Owner's and Transmission Provider's reviews of Developer Party's initial drawings of the Network Upgrades that the Developer Party is building shall not be construed as confirming, endorsing or providing a warranty as to the fitness, safety, durability or reliability of such facilities or the design thereof. At its sole cost and expense, Developer Party shall make such changes to the design of the pertinent Network Upgrades as may reasonably be required by Transmission Provider, in consultation with the Transmission Owner, to ensure that the Network Upgrades that Developer Party is building meet Applicable Standards and conform with the Facilities Study.

6.3 Revisions to Schedule and Scope of Work.

The Schedule and Scope of Work shall be revised as required in accordance with Transmission Provider's scope change process for projects set forth in the PJM Manuals, or otherwise by mutual agreement of the Transmission Provider and Transmission Owner, which agreement shall not be unreasonably withheld, conditioned or delayed.

7.0 Suspension of Work Upon Default.

Upon the occurrence of a Default by Developer Party, the Transmission Provider or the Transmission Owner may, by written notice to Developer Party, suspend further work associated with the Network Upgrades, identified in Appendix I to this CSA, Transmission Owner is responsible for constructing. Such suspension shall not constitute a waiver of

any termination rights under this Section 7.0. In the event of a suspension by Transmission Provider or Transmission Owner, the Developer Party shall be responsible for the Costs incurred in connection with any suspension hereunder.

7.1 Notification and Correction of Defects

7.1.1 In the event that inspection and/or testing of any Network Upgrades, identified in Appendix I to this CSA, built by Transmission Owner identifies any defects or failures to comply with Applicable Standards in such Network Upgrades, then Transmission Owner shall take appropriate action to correct any such defects or failures within 20 days after it learns thereof. If such a defect or failure cannot reasonably be corrected within such 20-day period, Transmission Owner shall commence the necessary correction within that time and shall thereafter diligently pursue it to completion. Such acceptance does not modify and shall not limit the Project Developer's indemnification obligations set forth in Tariff, Attachment P, Appendix 2, section 3.2.3(e).

8.0 Transmission Outages

8.1 Outages; Coordination.

The Transmission Provider and Transmission Owner acknowledge and agree that certain outages of transmission facilities owned by the Transmission Owner, as more specifically detailed in the Scope of Work, may be necessary in order to complete the process of constructing and installing the Network Upgrades identified in Appendix I to this CSA. The Transmission Provider and Transmission Owner further acknowledge and agree that any such outages shall be coordinated by and through Transmission Provider.

9.0 Security, Billing And Payments

The following provisions shall apply with respect to charges for the Costs of the Transmission Owner for which the Developer Party is responsible.

9.1 Adjustments to Security.

The Security provided by Developer Party at or before the Effective Date of this CSA shall be: (a) reduced as portions of the work on Network Upgrades, identified in Appendix I to this CSA, are completed; and/or (b) increased or decreased as required to reflect adjustments to Developer Party's cost responsibility, to correspond with changes in the Scope of Work developed in accordance with Transmission Provider's scope change process for projects set forth in the PJM Manuals.

9.2 Invoice.

Transmission Owner shall provide Transmission Provider a quarterly statement of its scheduled expenditures during the next three months for, as applicable, the design, engineering and construction of, and/or for other charges related to, construction of the

Network Upgrades identified in Appendix I to this CSA, or (b) in the event that the Developer Party exercises the Option to Build pursuant to Section 6.2.1 of this Appendix III, for the Interconnected Transmission Owner's oversight costs (i.e. costs incurred by the Transmission Owner when engaging in oversight activities to satisfy itself that the Developer Party is complying with the Transmission Owner's standards and specifications for the construction of facilities) associated with the Developer Party's building Stand Alone Network Upgrades, including but not limited to Costs for tie-in work and Cancellation Costs. Transmission Owner's oversight costs shall be consistent with Attachment GG, Appendix III, section 6.2.2(a)(12). If Developer Party exercises the Option to Build pursuant to Appendix III, section 6.2.1, Developer Party shall pay Transmission Owner costs associated with its responsibilities pursuant to section 6.2.1 and in accordance with the amount agreed to by the Transmission Owner and Developer Party pursuant to Appendix III, section 6.2.1(a)(12). Transmission Provider shall bill Developer Party, on behalf of Transmission Owner, for Transmission Owner's expected costs during the subsequent three months. Developer Party shall pay each bill within twenty (20) days after receipt thereof. Upon receipt of each of Developer Party's payments of such bills, Transmission Provider shall reimburse the Transmission Owner. Developer Party may request that the Transmission Provider provide quarterly cost reconciliation. Such a quarterly cost reconciliation will have a one-quarter lag, e.g., reconciliation of costs for the first calendar quarter of work will be provided at the start of the third calendar quarter of work, provided, however, that Section 9.3 of this Appendix III shall govern the timing of the final cost reconciliation upon completion of the work.

9.4 Final Invoice.

Within 120 days after Transmission Owner completes construction and installation of the Network Upgrades under this CSA, Transmission Provider shall provide Developer Party with an accounting of, and the appropriate Party shall make any payment to the other that is necessary to resolve, any difference between: (a) Developer Party's responsibility under the Tariff for the Costs of the Network Upgrades identified in Appendix I to this CSA; and (b) Developer Party's previous aggregate payments to Transmission Provider for the Costs of the facilities identified in Appendix I to this CSA. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment to the Developer Party or the Transmission Owner that the preceding sentence requires it to make unless and until the Transmission Provider has received the payment that it is required to refund from the Party owing the payment.

9.5 Disputes.

In the event of a billing dispute among the Transmission Provider, Transmission Owner, and Developer Party, Transmission Provider and the Transmission Owner shall continue to perform their respective obligations pursuant to this CSA so long as: (a) the Developer Party continues to make all payments not in dispute, and the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute; or (b) the Developer Party pays to Transmission Provider, or into an independent escrow account established by the Developer Party, the portion of the invoice in dispute, pending resolution

of such dispute. If the Developer Party fails to meet any of these requirements, then Transmission Provider shall so inform the other Parties and Transmission Provider or the Transmission Owner may provide notice to Developer Party of a Breach pursuant to Section 13 of this Appendix III.

9.6 Interest.

Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment.

9.7 No Waiver.

Payment of an invoice shall not relieve Developer Party from any other responsibilities or obligations it has under this CSA, nor shall such payment constitute a waiver of any claims arising hereunder.

10.0 Assignment

10.1 Assignment with Prior Consent.

Subject to Section 10.2 of this Appendix III, no Party shall assign its rights or delegate its duties, or any part of such rights or duties, under this CSA without the written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Any such assignment or delegation made without such written consent shall be null and void.

Such written consent can be in the form of a consent to assignment or other written agreement. Such written consent of the other Interconnection Parties shall not be unreasonably withheld, conditioned, or delayed. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if Project Developer fails to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii)

file the agreement unexecuted with the Commission. Transmission Provider may also file the agreement with FERC.

In addition, the Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign this CSA to any Affiliate or successor of the Transmission Owner that owns and operates all or a substantial portion of such Transmission Owner's transmission facilities.

10.2 Assignment Without Prior Consent

10.2.1 Assignment by Developer Party.

Developer Party may assign this CSA without the Transmission Owner's or Transmission Provider's prior consent to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Developer Party's assets provided that, prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical competence and financial ability to comply with the requirements of this CSA and assumes in a writing provided to the Transmission Owner and Transmission Provider all rights, duties, and obligations of Developer Party arising under this CSA. However, any assignment described herein shall not relieve or discharge the Developer Party from any of its obligations hereunder absent the written consent of the Transmission Owner, such consent not to be unreasonably withheld, conditioned, or delayed.

An Interconnection Party may choose to enter a consent to assignment or other written agreement to effectuate an assignment allowed by section 10.2.1 of this Appendix 2. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

10.2.2 Assignment by Transmission Owner.

Transmission Owner shall be entitled, subject to applicable laws and regulations, to assign this Upgrade CSA to an Affiliate or successor that owns and operates all or a substantial portion of Transmission Owner's transmission facilities.

10.2.3 Assignment to Lenders.

Developer Party may, without the consent of the Transmission Provider or the Transmission Owner, assign this CSA to any Project Finance Entity(ies), provided that such assignment shall not alter or diminish Developer Party's duties and obligations under this CSA. If Developer Party provides the Transmission Owner with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to Article 6 of this CSA, the Transmission Provider or Transmission Owner shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this CSA in accordance with this CSA. Transmission Provider or Transmission Owner shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of this CSA, provided that such documents do not alter or diminish the rights of the Transmission Provider or Transmission Owner under this CSA, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider's and/or the Transmission Owner's invoice therefore, Developer Party shall pay the Transmission Provider and/or the Transmission Owner's reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Developer Party from any of its obligations hereunder absent the written consent of the Transmission Owner and Transmission Provider.

10.3 Successors and Assigns.

This CSA and all of its provisions are binding upon, and inure to the benefit of, the Transmission Provider and Transmission Owner and their respective successors and permitted assigns.

11.0 Insurance

11.1 Required Coverages.

Constructing Entity shall maintain, at its own expense, insurance as described in paragraphs A through E below. All insurance shall be procured from insurance companies rated "A-," VII or better by AM Best and authorized to do business in a State or States in which the Network Upgrades, identified in Appendix I to this CSA, will be located. Failure to maintain required insurance shall be a Breach of this CSA.

A. Workers Compensation Insurance with statutory limits, as required by the State and/or jurisdiction in which the work is to be performed, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).

B. Commercial General Liability Insurance and/or Excess Liability Insurance covering liability arising out of premises, operations, personal injury, advertising, products and completed operations coverage, independent contractors coverage, liability assumed under an insured contract, coverage for pollution to the extent normally available and punitive damages to the extent allowable under applicable law, with limits of not less than one million dollars (\$1,000,000) per occurrence/one million dollars (\$1,000,000) general aggregate/one million dollars (\$1,000,000) each accident products and completed operations aggregate.

C. Business/Commercial Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of no less than one million dollars (\$1,000,000) each accident for bodily injury, including death, and property damage.

D. Excess and/or Umbrella Liability Insurance with a limit of liability of twenty million dollars (\$20,000,000) per occurrence. These limits apply in excess of the employer's liability, commercial general liability and business/commercial automobile liability coverages described above. This requirement can be met alone or via a combination of primary, excess and/or umbrella insurance.

E. Professional Liability, including Contractors Legal Liability, providing errors, omissions and/or malpractice coverage. Coverage shall be provided for the Constructing Entity's duties, responsibilities and performance outlined in this CSA, with limits of liability as follows:

\$10,000,000 each occurrence

\$10,000,000 aggregate

An entity may meet the Professional Liability Insurance requirements by requiring third-party contractors, designers, or engineers, or other parties that are responsible for design and engineering work associated with the Network Upgrades, identified in Appendix I to this CSA, necessary for the transmission service to procure professional liability insurance in the amounts and upon the terms prescribed by this section, and providing evidence of such insurance to the other entity. Such insurance shall be procured from companies rated "A-," VII or better by AM Best and authorized to do business in a State or States in which the Network Upgrades, identified in Appendix I to this CSA, are located. Nothing in this section relieves the entity from complying with the insurance requirements. In the event that the policies of the designers, engineers, or other parties used to satisfy the entity's insurance obligations under this section become invalid for any reason, including but not limited to: (i) the policy(ies) lapsing or otherwise terminating or expiring; (ii) the coverage limits of such policy(ies) are decreased; or (iii) the policy(ies) do not comply with the terms

and conditions of the PJM Tariff; entity shall be required to procure insurance sufficient to meet the requirements of this section, such that there is no lapse in insurance coverage. Notwithstanding the foregoing, in the event an entity will not design, engineer or construct or cause to design, engineer or construct any new Network Upgrades, Transmission Provider, in its discretion, may waive the requirement that an entity maintain the Professional Liability Insurance pursuant to this section.

11.2 Additional Insureds.

The Commercial General Liability, Business/Commercial Automobile Liability and Excess and/or Umbrella Liability policies procured by each Constructing Entity (“Insuring Constructing Entity”) shall include each other party (the “Insured Party”), its officers, agents and employees as additional insureds, providing all standard coverages and covering liability of the Insured Party arising out of bodily injury and/or property damage (including loss of use) in any way connected with the operations, performance, or lack of performance under this CSA.

11.3 Other Required Terms.

The above-mentioned insurance policies (except workers’ compensation) shall provide the following:

(a) Each policy shall contain provisions that specify that it is primary and non contributory for any liability arising out of that party’s negligence, and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer’s liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Insuring Constructing Entity shall be responsible for its respective deductibles or retentions.

(b) If any coverage is written on a Claims First Made Basis, continuous coverage shall be maintained or an extended discovery period will be exercised for a period of not less than two (2) years after termination of this CSA.

(c) Provide for a waiver of all rights of subrogation which the Insuring Constructing Entity’s insurance carrier might exercise against the Insured Party.

11.4 No Limitation of Liability.

The requirements contained herein as to the types and limits of all insurance to be maintained by the Constructing Entities are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this CSA.

11.5 Self-Insurance.

Notwithstanding the foregoing, each Constructing Entity may self-insure to meet the minimum insurance requirements of this section to the extent it maintains a self-insurance program; provided that such Constructing Entity's senior secured debt is rated at investment grade or better by Standard & Poor's and its self-insurance program meets the minimum insurance requirements of this Section 11. For any period of time that a Constructing Entity's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, it shall comply with the insurance requirements applicable to it under this Section 11. In the event that a Constructing Entity is permitted to self-insure pursuant to this section, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Section 11.6 of this Appendix III.

11.6 Notices; Certificates of Insurance.

Prior to the commencement of work pursuant to this CSA, the Constructing Entities agree to furnish certificate(s) of insurance evidencing the insurance coverage obtained in accordance with Section 11 of this Appendix III. All certificates of insurance shall indicate that the certificate holder is included as an additional insured under the Commercial General Liability, Business/Commercial Automobile Liability and Excess and/or Umbrella Liability coverages, and that this insurance is primary with a waiver of subrogation in favor of the other Interconnected Entities. All policies of insurance shall provide for thirty days prior written notice of cancellation or material adverse change. If the policies of insurance do not or cannot be endorsed to provide thirty days prior written notice of cancellation or material adverse change, each Constructing Entity shall provide the other Constructing Entities with thirty days prior written notice of cancellation or material adverse change to any of the insurance required in this CSA.

11.7 Subcontractor Insurance.

In accord with Good Utility Practice, each Constructing Entity shall require each of its subcontractors to maintain and provide evidence of insurance coverage of types, and in amounts, commensurate with the risks associated with the services provided by the subcontractor. Bonding of contractors or subcontractors shall be at the hiring Constructing Entity's discretion, but regardless of bonding, the Transmission Owner shall be responsible for the performance or non-performance of any contractor or subcontractor it hires.

11.8 Reporting Incidents:

The Parties shall report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this CSA.

12.0 Indemnity

12.1 Indemnity.

Each Constructing Entity shall indemnify and hold harmless the other Parties, and the other Parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss, liability, damage, cost or expense to third parties, including damage and liability for bodily injury to or death of persons, or damage to property of persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with or resulting from: (i) the indemnifying Constructing Entity's breach of any of the representations or warranties made in, or failure of the indemnifying Constructing Entity or any of its subcontractors to perform any of its obligations under, this CSA; or (ii) the negligence or willful misconduct of the indemnifying Constructing Entity or its contractors; provided, however, that the neither Constructing Entity shall not have any indemnification obligations under this Section in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the Party seeking indemnity.

12.2 Indemnity Procedures.

Promptly after receipt by a person entitled to indemnity ("Indemnified Person") of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Section 12 may apply, the Indemnified Person shall notify the indemnifying Constructing Entity of such fact. Any failure of or delay in such notification shall not affect a Constructing Entity's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Constructing Entity. The Indemnified Person shall cooperate with the indemnifying Constructing Entity with respect to the matter for which indemnification is claimed. The indemnifying Constructing Entity shall have the right to assume the defense thereof with counsel designated by such indemnifying Constructing Entity and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying Constructing Entity and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying Constructing Entity, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Constructing Entity shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying Constructing Entity. Notwithstanding the foregoing, the indemnifying Constructing Entity shall not: (i) be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest

between the Indemnified Person and the indemnifying Constructing Entity, in such event the indemnifying Constructing Entity shall pay the reasonable expenses of the Indemnified Person; and (ii) settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

12.3 Indemnified Person.

If an Indemnified Person is entitled to indemnification under this Section 12 as a result of a claim by a third party, and the indemnifying Constructing Entity fails, after notice and reasonable opportunity to proceed under this Section 12, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying Constructing Entity contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

12.4 Amount Owing.

If the indemnifying Constructing Entity is obligated to indemnify and hold any Indemnified Person harmless under this Section 12, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

12.5 Limitation on Damages.

Except as otherwise provided in this Section 12, the liability of a Party shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any Party or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this Section 12.5 are without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any Party's rights to obtain equitable relief as otherwise provided in this CSA. The provisions of this Section 12 shall survive the termination or expiration of this CSA.

12.6 Limitation of Liability in Event of Breach.

A Breaching Party shall have no liability hereunder to any other Party, and each other Party hereby releases the Breaching Party, for all claims or damages it incurs that are associated with any interruption in the availability of the Network Upgrades identified in Appendix I to this CSA, the Transmission System, or Transmission Service, or associated with damage to the Network Upgrades identified in Appendix I to this CSA, except to the extent such interruption or damage is caused by the Breaching Party's gross negligence or willful misconduct in the performance of its obligations under this CSA.

12.7 Limited Liability in Emergency Conditions.

Except as otherwise provided in the PJM Tariff or the Operating Agreement, no Party shall be liable to any other Party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or the Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Developer Party shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Transmission Owner related to an Emergency Condition.

13.0 Breach, Cure And Default

13.1 Breach:

A Breach of this CSA shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this Appendix 2 or of the other portions of the CSA or any attachments or Schedule hereto, including but not limited to any material breach of a representation, warranty or covenant (other than in subsections (a) and (c)-(e) of this section) made in this Appendix 2;
- (c) Assignment of the CSA in a manner inconsistent with its terms;
- (d) Failure of an Interconnection Party to provide access rights, or an Interconnection Party's attempt to revoke or terminate access rights, that are provided under this Appendix 2; or
- (e) Failure of an Interconnection Party to provide information or data required to be determined under this Appendix 2 to another Interconnection Party for such other Interconnection Party to satisfy its obligations under this Appendix 2.

13.2 Continued Operation:

In the event of a Breach or Default by either Interconnected Entity, and subject to termination of this CSA under section 16 of this Appendix 2, the Interconnected Entities shall continue to operate and maintain, as applicable, such DC power systems, protection and Metering Equipment, telemetering equipment, SCADA equipment, transformers, Secondary Systems, communications equipment, building facilities, software, documentation, structural components, and other facilities and appurtenances that are reasonably necessary for Transmission Provider and the Transmission Owner to operate and maintain the Transmission System and the Transmission Owner Upgrades and for Developer Party to operate and maintain the Generating Facility or Merchant Transmission Facility and the Developer Party Interconnection Facilities, in a safe and reliable manner.

13.3 Notice of Breach:

An Interconnection Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Interconnection Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Developer Party, Transmission Provider or the Transmission Owner agree to provide notice of such Breach and in the same manner as its notice to Developer Party, to any Project Finance Entity provided that the Developer Party has provided the notifying Interconnection Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 21 of this Appendix 2.

13.4 Cure and Default:

An Interconnection Party that commits a Breach and does not take steps to cure the Breach pursuant to this section 13.4 is automatically in Default of this Appendix 2 and of the CSA, and its project and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

13.4.1 Cure of Breach:

13.4.1.1 Except for the event of Breach set forth in section 13.1(a) above, the Breaching Interconnection Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Interconnection Parties. Such agreement shall not be unreasonably withheld.

13.4.1.2 In an event of Breach set forth in section 13.1(a), the Breaching Interconnection Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Interconnection Party is the Developer Party, and the Developer Party fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Developer Party shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn.

13.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Interconnection Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. Subject to section 20.1, no remedy conferred by any provision of this Appendix 2 is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies..

14 Termination

14.1 Termination

14.1.1 Upon Completion of Construction:

14.1.1.1 Conforming CSAs

If this CSA is conforming and, therefore, is only reported to the Commission on PJM's Electric Quarterly Report, it shall terminate upon the date Transmission Provider receives written notice, in a form acceptable to the Transmission Provider from the Transmission Owner that the following conditions have occurred: (i) completion of construction of all Transmission Owner Upgrades; (ii) if Developer Party exercised the Option to Build, transfer of title under section 5.5 of this Appendix 2; (iii) final payment of all Costs due and owing under this CSA; and (iv) if Developer Party exercised the Option to Build, delivery to the Transmission Owner of final "as-built" drawings of any Stand Alone Network Upgrades built by the Developer Party in accordance with section 3.2.3.2(a)(xi) of this Appendix 2.

14.1.1.2 Non-Conforming CSAs

If this CSA is non-conforming and, therefore, has been filed with and accepted by the Commission, it shall terminate upon (a) Transmission Provider receiving written notice, in a form acceptable to Transmission Provider, from Transmission Owner that the following conditions have occurred: (i) completion of construction of all Transmission Owner Upgrades; (ii) if Developer Party exercised the Option to Build, transfer of title under section 5.5 of this Appendix 2; (iii) final payment of all Costs due and owing under this CSA; and (iv) if Developer Party exercised the Option to Build, delivery to Transmission Owner of final "as-built" drawings of any Stand Alone Network built by Developer Party in accordance with section 3.2.3.2(a)(xi) of this CSA; and (b) the effective date of Transmission Provider's cancellation of the CSA in accordance with Commission rules and regulations. Transmission Provider shall serve the Transmission Owner and Developer Party with a copy of the notice of cancellation of any CSA in accordance with Commission rules and regulations.

14.1.2 Upon Default By Either Constructing Entity:

Either Constructing Entity may terminate its obligations hereunder in the event of a Default by the other Constructing Entity as defined in section 13.3 of this Appendix 2. Transmission Provider may terminate the CSA upon the Default of Developer Party of its obligations under this CSA or the applicable Generation Interconnection Agreement by providing Developer Party and the Transmission Owner prior written notice of termination

14.1.3 By Developer Party:

Subject to its payment of Cancellation Costs as explained in section 14.3 below, the Developer Party may be relieved of its obligations hereunder upon sixty (60) days written notice to Transmission Provider and the Transmission Owner.

14.2 [Reserved.]

14.3 Cancellation By Developer Party

14.3.1 Applicability:

The following provisions shall survive and shall apply in the event that Developer Party terminates the CSA pursuant to this section 14.1.3.

14.3.1.1 Cancellation Cost Responsibility Upon Termination:

Upon the unilateral termination of the CSA by the Developer Party, the Developer Party shall be liable to pay to the Transmission Owner or Transmission Provider all Cancellation Costs in connection with Construction Service for the Developer Party pursuant to this CSA, including section 14.3.1.2 of this Appendix 2. Cancellation costs may include costs for Network Upgrades assigned to Developer Party, in accordance with the Tariff and as reflected in this CSA, that remain the responsibility of Developer Party under the Tariff. This shall include costs including, but not limited to, the costs, cost for such Network Upgrades to the extent such cancellation would be a Material Modification, or would have an adverse effect or impose costs on other Developer Parties. In the event the Transmission Owner incurs Cancellation Costs, it shall provide the Transmission Provider, with a copy to the Developer Party, with a written demand for payment and with reasonable documentation of such Cancellation Costs. The Developer Party shall pay the Transmission Provider each bill for Cancellation Costs within thirty (30) days after, as applicable, the Transmission Owner's or Transmission Provider's presentation to the Developer Party of written demand therefor, provided that such demand includes reasonable documentation of the Cancellation Costs that the invoicing party seeks to collect. Upon receipt of each of Developer Party's payments of such bills of the Transmission Owner, Transmission Provider shall reimburse the Transmission Owner for Cancellation Costs incurred by the latter.

14.3.1.2 Disposition of Facilities Upon Termination:

Upon termination of the CSA by a Developer Party, Transmission Provider, after consulting with the Transmission Owner, may, at the sole cost and expense of the Developer Party, authorize the Transmission Owner to (a) cancel supplier and contractor orders and agreements entered into by the Transmission Owner to design, construct, install, operate, maintain and own the Transmission Owner Upgrades, provided, however, that Developer Party shall have the right to choose to take delivery of any equipment ordered by the Transmission Owner for which Transmission Provider otherwise would authorize cancellation of the purchase order; or (b) remove any Transmission Owner Upgrades built by the Transmission Owner or any Transmission Owner Stand Alone Network (only after title to the subject facilities has been transferred to the Transmission Owner) built by the Developer Party; or (c) partially or entirely complete the Transmission Owner Upgrades as necessary to preserve the integrity or reliability of the Transmission System, provided that Developer Party shall be entitled to receive any rights associated with such facilities and upgrades as determined in accordance with the CSA; or (d) undo any of the changes to the Transmission System that were made pursuant to this CSA. To the extent that the Developer Party has fully paid for equipment that is unused upon cancellation or which is removed pursuant to subsection (b) above, the Developer Party shall have the right to take back title to such equipment; alternatively, in the event that the Developer Party does not wish to take back title, the Transmission Owner may elect to pay the Developer Party a mutually agreed amount to acquire and own such equipment.

14.3.2 Termination Upon Default:

In the event that Developer Party exercises its right to terminate under section 14.1.2 of this Appendix 2, and notwithstanding any other provision of this CSA, the Developer Party shall be liable for payment of the Transmission Owner's Costs incurred up to the date of Developer Party's notice of termination pursuant to section 14.1.2 and the costs of completion of some or all of the Transmission Owner Transmission Owner Upgrades or specific unfinished portions thereof, and/or removal of any or all of such facilities which have been installed, to the extent that Transmission Provider determines such completion or removal to be required for the Transmission Provider and/or Transmission Owner to perform their respective obligations under the GIP of the Tariff or this CSA, provided, however, that Developer Party's payment of such costs shall be without prejudice to any remedies that otherwise may be available to it under this Appendix 2 for the Default of the Transmission Owner. Developer Party will also be subject to Cancellation Cost responsibility provisions of section 14.3.1.1 of this Appendix 2.

14.4 Survival of Rights:

Termination of this CSA or the applicable Generation Interconnection Agreement shall not relieve any Interconnection Party of any of its liabilities and obligations arising under this CSA or the applicable Generation Interconnection Agreement (including Appendix 2) prior to the date on which termination becomes effective, and each Interconnection Party may take whatever judicial or administrative actions it deems desirable or necessary to enforce its rights hereunder. Applicable provisions of this Appendix 2 will continue in effect after termination to the extent necessary to provide for final billings, billing adjustments, and

the determination and enforcement of liability and indemnification obligations arising from events or acts that occurred while the CSA or the applicable Generation Interconnection Agreement was in effect.

15 Force Majeure

15.1 Notice:

A Construction Party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify each other Construction Party in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

15.2 Duration of Force Majeure:

A party shall not be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other parties in writing as soon as reasonably possible after the occurrence of the cause relied upon. Those notices shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. Written notices given pursuant to this Article shall be acknowledged in writing as soon as reasonably possible. The party affected shall exercise Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. The party affected has a continuing notice obligation to the other parties, and must update the particulars of the original Force Majeure notice and subsequent notices, in writing, as the particulars change. The affected party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such party shall resume performance and give prompt written notice thereof to the other parties.

15.3 Obligation to Make Payments:

Any Construction Party's obligation to make payments for services shall not be suspended by Force Majeure.

15.4 Definition of Force Majeure:

For the purposes of this section, an event of force majeure shall mean shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian

authorities, or any other cause beyond a party's control that, in any of the foregoing cases, by exercise of due diligence, such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force majeure does not include (i) a failure of performance that is due to an affected party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected party.

16.0 Confidentiality.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the other Party receiving the information that the information is confidential. If requested by any Party, the disclosing Party shall provide in writing the basis for asserting that the information referred to in this section warrants confidential treatment, and the requesting Party may disclose such writing to an appropriate Governmental Authority. Any Party shall be responsible for the costs associated with affording confidential treatment to its information.

16.1 Term.

During the term of this CSA, and for a period of three (3) years after the termination of this CSA, except as otherwise provided in Section 16 of this CSA, each Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any Party.

16.2 Scope.

Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this CSA; or (vi) is required, in accordance with Section 16.7 of this Appendix III, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this CSA. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

16.3 Release of Confidential Information.

No Party shall disclose Confidential Information of another Party to any other person, except to its Affiliates (in accordance with the Commission's Standards of Conduct requirements), subcontractors, employees, consultants or to parties who may be or considering providing financing to or equity participation in Developer Party on a need-to-know basis in connection with this CSA, unless such person has first been advised of the confidentiality provisions of this Section and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party that provides Confidential Information of another Party to any person shall remain responsible for any release of Confidential Information in contravention of this Section.

16.4 Rights.

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

16.5 No Warranties.

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

16.6 Standard of Care.

Each Party shall use at least the same standard of care to protect Confidential Information it receives as the Party uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this CSA or to comply with Applicable Laws and Regulations.

16.7 Order of Disclosure.

If a Governmental Authority with the right, power, and apparent authority to do so requests or requires a Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the Party that provided the information with prompt prior notice of such request(s) or requirement(s) so that the providing Party may seek an appropriate protective order, or waive compliance with the terms of this CSA. Notwithstanding the absence of a protective order, or agreement, or waiver, the Party subjected to the request or order may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party shall use Reasonable Efforts to obtain reliable

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

16.8 Termination of Construction Service Agreement.

Upon termination of this CSA for any reason, each Party shall, within ten (10) calendar days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure and deletion certified in writing to the requesting Party) or to return to the requesting Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting Party.

16.9 Remedies.

The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Section 16. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party breaches or threatens to breach its obligations under this Section, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed to be an exclusive remedy for the breach of this Section, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, consequential, or punitive damages of any nature or kind resulting from or arising in connection with a Breach of any obligation under this Section 16.

16.10 Disclosure to FERC or its Staff.

Notwithstanding anything in this Section to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this CSA, the Party, shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this CSA prior to the release of the Confidential Information to the Commission or its staff. A Party shall notify the other Parties when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

16.11

Subject to the exception noted above in Section 16.10 of this Appendix III, no Party shall disclose Confidential Information of Party to any person not employed or retained by the disclosing Party, except to the extent disclosure is: (i) required by law; (ii) reasonably deemed by the disclosing Party to be required in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the Party that provided such Confidential Information, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this CSA or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. Prior to any disclosures of another Party's Confidential Information under this subparagraph, the disclosing Party shall promptly notify the other Parties in writing and shall assert confidentiality and cooperate with the other Parties in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

16.12

This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

16.13 Return or Destruction of Confidential Information.

If any Party provides any Confidential Information to another Party in the course of an audit or inspection, the providing Party may request the other Party to return or destroy such Confidential Information after the termination of the audit period and the resolution of all matters relating to that audit. Each Party shall make Reasonable Efforts to comply with any such requests for return or destruction within ten days after receiving the request and shall certify in writing to the requesting Party that it has complied with such request.

17.0 Information Access And Audit Rights

17.1 Information Access.

Subject to Applicable Laws and Regulations, each Party shall make available to the other Parties information necessary: (i) to verify the Costs incurred by the other Party for which the requesting Party is responsible under this CSA and the PJM Tariff; and (ii) to carry out obligations and responsibilities under this CSA and the PJM Tariff. The Parties shall not use such information for purposes other than those set forth in this Section 17 and to enforce their rights under this CSA and the PJM Tariff.

17.2 Reporting of Non-Force Majeure Events.

Each Party shall notify the other Parties when it becomes aware of its inability to comply with the provisions of this CSA for a reason other than an event of force majeure as defined in Section 1.21 of Appendix 2 of this Attachment GG. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply,

including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Section 17 shall not entitle the receiving Party to allege a cause of action for anticipatory breach of this CSA and the PJM Tariff.

17.3 Audit Rights.

Subject to the requirements of confidentiality of this CSA and the PJM Tariff, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent Party, to audit at its own expense the other Party's accounts and records pertaining to such Party's performance and/or satisfaction of obligations arising under this CSA and the PJM Tariff. Any audit authorized by this Section 17 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this CSA. Any request for audit shall be presented to the other Party not later than twenty-four months after the event as to which the audit is sought. Each Party shall preserve all records held by it for the duration of the audit period.

17.4 Waiver.

Any waiver at any time by any Party of its rights with respect to a Breach or Default under this CSA, or with respect to any other matters arising in connection with this CSA, shall not be deemed a waiver or continuing waiver with respect to any other Breach or Default or other matter.

17.5 Amendments and Rights under the Federal Power Act.

Except as set forth in this Section 17, this CSA may be amended, modified, or supplemented only by written agreement of the Parties. Such amendment shall become effective and a part of this CSA upon satisfaction of all Applicable Laws and Regulations. In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, Transmission Provider shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Developer Party shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if Developer Party fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Developer Party, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I,

section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

Notwithstanding the foregoing, nothing contained in this CSA shall be construed as affecting in any way any of the rights of any Party with respect to changes in applicable rates or charges under Section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any Party under Section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this CSA shall be amended, as mutually agreed by the Parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

17.6 Regulatory Requirements.

Each Party's performance of any obligation under this CSA for which such Party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

18.0 Representations and Warranties

18.1 General.

Each Constructing Entity hereby represents, warrants and covenants as follows, with these representations, warranties, and covenants effective as to the Constructing Entity during the full time this CSA is effective:

18.1.1 Good Standing.

Such Constructing Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated.

18.1.2 Authority.

Such Constructing Entity has the right, power and authority to enter into this CSA, to become a Party thereto and to perform its obligations thereunder. This CSA is a legal, valid and binding obligation of such Constructing Entity, enforceable against such Constructing Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws

affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

18.1.3 No Conflict.

The execution, delivery and performance of this CSA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Constructing Entity, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Constructing Entity or any of its assets.

19.0 Inspection and Testing of Completed Facilities

19.1 Coordination.

Developer Party and the Transmission Owner shall coordinate the timing and schedule of all inspection and testing of the Network Upgrades, identified in Appendix I to this CSA.

19.2 Inspection and Testing.

Each Constructing Entity shall cause inspection and testing of any Network Upgrades that it constructs in accordance with the provisions of this section. The Parties acknowledge and agree that inspection and testing of facilities may be undertaken as facilities are completed and need not await completion of all of the facilities that a Constructing Entity is building.

19.2.1 Of Developer Party-Built Facilities.

Upon the completion of the construction and installation, but prior to energization, of any Network Upgrades constructed by the Developer Party shall have the same inspected and/or tested by an authorized electric inspection agency or qualified third party reasonably acceptable to the Transmission Owner to assess whether the facilities substantially comply with Applicable Standards. Said inspection and testing shall be held on a mutually agreed-upon date, and the Transmission Owner and Transmission Provider shall have the right to attend and observe, and to obtain the written results of, such testing.

19.2.2 Of Transmission Owner-Built Facilities.

Upon the completion of the construction and installation, but prior to energization, of any Network Upgrades constructed by the Transmission Owner, the Transmission Owner shall have the same inspected and/or tested by qualified personnel or a qualified contractor to assess whether the facilities substantially comply with Applicable Standards. Subject to Applicable Laws and Regulations, said inspection and testing shall be held on a mutually agreed-upon date, and the Developer Party and Transmission Provider shall have the right to attend and observe, and to obtain the written results of, such testing.

19.3 Review of Inspection and Testing by Transmission Owner.

In the event that the written report, or the observation of either Constructing Entity or Transmission Provider, of the inspection and/or testing pursuant to Section 19.2 of this Appendix III reasonably leads the Transmission Provider or Transmission Owner to believe that the inspection and/or testing of some or all of the Network Upgrades built by the Developer Party was inadequate or otherwise deficient, the Transmission Owner may, within 20 days after its receipt of the results of inspection or testing and upon reasonable notice to the Developer Party, perform its own inspection and/or testing of such Network Upgrades to determine whether the facilities are acceptable for energization, which determination shall not be unreasonably delayed, withheld or conditioned.

19.4 Notification and Correction of Defects

19.4.1 If the Transmission Owner, based on inspection or testing pursuant to Section 19.2 or 19.3 of this Appendix III, identifies any defects or failures to comply with Applicable Standards in the Network Upgrades constructed by the Developer Party, the Transmission Owner shall notify the Developer Party and Transmission Provider of any identified defects or failures within 20 days after the Transmission Owner's receipt of the results of such inspection or testing. The Developer Party shall take appropriate actions to correct any such defects or failure at its sole cost and expense, and shall obtain the Transmission Owner's acceptance of the corrections, which acceptance shall not be unreasonably delayed, withheld or conditioned.

19.4.2 In the event that inspection and/or testing of any Network Upgrades built by the Transmission Owner identifies any defects or failures to comply with Applicable Standards in such facilities, Transmission Owner shall take appropriate action to correct any such defects or failures within 20 days after it learns thereof. In the event that such a defect or failure cannot reasonably be corrected within such 20-day period, Transmission Owner shall commence the necessary correction within that time and shall thereafter diligently pursue it to completion.

19.5 Notification of Results.

Within 10 days after satisfactory inspection and/or testing of Network Upgrades built by the Developer Party (including, if applicable, inspection and/or testing after correction of defects or failures), the Transmission Owner shall confirm in writing to the Developer Party and Transmission Provider that the successfully inspected and tested facilities are acceptable for energization.

20.0 Energization of Completed Facilities

(A) Unless otherwise provided in the Schedule of Work, energization, when applicable as determined by Transmission Provider, of the Network Upgrades, identified in Appendix I to this CSA, shall occur in two stages. Stage One energization may occur prior to initial energization of the Network Upgrades. Stage Two energization shall consist of energization of the remainder of the Network Upgrades, identified in Appendix I, to the CSA.

(B) In the case of Network Upgrades for which the Transmission Provider determines that two-stage energization is inapplicable, energization shall occur in a single stage. Such a single-stage energization shall be regarded as Stage Two energization for the purposes of the remaining provisions of this Section 20.9 and of Section 22.0 of this Appendix III.

20.1 Stage One energization may not occur prior to the satisfaction of the following additional conditions:

(a) The Developer Party shall have delivered to the Transmission Owner and Transmission Provider a writing transferring to the Transmission Owner and Transmission Provider operational control over any Stand Alone Network Upgrades that Developer Party has constructed; and

(b) The Developer Party shall have provided a mark-up of construction drawings to the Transmission Owner to show the “as-built” condition of all Stand Alone Network Upgrades that Developer Party has constructed.

20.2 As soon as practicable after the satisfaction of the conditions for Stage One energization specified in Sections 19 and 20.1 of this Appendix III, the Transmission Owner and the Developer Party shall coordinate and undertake the Stage One energization of facilities.

20.3 Stage Two energization of the remainder of the Network Upgrades, identified in Appendix I to this CSA, may not occur prior to the satisfaction of the following additional conditions:

(a) The Developer Party shall have delivered to the Transmission Owner and Transmission Provider a writing transferring to the Transmission Owner and Transmission Provider operational control over any Network Upgrades that Developer Party has constructed and operational control of which it has not previously transferred pursuant to Section 20.1 of this Appendix III; and

(b) The Developer Party shall have provided a mark-up of construction drawings to the Transmission Owner to show the “as-built” condition of all Network Upgrades that Developer Party has constructed and which were not included in the Stage One energization, but are included in the Stage Two energization.

20.4 As soon as practicable after the satisfaction of the conditions for Stage Two energization specified in Sections 19 and 20.3 of this Appendix III, the Transmission Owner and the Developer Party shall coordinate and undertake the Stage Two energization of facilities.

20.5 To the extent defects in any Network Upgrades are identified during the energization process, the energization will not be deemed successful. In that event, the

Constructing Entity shall take action to correct such defects in any Network Upgrades that it built as promptly as practical after the defects are identified. The affected Constructing Entity shall so notify the other Construction Parties when it has corrected any such defects, and the Constructing Entities shall recommence efforts, within 10 days thereafter, to energize the appropriate Network Upgrades in accordance with Section 20.9 of this Appendix III; provided that the Transmission Owner may, in the reasonable exercise of its discretion and with the approval of Transmission Provider, require that further inspection and testing be performed in accordance with Section 19 of this Appendix III.

21.0 Transmission Owner's Acceptance of Facilities Constructed by Developer Party.

Within five days after determining that Network Upgrades have been successfully energized, the Transmission Owner shall issue a written notice to the Developer Party accepting the Network Upgrades built by the Developer Party that were successfully energized. Such acceptance shall not be construed as confirming, endorsing or providing a warranty by the Transmission Owner as to the design, installation, construction, fitness, safety, durability or reliability of any Network Upgrades built by the Developer Party, or their compliance with Applicable Standards.

22.0 Transfer of Title to Certain Facilities Constructed By Developer Party.

Within thirty (30) days after the Developer Party's receipt of notice of acceptance under Section 21.0 of this Appendix III following Stage Two energization of the Network Upgrades, the Developer Party shall deliver to the Transmission Owner, for the Transmission Owner's review and approval, all of the documents and filings necessary to transfer to the Transmission Owner title to any Network Upgrades constructed by the Developer Party, and to convey to the Transmission Owner any easements and other land rights to be granted by Developer Party that have not then already been conveyed. The Transmission Owner shall review and approve such documentation, such approval not to be unreasonably withheld, delayed, or conditioned. Within 30 days after its receipt of the Transmission Owner's written notice of approval of the documentation, the Developer Party, in coordination and consultation with the Transmission Owner, shall make any necessary filings at the FERC or other governmental agencies for regulatory approval of the transfer of title. Within twenty (20) days after the issuance of the last order granting a necessary regulatory approval becomes final (i.e., is no longer subject to rehearing), the Developer Party shall execute all necessary documentation and shall make all necessary filings to record and perfect the Transmission Owner's title in such facilities and in the easements and other land rights to be conveyed to the Transmission Owner. Prior to such transfer to the Transmission Owner of title to the Network Upgrades built by the Developer Party, the risk of loss or damages to, or in connection with, such facilities shall remain with the Developer Party. Transfer of title to facilities under this section shall not affect the Developer Party's receipt or use of the rights related to the Network Upgrades for which it otherwise may be eligible as provided in Subpart C of Part VI of the Tariff.

23.0 Liens.

The Developer Party shall take all reasonable steps to ensure that, at the time of transfer of title in the Network Upgrades built by the Developer Party to the Transmission Owner, those facilities shall be free and clear of any and all liens and encumbrances, including mechanics' liens. To the extent that the Developer Party cannot reasonably clear a lien or encumbrance prior to the time for transferring title to the Transmission Owner, Developer Party shall nevertheless convey title subject to the lien or encumbrance and shall indemnify, defend and hold harmless the Transmission Owner against any and all claims, costs, damages, liabilities and expenses (including without limitation reasonable attorneys' fees) which may be brought or imposed against or incurred by Transmission Owner by reason of any such lien or encumbrance or its discharge.

25.0 Charges

25.1 Specified Charges.

If and to the extent required by the Transmission Owner, after the Initial Operation of the Network Upgrade, Project Developer shall pay one or more of the types of recurring charges described in this section to compensate the Transmission Owner for costs incurred in performing certain of its obligations under this Appendix III. Transmission Provider will deliver a copy of such filing to Project Developer. Permissible charges under this section may include:

(a) Administration Charge - Any such charge may recover only the costs and expenses incurred by the Transmission Owner in connection with administrative obligations such as the preparation of bills. An Administration Charge shall not be permitted to the extent that the Transmission Owner's other charges to the Project Developer under the same CSA include an allocation of the Transmission Owner's administrative and general expenses and/or other corporate overhead costs.

(b) Network Upgrade Operations and Maintenance Charge - Any such charge may recover only the Transmission Owner's costs and expenses associated with operation and maintenance charges related to the Project Developer's Network Upgrade owned by the Transmission Owner.

(c) Other Charges - Any other charges applicable to the Project Developer, as mutually agreed upon by the Project Developer and the Transmission Owner and as accepted by the FERC as part of an CSA.

25.2 FERC Filings.

To the extent required by law or regulation, each Party shall seek FERC acceptance or approval of its respective charges or the methodology for the calculation of such charges.

SCHEDULE A

NEGOTIATED CONTRACT OPTIONS

None.

DRAFT

SCHEDULE B

**OPERATION AND MAINTENANCE CHARGES FOR
NETWORK UPGRADES**

None.

DRAFT

SCHEDULE C
SCOPE OF WORK

A. Transmission Owner Upgrades to be Built By Transmission Owner

[Specify Facilities To Be Constructed or state “None”]

[Use the following if facilities are to be constructed or owned]

- i. Facilities for which the Developer Party has sole cost responsibility
- ii. Facilities for which a Network Upgrade Cost Responsibility Service Agreement is required.

B. Project Developer.

In the event Developer Party has exercised the Option to Build, it is hereby permitted to build in accordance with and subject to the conditions and limitations set forth in this CSA, the following Stand Alone Network Upgrades:

[Specify Facilities to Be Constructed or state “None”]

**Tariff, Part IX, Subpart K,
Upgrade Application and Studies Agreement**

45. This Upgrade Application and Studies Agreement (“Application” or “Agreement”), dated _____, is entered into by and between _____ (“Upgrade Customer” or “Applicant”) and PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”) (individually a “Party” and together the “Parties”) pursuant to PJM Interconnection, L.L.C. Open Access Transmission Tariff (“Tariff”), Part VIII, Subpart H. Capitalized terms used in this Application, unless otherwise indicated, shall have the meanings ascribed to them in Tariff, Part I, section 1 or Tariff, Part VIII, Subpart A.1.
46. In order to have a valid Upgrade Request, Applicant must (1) electronically provide to Transmission Provider through PJM’s website a complete (i.e., non-deficient) and executed Application expressly accepted by Transmission Provider, and (2) submit to Transmission Provider the required cash Study Deposit by wire transfer in the amount of \$150,000. Upon satisfaction of the foregoing requirements, subject to Transmission Provider’s deficiency review, Transmission Provider will assign a Request Number to the Upgrade Request, which will establish (1) the validity of the Upgrade Request and (2) the priority of the Upgrade Request relative to other Upgrade Requests.

SECTION 1: REQUIRED APPLICANT INFORMATION

47. Name, address, telephone number, and e-mail address of Applicant. If Applicant has designated an agent, include the agent’s contact information.

Applicant
Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Email: _____

Applicant’s Agent (if applicable)
Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Email: _____
Agent’s contact person: _____

48. An Internal Revenue Service Form W-9 or comparable state-issued document for Applicant.

49. Documentation proving the existence of a legally binding relationship between Applicant and any entity with a vested interest in this Application and associated project (e.g., a parent company, a subsidiary, or financing company acting as agent for Applicant). Such documentation may include, but is not limited to, Applicant's Articles of Organization and Operating Agreement describing the nature of the legally binding relationship.
50. Applicant's banking information, or the banking information of any entity with a legally binding relationship to Applicant that wishes to make payments and receive refunds on behalf of Applicant, in association with this Application and corresponding project:

Bank Name: _____
 Account Holder Name: _____
 ABA number: _____
 Account Number: _____
 Company: _____
 Tax Reporting Name: _____
 Tax ID: _____
 Address: _____
 City: _____
 State: _____
 Zip: _____
 Phone: _____
 Email: _____

SECTION 2: REQUIRED UPGRADE REQUEST SPECIFICATIONS

51. Specify whether Applicant submits this Application pursuant to either:
- _____ the process for funding Network Upgrades and requesting Incremental Auction Revenue Rights (IARRs) under the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., Schedule 1, section 7.8, and the parallel provisions of Tariff, Attachment K-Appendix, section 7.8; or
 - _____ the procedures for Merchant Network Upgrades to either (a) upgrade facilities or (b) advance certain already-identified upgrades.
8. If planning to fund Network Upgrades and request IARRs, specify the following, as further described in Tariff, Part VIII, Subpart H and the PJM Manuals:
- a. the station or transmission line or lines where the upgrades will be made;
 - b. the requested source and sink locations;

- c. the increase in capability in megawatts (MW) or megavolt-amperes (MVA);
 - d. the MW amount of requested IARRs; and
 - e. the proposed in-service or commencement date.
9. If planning Merchant Network Upgrades, complete the following, as further described in Tariff, Part VIII, Subpart H and the PJM Manuals:
- a. specify the substation or transmission facility or facilities where the upgrade(s) will be made;
 - b. specify the MW or MVA amount by which the normal or emergency rating of the identified facility is to be increased, together with the desired in-service date; or, as applicable, the Regional Transmission Expansion Plan project number and planned and requested advancement dates;
 - c. if requesting Incremental Capacity Transfer Rights (ICTRs), identify up to three Locational Deliverability Areas (LDAs) in which to determine the ICTRs; and
 - d. specify the planned date the proposed Merchant Network Upgrade will be in service, such date to be no more than seven (7) years from the date the valid Upgrade Request is received by Transmission Provider, unless Upgrade Customer demonstrates that engineering, permitting, and construction of the Merchant Network Upgrade will take more than seven (7) years.

SECTION 3: CONDUCT OF STUDIES

10. Transmission Provider, in consultation with the affected Transmission Owner(s), will conduct a System Impact Study as described in Tariff, Part VIII, Subpart H, and provide Upgrade Customer with a System Impact Study report through Transmission Provider's website. The System Impact Study report will include good faith estimates of the cost allocation of the Network Upgrades for Applicant's Upgrade Request, but those estimates shall not be deemed final or binding.
11. In order for the Upgrade Request to proceed to the Facilities Study, Transmission Provider must timely receive from Upgrade Customer a Readiness Deposit as described in Tariff, Part VIII, Subpart H. If Transmission Provider does not timely receive the Readiness Deposit, then Transmission Provider shall deem the Upgrade Request to be terminated and withdrawn, and the Upgrade Request will be removed from all studies and will lose its priority position.

12. If Transmission Provider timely receives the Readiness Deposit, then Transmission Provider will proceed with the Facilities Study for the Upgrade Request. The Facilities Study will provide the final details regarding the type, scope, and construction schedule of Network Upgrades and any other facilities that may be required to accommodate the Upgrade Request, and will provide Upgrade Customer with a final estimate of Upgrade Customer's cost responsibility for the Upgrade Request. Upon completion of the Facilities Study, Transmission Provider will provide Upgrade Customer with a Facilities Study report through Transmission Provider's website, and concurrently tender a draft Upgrade Construction Service Agreement, a form of which is located in Tariff, Part IX, Subpart E.
13. The System Impact Study and Facilities Study necessarily will employ various assumptions regarding Applicant's Upgrade Request, other Upgrade Requests, and PJM's Regional Transmission Expansion Plan at the time of study. **IN NO EVENT SHALL THIS AGREEMENT, THE SYSTEM IMPACT STUDY, OR THE FACILITIES STUDY IN ANY WAY BE DEEMED TO OBLIGATE TRANSMISSION PROVIDER OR TRANSMISSION OWNER(S) TO CONSTRUCT ANY FACILITIES OR UPGRADES OR TO PROVIDE ANY TRANSMISSION OR INTERCONNECTION SERVICE TO OR ON BEHALF OF APPLICANT EITHER AT THIS POINT IN TIME OR IN THE FUTURE.**

SECTION 4: COST RESPONSIBILITY

14. Ten percent of Applicant's \$150,000 Study Deposit is non-refundable.
15. Transmission Provider first shall apply Applicant's Study Deposit in payment of the invoices for the costs of the System Impact Study.
16. If Study Deposit monies remain after the System Impact Study is completed, and any outstanding monies owed by Upgrade Customer in connection with outstanding invoices related to the present or prior Upgrade Requests or other New Service Requests have been paid, such remaining deposit monies either shall be:
 - a. Applied to the Facilities Study, if Upgrade Customer decides to remain in the Upgrade Request process; or
 - b. Returned to Upgrade Customer, less actual study costs incurred, if Upgrade Customer decides to withdraw its Upgrade Request.
17. Actual costs for the System Impact Study and Facilities Study may exceed the Study Deposit. Notwithstanding the amount of the Study Deposit, Applicant shall reimburse Transmission Provider for all, or for Applicant's allocated portion of, the actual cost of the studies in accordance with Applicant's cost responsibility. Applicant is responsible for, and must pay, all actual study costs. If Transmission Provider sends Applicant notification of additional study costs, then Applicant must

either: (i) pay all additional study costs within 20 days (or, if the 20th day is not a Business Day, then the next Business Day) of Transmission Provider sending the notification of such additional study costs, or (ii) withdraw its Upgrade Request. If Applicant fails to complete either (i) or (ii), then Transmission Provider shall deem the Upgrade Request to be terminated and withdrawn.

SECTION 5: CONFIDENTIALITY

18. Applicant agrees to provide all information requested by Transmission Provider necessary to complete and review this Application. Subject to this section 5, and to the extent required by Tariff, Part VIII, Subpart E, section 17, information provided pursuant to this Application shall be and remain confidential.
19. Upon completion of the System Impact Study and Facilities Study, the corresponding reports will be listed on Transmission Provider's website and, to the extent required by Tariff, Part VIII, Subpart E, section 17 or Commission regulations, will be made publicly available. Applicant acknowledges and consents to such disclosures as may be required under Tariff, Part VIII, Subpart E, section 17 or Commission regulations.
20. Applicant acknowledges that, consistent with the confidentiality provisions of Tariff, Part VIII, Subpart E, section 17, Transmission Provider may contract with consultants, including Transmission Owners, to provide services or expertise in the study process, and Transmission Provider may disseminate information as necessary to those consultants, and rely upon them to conduct part or all of the System Impact Studies.

SECTION 6: DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

21. In completing the System Impact Study and Facilities Study, Transmission Provider, Transmission Owner(s), and any other subcontractors employed by Transmission Provider must rely on information provided by Applicant and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE SYSTEM IMPACT STUDY AND FACILITIES STUDY. Applicant acknowledges that it has not relied on any representations or warranties not specifically set forth herein, and that

no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement nor the System Impact Study and Facilities Study conducted hereunder is intended, nor shall be interpreted, to constitute agreement by Transmission Provider or Transmission Owner(s) to provide Interconnection Service or transmission service to or on behalf of Applicant either at this time or in the future.

22. In no event will Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this agreement or otherwise, even if Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider have been advised of the possibility of such a loss. Nor shall Transmission Provider, Transmission Owner(s), or other subcontractors employed by Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of Transmission Provider's obligations under this Agreement.

SECTION 7: MISCELLANEOUS

23. Any notice or request made to or by either Party regarding this Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider:

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Applicant:

24. No waiver by either Party of one or more defaults by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
25. This Agreement, or any part thereof, may not be amended, modified, or waived other than by a writing signed by all Parties.
26. This Agreement shall be binding upon the Parties, their heirs, executors,

administrators, successors, and permitted assigns.

27. This Agreement shall become effective on the date it is executed by both Parties and shall remain in effect until the earlier of (a) the date on which Applicant enters into an Upgrade Construction Service Agreement with PJM and Transmission Owner, a form of which is available at Tariff, Part IX, Subpart E; or (b) termination or withdrawal of this Application.
28. Prior to entering into a final Upgrade Construction Service Agreement, an Upgrade Customer may assign its Upgrade Request to another entity only if the acquiring entity accepts and acquires all rights and obligations as identified in the Upgrade Request for such project, as evidenced in a writing acceptable to Transmission Provider.
29. **Governing Law, Regulatory Authority, and Rules:**
This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal laws and/or laws of the State of Delaware without regard to conflicts of law provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.
30. **No Third-Party Beneficiaries:**
This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest, and where permitted their assigns.
31. **Multiple Counterparts:**
This Agreement may be executed in two or more counterparts, each of which is deemed an original but all of which constitute one and the same instrument.
32. **No Partnership:**
This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
33. **Severability:**
If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision

shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

34. Reservation of Rights:

Transmission Provider shall have the right to make a unilateral filing with the Federal Energy Regulatory Commission (“FERC”) to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC’s rules and regulations thereunder; and Applicant shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC’s rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC’s rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

DRAFT

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials.

Transmission Provider: PJM Interconnection, L.L.C.

By: _____
Name Title Date

Printed Name

Applicant: [Name of Party]

By: _____
Name Title Date

Printed Name

DRAFT

Tariff, Part IX, Subpart L

FORM OF NETWORK UPGRADE FUNDING AGREEMENT

By and Among

PJM Interconnection, L.L.C.

and

[Project Developer]

and

[Transmission Owner]

(Project Identifier # _____)

DRAFT

Network Upgrade Funding Agreement

for

(Project Identifier # _____)

This Network Upgrade Funding Agreement (“NUFA”) is entered into by and among [_____], a [state] [corporation/limited liability company/other corporate form] (hereinafter “Project Developer” or “[short name]”), [_____], a [state] [corporation/limited liability company/other corporate form] (hereinafter “Transmission Owner” or “[short name]”), and PJM Interconnection, L.L.C., the Regional Transmission Organization for the PJM Region (hereinafter “Transmission Provider” or “PJM”) to compensate Transmission Owner for upgrades and additions to its transmission system (“Network Upgrades”) necessary for Interconnection Service for the Project Developer’s Generating Facility under the PJM Open Access Transmission Tariff (“PJM Tariff” or “Tariff”). Project Developer, Transmission Owner, and PJM are each referred to as “Party,” and collectively, as “Parties.”

WHEREAS, the Parties entered into that certain Generating Interconnection Agreement associated with Project Identifier # [_____] (“GIA”);

WHEREAS, the Interconnection Service necessary for Project Identifier # [_____] requires Transmission Owner to install Network Upgrade(s) on Transmission Owner’s transmission system consisting of Network Upgrade(s) identified in Schedule A in order for Transmission Owner to operate and maintain the transmission system in a safe and reliable manner;

WHEREAS, in accordance with the PJM Tariff in effect at the time the GIA was executed, the Transmission Owner has elected the self-fund option described in Tariff, [(Part VII, section) or Part (VIII, section)], and therefore will recover the return of and on the initial capital cost of the following Network Upgrade(s) from Project Developer through this NUFA, as set forth in Schedule A herein;

WHEREAS, the Transmission Owner will fund, own, operate and maintain the Network Upgrade(s);

WHEREAS, the PJM Tariff in effect at the time of execution of the GIA requires the Parties to enter into a network upgrade funding agreement in the form provided in Part IX, Subpart L, Form of Network Upgrade Funding Agreement if the Transmission Owner elects to self-fund the initial capital cost of the Network Upgrades;

NOW, THEREFORE, in consideration of the mutual premises and covenants hereinafter set forth and other good and valuable consideration, and intending to be legally bound hereby, the Parties hereby agree that Transmission Owner shall recover

from Project Developer the return of and on the initial capital cost of the Network Upgrade(s), under the following terms and conditions:

1. Definitions. Capitalized terms used in this NUFA that are not otherwise defined herein shall have the meaning provided in the PJM Tariff.

2. Effective Date and Term. Unless terminated earlier by mutual agreement, the effective date of this NUFA shall be the date it is executed by all Parties, or such other date as specified by FERC (the "Effective Date"). This NUFA shall continue until two hundred forty (240) months of payments for each Network Upgrade governed by this NUFA have been collected by the Transmission Provider and paid to the Transmission Owner, unless the Parties mutually agree on a different term for this NUFA, including but not limited to a term that is consistent with the term of the GIA, or such other date as mutually agreed to by the Parties from the Effective Date ("Term").

3. Network Upgrade Charge.

3.1 Monthly Payments. Beginning with the month following notification from Transmission Owner to Project Developer and Transmission Provider, consistent with the notice requirements of Section 10.1, that a Network Upgrade has been placed in service ("In-Service Date") and continuing for the Term of this NUFA, Transmission Provider shall invoice Project Developer on behalf of the Transmission Owner, for the amount of monthly revenue requirement for that Network Upgrade. Project Developer shall pay each invoice within twenty (20) days after receipt thereof ("Monthly Due Date"). Upon receipt of each of Project Developer's payments, Transmission Provider shall reimburse the Transmission Owner.

3.2 Annual Payments. Alternatively, Project Developer may elect to switch from receiving monthly invoices from the Transmission Provider for the Network Upgrades to an annual invoice after the first day of the next Rate Year for the Transmission Owner following the In-Service Date of the last Network Upgrade governed by this NUFA. Rate Year shall be defined by the Transmission Owner's Formula Rate Protocols. If Project Developer chooses to receive annual bills, Transmission Provider shall bill Project Developer the equivalent of twelve (12) months of payments for each calendar year until the first Network Upgrade under this NUFA to be placed in service has less than twelve (12) months of payments owing in a calendar year, after which Transmission Provider shall resume billing Project Developer on a monthly basis for each Network Upgrade. In no event shall the total amount paid by Project Developer for a Network Upgrade be less than the equivalent amount due if there were instead monthly payments for the entire Term of this NUFA. Project Developer shall pay each invoice within twenty (20) days after receipt thereof ("Annual Due Date"). Upon receipt of

each of Project Developer's payments, Transmission Provider shall reimburse the Transmission Owner.

~~3.3 — Initial Payments. The initial Payment(s) shall be based on the Estimated Network Upgrade Initial Capital Cost ("ENUC") and is set forth in the table below.~~

Description	Amount
ENUC (Schedule B, Line ____)	\$ _____
Levelized Fixed Charge Rate (Schedule B, Line ____)	_____ %
Annual revenue requirement (Schedule B, Line ____)	\$ _____
Payment (Schedule B, Line ____)	\$ _____

~~3.4 — Updates to Payments. The Project Developer payment amount for the Network Upgrade(s) shall be updated as Network Upgrades subject to this NUFA are placed in service and shall be re-calculated annually to be effective on the first day of the Rate Year for the Transmission Owner by updating certain inputs to the formula shown in Schedule B of this NUFA ("Formula"), and rounded to the nearest whole dollar. The Formula calculates a levelized fixed charge rate ("Levelized Fixed Charge Rate") and the payment amount based on the ENUC or the Actual Network Upgrade Initial Capital Cost ("ANUC"), as applicable, the Term of this NUFA in years, and certain historic, actual data from the Transmission Owner's transmission formula rate included in Tariff, Attachment H ("Transmission Formula Rate") or successor rate under the PJM Tariff, including but not limited to: (i) the Transmission Owner's combined tax rate, (ii) the amounts of Transmission Owner interest on long-term debt, (iii) the long-term debt and common equity balances, and (iv) Transmission Owner's FERC-approved return on equity. Beginning on the first day of the Transmission Owner's Rate Year of the first or second calendar year following the In-Service Date, as applicable based on when the ANUC is determined, and each subsequent Rate Year thereafter, the payment amount shall be updated based on the Transmission Owner's Transmission Formula Rate using data from the previous calendar year and the ANUC. Any adjustment to the relevant inputs to Transmission Owner's Transmission Formula Rate or successor rate under the PJM Tariff used in the Formula shall require a recalculation of the Formula for the period to which such adjustment applies and shall require revised payment amounts, as well as refunds or surcharges, as necessary. Transmission Owner shall provide Project Developer with notice each year of the change in payment amount as a result of annual changes to its Transmission Formula Rate.~~

~~3.5 — Information Sharing. The Transmission Owner and Project Developer shall make available to the other Parties information necessary to verify costs incurred by the other Parties for which the requesting~~

~~Party is responsible under this Agreement and carry out obligations and responsibilities under this NUFA; provided, however, that the Parties shall not use such information for purposes other than those set forth in this Section 3 and to enforce their rights under this NUFA.~~

~~3.6 — Audit. Subject to the requirements of confidentiality under Section 9.2 of this NUFA: (i) the accounts and records related to the design, engineering, procurement, and construction of the Network Upgrades and/or System Protection Facilities shall be subject to audit for a period of twenty-four (24) months following the In-Service Date of each such Network Upgrade; (ii) the accounts and records related to the one-time true-up adjustment provided for in Section 3.7 shall be subject to audit for a period of twenty-four (24) months following the date the true-up adjustment is reflected in the Project Developer's invoice; and (iii) the accounts and records related to the annual inputs to the Formula shall be subject to audit for a period of twelve (12) months following each year's Formula update in accordance with this Section 3. Project Developer at its expense shall have the right, during normal business hours, and upon prior reasonable notice to the other Parties, to audit such accounts and records. Any audit authorized by this Section 3 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this NUFA.~~

~~3.7 — Payment True-Up to Actual Costs. A one-time true-up adjustment shall be calculated within one (1) year of the In-Service Date when the ANUC is known and all costs associated with the ENUC have been accounted for. The true-up adjustment will be equal to the difference between payments collected to date and what the payments to date would have been if the payments had been calculated using the ANUC. The true-up adjustment, either as a credit due or charge to the Project Developer, shall be included in the Project Developer's next payment due, including interest. Interest on the true-up adjustment will begin to accrue the first day of the month following the In-Service Date and will be determined based on the Commission's regulations at 18 C.F.R. § 35.19a. Transmission Provider will invoice Project Developer upon determination of the true-up in accordance with this Section 3.7.~~

~~4. — Security~~

~~4.1 — Provision of Security; Updating Security Amount. The Project Developer shall provide a letter of credit from a reasonably acceptable provider, or other form of reasonably acceptable security that names either the Transmission Provider (for the benefit of the Transmission Owner) or the Transmission Owner as applicable, as the beneficiary in an amount equal to the ENUC (the "Security"). The Project Developer shall have the option to provide the Security to either the Transmission Provider (for the benefit of the Transmission Owner) or the Transmission Owner and shall notify all Parties~~

~~of its election within ten (10) days of receipt of the NUFA from the Transmission Provider. The entity whom the Project Developer chooses to provide with the Security, either the Transmission Provider (for the benefit of the Transmission Owner) or the Transmission Owner, shall determine whether the letter of credit or other form of security is reasonably acceptable. The Security shall be provided to Transmission Provider or Transmission Owner, as applicable, by Project Developer pursuant to this Section 4.1 within the later of: (i) forty-five (45) days of the execution of this NUFA by all Parties; (ii) forty-five (45) days of acceptance of this NUFA by FERC if this NUFA is filed unexecuted and the Security is being protested by Project Developer; or (iii) forty-five (45) days of the date of filing of this NUFA if it is filed unexecuted and the Security is not being protested by Project Developer. To the extent that the Project Developer has provided Security under the GIA for any portion of the Network Upgrades covered by the NUFA, the Security required under this NUFA shall be reduced by the amount of Security required under the GIA for such Network Upgrades. Prior to the release of the Security under the GIA for the Network Upgrades by the Transmission Provider, the Project Developer shall provide additional Security to the Transmission Owner or Transmission Provider, as applicable, under this NUFA in an amount that is equal to the amount of Security for the Network Upgrades released under the GIA. The Security provided under the GIA may be applied to satisfy the Security requirements under the NUFA if the form, terms, and provider of the Security provided under the GIA allow it. In no event shall Project Developer allow Security to lapse between the GIA and this NUFA. The Project Developer must maintain the Security required under this NUFA or the GIA at all times. Likewise, in no event shall Project Developer be required to maintain concurrently the full amount of Security under the GIA and the full amount of Security under this NUFA. The Security may be adjusted to an amount equal to the ANUC after such time that the one-time true-up adjustment as described in Section 3.7 is completed for each Network Upgrade. The Security shall remain with Transmission Provider or Transmission Owner, as applicable, for the remaining months of the Term. At Project Developer's discretion, such Security may be reduced by five percent (5%) (or a prorated portion based on the Term of this NUFA, as agreed by the Parties) of the ANUC of each Network Upgrade on the first anniversary of the In-Service Date of that Network Upgrade and may continue to be reduced by five percent (5%) (or a prorated portion based on the Term of this NUFA, as agreed by the Parties) each year over the Term of this NUFA, provided that any such reduction in the amount of Security must be evidenced to either the Transmission Provider or the Transmission Owner, as applicable, in the form of a revised form of Security reasonably acceptable to the Transmission Owner.~~

~~4.2—Draws on Security. In the event Project Developer fails to make a payment by the Monthly Due Date or Annual Due Date, as applicable, Transmission Provider or Transmission Owner, as applicable, shall be entitled to draw on the Security posted by Project Developer in the~~

~~amount of the missed Payments as well as any accrued interest charges based on the Commission's regulations at 18 C.F.R § 35.19a. If Project Developer fails to make payment by the Monthly Due Date or Annual Due Date, as applicable, and Security has been depleted, Project Developer shall provide to the Transmission Provider (for the benefit of the Transmission Owner) or Transmission Owner, as applicable based on the election in Section 4.1 new irrevocable security, in a form reasonably acceptable ("New Security") within thirty (30) days of the holder's demand for New Security.~~

~~4.3 — Security Requirements. Security shall remain in place until expiration of this NUFA. Any Security provided by Project Developer must be kept active, must continue to meet the security requirements of the Transmission Owner or the Transmission Provider, as applicable, and must be available to Transmission Provider or Transmission Owner, as applicable, for the purpose of making payments under this NUFA in the event that Project Developer fails to make such payment. Any fees or costs associated with the provision of security are the responsibility of the Project Developer.~~

~~4.4 — Tax Gross-Up. Project Developer acknowledges that the construction of the Network Upgrade(s) under the GIA could be subject to tax gross-up, as applicable, upon the Project Developer's default under this NUFA and that the Security provided hereunder could be used to cover such obligations.~~

~~5. — Breach, Default, and Cross Default~~

~~5.1 — General. Upon a Breach of this NUFA, the non-breaching Party or Parties shall give written notice of such Breach to the Breaching Party with a copy to all non-breaching Parties. The Breaching Party shall have thirty (30) days from receipt of the notice of Breach within which to cure such Breach; provided, however, if such Breach is not capable of cure within thirty (30) days, the Breaching Party shall commence such cure within thirty (30) days after notice thereof and shall continuously and diligently complete such cure within ninety (90) days from receipt of the notice of Breach. If cured within such time provided by the foregoing, the Breach specified in such notice shall be deemed cured and treated by the Parties as if it had not occurred. If a Breach is not cured as provided in this Section 5.1, or is not capable of being cured within the period provided for herein, the Breaching Party shall be in default under this NUFA.~~

~~5.2 — Project Developer Default. Project Developer shall be in default of this NUFA if Project Developer: (i) fails to make two (2) consecutive monthly Payments when due or be more than sixty (60) days late in providing an annual payment; provided that, Transmission Provider has given Project Developer notice of and Project Developer has failed to cure such late payments consistent with Section 5.1; (ii) fails to provide New Security within thirty (30) days of the demand for New Security consistent with Section 4.2;~~

~~(iii) terminates operation of its Generating Facility prior to the end of the Term of this NUFA; or (iv) is declared to be in Default under its GIA. In the event of default, Project Developer shall promptly pay to Transmission Provider all Payments still owed under this NUFA. In the event that Project Developer does not promptly pay all amounts due and owing to the Transmission Provider, the Transmission Provider may draw on the remaining balance of the Security provided by the Project Developer. This payment or draw on the Security does not limit any and all rights and remedies available to the Transmission Provider or Transmission Owner allowed by law with respect to such default or collecting all amounts owed for the remaining months due under this NUFA. Project Developer shall indemnify Transmission Provider and Transmission Owner for reasonable costs, attorney fees and/or expenses incurred with respect to a default or collecting all amounts owed for the remaining months, including, as applicable, any tax gross-up obligations under this NUFA.~~

~~5.3 — Transmission Owner Default. Transmission Owner shall be in default of this NUFA if Transmission Owner: (i) fails to provide Project Developer with any of the information access and audit rights provided in Section 3.6; (ii) such failure is not cured following notice from Project Developer as provided in Section 5.1; and (iii) such failure has a material adverse effect on Project Developer's ability to perform under this NUFA.~~

~~5.4 — Cross-Default. This NUFA is a requirement for Interconnection Service under the PJM Tariff when a Transmission Owner has elected to fund the capital for the Network Upgrades and shall be subject to the terms and conditions of the PJM Tariff, including the rights to termination of Interconnection Service. Notwithstanding anything to the contrary contained in this NUFA, a Breach by Project Developer of any provision, covenant or other term or condition contained in this NUFA shall be considered a Breach under the Project Developer's GIA referenced in the recitals to this NUFA. An event of default by Project Developer under Section 5.2 hereof shall, after the passage of all applicable notice and cure or grace periods, be considered a default under this NUFA and a default of the Project Developer's GIA referenced in the recitals to this NUFA. Transmission Owner and Transmission Provider shall be entitled (but in no event required) in an event of such dual Breach or default to apply all rights and remedies available in this NUFA and the GIA by reason of a Breach or default.~~

~~5.5 — Notice of Default. In the event of a default under Project Developer's GIA, Transmission Provider shall provide prompt notice of such default to all affected Transmission Owners that have FERC filed service agreements with Project Developer under the PJM Tariff.~~

6. Reimbursed Network Upgrades

Following the execution of this NUFA, if the Transmission Provider determines that any portion of the costs of the Network Upgrades covered by this NUFA should be allocated to one or more subsequent Generating Facilities (“New Customer(s)”), the Parties shall amend this NUFA and/or enter into new agreements in the form provided in Tariff, Part IX, Subpart L, Form of Network Upgrade Funding Agreement to reflect Project Developer and New Customer’s (or New Customers’) respective responsibility for the remaining costs of the Network Upgrade subject to this NUFA based on the effective date of New Customer’s GIA.

7. Assignment

~~This NUFA shall inure to the benefit of and be binding upon each Party’s successors and permitted assigns. No Party shall assign this NUFA or their related contractual rights without the prior written consent of the other Parties, which prior written consents shall be not be unreasonably withheld or delayed; provided that the assignee is at least as creditworthy as the assigning Party and the assignee of the Project Developer shall provide Transmission Owner with Security as contemplated herein; and provided further that Project Developer shall have the right to assign this NUFA, without the consent of either the Transmission Provider or the Transmission Owner, for collateral security purposes to aid in providing financing for the Generating Facility, provided that Project Developer will promptly notify Transmission Provider and Transmission Owner of any such assignment. No assignment of this NUFA shall release or discharge any Party from their future obligations hereunder unless all such obligations are assumed by the successor or assignee of that Party in writing.~~

8. No Transmission Service

The execution of a NUFA does not constitute a request for transmission service, or entitle Project Developer to receive transmission service, under Tariff, Part II or Tariff, Part III. Nor does the execution of an NUFA obligate Transmission Owner or Transmission Provider to procure, supply or deliver to Project Developer or the Generating Facility any energy, capacity, Ancillary Services or Station Power (and any associated distribution services).

9. Miscellaneous

9.1 Entire Agreement. ~~This NUFA represents the entire agreement among the Parties with reference to payment terms for the Network Upgrade(s) provided by Transmission Owner for Project Developer under the GIA. This NUFA may not be amended, modified, or waived other than by a written document signed by all Parties.~~

9.2 Confidentiality

~~9.2.1 Definition. Confidential Information under this NUFA shall have the same meaning as provided in the PJM Tariff. Critical Energy/Electric Infrastructure Information (“CEI”) shall have the meaning provided in 18 C.F.R. § 388.113(e)(1)-(2).~~

~~9.2.2 Term. During the Term of this NUFA, and for a period of three (3) years after the expiration or termination of the NUFA, except as otherwise provided in this Section 9.2 or with regard to CEI, each Party shall hold in confidence, and shall not disclose to any person, Confidential Information provided to it by any other Party. In addition to being treated as Confidential Information hereunder, CEI shall be treated in accordance with Commission policy and regulations.~~

~~9.2.3 Scope. Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (v) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this NUFA; or (vi) is required, in accordance with Section 9.2.8, to be disclosed to any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this NUFA. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.~~

~~9.2.4 Release of Confidential Information. No Party shall disclose Confidential Information to any other person, except to its Affiliates (limited by the Commission’s Standards of Conduct for Transmission Providers, 18 C.F.R. Part 358), subcontractors, employees, agents, consultants, or to non-parties who may be or are considering providing financing to or equity participation with Project Developer, or to potential purchasers or assignees of Project Developer, on a need-to-know basis in connection with this NUFA, unless such person has first been advised of the confidentiality provisions of this Section 9.2 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing~~

~~Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Section 9.2.~~

~~9.2.5 Rights. Each Party retains all rights, title, and interest in the Confidential Information that it discloses to any other Party. The disclosure by a Party to the receiving Party of Confidential Information shall not be deemed a waiver by the disclosing Party or any other person or entity of the right to protect the Confidential Information from public disclosure. Nothing in this NUFA shall limit or otherwise modify Transmission Provider's rights and obligations with respect to Confidential Information as set forth in the PJM Tariff.~~

~~9.2.6 No Warranties. By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to another Party nor to enter into any further agreements or proceed with any other relationship or joint venture.~~

~~9.2.7 Standard of Care. Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to another Party under this NUFA or its regulatory requirements.~~

~~9.2.8 Order of Disclosure. If a Governmental Authority with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the disclosing Party with prompt notice of such request(s) or requirement(s) so that the disclosing Party may seek an appropriate protective order or waive compliance with the terms of this NUFA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.~~

~~9.2.9 Termination of Agreement. Upon termination of this NUFA for any reason, each Party shall, within ten (10) days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction,~~

~~erasure, and deletion certified in writing to the requesting Party) or return to the requesting Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting Party.~~

~~9.2.10 Remedies.— The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's breach of its obligations under this Section 9.2. Each Party accordingly agrees that the disclosing Party shall be entitled to equitable relief, by way of injunction or otherwise, if the receiving Party breaches or threatens to breach its obligations under this Section 9.2, which equitable relief shall be granted without bond or proof of damages, and the breaching Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the breach of this Section 9.2, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Section 9.2.~~

~~9.2.11 Disclosure to FERC or its Staff. Notwithstanding anything in this Section 9.2 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from a Party that is otherwise required to be maintained in confidence pursuant to this NUFA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this NUFA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to this NUFA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.~~

~~9.2.12 Competitively Sensitive Information. Subject to the exception in Section 9.2.11, any information that a disclosing Party claims is competitively sensitive, commercial or financial information under this NUFA shall not be disclosed by the receiving Party to any person not employed or retained by the receiving Party, except to the extent disclosure is (i) required by law; (ii)~~

~~reasonably deemed by the receiving Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the disclosing Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this NUFA or as the Regional Transmission Organization including disclosing the Confidential Information to a regional or national reliability organization. The Party asserting confidentiality shall notify the receiving Party in writing of the information that Party claims is confidential. Prior to any disclosures of that Party's Confidential Information under this Section 9.2.12, or if any non-Party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the Party who received the Confidential Information from the disclosing Party agrees to promptly notify the disclosing Party in writing and agrees to assert confidentiality and cooperate with the disclosing Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.~~

~~9.3 — Regulatory Approval. This NUFA and its terms shall be subject to approval, if applicable, by the Commission. This NUFA and its terms shall also be subject to, as applicable, the PJM Tariff.~~

~~9.4 — Force Majeure.~~

~~9.4.1 — Notice. A Party that is unable to carry out an obligation imposed on it by this NUFA due to Force Majeure shall notify the other parties in writing or by telephone within a reasonable time after the occurrence of the cause relied on.~~

~~9.4.2 — Duration of Force Majeure. A Party shall not be responsible, or considered to be in Breach or default under this NUFA, for any failure to perform any obligation hereunder to the extent that such failure or deficiency is due to Force Majeure. A Party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the Party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing Party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such Party shall resume performance and give prompt notice thereof to the other parties.~~

~~9.4.3 — Obligation to Make Payments. Any Party's obligation to make payments for services shall not be suspended by Force Majeure.~~

~~9.4.4 — Definition of Force Majeure. For purposes of this section, an event of Force Majeure shall mean any cause beyond the control of the affected Party, including but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of due diligence such Party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force Majeure does not include (i) a failure of performance that is due to an affected Party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected Party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected Party.~~

~~9.5 — Disputes. Any dispute hereunder shall be referred to senior representatives of each Party. If the senior representatives are not able to resolve the dispute within thirty (30) days, the dispute resolution procedures of Tariff, Part I section 12 and Tariff, Part IV, section 40 shall apply to the resolution of any dispute hereunder.~~

~~9.6 — Reservation of Rights. Nothing in this NUFA shall limit the rights of the Parties or of FERC under Section 205 and 206 of the Federal Power Act and FERC's rules and regulations thereunder.~~

~~9.7 — Liability. A party shall not be liable to another Party or to any third party or other person for any damages arising out of actions under this NUFA, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of Interconnection Service, except as provided in the PJM Tariff. The provisions set forth in the PJM Tariff shall be additionally applicable to any Party acting in good faith to implement or comply with its obligations under this NUFA, regardless of whether the obligation is preceded by a specific directive.~~

~~9.8 — Governing Law. This NUFA is governed by and shall be construed in accordance with laws of the State of Delaware, without regard for any principles of conflicts of laws.~~

~~9.9 — No Waiver. It is mutually understood that any failure by Transmission Provider or Transmission Owner or inconsistency to enforce or require the strict keeping and performance by Project Developer of any of the provisions of this NUFA shall not constitute a waiver by Transmission Provider or Transmission Owner of such provisions, and shall not affect or impair such provisions in any way, or the right of Transmission Provider or Transmission Owner at any time to avail itself of such remedies as it may have~~

for any breach or breaches of such provisions. The waiver, illegality, invalidity and/or unenforceability of any provision appearing in this NUFA shall not affect the validity of this NUFA as a whole or the validity or any other provisions therein.

~~9.10 — Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NUFA. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.~~

10. — Notice

~~10.1 — General. Any notice, demand or request required or permitted to be given by any Party to another and any instrument required or permitted to be tendered or delivered by any Party in writing to another may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address specified in Section 10.2. Such notices, if agreed to by the Parties, may be made via electronic means, with e-mail confirmation of delivery.~~

~~10.2 — Contacts. Any Party may update its contact information by providing notice to the other Parties in accordance with Section 10.1.~~

Transmission Owner

{Name}
{Company or Organization}

{Business Address}
{City, State Zip}
{Email}

Project Developer

{Name}
{Company or Organization}

{Business Address}
{City, State Zip}
{Email}

Transmission Provider

{Name}
PJM Interconnection, L.L.C.

2750 Monroe Blvd
Audubon, PA 19403
interconnectionagreementnotices@pjm.com
iii

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SIGNATURE PAGE FOLLOWS

~~IN WITNESS WHEREOF, Transmission Provider, Project Developer and Transmission Owner have caused this NUFA to be executed by their respective authorized officials.~~

~~(PJM Cycle Position # _____)~~

~~Transmission Provider: _____ **PJM Interconnection, L.L.C.**~~

~~By: _____

_____ Printed Name _____ Title _____ Date~~

~~Project Developer: _____ [Name of Party]~~

~~By: _____

_____ Printed Name _____ Title _____ Date~~

~~Transmission Owner: _____~~

~~By: _____

_____ Printed Name _____ Title _____ Date~~

Schedule A
Network Upgrade Facilities

Schedule B

Formula Rate Exhibit

1		-	PJM TO @	-
2			21% FIT	
3			Schedule B	
4			<u>Levelized Fixed Charge Rate Calculation with Deferred Reco</u>	
5			(Blank	
6			Template)	
7	Project Name:	20XX Network Upgrade project		
8				
9	Description	20XX Network Upgrade project		
10				
11	Cost Year:	20XX Actual True up	-	-
12				
13	Estimated or Actual Cost and ISD:	Actual cost; Actual ISD 6/1/20XX	-	-
14				
15	Rate Recovery Period:	June 1, 20XX thru May 31, 20XX	-	-
16				
17	Levelized Fixed Charge Computation:			
18				
19	Initial Network Upgrade Capital Cost	-	-	-
20	Levelized FCR with Deferred Recovery		(Line 57)	0.
21	Annual Network Upgrade			
22	Charge		(Line 19 x Line 20)	
23			(Line 21 /	
24	Monthly Payment	-	12)	-
25				
26	Fixed Charge Rate Calculation:			
27				
28	Investment		(Line 19)	
29	PW Federal Tax Depreciation		[Line 109, Col (f)]	
30	Applicable federal tax rate		(Line 64)	
31	PW Federal Tax Benefit		(Line 28 x Line 29)	
32				
33	PW State Tax Depreciation		[Line 109, Col (g)]	
	Applicable state tax rate		(Line 65)	

34	PW State Tax Benefit				(Line 32 x Line 33)	
35						
	PW Tax					
36	Benefit				(Line 30 + Line 34)	
37	Present Worth Cashflow				(Line 26 - Line 36)	
38	Revenue Conversion Factor				$[1/(1 - \text{Line 63})]$	
39	Present Worth Revenue Requirement				(Line 37 x Line 38)	
40						
	In Service					
41	Date					6/
42	Recovery Start Date					6/
43	Deferral Days (February counted as 28 days)					
	Deferral Annualization Factor (based on 365					
44	days)				(Line 43/365)	0.5
45	Discount Rate per Year				(Line 75)	0.5
	Deferral				$\{[(1 + \text{Line 45})^{\text{Line 44}}] - 1\}$	0.5
46	Factor					
47	Deferral Adjustment				(Line 39 x Line 46)	
48						
49	Present Worth with Deferred Recovery				(Line 39 + Line 47)	
50						
51	Recovery Period (RP)					
52	Annualization Factor				$\{i [(1+i)^{\text{RP}}]\} / \{[(1+i)^{\text{RP}}] - 1\}$	0.5
53					(where RP is Line 51, and i is Line 45)	
54						
55	Levelized Amount				(Line 49 x Line 52)	
56						
57	Levelized Fixed Charge Rate (FCR)				(Line 55 / Line 26)	0.5
58						
59						
	20XX Network Upgrade					
60	Project Name: project					
61						
62	Inputs from Formula Rate True-up Filing	-	-	-	-	
63	Combined Tax Rate		0.00%			
64	Applicable Federal Income Tax Rate		0.00%			
	Applicable State Income Tax					
65	Rate		0.00%			
66						
67						
68	Capital Structure	-	Amount	Weight	Cost	Wei
69						C

70	Long-Term Debt Preferred			0	0.00%	0.00%	0.00%
71	Stock Common			0	0.00%	0.00%	0.00%
72	Equity			0	0.00%	0.00%	0.00%
73	Total Capitalization			0	0.00%	0.00%	0.00%
74							
75	Discount Rate			(Line 73 – (Line 63 x Line 70))			0.00%
76							
77							
78							
79							
80	MACRS Depreciation Rates with Bonus Depreciation Option:			-	-	-	-
81							
82		(a)	(b)	(c)	(d)	(e)	(f)
83	Year		MACRS Rates	MACRS Depr	State Depr	Present Worth Factor	Present Worth Federal Tax Depreciation
84						$1/(1+i)^n$	
85							
86			-	-	-		
87							
88	Base		(Line 19)	\$0	\$0		
89	Remaining Base	1	0.00%	0		1.000000	0
90			(Line 88 - Line 89)	0.0			
91							
92		1	5.00%	0	0	1.000000	0
93		2	9.50%	0	0	1.000000	0
94		3	8.55%	0	0	1.000000	0
95		4	7.70%	0	0	1.000000	0
96		5	6.93%	0	0	1.000000	0
97		6	6.23%	0	0	1.000000	0
98		7	5.90%	0	0	1.000000	0
99		8	5.90%	0	0	1.000000	0
100		9	5.91%	0	0	1.000000	0
101		10	5.90%	0	0	1.000000	0
102		11	5.91%	0	0	1.000000	0
103		12	5.90%	0	0	1.000000	0
104		13	5.91%	0	0	1.000000	0
105		14	5.90%	0	0	1.000000	0
106		15	5.91%	0	0	1.000000	0
107		16	2.95%	0	0	1.000000	0

108	-	-	-	-	-	-	-
109	Total		0	0		0	
110							
111	Footnote:						
112	Use Line 89 if bonus depreciation is applicable	-	-	-	-	-	-
113	-	-	-	-	-	-	-

Return \ Capitalization Calculations From Transmission Formula Rate True-up Filing

Line or Note	Actual		Cap Li	
	\$	%	-	%
-	Does the formula rate template include a Capital Structure Equity Limit (Cap)? (Yes or No)			
-	Long Term Debt	0	0.00%	0.0
-	Preferred Stock	0	0.00%	0.0
-	Common Stock	0	0.00%	0.0
	Total Capitalization (Sum Lines to)	0		

Income Tax Rates From Transmission Formula Rate True-up Filing

-	FIT =	0.00%
-	SIT =	0.00%
-	p =	0.00%
	INCOME TAXES	
-	$T = 1 - \frac{[(1 - SIT) * (1 - FIT)]}{(1 - SIT * FIT * p)}$ =	0.00%

<i>Notes:</i>	-	-	-	-	-	-
-	-					
-	-					
-	-	-	-	-	-	-
-	-	-	-	-	-	-

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DRAFT

Tariff, Part IX, Subpart LM
Affected System Customer Facilities Study
Application and Agreement

DRAFT

**Tariff Part IX, ~~Subpart~~ SubpartLM, Affected System Customer Facilities Study
Application and Agreement**
(Project Identifier # [redacted])

RECITALS

1. This Affected System Customer Facilities Study Application and Agreement ("Agreement"), dated as of _____, is entered into by and between _____ ("Affected System Customer") and PJM Interconnection, L.L.C. ("Transmission Provider"), pursuant to the PJM Interconnection, L.L.C. Open Access Transmission Tariff ("PJM Tariff").
2. Pursuant to Tariff, Part VIII, Subpart G (Affected System rules) or Tariff, Part VIII, Subpart G (Affected System rules), as applicable, Affected System Customer is responsible for an Affected System Facility that requires, or Affected System Facilities that require, Network Upgrades to Transmission Provider's Transmission System, and Transmission Provider has notified Transmission Provider of the need to enter this Agreement.
3. Transmission Provider has informed Affected System Customer that it will use Reasonable Efforts to complete this Affected System Customer Facilities Study by {date}.
4. Affected System Customer desires that Transmission Provider commence an Affected System Customer Facilities Study in connection with the following interconnection request: {instruction – list adjacent region transmission provide and interconnection request number} ("Affected System interconnection request").

PREVIOUS SUBMISSIONS

5. Previous submissions: {instructions – complete the following section if there was an earlier Affected System Customer Facilities Study Agreement or other agreement between PJM and the Affected System Customer, otherwise replace the following language with "Not Applicable"} Except as otherwise specifically set forth in an attachment to this Agreement, Affected System Customer represents and warrants that the information provided in {list applicable agreement} dated _____, is accurate and complete as of the date of execution of this Agreement.

MILESTONES

6. Affected System Customer must meet the following milestone dates relating to the development of its generation or merchant transmission project(s) or interconnection request:

[Specify Project Specific Milestones]

[As appropriate include the following standard Milestones, with any revisions necessary for the project at hand]

PURPOSE AND SCOPE OF THE AFFECTED SYSTEM CUSTOMER FACILITIES STUDY

- 7. Transmission Provider, in consultation with the affected Transmission Owner(s), shall commence an Affected System Customer Facilities Study pursuant to this Agreement to evaluate the Network Upgrades to the Transmission Provider’s Transmission System necessary to accommodate Affected System Customer's Affected System interconnection request.
 - A. **Scope of Affected System Customer Facilities Study:** The purpose of the Affected System Customer Facilities Study is to provide, commensurate with any mutually agreed parameters regarding the scope and degree of specificity described in Schedule A attached to this agreement, an assessment of project related system reliability issues and conceptual engineering and, as appropriate, detailed design, plus cost estimates and project schedules, to implement the conclusions of the Facilities Study regarding the Network Upgrades necessary to accommodate the Affected System interconnection request. The nature and scope of the materials that Transmission Provider shall deliver to the Affected System Customer upon completion of the Affected System Customer Facilities Study shall be described in the PJM Manuals.
 - B. **Affected System Customer Facilities Study Time Estimate:** Transmission Provider's estimates of the date for completion of the Affected System Customer Facilities Study is stated in section 3 of this Agreement. In the event that Transmission Provider determines that it will be unable to complete the Affected System Customer Facilities Study by the estimated completion date stated in section 3 of this Agreement, it shall notify Affected System Customer and will explain the reasons for the delay.
 - C. **Issuance of Affected System Customer Facility Study Report and Obligation to Construction Service Agreement:** Upon receipt of the Affected System Customer Facility Study report, Transmission Provider and the Affected System Customer shall enter into a stand-alone Construction Service Agreement and, if

applicable Network Upgrade Cost Responsibility Agreement (forms of which are set forth in Tariff, Part IX) for the construction of the upgrades with each Transmission Owner responsible for constructing such upgrades. Transmission Provider shall provide in electronic form a draft stand-alone Construction Service Agreement and, if applicable a Network Upgrade Cost Responsibility Agreement.

8. The Affected System Customer Facilities Study necessarily will employ various assumptions including assumptions regarding Affected System Customer's Affected System interconnection request, other pending Interconnection Request(s), and PJM's Regional Transmission Expansion Plan at the time of the study. IN NO EVENT SHALL THIS AGREEMENT OR THE AFFECTED SYSTEM CUSTOMER FACILITIES STUDY IN ANY WAY BE DEEMED TO OBLIGATE TRANSMISSION PROVIDER OR THE TRANSMISSION OWNERS TO CONSTRUCT ANY FACILITIES OR UPGRADES OR TO PROVIDE ANY TRANSMISSION OR INTERCONNECTION SERVICE TO OR ON BEHALF OF NEW SERVICE CUSTOMER EITHER AT THIS POINT IN TIME OR IN THE FUTURE.

CONFIDENTIALITY

9. Affected System Customer agrees to provide all information requested by Transmission Provider necessary to complete the Affected System Customer Facilities Study. Subject to section 10 of this Agreement and to the extent required by Tariff, Subpart XIII, section **[confidentiality provisions]**, information provided pursuant to this section 9 shall be and remain confidential.
10. Until completion of the Affected System Customer Facilities Study, Transmission Provider shall keep confidential all information provided to it by the Affected System Customer. Upon completion of the Affected System Customer Facilities Study, the Affected System Customer Facilities Study results will be publicly available on Transmission Provider's website; Affected System Customers must obtain the results from Transmission Provider's website. (**reference providing workpapers, etc.**). Transmission Provider shall provide a copy of the study to Affected System Customer, along with (to the extent consistent with Transmission Provider's confidentiality obligations in Section 18.17 of the Operating Agreement) all related work papers. Affected System Customer acknowledges and consents to such other, additional disclosures of information as may be required under the PJM Tariff or the FERC's rules and regulations.
11. Affected System Customer acknowledges the affected Transmission Owner(s) may participate in the Affected System Customer Facilities Study process and that Transmission Provider may disseminate information to the affected Transmission Owner(s) and may consult with them regarding part or all of the Affected System Customer Facilities Study.

COST RESPONSIBILITY

12. Concurrent with execution of this Agreement, Affected System Customer shall provide a study deposit of \$100,000 (“Study Deposit”), through electronic wire transfer, which must be in cash. Transmission Provider shall apply Affected System Customer’s Study Deposit in payment of the invoices for the costs of the Affected System Customer Facilities Study. Actual study costs may exceed the Study Deposit. Affected System Customer shall include the project identification or reference number assigned to the Affected System Facility by the Affected System Operator and attach the relevant Affected System Operator Study that identified the need for such Facilities Study Agreement. Notwithstanding the amount of the Study Deposit, Affected System Customer shall reimburse Transmission Provider for all of the actual cost of the Affected System Customer Facilities Study. If Transmission Provider sends Affected System Customer notification of additional study costs, then Affected System Customer must pay all additional study costs within 20 Business Days of Transmission Provider sending the notification of such additional study costs. If Affected System Customer fails to pay such amounts, then Transmission Provider shall deem this Agreement to be terminated and withdrawn.

DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

13. In analyzing and preparing the Affected System Customer Facilities Study, Transmission Provider, the Transmission Owners, and any other subcontractors employed by Transmission Provider shall have to rely on information provided by Affected System Customer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER THE TRANSMISSION PROVIDER, THE TRANSMISSION OWNERS, NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE AFFECTED SYSTEM CUSTOMER FACILITIES STUDY. Affected System Customer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Agreement nor the Facilities Studies prepared hereunder is intended, nor shall either be interpreted, to constitute agreement by Transmission Provider or Transmission Owner(s) to provide Interconnection Service or transmission service to or on behalf of Applicant either at this time or in the future.
14. In no event will Transmission Provider, the Transmission Owners or other subcontractors employed by Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, arising under or in connection with this Agreement or the Affected System Customer Facilities Study, even if Transmission Provider, the Transmission Owners, or other subcontractors employed by Transmission Provider have been advised of the possibility of such a loss. Nor shall Transmission Provider, the Transmission Owners, or other subcontractors employed by

Transmission Provider be liable for any delay in delivery, or for the non-performance or delay in performance, of Transmission Provider's obligations under this Agreement.

Without limitation of the foregoing, Affected System Customer further agrees that the Transmission Owners and other subcontractors employed by Transmission Provider to prepare or assist in the preparation of any Affected System Customer Facilities Study shall be deemed third party beneficiaries of this provision entitled "Disclaimer of Warranty/Limitation of Liability."

MISCELLANEOUS

15. Any notice or request made to or by either party regarding this Agreement shall be made to the representative of the other party as indicated below.

Transmission Provider

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com



Affected System Customer

16. No waiver by either party of one or more defaults by the other in performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
17. This Agreement or any part thereof, may not be amended, modified, assigned or waived other than by a writing signed by all parties hereto.
18. This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assigns.
19. Neither this Agreement nor the Affected System Customer Facilities Study performed hereunder shall be construed as an application for service under Part II or Part III of the PJM Tariff.
20. The provisions of Tariff, Part VII or Tariff, Part VIII, as applicable are incorporated herein and made a part hereof.
21. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the PJM Tariff.

22. This Agreement shall become effective on the date it is executed by all parties and shall remain in effect until the earlier of (a) the date on which the Transmission Provider tenders the completed Affected System Customer Facilities Study and, as applicable, a proposed Upgrade Construction Service Agreement to Affected System Customer, or (b) termination and withdrawal of the Affected System interconnection request(s).

23. No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the parties, and the obligations herein assumed are solely for the use and benefit of the parties, their successors in interest and where permitted, their assigns.

24. Multiple Counterparts

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

25. No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

26. Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

27. Governing Law, Regulatory Authority, and Rules

This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

28. Reservation of Rights

Transmission Provider shall have the right to make a unilateral filing with the Federal Energy Regulatory Commission (“FERC”) to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC’s rules and regulations thereunder; and Applicant shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC’s rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC’s rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

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IN WITNESS WHEREOF, Transmission Provider and the Affected System Customer have caused this Agreement to be executed by their respective authorized officials.

(Project Identifier # [REDACTED])

Transmission Provider: PJM Interconnection, L.L.C.

By: _____

Name

Title

Date

Printed Name

Affected System Customer: [Name of Party]

By: _____

Name

Title

Date

Printed Name

DRAFT

Schedule A
Details of Design and Cost Estimates/Quality
For the Affected System Customer Facilities Study

[insert details regarding degree of accuracy of cost estimates and associated scope of design as mutually agreed by Transmission Provider and Affected System Customer]

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