

ORDINANCE NO. 2014- 15

AN ORDINANCE AUTHORIZING THE VINELAND MUNICIPAL ELECTRIC UTILITY TO EXECUTE A SERVICE AGREEMENT WITH ENERGY AMERICA, LLC., FOR CAPACITY AND ENERGY TRANSACTIONS.

WHEREAS, the City of Vineland owns and operates the Vineland Municipal Electric Utility for the benefit of its citizens; and

WHEREAS, the Vineland Municipal Electric Utility is constantly seeking ways to provide higher quality services and lower costs to its customers; and

WHEREAS, the Energy Policy Act of 1992 has created new opportunities for buying, selling, transmitting, and exchanging capacity and energy that may benefit the Vineland Municipal Electric Utility; and

WHEREAS, new types of energy services and short term power supply agreements that appear to provide opportunities to reduce power supply costs are being offered by electric utilities and power marketers; and

WHEREAS, various electric utilities and power marketers have provided unsolicited offers in the form of “enabling agreements” which, if the agreements were in effect, would permit power supply purchases to occur when such transactions would be advantageous to the Vineland Municipal Electric Utility; and

WHEREAS, enabling agreements have become the basis for most energy purchases and sales in the Pennsylvania-New Jersey-Maryland Interconnection and have substantially displaced split savings transactions because the agreements permit utilities to take advantage of lower cost power supplies that may be available from time to time; and

WHEREAS Energy America, LLC, has on file with the Federal Energy Regulatory Commission (FERC) a Power Purchase and Sale Agreement accepted by FERC under Docket Nos. ER 02-1632 and ER 11-1848, which allow for the sale of electric energy to wholesale customers, and specifies a service agreement for such sales; and

WHEREAS, ORDINANCE NO. 95-44 authorizes Vineland Municipal Electric Utility (VMEU) to submit this Master Power Purchase and Sale Agreement to City Council for approval;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Vineland as follows:

1. That Vineland Municipal Electric Utility hereby submits Energy America, LLC’s Master Power Purchase and Sale Agreement, to City Council for approval and the mayor’s signature, the original to be filed with the Municipal Clerk.
2. That the Director of Municipal Utilities or his designee is authorized to make short term (not to exceed 1 year duration) energy and associated transmission transactions under this tariff when they are beneficial to the City.

3. That any service agreements entered into between the Vineland Municipal Electric Utility and Energy America, LLC shall be filed in a timely manner with the Municipal Clerk and the Purchasing Agent.
4. That the service agreements are in accordance with NJSA 40A:11-5(f); since said agreement is regulated by the US Federal Energy Regulatory Commission.

That this Ordinance shall take effect upon passage and publication as provided by law.

Passed First Reading:

Passed Final Reading:

President of Council

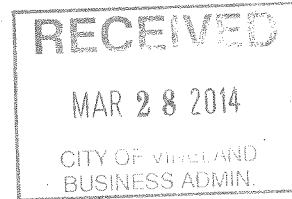
Approved by the Mayor:

Mayor

ATTEST:

City Clerk

March 20, 2014



Memo to William Lutz

Business Administrator

From: Todd Weaver, Supervising Interconnection Technician

RE: Master Power Agreement for Energy America, LLC

Vineland Municipal Utility has been in negotiations with Direct Energy and its power trading company, Energy America LLC to work out details on modifying the standard EEI power purchase agreement and Parent Guarantee to meet VMU and NJ state standards and laws. We have come to a final agreement. Attached you will find a partially executed Power Purchase Agreement and Parental Guarantee from Centrica plc.

I request a new ordinance adopting this Enabling agreement with subject power supplier per city ordinance 95-44. The agreement made up of two parts, the EEI Power Purchase Agreement and the Parental Guarantee.

Approved

A handwritten signature in dark ink, appearing to read "J. Isabella", written over a horizontal line.

Joseph Isabella

Director Municipal Utilities

Attachments



12 Greenway Plaza, Suite 250
Houston, Texas 77046
713-877-3500
www.directenergy.com

VIA FEDERAL EXPRESS

March 13, 2014

Mr. Todd Weaver
City of Vineland
211 N. West Avenue
Vineland, NJ 08360

RE: EEI Master Power Purchase & Sale Agreement between City of Vineland, NJ and Energy America, LLC

Dear Mr. Weaver:

Enclosed you will find:

- Two (2) partially executed originals of the referenced Agreement(s). If the enclosed meets with your approval, please route for execution of each by the appropriate officer of your company and return one (1) original for our files to the letterhead address.

Energy America, LLC appreciates the opportunity to do business with you and we look forward to doing more business with you and your company in the future.

If you should need further assistance, please don't hesitate to call me at 713.904.7106.

Sincerely,
Tanya Beltran
Contract Administrator
Legal Department
Direct Energy Business
12 Greenway Plaza, Suite 250
Houston, TX 77046
Direct 713.904.7106
FX 713.621.5648

VIA FEDERAL EXPRESS

March 10, 2014

City of Vineland, NJ
211 N. west Avenue
Vineland, NJ 08362-1508

RE: Parental Guarantee from Centrica plc for an EEI Master Power Purchase and Sale Agreement between the City of Vineland, NJ and Energy America, LLC, dated February 18, 2014

Dear Mr. Todd Weaver:

Enclosed you will find:

- Two (2) originals of the referenced Agreements(s). If the enclosed meets with your approval, please route for execution by the appropriate officer of your company and return both partially executed originals to my attention at the letterhead address. I will complete the execution process and return one (1) fully executed original for your files.
- Two (2) partially executed originals of the referenced Agreement(s). If the enclosed meets with your approval, please route for execution of each by the appropriate officer of your company and return one (1) original for our files to the letterhead address.
- Please initial the changes on the enclosed Agreement(s), retain one (1) original and return one (1) original for our files to the letterhead address.
- One (1) fully executed original of the referenced Agreement(s) to retain for your files. We have retained one (1) original for our files.

Direct Energy appreciates the opportunity to do business with you and we look forward to doing more business with you and your company in the future.

If you should need further assistance, please don't hesitate to call me at 403-776-2029

Sincerely,



Deanna Rasmussen
Sr. Contract Negotiator – Upstream Legal

Enclosure(s)

Master Power Purchase & Sale Agreement



Version 2.1 (modified 4/25/00)

©COPYRIGHT 2000 by the Edison Electric Institute and National Energy Marketers Association

ALL RIGHTS RESERVED UNDER U.S. AND FOREIGN LAW, TREATIES AND CONVENTIONS
AUTOMATIC LICENSE – PERMISSION OF THE COPYRIGHT OWNERS IS GRANTED FOR REPRODUCTION BY DOWNLOADING
FROM A COMPUTER AND PRINTING ELECTRONIC COPIES OF THE WORK. NO AUTHORIZED COPY MAY BE SOLD. THE
INDUSTRY IS ENCOURAGED TO USE THIS MASTER POWER PURCHASE AND SALE AGREEMENT IN ITS TRANSACTIONS.
ATTRIBUTION TO THE COPYRIGHT OWNERS IS REQUESTED.

MASTER POWER PURCHASE AND SALES AGREEMENT

TABLE OF CONTENTS

COVER SHEET.....	1
GENERAL TERMS AND CONDITIONS	6
ARTICLE ONE: GENERAL DEFINITIONS	6
ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS.....	11
2.1 Transactions	11
2.2 Governing Terms.....	11
2.3 Confirmation.....	11
2.4 Additional Confirmation Terms.....	12
2.5 Recording	12
ARTICLE THREE: OBLIGATIONS AND DELIVERIES	12
3.1 Seller's and Buyer's Obligations.....	12
3.2 Transmission and Scheduling.....	12
3.3 Force Majeure	13
ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE.....	13
4.1 Seller Failure.....	13
4.2 Buyer Failure.....	13
ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES	13
5.1 Events of Default.....	13
5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts.....	15
5.3 Net Out of Settlement Amounts.....	15
5.4 Notice of Payment of Termination Payment.....	15
5.5 Disputes With Respect to Termination Payment	15
5.6 Closeout Setoffs	16
5.7 Suspension of Performance.....	16
ARTICLE SIX: PAYMENT AND NETTING.....	16
6.1 Billing Period	16
6.2 Timeliness of Payment.....	17
6.3 Disputes and Adjustments of Invoices.....	17
6.4 Netting of Payments.....	17
6.5 Payment Obligation Absent Netting.....	17
6.6 Security.....	18
6.7 Payment for Options.....	18
6.8 Transaction Netting.....	18

ARTICLE SEVEN: LIMITATIONS	18
7.1 Limitation of Remedies, Liability and Damages	18
ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS	19
8.1 Party A Credit Protection.....	19
8.2 Party B Credit Protection.....	21
8.3 Grant of Security Interest/Remedies.....	22
ARTICLE NINE: GOVERNMENTAL CHARGES	23
9.1 Cooperation.....	23
9.2 Governmental Charges.....	23
ARTICLE TEN: MISCELLANEOUS.....	23
10.1 Term of Master Agreement.....	23
10.2 Representations and Warranties.....	23
10.3 Title and Risk of Loss	25
10.4 Indemnity.....	25
10.5 Assignment.....	25
10.6 Governing Law.....	25
10.7 Notices.....	26
10.8 General.....	26
10.9 Audit.....	26
10.10 Forward Contract.....	27
10.11 Confidentiality.....	27
SCHEDULE M: GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEMS.....	28
SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS.....	32
EXHIBIT A: CONFIRMATION LETTER	39

MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: February 18, 2014 (“*Effective Date*”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “*Agreement*.” The Parties to this *Master Agreement* are the following:

Name: “City of Vineland, NJ” or “Party A” or “BUYER”

All Notices:

Street: 640 E Wood Street, P.O. Box 1508

City: Vineland, NJ Zip: 08362-1508

Attn: Joseph Isabella

Phone: 856-794-4000 ext 4167

Facsimile: 856-405-4622

Duns: 073739955

Federal Tax ID Number: 21-6001670

Invoices:

Attn: Donna Brenoskie

Phone: 856-794-4000 ext 4162

Facsimile: 856-405-4622

Scheduling:

Attn: Todd Weaver

Phone: 856-794-4000 ext 4352

Facsimile: 856-405-4614

Payments:

Attn: Roxanne Tosto

Phone: 856-794-4000 ext 4640

Facsimile: 856-794-4327

Wire Transfer:

BNK: Susquehanna Bank

ABA: 031309123

ACCT: 10006932973

Credit and Collections:

Attn: Susan Baldosaro

Phone: 856-794-4000 Ext 4169

Facsimile: 856-690-9511

Name: Energy America, LLC or “Party B” or “SELLER

All Notices:

Street: 12 Greenway Plaza, Suite 250

City: Houston, TX Zip: 77046

Attn: VP, Head of Upstream Legal

Phone: 713-877-3851

Facsimile: 713-877-3552

Duns: 85-844-3377

Federal Tax ID Number: 03-1514890

Invoices:

Attn: Accounting - Commodity Settlements

Phone: 713-877-3500

Email:

EMGPhysPowerSettlements@directenergy.com

Scheduling:

Attn: Perry Sheive

Phone: 713-877-3669

Facsimile: 713-877-3552

Payments:

Attn: Accounting - Commodity Settlements

Phone: 713-877-3500

Email:

EMGPhysPowerSettlements@directenergy.com:

Wire Transfer:

BNK: Citibank, N.A.

ABA: 031100209

ACCT: 38826211

Credit and Collections:

525 – 8th Ave SW, Suite 1200

Calgary, AB T2P 1G1

Attn: Credit Risk Management

Phone: 403-776-2246

Facsimile: 403-290-6770

With additional Notices of an Event to:
Attn: Yolanda Hill
Phone: 856-794-4000 Ext 4767
Facsimile: 856-690-9511

With additional Notices of an Event of Default or Potential
Event of Default to:
Attn: VP Head of Upstream Legal
Phone: 713-877-3851
Facsimile: 713-877-3552

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff n/a _____ Dated _____ Docket Number _____

Party B Tariff: FERC Electric Tariff Dated: May 29, 2002, *aff'd*, October 20, 2010 Docket Number: ER02-1632, *aff'd*, ER11-1848, Original Volume 1

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4.
If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:
 Party A: Cross Default Amount:
Vineland \$5,000,000
 Other Entity: Cross Default Amount:
 Cross Default for Party B:
 Party B: Cross Default Amount:
 Other Entity: Centrica plc Cross Default Amount:
\$50,000,000

5.6 Closeout Setoff

- Option A (as amended below)
- Option B
- Option C (No Setoff)

Article 8 ARTICLE 8 IS DELETED
IN ITS ENTIRETY AND
REPLACED AS NOTED BELOW

Article 10

Confidentiality

Confidentiality Applicable

If not checked, inapplicable.

Schedule M

Party A is a Governmental Entity or Public Power System

Party B is a Governmental Entity or Public Power System

Add Section 3.6. If not checked, inapplicable

Add Section 8.6. If not checked, inapplicable

Specify, if any: Schedule M, Part A, the definition of "Special Fund" shall be changed to read as follows: "Special Fund" means a fund, account, or subaccount established pursuant to an approved budget appropriation authorized by the governing body of the Governmental Entity or Public Power System (municipality) to satisfy the obligations hereunder out of which amounts shall be paid to satisfy the Governmental Entity's or Public Power System's (municipality's) obligations under this Master Agreement for each fiscal year (January 1 through December 31) in the Delivery Period."

Schedule M, Part E, Section 3.6, the first part of the first sentence shall be changed to read as follows: "With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created a Special Fund or"

Other Changes

GENERAL TERMS AND CONDITIONS

Article One: General Definitions

The following definitions are amended as set forth below:

Affiliate. Section 1.1 is amended by adding "but shall exclude, in the case of Energy America, LLC, any such person that is not organized or existing under the jurisdiction of Canada or the United States or a political subdivision thereof." after "voting power".

Claims. Section 1.8 shall be amended by adding the words "including personal injury (including death) or property damage" after the words "third party claims" in the first line.

Credit Rating. Section 1.12 is amended in its entirety to read as follows:

"Credit Rating" means, i) with respect to Party B, or its Guarantor on any date of determination, the respective rating then assigned to its Guarantor's unsecured senior long-term debt obligations (not supported by third party credit enhancement), by S&P, Moody's or such other rating agency or agencies as are specified; and if no rating is assigned to such entity's unsecured, senior long-term debt obligations by such rating agency, the general corporate credit rating or long-term issuer rating, as applicable, assigned by such rating agency to such entity and ii) with respect to Party A, or its Guarantor, on any date of determination, the lowest underlying rating of the bonds issued by Party A assigned to Party A by S&P, Moody's, or such other rating agency or agencies as are specified; and if there is no underlying rating of bonds currently issued by Party A then the general obligation bond (unlimited tax) rating or if unavailable, the issuer rating, as applicable, assigned by such rating agency to Party A.

Performance Assurance. Section 1.45 is amended and restated in its entirety as follows:

“Performance Assurance” means, (i) with respect to Party A, such acceleration of payments as provided in Article 8 and shall not include any cash, letter of credit or other collateral and (ii) with respect to Party B cash, parent guaranty, or other security acceptable to the Party A, provided however, that letter(s) of credit are not acceptable with respect to Party B.

Potential Event of Default. Section 1.46 is deleted in its entirety.

Recording. Section 1.50 is amended by changing "Section 2.4" to "Section 2.5"

Replacement Price. Section 1.51 shall be amended by (i) adding the phrase "for delivery" immediately before the phrase "at the Delivery Point" in the second line and (ii) deleting the phrase "at Buyer's option" from the fifth line and replacing it with the following: "absent a purchase".

Sales Price. Section 1.53 shall be amended by (i) deleting the phrase "at the Delivery Point" from the second line, (ii) deleting the phrase "at Seller's option" from the fifth line and replace it with the following: "absent a sale", and (iii) inserting after the phrase "commercially reasonable manner" in the sixth line, the following phrase "; provided, however if the Seller is unable after using commercially reasonable efforts to resell all or a portion of the Product not received by Buyer, the Sales Price with respect to such Product shall be deemed equal to zero (0)".

Merger Event. Section 1.62 shall be added as the following definition:

“Merger Event” means, with respect to a Party or its Guarantor, that such Party or its Guarantor consolidates or amalgamates with, or merges into or with, or transfers substantially all of its assets to another entity (or, with respect to Government Entity, an entity such as an organization, board, commission, authority, agency or body succession) and (i) the resulting entity fails to assume all of the obligations of such Party or its Guarantor hereunder or (ii) the benefits of any credit support provided pursuant to Article 8 as set forth in the terms of this Agreement, fail to extend to the performance by such resulting, surviving or transferee entity of its obligations hereunder or (iii) the resulting entity's creditworthiness is materially weaker than that of such Party or its Guarantor immediately prior to such action; provided however, that the words "materially weaker" in this clause (iii) shall mean that (x) the Credit Rating of such Party (or, if applicable, the Guarantor of such Party) shall be rated lower than Baa3 by Moody's, or lower than BBB- by S&P or (y) in the event that there is no Credit Rating by either Moody's or S&P applicable to such Party (or, if applicable, the Guarantor of such Party) but such Party (or, if applicable, the Guarantor of such Party) has a Credit Rating from any other internationally recognized rating agency, lower than a rating equivalent to the foregoing by such rating agency.”

Guarantor. Section 1.63 shall be added as the following definition:

“Guarantor” for Party B means Centrica plc.”

Guaranty. Section 1.64 shall be added as the following definition:

“Guaranty” for Party B means a written payment guaranty substantially in the form attached hereto as Schedule I, and in an amount acceptable to Party A, properly executed and delivered by Party B's Guarantor or any other guarantor acceptable to Party A.”

Article Two: TRANSACTION TERMS AND CONDITIONS

Section 2.4 is amended to delete the phrase “either orally or” from the seventh line.

Article Three: OBLIGATIONS AND DELIVERIES.

Transmission and Scheduling. Section 3.2 shall be amended by adding the following text to the end of the Section:

“Product deliveries shall be scheduled in accordance with the then-current applicable tariffs, protocols, operating procedures and scheduling practices for the relevant region.”

New Section 3.7. Article Three is amended by inserting a new section 3.7 as follows:

“Party A shall take all actions necessary to ensure that it has the ability to fulfill its financial obligations under this Agreement at all times, including, without limitation, (i) issuance of an immediate Emergency Appropriation upon resolution of the Borough Council, N.J. Stat. Ann. §40A:4-46 (2013) and 40A:4-45.3 (2013) and 40A:4-49 (2013); (ii) raise taxes upon resolution of the Borough Council, N.J. Stat. Ann. §40A:60-6 (2013); and (iii) raise electric utility rates upon resolution of Borough Council, N.J. Stat. Ann. §40:62-13 (2013).”

Article Four: REMEDIES FOR FAILURE TO DELIVER

Suspension of Performance. Section 4.3 The following is added as a new Section 4.3: Notwithstanding, and in addition to the remedies provided pursuant to Sections 4.1 and 4.2, if Seller or Buyer fails to schedule and/or deliver/receive all or part of the Product pursuant to a Transaction for a period of seventy-two (72) consecutive hours during any Delivery Period, and such failure is not excused under the terms of the Product, by the other Party’s failure to perform or by agreement of the Parties, then upon one (1) Business Day prior notice, and for so long as the non-performing Party fails to perform, the performing Party shall have the right to suspend its performance under such Transaction. In the event the performing Party suspends performance pursuant to this Section 4.3, it shall not be obligated to resume performance until it has received notice from the non-performing Party at least one (1) Business Day prior to the date upon which the non-performing Party intends to resume its performance.

Article Five: EVENTS OF DEFAULT; REMEDIES

Events of Default. Section 5.1

Section 5.1(a) the following phrase will be added to the end of the phrase, before the semicolon: “provided, however, that, notwithstanding the foregoing, an Event of Default will not occur if (i) it is caused by an error or omission of an administrative or operational nature, and (ii) funds were available to such party, to enable it to make the relevant payment when due, and (iii) such relevant payment is made within five (5) Business Days of the date due.”

Section 5.1(f) shall be deleted in its entirety and replaced with the following: “a Merger Event occurs;”.

Section 5.1(g)(i) is amended to add the following phrase after the word “payable” and before “or” on the ninth line: “(excluding in each case any such indebtedness which (a) arises for or in respect of an obligation for borrowed money where the creditors’ recourse on the obligation is limited to assets for which the money was borrowed; or (b) is owing by one Affiliate to another)”

Section 5.1(g)(ii) is amended to add the phrase “(after giving effect to any applicable notice requirement or grace period)” to the end of the section.

Section 5.1(h)(ii) is amended by inserting in the fourth line after the word “within” the words “the time period specified in such guaranty, or if no time period is so specified, within”.

Section 5.1(h)(v) is amended to add to the last sentence “made in connection with this Agreement” immediately after the words “any guaranty”.

Section 5.1(i). The following is added as a new Section 5.1(i): “(i) a Party or its Guarantor suffering or being the subject of a default, event of default, termination event, breach or other similar condition or event (howsoever expressed) that has not been remedied within the applicable grace periods under any other agreement or instrument (including, without limitation, commodity and financial derivative agreements or transactions) between a Party or one of its Affiliates and the other Party or one of its Affiliates, where the result of such event has been the termination and liquidation of transactions and the acceleration of amounts due thereunder.”

Declarations of an Early Termination Date and Calculation of Settlement Amount.

Section 5.2 is amended by reversing the placement of “(i)” and “to” and is amended to delete the last sentence and replace it with the following:

(i) Calculation by Non-Defaulting Party. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date.

(ii) Calculating Gains and Losses. The Gains and Losses for the Terminated Transaction shall be determined by calculating, in a commercially reasonable manner, the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of that Terminated Transaction.

(iii) Sources of Information. The Non-Defaulting Party (or its agent) may determine its Gains and Losses by reference to information either available to it internally or supplied by one or more third parties, not related to either Party or their Guarantor, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets.

(iv) Third Party Sources. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information.

(v) Gains and Losses Comparable to Market. Notwithstanding the foregoing, the Non-Defaulting Party’s determination of Gains and Losses for the Terminated Transaction shall be comparable to that which would have been obtained by comparing the value of the remaining term, transaction quantities, and transaction prices under each Terminated Transaction had it not been terminated to the equivalent quantities and relevant market prices for the remaining term which are reasonably expected to be available in the market under a replacement contract for the Terminated Transaction.

(vi) Replacement Transactions. It is expressly agreed that the Non-Defaulting Party shall not be required to enter into a replacement Transaction in order to determine the Settlement Amount.

Net Out of Settlement Amounts. Section 5.3 shall be amended by adding the phrase "plus, at the option of the Non-Defaulting Party, any cash or other form of liquid security then in the possession of the Defaulting Party or its agent pursuant to Article Eight," after the first use of the phrase "due to the Non-Defaulting Party" in the sixth line.

Section 5.5. Disputes With Respect to Termination Payment. is amended by adding the following at the end of Section 5.5:

“(a) Senior Officers. Each of the Parties shall upon five days notice from the other Party designate in writing to the other a senior officer, who shall be authorized to resolve any dispute relating to the calculation of the Termination Payment with respect to Terminated Transactions following the designation of an Early Termination Date (“Dispute”). If any Dispute is not resolved within fifteen days following receipt by a Party of notice of a Dispute, the Parties may pursue any other right or remedy available at law, in equity or under this Agreement, subject to Section 7.1, to resolve the Dispute. The Parties shall (1) attempt to resolve all Disputes promptly and equitably; and (2) provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.

(b) Preservation of Rights and Remedies. Nothing in this Section 5.5 shall preclude, restrict, limit or stop any right or remedy that, subject to Section 7.1, may be available to a Party at law, in equity or under this Agreement in connection with any claim, action, cause of action or indemnity which is not a Dispute as defined in Section 5.5(a) above.”

Suspension of Performance. Section 5.7 is amended to (i) delete “(a)” and “or (b) Potential Event of Default” from the second line; (ii) delete from line 5 “ten (10)” and replace it with “twenty (20)”; (iii) insert “withhold any payment due to the Defaulting Party under this Agreement and/or” after “(i)” in line four; (iv) insert “withholding or” after “any such” in line five; and (v) delete the word “early” in the sixth line and replace it with “Early”.

Other Terminating Events. Section 5.8. The following is inserted as Section 5.8:

“5.8 Other Terminating Events. If performance by either Party (an "Affected Party") under this Agreement or in respect of any Transaction becomes subject to regulation of any kind whatsoever, other than as a result of any action of Party A, under any applicable law to a greater or different extent than that existing on the Effective Date and such regulation either renders this Agreement or the Transaction(s) hereunder illegal and therefore unenforceable by either or both Parties, then such Party (or either Party if both Parties are Affected Parties) may treat such event as a Force Majeure with respect to suspension of its obligations to perform, and declare an Early Termination Date in the manner contemplated by Section 5.2, which notice shall specify the basis for declaring such Early Termination Date with respect to this Agreement and the Transaction(s) hereunder. The provisions of Article FIVE of the Master Agreement will then apply to the Parties as if an Early Termination Date had been declared as an Event of Default, except that neither party shall be deemed the Non-Defaulting Party. Party B shall be the calculation agent for purposes of determining the amount of the Termination Payment, and if there is a dispute as to the amount of the Termination Payment, the dispute resolution procedures set forth in Section 8.7 with respect to disputed calculations for additional performance assurance shall apply to resolve the dispute over the amount of the Termination Payment. The terms and provisions of this Section 5.8 will apply notwithstanding any inconsistency with Section 10.8 hereof and will govern to the extent of any inconsistency therewith.”

Article Seven: LIMITATIONS

Limitation of Remedies, Liability and Damages. Section 7.1 shall be amended as follows:

Section 7.1, shall be amended by (i) deleting in the fifteenth line the words, "UNLESS EXPRESSLY HEREIN PROVIDED", (ii) adding in the nineteenth line the words PROVIDED, HOWEVER, NOTHING IN THIS SECTION SHALL AFFECT THE ENFORCEABILITY OF THE PROVISIONS OF THIS AGREEMENT RELATING TO REMEDIES FOR FAILURE TO DELIVER/RECEIVE IN SECTIONS 4.1 AND 4.2, AND CALCULATION AND PAYMENT OF THE TERMINATION PAYMENT IN SECTIONS 5.2 AND 5.3." immediately after the words "ANY INDEMNITY PROVISION OR OTHERWISE", and (iii) adding at the end of the last sentence the words "AND ARE NOT PENALTIES".

Article 8: CREDIT AND COLLATERAL REQUIREMENTS

Article 8 of the Master Agreement, Credit and Collateral Requirements, is deleted in its entirety and replaced with the following:

8.1 Party A Credit Protection. Financial Information If requested by Party A, Party B shall deliver (i) within 150 days following the end of each fiscal year, a copy of its or, if applicable, its Guarantor's annual report containing audited consolidated financial statements for such fiscal year. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

8.2 Party A Credit Assurances. If (i) Party B or Party B's Guarantor's Credit Rating falls below BBB- by Standard & Poor's and below Baa3 by Moody's or (ii) if Party B or Party B's Guarantor is not rated by either S&P or Moody's, or (iii) if such Credit Rating is suspended or withdrawn (such event, hereafter referred to as a "Party B Downgrade Event"), Party A will provide Party B with written notice requiring Party B or Party B's Guarantor, if any, to provide Performance Assurance in an amount reasonably required to provide Party A with assurance of Party B's or its Guarantor's, if any, performance hereunder which amount shall not exceed the amount equal to one-hundred percent (100%) of a Contract Exposure as defined in Section 8.7. Upon receipt of such notice, and within two (2) Business Days ("Discussion Period") of such notice, the Parties shall convene a telephonic conference or meet in person to resolve any issues surrounding the event or the amount of Performance Assurance to be posted. If the Parties reach an alternative resolution, that resolution shall be implemented. Moreover, upon a subsequent decrease in Contract Exposure, the Performance Assurance amount shall be reduced accordingly by Party A and returned to Party B within two (2) Business Days after receipt by Party A of written demand from Party B. In the event that the Parties do not reach an alternative resolution, Party B shall have three (3) Business Days from the end of the Discussion Period to remedy the situation by providing such Performance Assurance to Party A as set forth in in the written notice. In the event that Party B fails to provide such Performance Assurance to Party A within three (3) Business Days of the end of the Discussion Period, or fails to maintain such Performance Assurance for so long as the Party B Downgrade Event is continuing, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

8.3 As security for the performance obligations hereunder, Party B shall deliver to Party A, within seven (7) Business Days of the execution and delivery of this Master Agreement, Performance

Assurance in the form of a Parent Guaranty, substantially in the form attached hereto as Schedule I, in the amount of USD\$10,000,000.

8.4 Party B's Credit Protection. Financial Information. If requested by Party B, Party A shall deliver within 180 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year. In all cases the statements shall be for the most recent accounting period and prepared in accordance with New Jersey Local Fiscal Affairs Law, N.J. Stat. Ann. § 40A:5-1, (2013) *et. seq.*; provided, however, that Party A shall have an additional 90 day grace period beyond the original 180 days to provide the financial information before an Event of Default may occur; provided further that Party A shall provide unaudited management prepared financial statements signed by an authorized representative within 90 days of Party B's original request for financial information.

8.5 Party B Credit Assurances. If (i) Party A's Credit Rating falls below BBB by Standard & Poor's or Baa2 by Moody's, or (ii) if such Credit Rating is suspended or withdrawn, or (iii) if Party A's most recent Credit Rating is more than thirty-six (36) months old and Party B has a commercially reasonable belief that Party A's creditworthiness or performance under this contract has become unsatisfactory (each such event, hereafter referred to as a "Party A Downgrade Event") Party B may provide Party A with written notice requiring Party A to accelerate payments then due and owing to weekly. In the event that Party A fails to provide such payment acceleration to Party B within three (3) Business Days of the receipt of such notice or fails to maintain such payment acceleration for so long as the Party A Downgrade Event is continuing, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

8.6 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, a Party (a "Pledgor") hereby grants to the other Party (the "Secured Party") a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.7 Additional Performance Assurance; Disputed Calculations.

(a) If the Pledging Party disputes the amount of Performance Assurance requested by the Secured Party and such dispute relates to the amount of the Contract Exposure claimed by the Secured Party, then the Pledging Party shall

(i) notify the Secured Party of the existence and nature of the dispute not later than the 1:00 p.m. Eastern Prevailing Time on the first Business Day following the date that the demand for Performance Assurance is made by the Secured Party, and

(ii) provide Performance Assurance to or for the benefit of the Secured Party in an amount equal to the Pledging Party's own estimate, made in good faith and in a commercially reasonable manner, of the Pledging Party's Collateral Requirement. In all such cases, the Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts.

If the Parties have not been able to resolve their dispute on or before the second (2nd) Business Day following the date that the demand is made by the Secured Party, then the Secured Party and the Pledging Party each shall obtain one (1) market quotation from (2) two Reference Market Makers within two (2) Business Days (taking the arithmetic average of those two (2) market quotations obtained to recalculate and establish Contract Exposure in connection with setting Performance Assurance hereunder; provided, that, if only one (1) quotation can be obtained, then that quotation shall be used and if no quotations can be obtained, Secured Party's original calculation shall be applicable) for the purpose of recalculating the Contract Exposure of the Transaction in respect of which the Parties disagree as to the Contract Exposure thereof, and the Secured Party shall inform the Pledging Party of the results of such recalculation (in reasonable detail). Performance Assurance shall thereupon be provided, returned, or reduced, if necessary, on the next Business Day in accordance with the results of such recalculation.

(b) If the Secured Party disputes the amount of Performance Assurance to be reduced by the Secured Party and such dispute relates to the amount of the Contract Exposure claimed by the Secured Party, then the Secured Party shall

(i) notify the Pledging Party of the existence and nature of the dispute not later than the 1:00 p.m. Eastern Prevailing Time on the first Business Day following the date that the demand to reduce Performance Assurance is made by the Pledging Party and

(ii) effect the reduction of Performance Assurance to or for the benefit of the Pledging Party in an amount equal to the Secured Party's own estimate, made in good faith and in a commercially reasonable manner.

In all such cases, the Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second (2nd) Business Day following the date that the demand is made by the Pledging Party, then the Secured Party and the Pledging Party each shall obtain one (1) market quotation from two (2) Reference Market-Maker within two (2) Business Days (taking the arithmetic average of those two (2) market quotations to recalculate and establish Contract Exposure in connection with setting Performance Assurance levels; provided, that, if only one (1) quotation can be obtained, then that quotation shall be used and if no quotation can be obtained, Secured Party's original calculation shall be applicable) for the purpose of recalculating the Contract Exposure of the Transaction in respect of which the Parties disagree as to the Contract Exposure thereof, and the Secured Party shall inform the Pledging Party of the results of such recalculation

(in reasonable detail). Performance Assurance shall thereupon be provided, returned, or reduced, if necessary, on the next Business Day in accordance with the results of such recalculation.

(c) Definitions. With respect to this Article 8 the following definitions will apply.

“Collateral Requirement” means the Secured Party’s Contract Exposure.

“Contract Exposure” means an amount equal to (x) the Termination Payment that would be payable from the Providing Party to the Requesting Party, as if an Early Termination Date had been declared pursuant to Article 5 of this Agreement (notwithstanding whether or not an Event of Default has occurred) and all Transactions had been terminated; (y) plus the net amount of all other payments owed but not yet paid between the Parties, whether or not such amounts are then due, for performance already provided pursuant to any and all Transactions conducted under the Agreement; (z) less the amount of any Performance Assurance then held by the Requesting Party.

“Downgrade Event” means the occurrence of a Party B or Party A Downgrade Event, as applicable.

“Pledging Party” means either Party, when that Party receives a demand for or is required to transfer Performance Assurance.

“Reference Market-maker” means a leading dealer in the relevant market selected by a Party, not related to such Party or its Guarantor, determining its Contract Exposure in good faith from among dealers, not related to either Party or its Guarantor which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit.

“Secured Party” means either Party, when that Party makes a demand for or is entitled to receive Performance Assurance.

Article Nine: Governmental Charges

Governmental Charges. Section 9.2 shall be amended by adding the following sentence to the end of the Section:

“Either Party, upon written request of the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if either Party is exempt from Governmental Charges and shall use reasonable efforts to obtain and cooperate with obtaining any exemption from or reduction of Governmental Charges.”

Article Ten: MISCELLANEOUS

Representations and Warranties. Section 10.2. The following are added as additional representations to Section 10.2:

“(xiii) the other Party is not acting as a fiduciary for or an adviser to it in respect of any Transaction;

(xiv) it understands and acknowledges that the other Party may, either in connection with entering into a Transaction or from time to time thereafter, engage in open market transactions that are designed to hedge or reduce the risks incurred by it in connection with such Transaction and that the effect of such open market transactions may be to affect or reduce the value of such Transaction.

(xvi) each Transaction that is not executed or traded on a trading facility, as defined in the Commodity Exchange Act, is subject to individual negotiation by the Parties;"

Section 10.2 (ix) is amended to read in its entirety as follows:

"(ix) (a) it is a "forward contract merchant" within the meaning of the United States Bankruptcy Code, 11 U.S.C. 101 (26); (b) it is an "eligible contract participant" as such term is defined in the Commodity Exchange Act, as amended 7 U.S.C. §1a (18); and (c) it is an "eligible commercial entity" as such term is defined in the Commodity Exchange Act, as amended 7 U.S.C. § 1a (17)."

Indemnity. Section 10.4 is amended by adding the following as the last sentences of this section: "Buyer shall indemnify Seller for all Claims arising at the Delivery Point and on Buyer's side of the Delivery Point. Notwithstanding this Article 10.4, no obligation of indemnification shall arise with respect to any claim to the extent the same resulted from the negligence, willful misconduct, or bad faith of the indemnified party. "

Assignment. Section 10.5 shall be amended to delete clause (ii) and the portion of clause (iii) before the words "provided, however", and replace them with the following: "(ii) transfer or assign this Agreement to an Affiliate of such Party so long as (x) such Affiliate's creditworthiness is equal to or higher than that of such Party or the Guarantor, if any, as of the Effective Date, if any, for such Party, or (y) the obligations of such Affiliate are guaranteed by such Party or its Guarantor, if any, in accordance with a guaranty agreement in form and substance satisfactory to the other Party, and (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party whose creditworthiness is equal to or higher than that of such Party or its Guarantor, if any, as of the Effective Date; ..."

Governing Law. Section 10.6 is changed to read as follows:

"THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, EACH PARTY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN NEW JERSEY, WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY PROCEEDINGS BROUGHT IN ANY SUCH COURT; AND WAIVES ANY CLAIM THAT SUCH PROCEEDINGS HAVE BEEN BROUGHT IN AN INCONVENIENT FORUM. IN RESPECT OF THE APPLICABILITY OF THE NEW JERSEY CODE PROVISIONS TO THIS AGREEMENT, THE LAWS OF THE STATE OF NEW JERSEY SHALL APPLY."

General. Section 10.8 is amended by: (a) change the words "parties" and "party" to "Parties" and "Party" in the third sentence, and (b) delete the second last sentence and replace it with "The indemnity provisions

of this Agreement shall survive the termination of this Agreement for the period of the applicable statute of limitations, the audit provisions and the rights of either party pursuant to (i) Article 5, (ii) Section 7.1, (iii) Section 10.11 (iv) Waiver of Jury Trial provisions, if applicable, (v) the obligation of either party to make payments hereunder shall also survive the termination of the Agreement or any Transaction for a period of twelve (12) months.”

Forward Contract. Section 10.10 is amended by deleting the existing provision in its entirety and replaced by the following:

“10.10 Bankruptcy Issues. The Parties intend that (i) all Transactions constitute a "forward contract" within the meaning of the United States Bankruptcy Code (the "Bankruptcy Code"); (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute "margin payments" within the meaning of the Bankruptcy Code; (iv) each Party's rights under Section 5.2, Declaration of an Early Termination Date and Calculation of Settlement Amounts, and Section 5.3, Net Out of Settlement Amounts constitute a "contractual right to liquidate" Transactions; and (iv) this Agreement constitutes a "master netting agreement" within the meaning of the Bankruptcy Code.”

Mitigation. Section 10.12. The following provision is added as Section 10.12:

“10.12 Mitigation. Each Party has a duty to mitigate damages under this Agreement and will use commercially reasonable efforts to minimize any damages it may incur resulting from the other Party's failure to perform under Section 4.1 or 4.2 and/or an Event of Default under Section 5.1.”

Index Transactions. Section 10.13 The following provision is added as Section 10.13:

“10.13 Index Transactions.

If the Contract Price for a Transaction is determined by reference to a Price Source, then the following provisions shall be applicable to such Transaction.

(a) **Market Disruption.** If a Market Disruption Event occurs on any one or more days during a Determination Period (each day, a “**Disrupted Day**”), then:

(i) The fallback Floating Price, if any, specified by the Parties in the relevant Confirmation shall be the Floating Price for each Disrupted Day.

(ii) If the Parties have not specified a fallback Floating Price, then the Parties will endeavor, in good faith and using commercially reasonable efforts, to agree on a substitute Floating Price, taking into consideration, without limitation, guidance, protocols or other recommendations or conventions issued or employed by trade organizations or industry groups in response to the Market Disruption Event and other prices published by the Price Source or alternative price sources with respect to the Delivery Point or comparable Delivery Points that may permit the Parties to derive the Floating Price based on historical differentials.

(iii) If the Price Source retrospectively issues a Floating Price in respect of a Disrupted Day (a “**Delayed Floating Price**”) before the Parties agree on a substitute

Floating Price for such day, then the Delayed Floating Price shall be the Floating Price for such Disrupted Day. If a Delayed Price is issued by the Price Source in respect of a Disrupted Day after the Parties agree on a substitute Floating Price for such day, the substitute Floating Price agreed upon by the Parties will remain the Floating Price without adjustment unless the Parties expressly agree otherwise.

(iv) If the Parties cannot agree on a substitute Floating Price and the Price Source does not retrospectively publish or announce a Floating Price, in each case, on or before the fifth Business Day following the first Trading Day on which the Market Disruption Event first occurred or existed, then the Floating Price for each Disrupted Day shall be determined by taking the arithmetic mean of quotations requested from four leading dealers in the relevant market that are unaffiliated with either Party and mutually agreed upon by the Parties ("**Specified Dealers**"), without regard to the quotations with the highest and lowest values, subject to the following qualifications:

A. If exactly three quotations are obtained, the Floating Price for each such Disrupted Day will be the quotation that remains after disregarding the quotations having the highest and lowest values.

B. If fewer than three quotations are obtained, the Floating Price for each such Disrupted Day will be the average of the quotations obtained.

C. If the Parties cannot agree upon four Specified Dealers, then each of the Parties will, acting in good faith and in a commercially reasonable manner, select up to two Specified Dealers separately, and those selected dealers shall be the Specified Dealers.

(v) Unless otherwise agreed, if at any time the Parties agree on a substitute Floating Price for any Disrupted Day, then such substitute Floating Price shall be the Floating Price for such Disrupted Day, notwithstanding the subsequent publication or announcement of a Delayed Floating Price by the relevant Price Source or any quotations obtained from Specified Dealers.

"Determination Period" means each calendar month a part or all of which is within the Delivery Period of a Power Transaction.

"Exchange" means, in respect of a Power Transaction, the exchange or principal trading market specified as applicable to the relevant Power Transaction.

"Floating Price" means a Contract Price specified in a Power Transaction that is based upon a Price Source.

"Market Disruption Event" means, with respect to any Price Source, any of the following events:

(a) the failure of the Price Source to announce, publish or make available the specified Floating Price or information necessary for determining the Floating Price for a particular day;

(b) the failure of trading to commence on a particular day or the permanent discontinuation or material suspension of trading in the relevant options contract or

commodity on the Exchange, RTO or in the market specified for determining a Floating Price;

(c) the temporary or permanent discontinuance or unavailability of the Price Source;

(d) the temporary or permanent closing of any Exchange or RTO specified for determining a Floating Price; or

(e) a material change in the formula for or the method of determining the Floating Price by the Price Source or a material change in the composition of the Product.

"Price Source" means, in respect of a Power Transaction, a publication or such other origin of reference, including an Exchange or RTO, containing or reporting or making generally available to market participants (including by electronic means) a price, or prices or information from which a price is determined, as specified in the relevant Power Transaction.

"RTO" means any regional transmission operator or independent system operator.

"RTO Transaction" means a Power Transaction in which the Price Source is an RTO.

"Trading Day" means a day in respect of which the relevant Price Source ordinarily would announce, publish or make available the Floating Price.

(b) **Corrections to Published Prices.** If the Floating Price published, announced or made available on a given day and used or to be used to determine a relevant price is subsequently corrected by the relevant Price Source (i) within 30 days of the original publication, announcement or availability, or (ii) in the case of RTO Transactions only, within such longer time period as is consistent with the RTO's procedures and guidelines, then either Party may notify the other Party of that correction and the amount (if any) that is payable as a result of that correction. If, not later than thirty (30) days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after such notice is effective, pay, subject to any applicable conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction. Notwithstanding the foregoing, corrections shall not be made to any Floating Prices agreed upon by the Parties or determined based on quotations from Specified Dealers pursuant to paragraph (a) above unless the Parties expressly agree otherwise.

Rounding. For the purposes of the calculation of a Floating Price, all numbers shall be rounded to four (4) decimal places. If the fifth (5th) decimal number is five (5) or greater, then the fourth (4th) decimal number shall be increased by one (1), and if the fifth (5th) decimal number is less than five (5), then the fourth (4th) decimal number shall remain unchanged."

FERC Standard of Review: Mobile-Sierra Waiver. Section 10.14. The following provision is added as Section 10.14:

(a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-

party or FERC acting *sua sponte*, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008) (the "Mobile-Sierra" doctrine).

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing section (a).

Affirmative Action. Section 10.15. The following is added as a new section 10.15, as is required by N.J. Stat. Ann. §10:5-31 (2013) and N.J.A.C. 17:27 (2014):

"During the performance of this contract, the contractor agrees as follows:

"The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that all employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

"The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

"The contractor or subcontractor, where applicable, will send to each labor union with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

“The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J. Stat. Ann. §10:5-31 *et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

“The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

“The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

“The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

“In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

“The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

“The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.”

Press Release. Section 10.16. A new Section 10.16 shall be added as follows:

Neither Party shall issue a press release about this Agreement and the Transaction hereunder without the express written consent of the other Party which shall not be unreasonably withheld, conditioned or delayed.

Authorizations. Section 10.17 shall be added as a new Section under Article Ten:

“Authorizations. Upon execution of this Agreement and upon request of either Party, the other Party shall promptly deliver to the requesting Party one or more of the following: (i) a secretary’s certificate of corporate resolutions authorizing the execution, delivery and performance of this Agreement and any Confirmation hereunder, and authorizing the Party to engage in Transactions hereunder or to execute, deliver and perform under any guaranty of such Guarantor, (ii) a secretary’s certificate as to the continuing full force and effectiveness of the foregoing and the incumbency of individuals executing the foregoing or otherwise purporting to act on behalf of such Party or Guarantor; and/or (iii) specimen signatures with respect to each Party, its Guarantor, if any, and their respective signatories executing this Agreement and any Guaranty or Confirmation(s) on its behalf.”

Section 10.17 shall be added as a new section in Article 10 as follows:

“Section 10.17-New Jersey Business Registration Certificate. N.J. Stat. Ann. §52:32-44 imposes the following requirements on contractors and all subcontractors that knowingly provide goods or perform services for a contractor fulfilling this contract: 1) the contractor shall provide written notice to its subcontractors to submit proof of business registration to the contractor; 2) prior to receipt of final payment from a contracting agency, a contractor must submit to the contracting agency an accurate list of all subcontractors or attest that none was used; 3) during the term of this contract, the contractor and its affiliates shall collect and remit, and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J. Stat. Ann. §54:32B-1 *et seq.* (2013)) on all sales of tangible personal property delivered into this State.”

“A contractor, subcontractor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency. Information on the law and its requirements is available by calling the New Jersey Department of the Treasury’s Business Services line at (609) 292-9292.”

shall be added as a new section in Article 10 as follows:

“Section 10.18-Sales and Use Tax. The Party A acknowledges that the Party B is exempt from sales or use tax under the Sales and Use Tax Act.”

Section 10.19 shall be added as a new section in Article 10 as follows:

“Section 10.19-Subcontractors. The Party B hereby attests that no subcontractors were used with respect to the Agreement.”

Section 10.20 shall be added as a new section in Article 10 as follows:

“Section 10.20- Political Campaign Contributions. The Party B hereby attests that it is in full compliance with N.J. Stat. Ann. §19:34-45 (2013).”

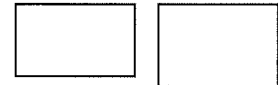
Section 10.21. Generally Accepted Accounting Principles. Add the following as Section 10.20:

“10.21 Generally Accepted Accounting Principles. Any reference to “generally accepted accounting principles” shall mean, with respect to an entity and its financial statements, generally accepted accounting principles, consistently applied, adopted or used in the jurisdiction of the entity whose financial statements are being considered for the purposes of this Agreement.” as Section 10.14 after Section 10.13.

Section 10.21. Counterparts. Add the following as Section 10.21:

Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument. Without limiting the foregoing, a facsimile copy of this Agreement or copy of this Agreement sent via electronic mail in a portable document format ("PDF") will be considered an original. The Parties may execute this Agreement in any number of duplicate originals, including via facsimile signature page or signature on a PDF page sent via electronic mail, and in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or by electronic mail of a signature page in PDF is as effective as executing and delivering this Agreement in the presence of the other Party.

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.



Party A Name:

Party B Name:

By: _____

By: *Reagan C. Brown*

Name: _____

Name: *REAGAN C. Brown*

Title: _____

Title: *ASSISTANT SECRETARY*

Legal: _____

Credit: _____

Legal: _____

Credit: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute ("EEI") and National Energy Marketers Association ("NEM") member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

SCHEDULE I: FORM OF GUARANTY

CENTRICA PLC

Guarantee

This Guarantee (this “**Guarantee**”) is dated February 18, 2014 and made and entered into between

1. Centrica plc (registered number 3033654) whose registered office is Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD (“**Guarantor**”); and
2. City of Vineland, NJ whose principal place of business is 640 E Wood Street, P.O. Box 1508 (“**Contract Party**”).

WHEREAS

- (A) Contract Party and Energy America LLC, a wholly owned subsidiary of Guarantor are contemplating entering into, transactions for the purchase and sale of electricity, or options thereon, (collectively the “**Physical Transactions**”). The Physical Transactions individually and collectively, shall be referred to herein as the “**Transactions**”, and Energy America LLC shall be referred to herein as the “**Obligor**”;
- (B) Guarantor will directly or indirectly benefit from the Transactions; and
- (C) As a condition precedent to the Transactions, Contract Party has required that Guarantor unconditionally guarantee to Contract Party all payment obligations of Obligor under the Transactions.

NOW THEREFORE, to induce Contract Party to enter into the Transactions, Guarantor agrees as follows:

1.1 PAYMENT GUARANTEE

1. Guarantor absolutely, irrevocably and unconditionally guarantees to Contract Party all payment obligations of Obligor set forth in the Transactions (the “**Obligations**”) up to an aggregate amount that shall not exceed US\$ 8,000,000, eight million dollars. This Guarantee is a continuing guarantee of payment (and not of collection or performance) effective during the term of the Transactions.
2. Guarantor WAIVES any right to require as a condition to its obligations hereunder that:

- (i) presentment or demand be made upon Obligor; and
 - (ii) action be brought against Obligor or any other person or entity except Guarantor;
- should Contract Party seek to enforce the obligations of Guarantor. Specifically, without limitation, Guarantor WAIVES any right to require, substantively or procedurally, that:
- (a) a judgment previously be rendered against Obligor or any other person or entity except Guarantor;
 - (b) Obligor or any other person or entity be joined in any action against Guarantor; or
 - (c) an action separate from one against Guarantor be brought against Obligor or any other person or entity.
3. The obligations of Guarantor are several from those of Obligor or any other person or entity, including, without limitation, any other surety for Obligor, and are primary payment obligations concerning which Guarantor is the principal obligor.
4. The obligations of Guarantor hereunder shall in no way be affected or impaired by reason, and Guarantor WAIVES its right to prior notice, of the happening from time to time of any of the following:
- (i) extensions (whether or not material) of the time for performance of all or any portion of the Obligations.
 - (ii) the modification or amendment in any manner (whether or not material) of the Transactions or the Obligations;
 - (iii) any failure, delay or lack of diligence on the part of a Contract Party, or any other person or entity to enforce, assert or exercise any right, privilege, power or remedy conferred on a Contract Party or any other person or entity under the Transactions or at law, or any action on the part of a Contract Party or such other person or entity granting indulgence or extension of any kind;
 - (iv) the settlement or compromise of any Obligations; and
 - (v) a change of status, composition, structure or name of Obligor, including, without limitation, by reason of bankruptcy, liquidation, insolvency, merger, dissolution, consolidation or reorganisation.
5. With the prior written consent of Contract Party, which consent shall not be unreasonably withheld, this Guarantee may be replaced by a guarantee or guarantees in substantially similar form made by a guarantor of equal or better creditworthiness, provided that this Guarantee shall continue to apply to all obligations of the Guarantor under this Guarantee

in respect of Transactions entered into prior to the time of such replacement and the replacement guarantee shall apply only to those Obligations incurred in respect of Transactions entered into after its execution and delivery.

6. The Guarantor may terminate this Guarantee by giving written notice of such termination to the Contract Party. No such terminations shall be effective until five (5) business days after receipt by Contract Party of such termination notice. No such termination shall affect the obligations of the Guarantor under this Guarantee in respect of Transactions entered into prior to such termination notice becoming effective.

1.2 RESERVATION OF DEFENCES

7. Without limiting the defences and rights of Guarantor not expressly waived in this Guarantee, Guarantor expressly reserves unto itself all rights, counterclaims and other defences of Obligor relating to the Obligations, except those arising out of the bankruptcy, insolvency, dissolution or liquidation of Obligor.

1.3 NOTICE

8. All notices and communications made pursuant to this Guarantee shall be in writing and delivered personally or mailed recorded delivery, postage prepaid, or sent by facsimile, as follows:

To Guarantor:

Centrica plc
Millstream
Maidenhead Road
Windsor
Berkshire SL4 5GD
United Kingdom
Attn: Group General Counsel and Company Secretary
Facsimile: 01753 494602

To Contract Party:

640 E Wood Street, P.O. Box 1508
Vineland, NJ 08362-1508
Attn: Joseph Isabella
Facsimile: 856-405-4622

9. Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile shall be effective upon actual receipt if received during recipient's normal business hours or at the beginning of recipient's next business day after receipt if not received during recipient's normal business hours. Any party may change its address to which notice is to be given hereunder by providing notice of the same in accordance with Clause 9.

1.4 MISCELLANEOUS

10. This Guarantee shall in all respects be governed by, and construed in accordance with, the laws of the State of New York and the parties hereby submit to the exclusive jurisdiction of the courts of the State of New York.
11. Except for increasing the value of the Obligations figure in Clause 1 above, no term or provision of this Guarantee shall be amended, modified, altered, waived, supplemented or terminated except in writing signed by the parties hereto.
12. Neither Guarantor nor Contract Party may assign or transfer (whether by way of security or otherwise) this Guarantee or any interest or obligation in or under this Guarantee without the prior written consent of Contract Party or Guarantor respectively. Any purported transfer or assignment that is not in accordance with this Clause 12 shall be void. Subject to the foregoing this Guarantee shall be binding upon and enure to the benefit of and be enforceable by the respective successors, permitted assigns and transferees of Guarantor and Contract Party.
13. This Guarantee embodies the entire agreement and understanding between Guarantor and Contract Party and supersedes all prior agreements and understandings relating to the subject matter hereof.
14. The headings in this Guarantee are for purposes of reference only, and shall not affect the meaning hereof. References to Clauses are to clauses of this Guarantee.
15. This Guarantee may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one document.
16. Guarantor shall make payment in United States dollars and without deductions to Contract Party in immediately available funds of all sums due hereunder within ten (10) business days of written demand for the same by Contract Party (which demand shall set forth the basis and the calculation of the amount for which demand is made and which shall in the absence of manifest error be conclusive).
17. Guarantor warrants that this Guarantee is its legally binding obligation enforceable in accordance with its terms (except as the enforceability of this Guarantee may be limited by any applicable bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally and by general principles of equity), and further warrants that all necessary consents and authorisations for the giving and implementation of this Guarantee have been obtained.
18. Until all amounts which may be or become payable under the Transactions have been irrevocably paid in full, Guarantor shall not by virtue of this Guarantee be subrogated to any rights of Contract Party or claim in competition with Contract Party against Obligor

in connection with any matter relating to or arising from the Obligations or this Guarantee.

Guarantor has caused this Guarantee to be executed as a deed and Contract Party has signed the same as of the day and year first above written.

CENTRICA PLC

By: _____

Title:

By: _____

Title:

City of Vineland, NJ

By: _____

Title:

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 "Affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 "Agreement" has the meaning set forth in the Cover Sheet.

1.3 "Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 "Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 "Buyer" means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 "Call Option" means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 "Claiming Party" has the meaning set forth in Section 3.3.

1.8 "Claims" means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 "Confirmation" has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 “Defaulting Party” has the meaning set forth in Section 5.1.

1.15 “Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18 “Early Termination Date” has the meaning set forth in Section 5.2.

1.19 “Effective Date” has the meaning set forth on the Cover Sheet.

1.20 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21 “Event of Default” has the meaning set forth in Section 5.1.

1.22 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23 “Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically

to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.31 "NERC Business Day" means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.32 “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.33 “Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34 “Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35 “Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

1.36 “Option Seller” means the Party specified in a Transaction as the seller of an option, as defined in Schedule P.

1.37 “Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38 “Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39 “Party A Independent Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.40 “Party B Independent Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.41 “Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.42 “Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.43 “Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.

1.44 “Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.

1.45 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46 “Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47 “Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 “Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 “Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 “Recording” has the meaning set forth in Section 2.4.

1.51 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54 “Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55 “Seller” means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 “Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 “Strike Price” means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 “Terminated Transaction” has the meaning set forth in Section 5.2.

1.59 “Termination Payment” has the meaning set forth in Section 5.3.

1.60 “Transaction” means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), , the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation (“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing

which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties' agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services

with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer's failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller's failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:
 - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;

- (iii) a Guarantor becomes Bankrupt;
- (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
- (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written

explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if “Accelerated Payment of Damages” is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month,

each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR

OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE 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. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral

Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) (“Party A Performance Assurance”), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A’s Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a “Pledgor”) hereby grants to the other Party (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding

Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes , so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be

made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party’s employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

- A. The Parties agree to add the following definitions in Article One.

“Act” means _____.¹

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

- B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

- C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such

¹ Cite the state enabling and other relevant statutes applicable to Governmental Entity or Public Power System.

positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in

respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF _____² SHALL APPLY.

² Insert relevant state for Governmental Entity or Public Power System.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services” including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

“Capacity” has the meaning specified in the Transaction.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

“Firm Transmission Contingent - Contract Path” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary.

“Firm Transmission Contingent - Delivery Point” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party which failed to perform an

amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

“Into _____ (the “Receiving Transmission Provider”), Seller’s Daily Choice” means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An “Into” Product shall be subject to the following provisions:

1. Prescheduling and Notification Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty.

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission,” “ADI” and “Available Transmission.” In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider

and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this “Into Product” (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product

“Native Load” means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

“Non-Firm” means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

“System Firm” means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the “System”) with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller’s failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer’s failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system’s, or the control area’s, or reliability council’s reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller’s performance. Buyer’s failure to receive shall be excused (i) by Force Majeure; (ii) by Seller’s failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer’s performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

“Transmission Contingent” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller’s proposed generating source to the Buyer’s proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller

or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of "Force Majeure" in Article 1.23 to the contrary.

"Unit Firm" means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller's failure to deliver under a "Unit Firm" Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer's failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

EXHIBIT A

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER**

This confirmation letter shall confirm the Transaction agreed to on _____, _____
between _____ (“Party A”) and _____ (“Party B”)
regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: _____

Buyer: _____

Product:

- Into _____, Seller’s Daily Choice
- Firm (LD)
- Firm (No Force Majeure)
- System Firm
(Specify System: _____)
- Unit Firm
(Specify Unit(s): _____)
- Other _____
- Transmission Contingency (If not marked, no transmission contingency)
 - FT-Contract Path Contingency Seller Buyer
 - FT-Delivery Point Contingency Seller Buyer
 - Transmission Contingent Seller Buyer
 - Other transmission contingency
(Specify: _____)

Contract Quantity: _____

Delivery Point: _____

Contract Price: _____

Energy Price: _____

Other Charges: _____

Confirmation Letter

Page 2

Delivery Period: _____

Special Conditions: _____

Scheduling: _____

Option Buyer: _____

Option Seller: _____

Type of Option: _____

Strike Price: _____

Premium: _____

Exercise Period: _____

This confirmation letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated _____ (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

[Party A]

[Party B]

Name: _____

Name: _____

Title: _____

Title: _____

Phone No: _____

Phone No: _____

Fax: _____

Fax: _____

CENTRICA PLC

Guarantee

This Guarantee (this “**Guarantee**”) is dated February 18, 2014 and made and entered into between

1. Centrica plc (registered number 3033654) whose registered office is Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD (“**Guarantor**”); and
2. City of Vineland, NJ whose principal place of business is 640 E Wood Street, P.O. Box 1508 (“**Contract Party**”).

WHEREAS

- (A) Contract Party and Energy America LLC, a wholly owned subsidiary of Guarantor are contemplating entering into, transactions for the purchase and sale of electricity, or options thereon, (collectively the “**Physical Transactions**”). The Physical Transactions individually and collectively, shall be referred to herein as the “**Transactions**”, and Energy America LLC shall be referred to herein as the “**Obligor**”;
- (B) Guarantor will directly or indirectly benefit from the Transactions; and
- (C) As a condition precedent to the Transactions, Contract Party has required that Guarantor unconditionally guarantee to Contract Party all payment obligations of Obligor under the Transactions.

NOW THEREFORE, to induce Contract Party to enter into the Transactions, Guarantor agrees as follows:

1.1 PAYMENT GUARANTEE

1. Guarantor absolutely, irrevocably and unconditionally guarantees to Contract Party all payment obligations of Obligor set forth in the Transactions (the “**Obligations**”) up to an aggregate amount that shall not exceed US\$ 10,000,000 (Ten million United States dollars). This Guarantee is a continuing guarantee of payment (and not of collection or performance) effective during the term of the Transactions.
2. Guarantor WAIVES any right to require as a condition to its obligations hereunder that:
 - (i) presentment or demand be made upon Obligor; and
 - (ii) action be brought against Obligor or any other person or entity except Guarantor,

should Contract Party seek to enforce the obligations of Guarantor. Specifically, without limitation, Guarantor WAIVES any right to require, substantively or procedurally, that:

- (a) a judgment previously be rendered against Obligor or any other person or entity except Guarantor;
 - (b) Obligor or any other person or entity be joined in any action against Guarantor; or
 - (c) an action separate from one against Guarantor be brought against Obligor or any other person or entity.
3. The obligations of Guarantor are several from those of Obligor or any other person or entity, including, without limitation, any other surety for Obligor, and are primary payment obligations concerning which Guarantor is the principal obligor.
4. The obligations of Guarantor hereunder shall in no way be affected or impaired by reason, and Guarantor WAIVES its right to prior notice, of the happening from time to time of any of the following:
 - (i) extensions (whether or not material) of the time for performance of all or any portion of the Obligations.
 - (ii) the modification or amendment in any manner (whether or not material) of the Transactions or the Obligations;
 - (iii) any failure, delay or lack of diligence on the part of a Contract Party, or any other person or entity to enforce, assert or exercise any right, privilege, power or remedy conferred on a Contract Party or any other person or entity under the Transactions or at law, or any action on the part of a Contract Party or such other person or entity granting indulgence or extension of any kind;
 - (iv) the settlement or compromise of any Obligations; and
 - (v) a change of status, composition, structure or name of Obligor, including, without limitation, by reason of bankruptcy, liquidation, insolvency, merger, dissolution, consolidation or reorganisation.
5. With the prior written consent of Contract Party, which consent shall not be unreasonably withheld, this Guarantee may be replaced by a guarantee or guarantees in substantially similar form made by a guarantor of equal or better creditworthiness, provided that this Guarantee shall continue to apply to all obligations of the Guarantor under this Guarantee in respect of Transactions entered into prior to the time of such replacement and the replacement guarantee shall apply only to those Obligations incurred in respect of Transactions entered into after its execution and delivery.

6. The Guarantor may terminate this Guarantee by giving written notice of such termination to the Contract Party. No such terminations shall be effective until five (5) business days after receipt by Contract Party of such termination notice. No such termination shall affect the obligations of the Guarantor under this Guarantee in respect of Transactions entered into prior to such termination notice becoming effective.

1.2 RESERVATION OF DEFENCES

7. Without limiting the defences and rights of Guarantor not expressly waived in this Guarantee, Guarantor expressly reserves unto itself all rights, counterclaims and other defences of Obligor relating to the Obligations, except those arising out of the bankruptcy, insolvency, dissolution or liquidation of Obligor.

1.3 NOTICE

8. All notices and communications made pursuant to this Guarantee shall be in writing and delivered personally or mailed recorded delivery, postage prepaid, or sent by facsimile, as follows:

To Guarantor:

Centrica plc
Millstream
Maidenhead Road
Windsor
Berkshire SL4 5GD
United Kingdom
Attn: Group General Counsel and Company Secretary
Facsimile: 01753 494602

To Contract Party:

640 E Wood Street, P.O. Box 1508
Vineland, NJ 08362-1508
Attn: Joseph Isabella
Facsimile: 856-405-4622

9. Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile shall be effective upon actual receipt if received during recipient's normal business hours or at the beginning of recipient's next business day after receipt if not received during recipient's normal business hours. Any party may change its address to which notice is to be given hereunder by providing notice of the same in accordance with Clause 9.

1.4 MISCELLANEOUS

10. This Guarantee shall in all respects be governed by, and construed in accordance with, the laws of the State of New York and the parties hereby submit to the exclusive jurisdiction of the courts of the State of New York.
11. Except for increasing the value of the Obligations figure in Clause 1 above, no term or provision of this Guarantee shall be amended, modified, altered, waived, supplemented or terminated except in writing signed by the parties hereto.
12. Neither Guarantor nor Contract Party may assign or transfer (whether by way of security or otherwise) this Guarantee or any interest or obligation in or under this Guarantee without the prior written consent of Contract Party or Guarantor respectively. Any purported transfer or assignment that is not in accordance with this Clause 12 shall be void. Subject to the foregoing this Guarantee shall be binding upon and enure to the benefit of and be enforceable by the respective successors, permitted assigns and transferees of Guarantor and Contract Party.
13. This Guarantee embodies the entire agreement and understanding between Guarantor and Contract Party and supersedes all prior agreements and understandings relating to the subject matter hereof.
14. The headings in this Guarantee are for purposes of reference only, and shall not affect the meaning hereof. References to Clauses are to clauses of this Guarantee.
15. This Guarantee may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one document.
16. Guarantor shall make payment in United States dollars and without deductions to Contract Party in immediately available funds of all sums due hereunder within ten (10) business days of written demand for the same by Contract Party (which demand shall set forth the basis and the calculation of the amount for which demand is made and which shall in the absence of manifest error be conclusive).
17. Guarantor warrants that this Guarantee is its legally binding obligation enforceable in accordance with its terms (except as the enforceability of this Guarantee may be limited by any applicable bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally and by general principles of equity), and further warrants that all necessary consents and authorisations for the giving and implementation of this Guarantee have been obtained.
18. Until all amounts which may be or become payable under the Transactions have been irrevocably paid in full, Guarantor shall not by virtue of this Guarantee be subrogated to any rights of Contract Party or claim in competition with Contract Party against Obligor in connection with any matter relating to or arising from the Obligations or this Guarantee.

Guarantor has caused this Guarantee to be executed as a deed and Contract Party has signed the same as of the day and year first above written.

CENTRICA PLC

By: 

Title: DIRECTOR

By: 

Title: COMPANY SECRETARY

City of Vineland, NJ

By: _____

Title: