STATE OF RHODE ISLAND PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF PROPOSED TOWN OF NEW SHOREHAM PROJECT
PURSUANT TO RHODE ISLAND GENERAL LAWS § 39-26.1-7

PREFILED TESTIMONY

OF

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DEEPWATER WIND HOLDINGS, LLC

FOR

DEEPWATER WIND BLOCK ISLAND, LLC

DECEMBER 9, 2009

I. INTRODUCTION

Q. Please state your name and address

My name is William M. Moore and my business address is 56 Exchange Terrace, Providence, RI 02903.

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

I am the Chief Executive Officer of Deepwater Wind Holdings, LLC, a leading developer of offshore wind energy facilities, and the parent entity of Deepwater Wind Rhode Island, LLC, and Deepwater Wind Block Island, LLC ("Deepwater Wind"), the developer of the Block Island Wind Farm.

Q. Please describe your qualifications and experience.

I have a B.A., *cum laude*, from Yale College in Economics and Political Science (1978), and an M.B.A. from the Yale School of Management (1988). I have worked in different sectors of the electric power industry over the last 30 years, starting as an electric utility research analyst for Energy Systems Research Group (Boston, MA) in 1979. As an Electric Utility Policy Analyst for the Massachusetts Executive Office of Energy Resources (Boston, MA), I participated in several proceedings before the Massachusetts Department of Public Utilities (DPU), and led an intervention before the DPU aimed at reforming the regulations governing power purchase agreements for cogenerators and small power producers. Starting in 1989 I worked for 6 years in the utility and project finance arena, first arranging debt offerings for utility and project development clients for a NYC-based investment bank, and then later arranging project financings for a Washington, D.C.-based developer of independent power projects that was jointly owned by PG&E Enterprises and Bechtel Enterprises. From1996 to 1998 I managed the development of, and arranged a cross-border financing for, each of the Aeroenergia and Tierras Morenas wind projects now operating in the Guanacaste Province of Costa Rica, on behalf of EnergyWorks, a joint venture of Bechtel Enterprises and Pacificorp. In 1998 I was a co-founder of Atlantic Renewable Energy Corporation, an independent developer of wind energy projects that successfully developed 500 MW of the first commercial wind projects in the northeastern

US. I was the lead developer of the first three commercial wind farms in New York, including the 11 MW Madison, 30 MW Fenner and 325 MW Maple Ridge wind farms (the latter of which remains the largest wind project in operation in the eastern US). After Atlantic Renewable Energy was sold to PPM Energy (now Iberdrola Renewables—the largest equity owner of wind projects in the world), I managed PPM/Iberdrola's 500+ MW portfolio of wind development assets in NY until 2008. I then joined Deepwater Wind Holdings in May of 2009 as its Chief Executive Officer.

II. BLOCK ISLAND WIND FARM – PROJECT BACKGROUND AND LEGISLATIVE HISTORY

Q. What is the purpose for your testimony in this Docket?

A. We are asking the PUC to approve a power purchase agreement we have negotiated with the Narragansett Electric Company, d/b/a National Grid ("National Grid") for the Block Island Wind Farm. The agreement National Grid filed with the PUC on November 18, 2009 has been further amended by the parties in the course of negotiations since then. Those negotiations have yielded a PPA which has been fully agreed by the parties on all points. A copy of the agreed PPA is attached as Exhibit A.

The execution of a power purchase agreement is a necessary precursor to developing and financing of any renewable energy project, and it will enable Deepwater Wind to continue developing the proposed Block Island Wind Farm.

Q. Can you describe Deepwater Wind's business in Rhode Island?

A. We are actively developing two of the nation's first offshore wind energy generation projects in the waters of Rhode Island Sound that will serve as the cornerstone of a entirely new renewable energy industry in Rhode Island. Upon completion of both wind farms, Deepwater Wind will be the owner and operator of the largest renewable energy resources in the state and will have established a manufacturing/assembly base at Quonset Point to support the construction and operation of those facilities. The State of Rhode Island, through legislative and executive actions alike, has taken a number of important steps over the last several years

to support the creation of this industry, with the objective of generating clean power, improving the region's air quality and creating hundreds of new jobs. The Block Island Wind Farm, the smaller of the two wind farms we propose to build, is the culmination of these policies and is specifically tailored to satisfy the requirements of state law. To date, we have invested millions of dollars performing studies and commissioning engineering and design work in support of our development effort in Rhode Island, and specifically the Block Island Wind Farm.

Q. Why is renewable energy important to Rhode Island?

Rhode Island, along with the other Northeastern states, has experienced significant difficulty in adding new sources of generation, particularly those using conventional fossil fuels, and in adding new transmission facilities to alleviate grid congestion. In addition, almost all of the energy consumed in Rhode Island is imported — either from overseas, or elsewhere in the U.S. — which makes the state particularly susceptible to the cost impacts of dislocations in the oil and gas markets, as happened most recently in 2007 and 2008. The region's reliance on fossil fuel fired electric generation, particularly natural gas fired power plants, makes it especially susceptible to the harmful economic impacts of fuel price volatility driving dramatic swings in retail electric prices.

Renewable energy — and specifically offshore wind —addresses many of these problems. It represents an abundant source of energy derived from an indigenous resource. Offshore wind facilities can be directly connected to, or in close proximity to, load centers. And they can displace our use of fossil fuels, reducing price volatility as well as our dependence on foreign fuels.

Individual utility scale wind turbine generators are now being installed onshore in the southern parts of Rhode Island, though land use constraints will prevent these terrestrial wind installations from contributing substantially to electric generation in the region. However, the

wind resource lying offshore of Rhode Island's coastline is substantial, with enough generating capacity available to significantly contribute to the state's overall electricity supply. Utility scale offshore wind plants represent the Northeast region's most cost-effective form of new carbon-free generation, with all-in costs much less than solar electric, wave/tidal/ocean current or new nuclear. Offshore wind relies on a proven energy conversion technology, using off-the-shelf components that can be sourced in the U.S. and installed and maintained by local labor.

By establishing itself as a hub for the construction and maintenance of offshore wind farms in the Northeast, Rhode Island could make itself a prime beneficiary of the transition to renewable energy that our country is now going through. Perhaps the most important impacts of an investment in the offshore wind industry is the significant potential economic development benefits associated with the creation of a local supply chain — including the onshore fabrication and assembly of wind turbine generator components, towers and foundations; the offshore installation of the foundations, towers and turbines; and the ongoing operations and maintenance requirements of the wind turbine generators over their expected 20-year operating lives.

So, I think the economic rationale for renewable energy in the form of offshore wind is quite compelling for Rhode Island. But there are environmental benefits too. Wind farms themselves do not emit carbon dioxide or other greenhouse gases, and so do not contribute to anthropogenic global warming. Nor, unlike fossil fuel plants, do they emit nitrogen oxides, sulfur oxides or other particulate matter. Electricity generated by renewable energy sources such as the wind provides immediate environmental benefits by backing down generation from conventional power plants, almost entirely from peaking and intermediate plants, all of which are either oil or gas fired. The resulting reduction in fossil fuel combustion provides immediate air quality improvements, many of which are realized locally.

Finally, the reduction in generation from low efficiency, high-heat-rate gas-fire peaking plants that results from new wind-powered generators has the added benefit to consumers of instantaneously reducing the wholesale electric price at the NE ISO dispatch level, as well as reducing the regional demand for and price of natural gas, which benefits all ratepayers in the region. Note that the benefits of this displacement effect are widely distributed, and usually not considered in the conventional analyses of the system impacts of wind generation. (Recent studies in Denmark and Germany suggest that this instantaneous improvement in the system heat rate, due to the injection of zero-variable cost energy from wind generators, can produce savings to consumers that may approach the cost of the renewable energy price premium.)

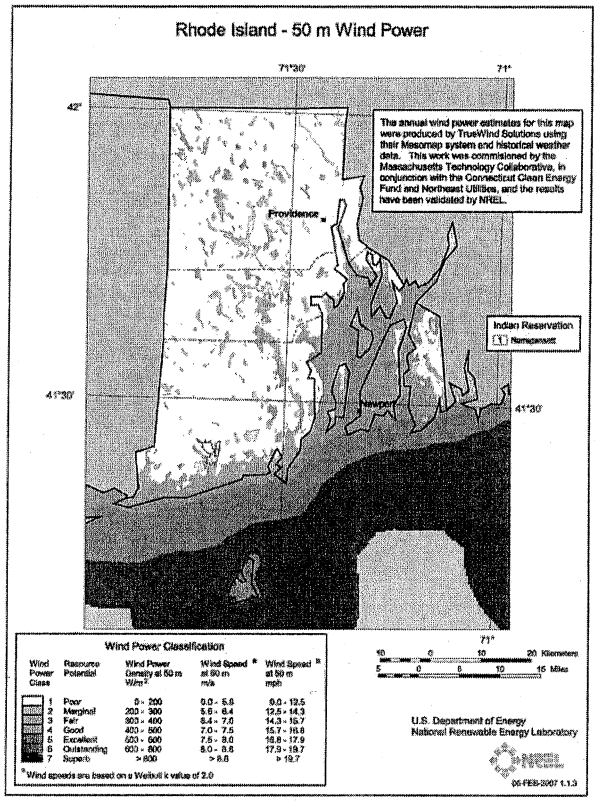
Q. Can you address the requirements of the Rhode Island Renewable Energy Standard?

A. Rhode Island's Renewable Energy Standard (R.I. Gen. Laws §§ 39-26-1 to 10), mandates that by 2019, sixteen percent of the state's energy needs be fulfilled from renewable energy sources. The RES requires distribution companies to evidence their compliance with the RES by purchasing renewable energy certificates from generators of renewable energy.

Q. What are Rhode Island's options for satisfying the Renewable Energy Standard?

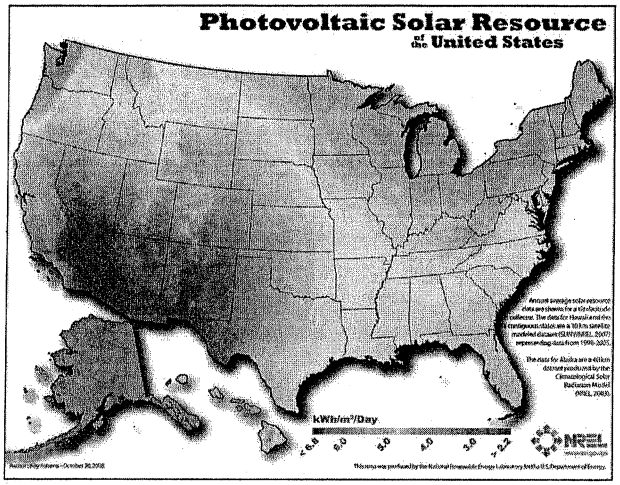
A. Unfortunately, Rhode Island's renewable energy resources are limited. Let's first consider the availability of wind, solar, biomass, hydropower and geothermal energy.

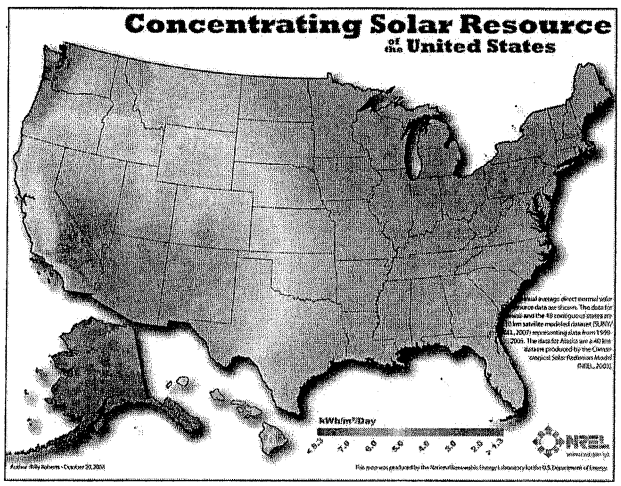
Wind. Other parts of New England have considerable areas of elevated lands with good wind exposures. However, Rhode Island has essentially no land suitable for larger utility scale wind farms. As seen in the wind resource map below, no land area in Rhode Island has wind power class equal or above level 4, which is considered the minimum economic level for wind farms. Even if the onshore wind resource were abundant, Rhode Island is densely populated, and does not have large swaths of sparsely populated land on which to site large wind farms. The offshore regions of Rhode Island, by contrast, have much stronger winds, and avoid some of these challenges.



Wind Resource Map (Source: NREL)

Solar. Rooftop solar photovoltaic systems could be widely installed on institutional and commercial buildings, but to date the high installed capital cost (equal to or higher than offshore wind) and comparatively low performance (20-25% capacity factor compared to 40% or higher capacity for offshore wind)) makes solar electric technologies prohibitively expensive. In addition, the NREL national solar resource maps, below, show poor solar energy intensity in the entire Northeast region.



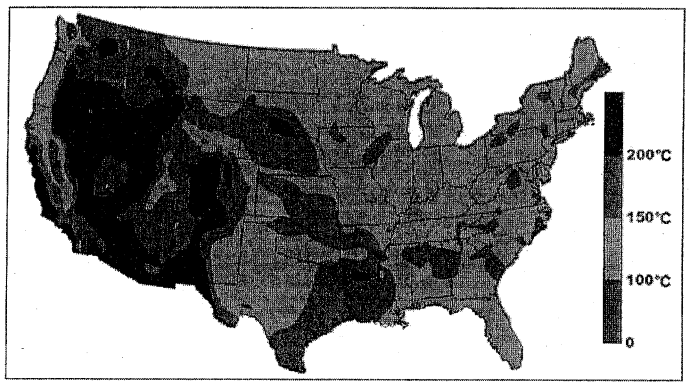


Solar Resource Maps (Source: NREL)

Biomass. There are limited opportunities to build biomass generating projects in Rhode Island. These facilities are generally not scalable and are comparatively difficult to site in densely populated areas such as Rhode Island. Also, even though biomass facilities are generally regarded as carbon neutral, they do emit greenhouse gases and are not zero-emissions facilities, unlike wind farms.

Hydropower. With regards to hydropower, according to the U.S. Hydropower Resource Assessment for Rhode Island (study for DOE under contract DE-AC07-94ID13223), the total remaining undeveloped onshore hydropower resource for Rhode Island is around 13.5MW, less than half the nameplate capacity of the proposed Block Island Wind Farm.

Geothermal. Lastly, not only there is no adequate geothermal resource in Rhode Island, as shown below. It is also not commercially viable to develop such resources in highly populated areas like the Northeastern U.S., since the facilities require drilling deep into the ground in multiple locations across a large land surface area. The unpopulated regions in the Northeastern U.S. are too small for this to be feasible.



Geothermal Resource Map (Source: NREL/DOE EERE)

That leaves the ocean. Theoretically the energy potential of wave, tidal and ocean current conversion technologies in the waters off of Rhode Island might be considerable, but these systems are probably a decade away from commercialization with as-yet uncertain cost and performance characteristics. Unlike offshore hydrokinetic technologies, the technologies and challenges associated with offshore wind are reasonably well understood. Offshore wind has been operating successfully in Europe for many years and existing knowledge can be transferred to the U.S., laying the ground for a scalable new industry.

As such, we believe that *offshore wind is the only scalable renewable energy technology ready for commercial deployment in Rhode Island, and the only reasonable prospect for satisfying the Renewable Energy Standard.* The wind farms that Deepwater Wind seeks to build will go a long way towards satisfying the requirements of the Renewable Energy Standard. The Block Island Wind Farm is a step in this direction.

Q. What is Rhode Island doing to satisfy the Renewable Energy Standard requirements?

A. Rhode Island has shown exceptional leadership in recognizing the large potential gains from a new renewable energy industry in the region. Starting In 2006, the Governor of Rhode Island and his Office of Energy Resources established a goal of securing fifteen percent of the state's energy needs from offshore wind facilities. The *RIWINDS Phase I: Wind Energy Siting Report* commissioned by the Governor and issued in April 2007 concluded that the Governor's fifteen percent goal was achievable and that over 95% of Rhode Island's wind energy opportunity was located offshore. A subsequent stakeholder input process headed by the Office of Energy Resources in 2007 further confirmed support for pursuing offshore wind projects. (*Rhode Island Offshore Wind Stakeholders Final Report*, February 2008).

Another significant policy action taken by the Rhode Island government to support the development of offshore wind energy projects was the commencement by the Rhode Island Coastal Resource Management Council ("CRMC") of its Ocean Zone Special Area Management Plan in 2008 ("Ocean SAMP"). The goal of the Ocean SAMP is to make Rhode Island the first state in the nation to zone its offshore waters for a variety of purposes, including renewable energy projects. This exercise in marine spatial planning, which has undertaken millions of dollars of scientific studies, and engaged in an extensive stakeholder process, will make it possible for the RI CRMC to effectively evaluate proposals for offshore wind projects in both state and Federal waters, giving Rhode Island a significant advantage towards being the first state in the nation to establish the offshore wind industry.

These forward-thinking actions were supplemented by a decision by the Department of Administration to issue a competitive Request for Proposals for offshore wind projects in 2008. A panel of government officials, aided by several national experts, conducted an extensive review over several months of the seven proposals submitted in response. The state selected Deepwater Wind as its preferred developer of offshore wind projects.

On January 2, 2009, the state (through the Office of the Governor and the Department of Administration) and Deepwater Wind executed a Joint Development Agreement ("JDA"), contractually designating Deepwater Wind as the state's "preferred developer" of offshore wind facilities. The JDA specifically calls for the development of two different offshore wind farms: (1) a wind farm located within state waters off of the coast of New Shoreham (*i.e.* Block Island) and (2) a larger, utility-scaled wind farm to be located within Federal waters adjacent to Rhode Island.

We are asking the PUC to approve a power purchase agreement in support of the smaller state waters project, the Block Island Wind Farm. As the JDA contemplates, building the Block Island Wind Farm is an important part of the administration's plans to bring economic benefits to Rhode Island.

Q. What are the economic benefits to Rhode Island contemplated by the JDA?

A. The JDA expressly contemplates Rhode Island economic development as an important feature of the projects we are developing. The JDA calls for: Deepwater Wind establishing manufacturing operations in Rhode Island; the establishment of a Regional Development Headquarters in Rhode Island; the negotiation of leases at the Quonset Business Park to support Deepwater Wind's operations; other related development and construction activities to be sourced in Rhode Island if reasonably available; and the good faith negotiation of appropriate project labor agreements for the construction and operation of Deepwater Wind's projects in Rhode Island. To date, we have already established our Regional Development Headquarters in Providence, and opened a supporting office in Block Island. And we have obtained the rights to land at Quonset Point where we hope to site our manufacturing/ assembly facility for the bigger wind farm. So we are excited to be working in partnership with Rhode Island on these projects and by the prospect of revitalizing its rich maritime tradition.

Q. Can you tell us about the legislation that led to the negotiation of the power purchase agreement (the "PPA") that is currently before the RIPUC for approval in this Docket?

A. Yes. In 2009, the Rhode Island General Assembly affirmed the state's commitment to developing offshore wind facilities by passing the Long-Term Contracting Standard for Renewable Energy. (R.I. Pub. Laws 2009 Ch. 51 and 53) (the "Act"). A section of that chapter (§ 39-26.1-7) expressly calls for the solicitation of a power purchase agreement for a "Town of New Shoreham Project". Importantly, the legislation restricts the sizing of the project, and we believe this is one of the key considerations that has to be taken into account in determining whether to approve the PPA.

This statutory mandate is the reason that Deepwater Wind proposed the Block Island Wind Farm to National Grid. Indeed, the General Assembly's intent to develop a project of the size proposed by Deepwater Wind was reaffirmed in November 2009 when the legislature in a special session amended the Act to specifically redefine the maximum size of the project to be no more than thirty mega-watts of nameplate capacity. (R.I. Pub. Laws Ch. 216 and 217).

Q. What is the required standard of review for the negotiated PPA?

A. The Act requires that the developer and electric distribution company negotiate "in good faith to achieve a commercially reasonable contract" (§ 39-26.1-7). The Act further defines the standard: "Commercially reasonable" means "terms and pricing that are reasonably consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources." (§ 39-26.1-2(1)). With respect to the Block Island Wind Farm, the commercially reasonable standard should take into account the sizing restrictions placed by the legislation, and the PPA should be evaluated in light of the size and scope of the facility.

Finally, the commercial reasonableness standard must be applied with the explicit goals of the Act in mind, especially the goal of "facilitating the financing of renewable energy generation within the jurisdictional boundaries of the state or adjacent state or federal waters."

Q. What are the goals of the Act?

A. The goals of the Act are expressed as follows:

> **"39-26.1-1. Purpose. –** The purpose of this chapter is to encourage and facilitate the creation of commercially reasonable long-term contracts between electric distribution companies and developers or sponsors of newly developed renewable energy resources with the goals of stabilizing long-term energy prices, enhancing environmental quality, creating jobs in Rhode Island in the renewable energy sector, and facilitating the financing of renewable energy generation within the jurisdictional boundaries of the state or adjacent state or federal waters or providing direct economic benefit to the state."

Q. Does the Block Island Wind Farm satisfy the goals of the Act?

A. Yes. This will be described in greater detail in the testimony filed by Deepwater Wind's expert, David Nickerson, but a brief overview is as follows. First, the Block Island Wind Farm will be a newly developed renewable energy resource. Second, the PPA establishes fixed prices for the next twenty (20) years. The PPA power price is not subject to the volatility of fuels used by conventional sources of electricity, such as natural gas or diesel fuel and therefore contributes to price stability. Third, in terms of environmental quality, as noted above, the Block Island Wind Farm will be a zero-emission renewable energy facility, and will enhance local air quality by displacing fossil fuel power. Fourth, the PPA does facilitate the financing of renewable energy generation, as the certainty of a revenue stream embodied in a contract such as the PPA is the cornerstone of any project finance structure. Finally, building the Block Island Wind Farm is an important step towards establishing a long term renewable energy industry in Rhode Island, bringing jobs and economic benefits to the state.

Q. Why not just buy renewable energy from outside Rhode Island?

A. Satisfaction of the Rhode Island Renewable Energy Standard from renewable energy projects built outside of Rhode Island would undermine years of policymaking by the State of Rhode

Island. It would also be a serious setback for the state's economic development agenda. The Act has primary goals of "creating jobs in Rhode Island in the renewable energy sector" and "facilitating the financing of renewable energy generation within the jurisdictional boundaries of the state or adjacent state or federal waters." The Block Island Wind Farm supports these goals directly; purchasing power from out of state undermines them. In determining where to source renewable energy to satisfy its Renewable Energy Standard, it makes sense to think about whether building and buying that power locally, so benefits are returned to the state and its citizens in the form of jobs and tax revenues.

Rhode Island has made it an explicit policy goal to encourage a homegrown renewable energy industry that meets the goals of the Renewable Energy Standard while reaping the corresponding economic benefits. Accordingly, the state has made contractual commitments to the development of the offshore wind industry in Rhode Island through its Joint Development Agreement with Deepwater Wind and through its allocation of 117 acres of scarce development property at the strategic Quonset Business Park to Deepwater Wind's operations. Those contracts are premised on Deepwater Wind's construction of offshore wind farms in state and adjacent Federal waters as well as the location of manufacturing and related jobs at the Quonset site. The state has made such a commitment to building this industry here in Rhode Island that it submitted an application to the United States Department of Transportation for more than $40 million of stimulus funding to upgrade the infrastructure at the Quonset Business Park to accelerate the development of offshore wind projects in the state.

The Block Island Wind Farm satisfies the goals of the Long-Term Contracting Standard for Renewable Energy statute and these related state actions. It is a critical component of the state's commitment to securing clean renewable energy and of creating a new industry in Rhode Island capable of generating many hundreds of jobs. Signing contracts with projects located in other states in lieu of supporting local projects undermines all of this policymaking

and would result in a huge lost chance at a new industry that could revitalize Rhode Island's manufacturing sector.

Q. Why is Rhode Island a good candidate for the development of the offshore wind industry?

A. We are developing offshore wind farms in a number of states and have a good grasp on the advantages and disadvantages of each state. However, we have picked Rhode Island to kick off development because Rhode Island has a unique combination of key attributes necessary to support a large-scale offshore wind power industry:

Room for development	Rhode Island Sound is a large body of well-exposed offshore waters, with room for multiple uses including commercial wind energy collection consistent with other vital economic activities including commercial and recreational fishing, boating and shipping.
Wind resource	A commercial grade wind resource (i.e., >9 m/s median wind speed at 80 meter elevations) is a necessary condition for a utility scale wind project. The Rhode Island Sound has an excellent southwesterly exposure, and arguably represents the best offshore wind farm location in southern New England, with a potential generating capacity measured in the thousands of MW.
Access to utility grid	There are multiple utility interconnection points along the Rhode Island coastline ensuring ready access to the NE ISO high-voltage system.
Nearby electric customers	The ready proximity of significant utility loads within the southeastern NE region means that the significant electric generating potential of RI's offshore waters can be easily absorbed by the electric grid.
Deepwater port	Availability of a deepwater, intermodal port at Quonset Point with quayside land sufficient to host wind turbine component

	fabrication, manufacture and assembly, and construction laydown and staging areas as well is a considerable advantage.
Rich maritime history	A long-established maritime history of using Rhode Island Sound for multiple economic activities paves the way for large-scale offshore wind energy generation.
Community and political support	Critical to any wind energy development program is strong community and political support for locally based wind energy projects. We have found, and hope to continue to earn, this support in Rhode Island.

Q. Why have you selected the Block Island site?

A. The Block Island site is controlled by Rhode Island, and so - when combined with the work already being done by CRMC through its Ocean SAMP, which is a necessary precursor to obtaining the necessary permits for a given site - a project off Block Island can be built much sooner than any other offshore wind farm in the country. At the same time, and as explained below, the project is of a modest enough size that it is less challenging to finance in today's tight markets for project finance debt. This allows us to move more rapidly, and take steps towards building a project through which we can learn lessons to be applied to the larger project we are developing in Rhode Island Sound. In short, we tendered a submission to National Grid's RFP because we believe that the Block Island Wind Farm is a good project with the potential to progress quickly, yet achieve far-reaching and long-lasting positive impact - for Rhode Island, for its citizens, for Block Island and naturally, for Deepwater Wind.

Q. In addition to satisfying the requirement in the Act for a smaller project that can provide power to the Town of New Shoreham, what are the ancillary benefits of starting with a smaller project?

A. Firstly, in today's economic climate, and difficult capital markets, it would be difficult to attempt to borrow commercial debt sufficient to construct a large wind farm (say, ten times or more larger than the proposed Block Island Wind Farm). Even though a smaller project does not

enjoy the same significant economies of scale in construction and operation as a larger project, there are some notable other benefits to starting small.

For example, a large project size would necessarily be in Federal waters, and would be developed on a much longer time frame because of the nature of the Federal permitting process. Any developer will tell you that financing a project through uncertain and protracted delays is extremely challenging.

Moreover, the potential delay associated with building such a large project means that such a project could miss out on certain Federal tax incentives that could be worth many millions of dollars. In pricing the power for the Block Island Wind Farm, we have made the assumption that we will be able to develop and build the project on a timely basis to qualify for these incentives - and have accordingly passed the value of those Federal incentives, specifically the cash grant program available to the Section 48 Investment Tax Credit, along to ratepayers. Finally, since the supply chain needed to build offshore wind projects has yet to emerge in the U.S. (such as special purpose installation and transport vessels), attempting to build a project of large scale at this point in time is unduly risky. As a first project, a much smaller offshore wind farm (such as the Block Island Wind Farm) has a much higher chance of success, not only in terms of attracting financing, but also in terms of timeline, qualifying for Federal incentives, and certainty of implementation.

Q. Does Block Island benefit from this Project?

A. Yes. For starters, if the project goes forward, a transmission line connecting Block Island to the Rhode Island mainland will be built. This will enable the Block Island Power Co. to purchase power from the mainland grid, by participating in the NE ISO wholesale market, rather than generate its own power using diesel fuel, as it does today. As a result, Block Island residents will be less subject to volatility associated with changes in the price of diesel fuel, and will be more insulated from potential increases in the production cost of fossil fuel plants, for example, related to a carbon tax or a cap and trade scheme. Displacing diesel fuel is better for the local

environment because it avoids emissions of nitrogen oxides, sulfur oxides and other particulate matter. The response from Block Islanders to date has been very positive. For example, a survey conducted by Roger Williams University and Brown University found that 84% of registered voters on the island supported the Project. And we will continue to listen to the community and respond to their concerns.

III. TERMS OF THE PURCHASE POWER AGREEMENT

Q. Can you summarize the negotiating history between Deepwater Wind and National Grid?

A. Yes. National Grid published a request for proposal (or "RFP") on August 1, 2009, inviting applicants to propose renewable energy developments that could serve the Town of New Shoreham on Block Island. Deepwater Wind submitted a response to that RFP on August 31, 2009. Following that submission, we were selected by National Grid to commence negotiations for a PPA for our proposed Block Island Wind Farm. Negotiations for the PPA commenced in mid-September. As of October 15, 2009, we had yet to reach agreement with National Grid, and a copy of the PPA as it then stood was filed by National Grid with the PUC.

The PUC asked each of the parties to the PPA to submit a summary of the outstanding issues on October 27, 2009, and both parties filed timely responses to that data request. At a scheduling conference held on October 29, 2009, the PUC asked the parties to continue negotiating and to file a revised PPA by November 13, 2009. On October 30, 2009, the Rhode Island legislature passed an amendment to the Act clarifying the size and scope of project that would be acceptable. Between October 29, 2009 and November 13, 2009, the parties continued to negotiate the PPA and came to substantial agreement on nearly all the terms and conditions of the contract, other than price. This near-final version of the PPA was filed with the PUC on November 13, 2009. Subsequently the parties continued to negotiate and finally agreed all terms of the PPA. The fully agreed PPA is being filed with the PUC on December 9, 2009, the filing date for this testimony.

The PPA filed on December 9, 2009 includes two important changes relative to the PPA filed on November 13, 2009. First, Deepwater Wind has agreed to reduce its price from $221 to $212.63 per megawatt-hour, expressed in 2009 terms. This is consistent with what Deepwater Wind has publicly said - that we would be able to propose a contract in the range of $210 to $250 per megawatt-hour[1]. Second, Deepwater Wind proposed a mechanism that establishes the price noted above as a cap, with a process for establishing a lower effective per unit price under certain circumstances. Specifically, Deepwater Wind has agreed to provide National Grid (and thus, the ratepayer) with a credit if the wind blows more strongly than expected and the project generates more power than anticipated. If, on a lifetime basis, the wind blows better than we currently project, half of that surplus power, and associated renewable energy credits (RECs) will be given to National Grid for free, thus lowering the effective per unit cost of power.

Q. Are the terms and conditions of the contract commercially reasonable?

A. Yes. The Act provides that a contract is "commercially reasonable" if it is "reasonably consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources". We would add that this analysis should take into account the specific legislative context for the "Town of New Shoreham Project", and in particular, the sizing limitation to 30 MW. Power purchase agreements across the country share common, market-standard terms, and the PPA adopts many of these market-standard concepts. However, there are a few concepts that, while not unique by any means, are tailor-made to specifically address some of the risk considerations surrounding the Block Island Wind Farm. We, and National Grid, believe these concepts to be commercially reasonable, but feel that it would be helpful to the PUC to provide some explanation of these provisions, so they can be analyzed by the PUC with appropriate context:

(a) **Extension of Commercial Operations**. Section 3.1 provides for a target completion date of December 31, 2012, but allows Deepwater Wind to extend the completion deadline by up to five years, to December 31, 2017. This provision is intended to address the possibility that Deepwater Wind will not receive all of the

[1] The PPA shows a price of $235.75 in 2012, as National Grid wanted to describe the prices in 2012 terms.

permits necessary to build and operate the Block Island Wind Farm on a timely basis. Permitting an offshore wind farm is an elaborate process that requires collaboration and coordination across multiple state and Federal agencies, and, with the Block Island Wind Farm, is being done for the first time. Any number of complications could cause the schedule to slip, and to make the target commercial operation date unachievable. The right to extend the commercial operation deadline also allows Deepwater Wind to manage other risks, such as the risk of a downturn in the financing markets resulting in financing not being available, or a change in the availability of vital Federal tax incentives. During any extension period, the power price will cease to escalate, and so there is no negative impact on ratepayers (other than having to wait longer for the benefits of renewable power). In light of these considerations, Deepwater Wind believes this provision to be commercially reasonable.

(b) **As-Available Nature of Contract**. Section 4.1 provides that the power from the project will be sold to National Grid on an as-available, when-available basis. In power purchase agreements with fossil fuel plants, it is sometimes typical to see minimum quantity guarantees. However, an "as available" provision is appropriate for the Block Island Wind Farm, and commercially reasonable, given the intermittent nature of wind power. If the wind does not blow, Deepwater Wind should not have an obligation to deliver power to National Grid. If the wind blows strongly, Deepwater Wind will sell all power to National Grid (and, in some cases, potentially provide "free" power and environmental attributes to National Grid - as described above).

(c) **Extension for Cable Outage**. Section 4.4 provides that if there is an outage of the transmission cable used to deliver power from Block Island to the mainland, that National Grid will not be under an obligation to pay for power generated by the wind farm during that outage. During this time, the price will not escalate. However, Deepwater Wind may elect to extend the term of the contract by the duration of the outage and will earn some revenue at the tail end of the contract to make up for lost

revenue during the original term. This provision is commercially reasonable because it provides project finance lenders with the reassurance that such revenue, lost through no fault of the project's owner/operator, will be recovered later on, and thus enable Deepwater Wind to repay its loan.

(e) **Extension for Force Majeure**. Section 10.3 provides that if either party is unable to perform the contract due to a force majeure event lasting more than sixty (60) says, it may extend the contract by the duration of the force majeure. During the force majeure period, the price will not escalate. Like Section 4.4, this provision will provide greater comfort to Deepwater Wind's lenders that they can recover the loan if an unexpected disruption occurs. Accordingly, this provision is commercially reasonable for the same reasons that the cable outage extension provision is reasonable.

(f) **Escalation Rate**. Exhibit E provides that the 2012 price of $235.75 will be subject to an escalator of 3.5%. There is no market norm for escalation rates for power purchase agreements, since the combined impact of price and escalation has to be taken as a whole in assessing any contract for the sale and purchase of electricity. The mechanism adopted in the PPA agreed by Deepwater Wind and National Grid was selected by Deepwater Wind not as a means of tracking inflation, but as a means to benefit ratepayers by shifting the majority of the revenue stream to the later portions of the PPA term. This accomplishes two things. First, this lowers the power price, and the cost of renewable energy to ratepayers, in the early years. Second, this delays Deepwater Wind's recovery of its investment to the back end of the contract. In practice, Deepwater Wind is taking the risk that ordinary wear and tear on the facility will reduce overall output and impair the project economics. Put another way, the revenue profile of the project, when measured against production risk, is tilted in favor of cheaper power, to the benefit of ratepayers. As an incidental benefit, this arrangement provides reassurance that Deepwater Wind will maintain the facility as it will want the wind farm to continue producing power throughout the term. Deepwater

Wind believes that, taken in appropriate context as a risk-shifting mechanism, the escalation rate meets the standard of commercial reasonableness.

Q. Is the price commercially reasonable?

A. As noted above, the legislation provides that "commercially reasonable" means "reasonably consistent with what an experienced power market analyst would expect to see in transactions involving newly developed renewable energy resources". Given that this standard is intended to apply to a series of solicitations and power purchase contracts contemplated by the Act, we believe it is appropriate to take the specific legislative context into account. In particular, we believe that the relevant line of query must take into consideration the sizing constraint imposed by the legislation, and therefore determine whether the PPA price is commercially reasonable for a renewable energy project of 30MW or less that can service the Town of New Shoreham. Deepwater Wind believes the price to be commercially reasonable taking into account the size of the project, the certain nature of the price, the value of environmental attributes generated by the project, the cost of avoided carbon dioxide and other greenhouse gas emissions. Deepwater Wind has further engaged David Nickerson of Mystic River Energy Group to provide an independent expert opinion on this issue.

Q. Are there reasons to expect Deepwater Wind's larger proposed Rhode Island Sound Wind Farm to be less costly to install?

A. There are several reasons why we expect the larger Rhode Island Sound offshore wind farm to be less costly to install and operate. For the most part, these cost savings will naturally follow from the advantages of scale; others will result from the organic growth of a normal offshore wind supply chain in the northeastern US; and still others from the learning effects of a more experienced work force.

Since the quantity of machines and material required to build the larger wind farm are much greater, simple purchasing power, and the benefits of scale to the suppliers of material manufacturing to meet larger orders, will make it possible to negotiate better pricing right

across the board—from the purchase and installation of the wind turbine generators, to the purchase of steel for the jacket foundations, and the fabrication of the foundations themselves. The steel jackets for the Block Island Wind Farm will essentially be custom built; but an order of 100 jackets will make it possible for a fabricator to invest in a serial production line that will make it possible to reduce these costs substantially. Larger size projects will also benefit from the amortization of the many fixed costs associated with projects of this nature — such as vessel and contractor mobilization payments, and development and permitting costs — over a much larger number of wind towers, and MWH of output.

Many of the existing gaps in the supply chain for offshore wind at present— lack of suitable heavy-lift vessels; service vessels and crews; adequate quayside port facilities — will resolve themselves once this industry gets going in the U.S. Getting a first-of-its-kind project like the Block Island Wind Farm in the water is critical to getting this industrial development process underway, giving European suppliers the confidence to invest time and money in our markets. With purpose-built vessels available to install jackets, towers and wind turbines, installation costs will start to come down. Once regional firms emerge to fabricate our jacket foundations, or assemble wind turbine nacelles, we will spend less on transporting these components in Rhode Island.

And as the offshore wind industry expands in the U.S., we will start to see other kinds of efficiency improvements-- more experienced workers will reduce the time required to install towers and turbines, and reduce the cost of providing O&M services

While it's too early to commit ourselves to a specific per MWh price for the bigger Rhode Island Sound project, one indication of the economies yet to be realized is the incremental cost of a hypothetical "9th" wind turbine generator for the Block Island project. Based on Deepwater Wind's current cost assumptions, and a variety of actual supplier quotes), this incremental cost could be as much as 20-25% less than the average cost to install the 'first" 8 wind turbine towers. And importantly, this calculated incremental price gain reflects just the advantage of

sharing fixed costs over a larger unit base, and, more importantly, does not capture any of the other economies to be gained from greater purchasing power, more efficient construction methods or reduced transportation.

Q. Does this conclude your direct testimony?

A. Aside from reviewing testimony from the Division or any other party in this Docket, yes it does.

CERTIFICATION

I hereby certify that on December 9, 2009, I sent a copy of the within to all parties set forth on the attached Service List by electronic mail and copies to Luly Massaro, Commission Clerk, by electronic mail and regular mail.

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POWER PURCHASE AGREEMENT

BETWEEN

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

AND

DEEPWATER WIND BLOCK ISLAND, LLC

As of December 9, 2009

TABLE OF CONTENTS

Page

TABLE OF CONTENTS (CONT.)

TABLE OF CONTENTS (CONT.)

Exhibits

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this "**Agreement**") is entered into as of December 9, 2009 (the "**Agreement Date**"), by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation ("**Buyer**"), and Deepwater Wind Block Island, LLC, a Delaware limited liability company ("**Seller**"). Buyer and Seller are individually referred to herein as a "**Party**" and are collectively referred to herein as the "**Parties**".

WHEREAS, Seller is developing the Block Island Wind Farm, a demonstration scale wind farm located off the coast of Block Island, Rhode Island, which is more fully described in Exhibit A hereto (the "**Facility**"), which shall qualify as a Newly Developed Renewable Energy Resource (hereafter defined);

WHEREAS, Buyer is required under R.I.G.L. §39-26.1-7 to solicit proposals for a long-term contract for the purchase of energy, capacity and renewable energy certificates from a renewable generator meeting the requirements of that statute; and

WHEREAS, Buyer and Seller desire to enter into this Agreement whereby Buyer shall purchase from Seller all Products (as defined herein) generated at or associated with the Facility;

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

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Defined terms in this Agreement shall include in the singular number the plural and in the plural number the singular. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

Unless the context requires otherwise, any reference in this Agreement to any document shall mean such document and all schedules, exhibits, and attachments thereto as amended and in effect from time to time. The words "hereof," "herein," "hereto" and "hereunder" and words of similar import when used in this Agreement shall, unless otherwise expressly specified, refer to this Agreement as a whole and not to any particular provision of this Agreement. Whenever the term "including" is used herein in connection with a listing of items included within a prior reference, such listing shall be interpreted to be illustrative only, and shall not be interpreted as a limitation on or exclusive listing of the items included within the prior reference. Captions, titles and headings used in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

"**Affiliate**" shall mean, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries controls, is controlled by, or is under common control with, such first Person.

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

"**Amendment Regulatory Approval**" shall have the meaning set forth in Section 8.5(c) hereof.

"**Business Day**" shall mean any day that is not a Saturday, Sunday, or NERC Holiday.

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

"**Capacity**" shall mean on or as of any date of determination, the Facility's capability to generate a specific amount of electrical energy at any point in time, including without limitation, all capacity from the Facility as determined by ISO-NE's Seasonal Claimed Capability rating (or successor or replacement rating used to measure capability) as defined in the ISO-NE Rules that is obligated to deliver and receive payments in the Forward Capacity Market (or its successor market) as set forth in the ISO-NE Rules, including without limitation as both a "New" and an "Existing" Capacity Resource as those terms are used in the ISO-NE Rules.

"**Capacity Clearing Price**" shall mean the market clearing price in the Forward Capacity Auction, or any successor auction or equivalent market if an auction is no longer utilized.

"**Capacity Commitment Period**" shall have the meaning set forth in the ISO-NE Rules.

"**Capacity Resource**" shall have the meaning set forth in the ISO-NE Rules.

"**Capacity Supply Obligations**" shall have the meaning set forth in the ISO-NE Rules.

"**Certificates**" shall mean an electronic certificate created pursuant to the Operating Rules of the GIS to represent the generation attributes of each MWh of Energy generated within the ISO-NE control area and the generation attributes of certain Energy imported into the ISO-NE control area.

"**Claiming Party**" shall have the meaning set forth in Section 10.1(a) hereof.

"**Claims**" shall have the meaning set forth in Section 13.1 hereof.

"**Commercial Operation**" shall mean the satisfaction of the conditions set forth in Section 3.3(b), as set out in a written notice from Seller to Buyer.

"**Commercial Operation Date**" shall mean the deadline for the Facility to achieve Commercial Operation, which shall be December 31, 2012, as that date may be extended pursuant to Section 3.1(b).

"**Contract Year**" shall mean: (i) for the first Contract Year, the period beginning with Commercial Operation and including and ending on the last day of the month that is twelve (12) full calendar months following Commercial Operation, (ii) for the second Contract Year, the one-year period beginning on the first day following the end of the first Contract Year, and (iii) for each subsequent Contract Year, the one-year period beginning on each subsequent anniversary of the beginning of the second Contract Year; provided, however, that (i) if Seller elects to extend the Services Term pursuant to Section 4.4(b), or (ii) if either Party elects to extend the Services Term pursuant to Section 10.3, then the end of the Contract Year in which the Party making that election notifies the other Party in writing of its extension election and the beginning and end of each subsequent Contract Year shall be delayed by the period of that extension. All delays in the start and end of Contract Years shall be cumulative (i.e., shall also take

into account all prior delays), and notwithstanding any provision of this Agreement to the contrary, in no event will there be more than twenty (20) Contract Years during the Term.

"**Credit Support**" shall mean collateral in the form of (a) cash or (b) a letter of credit issued by a Qualified Bank in a form reasonably acceptable to the recipient Party, as further described in Section 6.

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

"**Deepwater Transmission**" shall mean Deepwater Wind Block Island Transmission, LLC, a Delaware limited liability company, and its successors and permitted assigns.

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

"**Deliver**" or "**Delivery**" shall mean with respect to Energy, to supply Energy in accordance with the terms of this Agreement at the Delivery Point.

"**Delivery Point**" shall mean the low voltage side of an electric substation on Block Island that is mutually acceptable to Buyer and Seller.

"**Development Period Security**" shall have the meaning set forth in Section 6.1(a) hereof.

"**Effective Date**" shall have the meaning set forth in Section 2.1 hereof.

"**Employees**" shall have the meaning set forth in Section 12.2 hereof.

"**Energy**" shall mean all electric energy produced by the Facility.

"**Environmental Attributes**" shall mean any and all generation attributes under the PUC's regulations and or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, to the favorable generation or environmental characteristics of the Facility or Energy produced by the Facility, during the Services Term (subject to Section 4.1(b)) including: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility's displacement of fossil-fuel derived or other conventional energy generation; (b) any Certificates issued pursuant to the GIS in connection with Energy Delivered to Buyer; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy Delivered to Buyer; provided, however, that Environmental Attributes shall not include: (i) any state or federal production tax credits; (ii) any state or federal investment tax credits or other tax credits associated with the construction or ownership of the Facility; (iii) any state or federal tax credit introduced after the date of this Agreement intended to supplement, replace or enhance the tax credits described in the foregoing clauses (i) or (ii); (iv) any depreciation deductions permitted under the Internal Revenue Code with respect to the Facility (including any bonus or accelerated depreciation); or (v) any state, federal or private Financing, grants, guarantees or other credit support relating to the development, construction, ownership, operation or maintenance of the Facility.

"**Escalation Date**" shall have the meaning set forth in Section 5.1(b) hereof.

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

"Extended Group" shall have the meaning set forth in Section 15 hereof.

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

"**Financing**" shall mean indebtedness, whether secured or unsecured, loans, guarantees, notes, equity, convertible debt, sale-leaseback transactions, bond issuances, recapitalizations and all similar financing or refinancing.

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

"**Forward Capacity Auction**" shall have the meaning set forth in the ISO-NE Rules.

"**Forward Capacity Market**" shall have the meaning set forth in the ISO-NE Rules.

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

"Good Utility Practice" shall mean compliance with all applicable laws, codes and regulations, all applicable ISO-NE Rules and ISO-NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric industry for similarly situated facilities during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the industry in New England.

"Governmental Entity" shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility, but does not include a RTO.

"Indemnifying Party" shall have the meaning set forth in Section 13.1 hereof.

"Indemnified Party" shall have the meaning set forth in Section 13.1 hereof.

"Interconnecting Transmission Provider" shall mean Buyer and/or an Affiliate of Buyer, together with their successors and assigns under the Interconnection Agreement.

"Interconnection Agreement" shall mean an agreement among some or all of Seller, Buyer, the Interconnecting Transmission Provider and the ISO regarding interconnection of the Facility to the transmission system of the Interconnecting Transmission Provider or its affiliate, which Agreement shall be acceptable in form, scope and substance to each of the parties thereto in their sole discretion.

"**Investors**" shall have the meaning set forth in Section 12.2 hereof.

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

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

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

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

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

"**kW**" shall mean a kilowatt.

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

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

"**Lender**" shall mean any Person, whether acting for its own account or as agent for another Person, providing Financing in connection with the development, construction, and ownership of the Facility (or any refinancing of that Financing), and shall include any assignee or transferee of such a party and any trustee, collateral agent or similar entity acting on behalf of such a Person.

"**Market Participant**" shall have the meaning set forth in the ISO-NE Rules.

"**Meters**" shall have the meaning set forth in Section 4.7(a) hereof.

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

"**MW**" shall mean a megawatt.

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

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

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

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

"**NERC Holiday**" shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and any other day declared a holiday by NERC.

"**Network Upgrades**" shall mean upgrades to the Pool Transmission Facilities and the Interconnecting Transmission Provider's and Buyer's transmission and distribution systems necessary for Delivery of the Energy at the Delivery Point, including those that are necessary for the Facility's Capacity to be recognized as a "Capacity Resource" pursuant to the ISO-NE Rules, as determined and identified in the Interconnection Agreement.

"**Newly Developed Renewable Energy Resource**" shall mean, pursuant to R.I.G.L. § 39-26.1-2(6), an electrical generation unit that uses exclusively an eligible renewable energy resource (as defined under R.I.G.L. § 39-26-5), and either (x) has neither begun operation, nor have the developers of the unit implemented investment or lending agreements necessary to finance the construction of the unit prior to the Agreement Date or (y) is located within the state of Rhode Island and obtained project financing on or after January 1, 2009.

"**Non-Claiming Party**" shall have the meaning set forth in Section 10.1(c) hereof.

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

"**Operational Limitations**" of the Facility are the parameters reasonably required to operate the Facility in accordance with manufacturers' warranties, insurance requirements, the requirements of any Financing, and Good Utility Practice, including the time required for start-up, the limitation on the number of scheduled start-ups per Contract Year and the minimum operating limit(s) for the Facility, including those in Exhibit A and those additional parameters to be provided by Seller prior to Commercial Operation and to be attached hereto as a supplement to Exhibit A.

"**Operating Period Security**" shall have the meaning set forth in Section 6.1(b) hereof.

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

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

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

"**Permitted Liens**" shall mean any claim, lien, charge, encumbrance, or demand on any REC by any Person into whose GIS account Buyer has designated delivery of each REC or Certificate.

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

"**PPA Regulatory Approval**" shall mean the PUC's approval of this Agreement without material modification or conditions pursuant to R.I.G.L. § 39-26.1-7, including the recovery by Buyer of its costs incurred under this Agreement and remuneration equal to 2.75 percent (2.75%) of Buyer's actual annual payments under this Agreement, which approval shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion.

"**Price**" shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set out in Exhibit E.

"**Products**" shall mean Energy, Capacity and RECs.

"**PUC**" shall mean the Rhode Island Public Utilities Commission or any successor state regulatory agency.

"**Qualified Bank**" shall mean a major U.S. commercial bank or the U.S. branch office of a major foreign bank, in either case, having (x) assets on its most recent audited balance sheet of at least $10,000,000 and (y) a rating for its senior long-term unsecured debt obligations of at least (A) "A" by S&P and "A2" by Moody's, if such entity is rated by both S&P and Moody's or (B) "A" by S&P or "A2" by Moody's, if such entity is rated by either S&P or Moody's but not both.

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

"**Rejected Purchase**" shall have the meaning set forth in Section 4.5 hereof.

"**Renewable Energy Certificates**" or "**RECs**" shall mean all of the Certificates and other Environmental Attributes associated with the Energy Delivered under this Agreement, including those that conform with the eligibility criteria set forth in the applicable Rhode Island regulations and are eligible to satisfy the Renewable Energy Standard, and shall include title to and claim over all Environmental Attributes associated with the Energy Delivered to Buyer under this Agreement.

"**Renewable Energy Standard**" shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. that requires all retail electricity sellers in Rhode Island (except Block Island Power Company and Pascoag Utility District) to provide a minimum percentage of electricity from eligible renewable energy resources, and such successor laws and regulations as may be in effect from time to time.

"**Representatives**" shall have the meaning set forth in Section 12.2 hereof.

"**Resale Damages**" shall mean, with respect to any Rejected Purchase, an amount equal to the sum of (a) the positive amount, if any, by which the applicable Price that would have been paid pursuant to Section 5.1 hereof and Exhibit E hereto for such Rejected Purchase of any Products, had such Products been accepted, exceeds the Resale Price multiplied by the quantity of that Rejected Purchase of Energy and RECs, plus (b) any applicable penalties assessed by ISO-NE or any other Person against Seller as a result of Buyer's failure to accept such Products. In the event that Seller is unable to resell a Rejected

Purchase using commercially reasonable efforts, the ISO-NE market value of the Products at the time of the Rejected Purchase (as reasonably determined by Seller) will replace the Resale Price in the calculation of the Resale Damages. Seller shall provide a written statement explaining in reasonable detail the calculation of any Resale Damages.

"Resale Price" shall mean the sum of (a) the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase of Energy and RECs, plus (b) the Capacity Clearing Price for a Rejected Purchase of Capacity, plus (c) transaction and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase; provided, however, that in no event shall Seller be required to utilize or change its utilization of the Facility or its other assets, contracts or market positions in order to minimize Buyer's liability for such Rejected Purchase.

"Restricted Persons" shall have the meaning set forth in Section 12.2 hereof.

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

"S&P" shall mean Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., and any successor thereto.

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

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

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

"Supply Forecast" shall have the meaning set forth in Section 9.3(b).

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

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

"Test REC Price" shall mean, during the period prior to Commercial Operation, the average of two (2) broker quotes for the average sale price of renewable energy certificates in ISO-NE obtained by Seller from brokers that normally trade in such renewable energy certificates, having at least one (1) year of experience in trading renewable energy certificates and that are not Affiliates of either Party, in each case for the month in which the RECs at issue were delivered to Buyer.

"Transmission Cable" shall mean the bidirectional transmission cable to be constructed by Deepwater Transmission and running between the Delivery Point and a point on the mainland of Rhode Island that is mutually acceptable to Buyer and Deepwater Transmission.

"Transmission Cable Condition Date" shall have the meaning set forth in Section 8.5(a) hereof.

"**Transmission Cable Conditions**" shall mean collectively (a) the negotiation, execution and delivery by Buyer and Deepwater Transmission of the Transmission Cable Purchase Agreement, (b) the negotiation, execution and delivery of the Interconnection Agreement by the parties thereto, (c) the finalization and, to the extent appropriate, execution and delivery, of the Transmission Cable Cost Arrangement, and (d) the receipt of the Transmission Cable Regulatory Approvals.

"**Transmission Cable Cost Arrangement**" shall mean the documentation selected by Buyer and/or the Interconnecting Transmission Provider to determine the means of collecting the cost of purchasing the Transmission Cable pursuant to the Transmission Cable Purchase Agreement (including any return on investment on that cost) and the allocation of those costs among the relevant parties, which documentation shall be acceptable to Buyer in its sole discretion.

"**Transmission Cable Purchase Agreement**" shall mean the agreement between Deepwater Transmission and Buyer pursuant to which Deepwater Transmission will construct the Transmission Cable and, subject to the satisfaction of the terms and conditions set forth therein, Buyer will purchase the Transmission Cable, which agreement will be acceptable in form, scope and substance to each of Buyer and Deepwater Transmission in their sole discretion.

"**Transmission Cable Outage**" shall mean any full or partial outage or curtailment of the Transmission Cable occurring for any reason.

"**Transmission Cable Regulatory Approvals**" shall mean collectively (a) the approval of the Transmission Cable Purchase Agreement by the PUC pursuant to R.I.G.L. § 39-26.1-7, including to the extent applicable the recovery by Buyer of its costs incurred under the Transmission Cable Purchase Agreement, (b) the approval of the Transmission Cable Cost Arrangement by the FERC pursuant to Section 205 of the Federal Power Act, (c) to the extent applicable, the approval of the Transmission Cable Purchase Agreement by the FERC pursuant to Section 203 of the Federal Power Act, (d) to the extent applicable, the approval by the FERC of the Interconnection Agreement by the FERC pursuant to Section 205 of the Federal Power Act, and (e) any other filing or registration with or approval or consent of any Governmental Entity that may be required or determined by Buyer to be desirable in connection with the Interconnection Agreement, the Transmission Cable, the Transmission Cable Purchase Agreement and the Transmission Cable Cost Arrangement, each of which filings, registrations, consents and approvals shall be final and not subject to appeal or rehearing and shall be acceptable to Buyer in its sole discretion; provided that Buyer may waive the need for any specific item of the Transmission Cable Regulatory Approvals in its sole discretion.

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

2. EFFECTIVE DATE; CONDITIONS; TERM

2.1 Effective Date. The "**Effective Date**" shall be the date that the condition described in Section 8.1 hereof has been satisfied or waived by Buyer (unless this Agreement is terminated prior to that date in accordance with its terms).

2.2 Term.

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

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

(c) At the expiration of the Services Term, the Parties shall no longer be bound by the terms and provisions hereof (including, without limitation, any payment obligation hereunder), except (i) to the extent necessary to provide invoices and make payments or refunds with respect to Products delivered prior to such expiration or termination, (ii) to the extent necessary to enforce the rights and the obligations of the Parties arising under this Agreement before such expiration or termination, and (iii) the obligations of the Parties hereunder with respect to confidentiality and indemnification shall survive the expiration or termination of this Agreement.

2.3 No Precedential Value. The Parties acknowledge that the Facility and their obligations with respect thereto are unique and that the form, terms and conditions of this Agreement are specific to this transaction and shall not be used as a precedent in any in future power purchase negotiations by Buyer with Seller, any Affiliate of Seller or any other Person.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Anticipated Commercial Operation; Extension.

(a) Seller anticipates that a notice to proceed for the construction of the Facility will be issued by Seller with respect to the Facility on or about April 30, 2012 and that Commercial Operation of the Facility will commence on or before the Commercial Operation Date.

(b) Seller has a one-time right to extend the Commercial Operation Date for a period of up to five (5) years by providing at least sixty (60) days' written notice to Buyer of Seller's exercise of its right to extend. Seller's right to extend the Commercial Operation Date under this Section 3.1(b) is in addition to all permitted extensions of the Commercial Operation Date due to Force Majeure pursuant to Section 10.3. Any extension of the Commercial Operation Date under this Section 3.1(b) will result in an adjustment of the Escalation Date as set forth in Section 5.1(b).

(c) If the Facility does not achieve Commercial Operation by the Commercial Operation Date, either Party may terminate this Agreement within sixty (60) days after the Commercial Operation Date by written notice to the other Party (which termination shall be effective upon delivery of such notice), and upon such termination neither Party will have any further liability to the other hereunder except for obligations arising under Section 6.1, Section 12 and Section 13.

3.2 Progress Reports. At the end of each calendar quarter after the Effective Date and until the Commercial Operation Date, Seller shall provide Buyer with a progress report addressing the status of the issuance of the notice to proceed and achieving Commercial Operation, in accordance with the

form attached hereto as Exhibit C. Seller shall permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller.

3.3 Commercial Operation.

(a) Seller's obligation to deliver the Products and, subject to Section 4.1(b), Buyer's obligation to accept and pay Seller for such Products commences on Commercial Operation.

(b) Commercial Operation shall occur on the date that Seller has satisfied, or Buyer has waived, the following conditions:

(i) Seller has notified Buyer in writing that (x) the Facility is substantially completed, as reasonably determined by Seller, (y) the Facility is capable of regular commercial operation in accordance with the Operational Limitations and Good Utility Practice, and (z) all conditions to Commercial Operation set forth in clauses (ii) through (xi) of this Section 3.3(b) have been satisfied or waived;

(ii) Seller has obtained all material Permits required for the lawful construction, ownership and operation of the Facility and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, which, to Seller's knowledge as of the Agreement Date, based on applicable Law in effect as of the Agreement Date, are fully described on Exhibit B;

(iii) Seller has (i) qualified the Facility as an "eligible renewable energy resource" pursuant to Section 5.0 of the Code of Rhode Island Rules 90-060-015 and (ii) otherwise satisfied the requirements for the Facility to be a Newly Developed Renewable Energy Resource;

(iv) Seller has acquired all real property rights and other site control rights needed to construct, own and operate the Facility and to perform Seller's obligations under this Agreement, consistent with Good Utility Practice;

(v) Seller has: (i) become a Market Participant in ISO–NE; or (ii) entered into an agreement with a Market Participant that will perform all of Seller's ISO-NE-related obligations in connection with the Facility and this Agreement, and has established all accounts and entered into all agreements with ISO-NE required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect, including the registration of the Facility in the GIS;

(vi) Seller has provided to Buyer I.3.9 confirmation from ISO-NE regarding approval of generation entry, if applicable, and Seller or its designated agent has submitted the Asset Registration Form (as defined in ISO-NE Practices) for the Facility to ISO-NE and has taken such other actions as are necessary to effect the transfer of the Energy to Buyer in the ISO Settlement Market System;

(vii) Seller has successfully completed all pre-operational testing and commissioning of the Facility in accordance with manufacturer guidelines, as evidenced by commissioning certificates issued by the manufacturer of the Facility's wind turbine generators;

(viii) All interconnection facilities and Network Upgrades required under the Interconnection Agreement have been completed (including the issuance of any applicable permits and the making of any regulatory filings required in connection therewith, and any real property rights and other site control rights required to construct such Network Upgrades), including final acceptance and authorization to interconnect the Facility from ISO-NE and the Interconnecting Transmission Provider;

(ix) The Transmission Cable has been completed and placed in service and is operable, with all Permits and real property rights and other site control rights needed to own and operate the Transmission Cable being held by the owner of the Transmission Cable;

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

(xi) Seller has obtained all necessary authorizations from FERC to sell Capacity and Energy at market-based rates and shall be in compliance with such authorization or shall be exempt from rate regulation under Sections 205 and 206 of the Federal Power Act, as amended.

3.4 Operation of the Facility.

(a) Compliance With Law and Utility Requirements. Seller shall construct, maintain and operate the Facility, in all material respects, in accordance with: (i) Good Utility Practice; (ii) all requirements of Law; (iii) the Operational Limitations; and (iv) all rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, FERC and any other Governmental Entity, Transmission Provider (but, to the extent not expressly contemplated by this Agreement, only to the extent such Transmission Provider is expressly authorized by Law to do so), NERC and any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards, whether such requirements were imposed prior to or after the Effective Date, in each case that are applicable to the construction, operation and maintenance of the Facility and the performance by Seller of its obligations under this Agreement. If required, Seller shall be solely responsible for registering as the "Generator Owner" or "Generator Operator" of the Facility with NERC and any applicable regional reliability entities.

(b) Permits. During the Services Term, Seller shall maintain in full force and effect all material Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall provide Buyer with a copy of the Operational Limitations prior to Commercial Operation, and the Operational Limitations will be incorporated into this Agreement as a supplement to Exhibit A. Seller is not required to operate the Facility in any manner inconsistent with the Operational Limitations, equipment specifications and operating guidelines and Seller's safety practices.

(d) Physical Interconnection. Seller shall, during the Services Term, maintain a physical interconnection with the Delivery Point.

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

(f) Market-Based Rate Authority. During the Services Term, Seller shall maintain all necessary authorization from FERC to sell Capacity and Energy at market-based rates or shall be exempt from rate regulation under Sections 205 and 206 of the Federal Power Act, as amended.

(g) Eligible Renewable Energy Resource. Seller shall be solely responsible for certifying the Facility with the PUC as a renewable energy resource pursuant to Section 6.0 of the Code of Rhode Island Rules 90-060-015 (as amended from time to time) and maintaining such certification throughout the Services Term.

(h) Compliance Reporting. If Buyer is subject to any certification or compliance reporting requirement with respect to the RECs delivered to Buyer hereunder, then Seller shall provide any information in its possession (or, if not in Seller's possession, available to it and not reasonably available to Buyer) requested by Buyer to permit Buyer to comply with any such reporting requirement.

(i) Insurance. Prior to the commencement of construction of the Facility and throughout the remainder of the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry the insurance coverage specified on Exhibit D. Prior to the start of each Contract Year, Seller shall provide Buyer with a certificate of insurance evidencing the insurance coverage required in Exhibit D. Such certificates shall (i) include Buyer as an additional insured on each policy, (ii) provide that Buyer receive thirty (30) days prior written notice of coverage modifications, and (iii) be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall state that the policy is "claims made."

4. DELIVERY OF ENERGY, CAPACITY AND RECS

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on Commercial Operation, Seller shall sell and deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of this Agreement.

(b) Prior to Commercial Operation and so long as the Transmission Cable is in service, Seller may, but shall not be obligated to, sell and deliver, and Buyer shall purchase and receive, all but not less than all of the Products generated by the Facility. If Seller delivers Products to Buyer prior to Commercial Operation, then Buyer shall pay to Seller the Real Time Locational Marginal Price at the Delivery Point (as determined by ISO-NE) at the time of delivery for Energy and Capacity and the Test REC Price for RECs at the time of delivery.

(c) Except for Rejected Purchases and Products generated by the Facility prior to Commercial Operation, Seller shall dedicate the Energy, Capacity and RECs exclusively to Buyer, and Seller shall not (i) sell, divert, grant, transfer or assign such Energy, Capacity and RECs to any Person other than Buyer or (ii) enter into any agreement or arrangement under which any Energy, Capacity and RECs dedicated to Buyer under this Agreement can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to use, resell or convey the Energy, Capacity and RECs purchased by Buyer under this Agreement in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Services Term, Seller or its designated representative shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with this Agreement, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer Energy to Buyer in the Day Ahead Energy Market or Real Time Energy Market, as applicable, in such a manner that Buyer may resell such Energy in the Day Ahead Energy Market or Real Time Energy Market, as applicable.

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

(c) Seller shall be solely responsible for any obligations and liabilities, including all charges, penalties and financial assurance obligations, imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, except to the extent imposed as a result of Buyer actions or failure to act.

4.3 Sales for Resale. All Energy, Capacity and RECs delivered by Seller to Buyer hereunder shall be sales for resale, with Buyer reselling such Energy, Capacity and RECs. Buyer shall provide Seller with any certificates reasonably requested by Seller to evidence that the deliveries of Energy, Capacity and RECs hereunder are sales for resale. Nothing in this Agreement shall be construed to prohibit or restrict such resale of such Energy, Capacity and RECs by Buyer.

4.4 Transmission Cable Outage.

(a) Notwithstanding any other provision of this Agreement to the contrary, Buyer shall have no obligation to accept or pay for any Products generated at any time during a Transmission Cable Outage.

(b) For any Transmission Cable Outage that occurs during the Services Term, lasts longer than fourteen (14) days and is not related to ordinary scheduled maintenance of the Transmission Cable or associated lines or substation equipment, Seller may elect to extend the Services Term day for day by the period of that Transmission Cable Outage; provided, however, that all such extensions of the Services Term elected by Seller under this Section 4.4(b), together with all extensions of the Services Term elected by Seller for Force Majeures under Section 10.3, shall not exceed thirty six (36) months in the aggregate. Any election to extend the Services Term under this Section 4.4(b) must be made in writing prior to the end of the Transmission Cable Outage giving rise to that extension. Any extension of the Services Term under this Section 4.4(b) will result in an adjustment of the Escalation Date as set forth in Section 5.1(b) and of the beginning and end of the remaining Contract Years as set forth in Section 1.

4.5 Failure by Buyer to Accept Delivery of Energy, Capacity or RECs. If Buyer fails to accept all or part of any of the Products to be purchased by Buyer hereunder and such failure to accept is not excused under the terms of this Agreement (a **"Rejected Purchase"**), then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an

amount for such Rejected Purchase equal to the Resale Damages. Each Party agrees and acknowledges that (i) the damages that Seller would incur due to a Rejected Purchase would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Resale Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages. Seller may deliver and sell all Rejected Purchases to any Person.

4.6 Delivery Point.

(a) All Energy shall be Delivered hereunder by Seller to Buyer at the Delivery Point. Seller shall be responsible for the costs of delivering Energy to the Delivery Point consistent with all applicable standards and requirements set forth by FERC, ISO-NE and any other applicable Governmental Entity or tariff. Subject to the provisions of Section 4.4, Buyer shall be responsible for the costs of delivering Energy from the Delivery Point consistent with all standards and requirements set forth by FERC, ISO-NE and any other applicable Governmental Entity or tariff.

(b) Seller shall be responsible for all losses, transmission charges, ancillary service charges, line losses, congestion charges and any other applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy Delivered under this Agreement to the Delivery Point. Subject to the provisions of Section 4.4, Buyer shall be responsible for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy Delivered under this Agreement from and after the Delivery Point.

(c) Title to and risk of loss related to the Energy shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to the RECs shall transfer to Buyer when the same are credited to Buyer's GIS account(s) or the GIS account(s) designated by Buyer to Seller in writing.

4.7 Metering.

(a) Metering. All electric metering required in connection with the sale of the Products, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "**Meters**"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Transmission Provider in whose territory the Delivery Point is located and ISO-NE; provided, however, Seller's obligation to replace the Meters or install additional or new Meters to comply with any future changes in metering requirements or standards shall be limited to ISO-NE requirements and standards generally applicable to all generators. The Meters shall be used for the registration, recording and transmission of information regarding the Energy output of the Facility. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Delivery Point by the Seller (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy Delivered to Buyer; provided however, that Seller, at the direction of Buyer and at Buyer's expense, shall cause the Meters to be tested by the Transmission Provider in whose territory the Delivery Point is

located no more than once each Contract Year, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), the measurement of Energy produced by the Facility shall be adjusted in accordance with the filed tariff of such Transmission Provider and Seller shall reimburse Buyer for the cost of such test of the Meters.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with timely notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than two percent (2.0%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with access to such data.

4.8 Provision of Data. To the extent reasonably requested by Buyer in writing, Seller shall promptly provide to Buyer, in writing, information regarding the performance of the Facility, including any scheduled outages and any forecasts of Energy; provided, that such information shall be deemed, unless indicated otherwise, to be Confidential Information.

4.9 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to the RECs (including the Environmental Attributes) during the Services Term in accordance with the terms of this Section 4.9.

(b) Seller shall maintain in effect throughout the Services Term a statement of qualification from the PUC that all Energy meets the requirements for eligibility pursuant to the Renewable Energy Standard.

(c) At Buyer's request, Seller shall seek qualification of the Energy under the renewable energy standard or similar law of New York or one or more New England states (in addition to Rhode Island) or any federal renewable energy standard and shall maintain such qualification at all times during the Services Term, or until Buyer indicates such qualification is no longer necessary. Seller shall be responsible for the cost of seeking and maintaining such qualification in Rhode Island, Massachusetts and New Hampshire, and Buyer shall be responsible for the cost of seeking and maintaining such qualification in any other jurisdiction. As reasonably requested by Buyer, Seller shall also submit to Buyer any information required by Rhode Island, Massachusetts and New Hampshire

(including without limitation the PUC and the analogous Governmental Entities in Massachusetts and New Hampshire) with regard to the administration of that state's rules regarding its Renewable Energy Standard or any renewable energy standard in Massachusetts and New Hampshire. As reasonably requested by Buyer and at Buyer's expense, Seller shall also submit to Buyer any information required by any other state or federal agency with regard to administration of its rules regarding its renewable energy standard.

(d) Seller shall comply in all material respects with all GIS Operating Rules relating to the creation and transfer of all RECs to be purchased by Buyer under this Agreement. In addition, at Buyer's request, Seller shall register with and comply with the rules and requirements of any other tracking system or program that tracks, monetizes or otherwise creates or enhances value for Environmental Attributes, which registration and compliance will be at Seller's sole cost if such registration and compliance is requested with respect to Rhode Island's, New Hampshire's or Massachusetts' rules and requirements regarding Environmental Attributes and will be at Buyer's sole cost in all other jurisdictions.

(e) Prior to the Delivery of any Energy hereunder: (i) Seller shall cause Buyer to be registered as the initial owner of all Certificates associated with the RECs; or (ii) Seller and Buyer shall effect an irrevocable forward transfer of the Certificates associated with the RECs to be delivered hereunder to Buyer. In the event any Certificates associated with the RECs to be delivered to Buyer under this Agreement are not actually deposited in Buyer's GIS account (or in a GIS account designated by Buyer to Seller in writing) on the date such Certificates are created in the GIS, Buyer shall notify Seller accordingly in writing and Seller shall, within ten (10) business days of receipt of such notice, credit Buyer with the value of the RECs associated with those Certificates, calculated in accordance with Section 2 of Exhibit E. Notwithstanding the foregoing or any other provision of this Agreement (including without limitation Exhibit E) to the contrary, Buyer shall withhold from any payment due to Seller under Section 5.2 after either (x) the date that is seven (7) months prior to the end of the Services Term or (y) the date on which Buyer has exercised a right to terminate this Agreement prior to the expiration of the Services Term an amount equal to the value of the RECs (calculated in accordance with Section 2 of Exhibit E) that would otherwise be included in that payment, and such withheld amount shall be paid to Seller within fifteen (15) days after the Certificates associated with those RECs have been deposited in Buyer's GIS account (or in a GIS account designated by Buyer to Seller in writing).

4.10 Capacity.

(a) Buyer's purchase of Capacity under this Agreement shall be solely through financial settlement involving the payment of the Price and adjustment for the Capacity Clearing Price as set forth in Exhibit E. Buyer shall neither take title to any Capacity nor be responsible for any actions or conditions in the Forward Capacity Market with respect to such Capacity. Seller may qualify and sell any Capacity in the Forward Capacity Market.

(b) Following Commercial Operation, Seller or its designated agent shall take all actions necessary to qualify the Facility for participation in future Forward Capacity Auctions (or reconfiguration auctions) as a Capacity Resource (provided, however, that the failure of ISO-NE to accept the qualification shall not be an Event of Default hereunder, but the Price shall be adjusted as described in Part 3 of Exhibit E regardless of whether ISO-NE accepts that qualification).

4.11 Title to Products. Seller will have good and marketable title to all Products sold and delivered to Buyer under this Agreement, free and clear of all liens, charges and encumbrances other than Permitted Liens.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products.

(a) Price. Buyer shall pay to Seller, in immediately available funds, the Price set forth in Exhibit E for all Products delivered to Buyer in accordance with this Agreement, as adjusted by the Wind Outperformance Adjustment Credit described therein. Other than (i) the payments set forth in Exhibit E, (ii) payments for Products sold to Buyer prior to Commercial Operation under Section 4.1(b), (iii) expenses associated with the inspection and testing of the Meters under Section 4.7, (iv) expenses associated with qualification of the Energy under the renewable energy standard of any jurisdiction other than Rhode Island, Massachusetts and New Hampshire under Section 4.9, (v) late payment charges described in Section 5.3, (vi) Buyer's obligations under Section 5.4, (vii) release or reimbursement of any Security described in Article 6, (viii) Termination Payments due under Section 9.3, and (ix) any payment required with respect to Buyer's indemnification obligations under Section 13.1, Buyer shall not be required to make any other payments to Seller under this Agreement.

(b) Escalation of Price. Consistent with Appendix X of Exhibit E, the Price shall escalate by a factor of three and one-half percent (3.5%) on each Escalation Date. For purposes of this Agreement, the **"Escalation Date"** shall initially be January 1, 2013 and each January 1 thereafter; provided, however, that if Seller elects (i) to extend the Commercial Operation Date pursuant to Section 3.1(b), (ii) to extend the Services Term pursuant to Section 4.4(b), or (iii) to extend the Services Term pursuant to Section 10.3, then each Escalation Date occurring after Seller notifies Buyer in writing of its extension election shall be delayed by the period of that extension. All delays in the Escalation Date occurring under this Section 5.1(b) shall be cumulative (i.e., shall also take into account all prior extensions), such that the period of time between January 1 of a year and the Escalation Date corresponding to that year shall be equal to the total number of days of all extensions elected by Seller under Sections 3.1(b), 4.4(b) and 10.3 collectively. Notwithstanding any provision of this Agreement to the contrary, in no event will there be more than twenty (20) Escalation Dates during the Term. Upon the election of any extension of the Commercial Operation Date under Section 3.1(b) or the extension of the Services Term under Section 4.4(b) or Section 10.3, Seller shall deliver a certification in the form of Exhibit F setting forth the total number of days of such extension and establishing the new annual Escalation Date and (if the extension is elected under Section 4.4(b) or Section 10.3) the start date and end date for each remaining Contract Year, going forward from the date such certification is delivered. Buyer shall approve such certification in its sole discretion, and any dispute regarding such certification shall be resolved in accordance with Section 11.

5.2 Payment.

(a) Billing Period. The calendar month shall be the standard period for all payments under this Agreement. On or before the fifteenth (15th) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting

documentation and information as Buyer may request. If requested by Seller, Buyer shall make all payments due under this Agreement by electronic funds transfers to the account specified by Seller, and Seller shall provide to Buyer the necessary funds transfer instructions.

(b) Timeliness of Payment. All undisputed invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before fifteen (15) days from receipt of the applicable invoice. 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 undisputed amounts not paid by the due date will be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

(i) All invoices rendered under this Agreement shall be subject to adjustment after the end of each month in order to true-up charges based on changes resulting from any recent ISO-NE billing statements or revisions, if any, to previous ISO-NE billing statements.

(ii) 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 dispute 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 or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other solely under this Agreement on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party hereunder during the monthly billing period under this Agreement, including any interest, payments and credits, shall be netted so that only the excess amount remaining due shall be paid by the Party owing such excess. If no mutual debts or payment obligations exist under this Agreement, a Party shall pay any debt or obligation it owes in full when due. The Parties agree to provide each other with reasonable detail of any net payment or net payment request. The Parties shall not net any debts and payment obligations due under this Agreement against any debts and payment obligations not arising under this Agreement.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified in this Agreement at the prime rate specified in the "Money Rates" section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties) plus one percent (1%) (the **"Late Payment Rate"**).

5.4 Taxes, Fees and Levies.

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

(b) Seller shall bear all risks, financial and otherwise, throughout the Services Term, associated with Seller's or the Facility's eligibility to receive any federal or state tax credits or qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes. Except as set forth in Section 8.4, the obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver the Products, shall be effective regardless of whether the sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits during the Services Term.

6. SECURITY FOR PERFORMANCE

6.1 Seller's Support.

(a) Seller shall be required to post Credit Support of $10 per kW of nameplate capacity to secure Seller's obligations in the period between the Agreement Date and Commercial Operation (**"Development Period Security"**). The Development Period Security shall be provided to Buyer within fifteen (15) Business Days after the later to occur of (i) the Effective Date or (ii) the satisfaction of the Transmission Cable Conditions (or the waiver thereof by Buyer in its sole discretion). Buyer shall return any undrawn amount of the Development Period Security to Seller within thirty (30) days after: (i) the later to occur of (x) Buyer's receipt of an undisputed notice from Seller that Commercial Operation has occurred or (y) Buyer's receipt of the initial Operating Period Security; or (ii) termination of the Agreement prior to Commercial Operation.

(b) On or before the tenth (10th) day following the date on which Commercial Operation occurs, Seller shall provide Buyer with Credit Support to secure Seller's obligations under this Agreement (**"Operating Period Security"**). The Operating Period Security shall be $30 per installed kW of Capacity and shall be subject to replenishment from time to time, within five (5) Business Days after Buyer draws on the Operating Period Security, up to the amount required by this

Section 6.1(b), but in any event, not to exceed $1,800,000 on an aggregate, cumulative basis, including all prior Credit Support provided as Operating Period Security. Buyer shall return any undrawn amount of the Operating Period Security to Seller within thirty (30) days after the expiration of the Services Term, or termination of the Agreement, but only after such Operating Period Security has been used to satisfy any outstanding obligations of Seller in existence at the time of such expiration or termination.

6.2 Cash Deposits. Any cash provided by Seller as Credit Support under this Agreement shall be held in an interest bearing deposit account held at a Qualified Bank selected by Buyer in its reasonable discretion. All interest accrued on that cash deposit will be retained in that account; provided, however, that to the extent the amount held in that account exceeds the required level of Development Period Security (before and on Commercial Operation) or the Operating Period Security (after Commercial Operation), such excess will be paid to Seller promptly after Seller requests such a payment in writing delivered to Buyer.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

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

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

(b) Due Authorization; No Conflicts. The execution and delivery by Buyer of this Agreement, and the performance by Buyer of its obligations hereunder, have been duly authorized by all necessary actions on the part of Buyer and do not and, under existing facts and law, shall not: (i) contravene its certificate of incorporation or any other governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) assuming receipt of the PPA Regulatory Approval and the Transmission Cable Regulatory Approvals, violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any material lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

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

(d) No Proceedings. Except to the extent relating to the PPA Regulatory Approval and the Transmission Cable Regulatory Approvals, there are no actions, suits or other proceedings, at law or in equity, by or before any Governmental Entity or agency or any other body pending or, to the best of its knowledge, threatened against or affecting Buyer or any of its properties (including, without limitation, this Agreement) which relate in any manner to this Agreement or any transaction

contemplated hereby, or which Buyer reasonably expects to lead to a material adverse effect on (i) the validity or enforceability of this Agreement or (ii) Buyer's ability to perform its obligations under this Agreement.

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

(f) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Buyer.

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

(h) No Event of Default. No Event of Default has occurred and is continuing and no Event of Default will occur as a result of the performance by Buyer of its obligations under this Agreement.

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

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

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it currently engaged; and (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification.

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

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

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

(f) Consents and Approvals. Subject to the receipt of the Permits listed on Exhibit B, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and law, shall not, require any material Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect.

(g) Permitting. Seller has not received any formal notice from any Governmental Entity informing Seller that such Governmental Entity will not issue to Seller the Permit listed on Exhibit B for which it has jurisdiction.

(h) Negotiations. The terms and provisions of this Agreement are the result of arm's length and good faith negotiations on the part of Seller.

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

(j) No Event of Default. No Event of Default has occurred and is continuing and no Event of Default will occur as a result of the performance by Seller of its obligations under this Agreement.

7.3 Update of Representations and Warranties. Buyer represents and warrants to Seller as of the Effective Date and Commercial Operation that the representations and warranties set forth in Sections 7.1(a), 7.1(b), 7.1(c), 7.1(e), 7.1(g) and 7.1(h) are true and accurate. Seller represents and warrants to Buyer as of Commercial Operation that the representations and warranties set forth in Sections 7.2(a), 7.2(b), 7.2(c), 7.2(d), 7.2(f), 7.2(i) and 7.1(j) are true and accurate.

7.4 Permits. Buyer acknowledges that the Permits listed on Exhibit B are all the Permits Seller is aware of, as of the Agreement Date, that are required to develop, construct and operate the Facility based on current development and financing plans and timelines, to the best of Seller's knowledge after due inquiry. Accordingly, all references to Exhibit B in this Agreement shall be read to include references to such other Permits as may be required from time to time with respect to the development, construction and operation of the Facility without further modification or amendment of this Agreement or Exhibit B.

8. EFFECTIVENESS OF AGREEMENT

8.1 Receipt of PPA Regulatory Approval. The effectiveness of this Agreement, other than the Parties' rights and obligations under Section 8.2, Section 8.3, Section 12 and Section 13, is conditioned upon and shall not become effective or binding until the receipt of the PPA Regulatory Approval. Buyer shall notify Seller within five (5) Business Days after receipt of the PPA Regulatory Approval.

8.2 Filing for PPA Regulatory Approval. Buyer has made a filing with the PUC with respect to the PPA Regulatory Approval on October 15, 2009, as supplemented by Buyer's filings with the PUC on November 18, 2009 and December 9, 2009. Seller has intervened in, and may participate in, the PPA Regulatory Approval proceeding.

8.3 Failure to Satisfy Conditions. If Buyer has not received the PPA Regulatory Approval on or before the date falling one year after Buyer has filed for the PPA Regulatory Approval, this Agreement shall terminate as of that date, with no further liability hereunder for either Party except for any obligations arising under Sections 6.1, 12 and 13.

8.4 Additional Seller Termination Conditions. Seller shall have the right, by written notice to Buyer, to terminate this Agreement without penalty if, (1) on or prior to December 31, 2010, the in-service deadline for the investment tax credit described in Section 48 of the Internal Revenue Code is not extended with respect to facilities such as the Facility through December 31, 2015 or later; (2) on or prior to December 31, 2010, the in-service deadline for the renewable energy production tax credit described in Section 45 of the Internal Revenue Code is not extended with respect to facilities such as the Facility through December 31, 2015 or later; (3) on or prior to December 31, 2010, the program for payments for specified renewable energy property in lieu of tax credits set forth in Section 1603 of the American Recovery and Reinvestment of 2009 is not extended with respect to facilities such as the Facility through December 31, 2015 or later; (4) Seller is unable to, or has determined, in its sole discretion, that it will not be able to, secure tax equity financing to monetize the value of federal tax credits and depreciation deductions on or prior to achieving Commercial Operation; or (5) Seller has not received, or has determined, in its sole discretion, that it will not receive, all the Permits listed on Exhibit B on a sufficiently timely basis to develop and construct the Facility in order to qualify for the federal tax incentives described in the foregoing clauses (1), (2) or (3) (as such may be extended from time to time).

8.5 Transmission Cable Conditions.

(a) In the event that either (x) the Transmission Cable Conditions are not satisfied on or before December 31, 2010 or (y) a Governmental Entity issues a Transmission Cable Regulatory Approval that is binding on Buyer but inconsistent, as determined in the sole discretion of either Party, with the terms and conditions agreed by the parties to the Transmission Cable Purchase Agreement, the Interconnection Agreement or the Transmission Cable Cost Arrangement (the earlier of the date such order or decision becomes final and non-appealable or December 31, 2010 is referred to as the **"Transmission Cable Condition Date"**), then, unless the Seller has notified Buyer in writing that it intends to exercise its rights under Section 8.5(b) hereof within fifteen (15) days of the Transmission Cable Condition Date, either Party may terminate this Agreement by giving written notice of such termination to the other Party not earlier than fifteen (15) days and not later than thirty (30) days after

the Transmission Cable Condition Date (which termination will be effective upon delivery of such notice), and neither Party will have any further liability or obligations hereunder except for obligations arising under Section 6.1, Section 12 and Section 13.

(b) If Seller delivers the notice described in Section 8.5(a) above, then Seller shall deliver to Buyer by not later than sixty (60) days after the Transmission Cable Condition Date (i) a proposed amendment to Exhibit E reflecting Seller's proposed change in the Price needed to permit Seller to recover the amounts due to Deepwater Transmission for use of the Transmission Cable for the Term and (ii) its assessment as to whether the Interconnection Agreement must be amended or restated in order to address any change in conditions as a result of the failure to satisfy the Transmission Cable Conditions by the Transmission Cable Condition Date. Buyer and Seller shall negotiate in good faith for the sixty (60) day period following the delivery of such notice in an attempt to come to an agreement regarding revisions to Exhibit E and, if applicable, the Interconnection Agreement, it being understood that neither Seller nor Buyer shall have the obligation to come to any agreement.

(c) Following the end of the sixty (60) day good faith negotiating period described in Section 8.5(b), Buyer will use commercially reasonable efforts to file with the PUC any agreed amendment to Exhibit E or this Agreement, or, if no such agreement has been reached, the versions of Exhibit E and this Agreement that each Party would be willing to execute, with a request that the PUC issue its approval of the version proposed by Buyer pursuant to R.I.G.L. § 39-26.1-7, including the recovery by Buyer of its costs incurred under this Agreement as amended and remuneration equal to 2.75 percent (2.75%) of Buyer's actual annual payments under this Agreement, as amended by that proposed amendment, which approval shall be acceptable to Buyer in its sole discretion (the "**Amendment Regulatory Approval**"). If the Amendment Regulatory Approval is not issued and final and non-appealable by the date that is twelve (12) months after the date on which the application for the Amendment Regulatory Approval is filed with the PUC, then this Agreement shall terminate on such date, and neither Party will have any further liability or obligations hereunder except for obligations arising under Section 6.1, Section 12 and Section 13.

(d) Following the end of the sixty (60) day good faith negotiating period described in Section 8.5(b), if the Parties agree that an amendment to or restatement of the Interconnection Agreement is required under this Section 8.5, the parties shall, if agreement has not been reached with respect to such amendment or restatement, continue to negotiate in good faith for an additional sixty (60) day period. Upon reaching agreement, if any, if any party thereto determines in its sole discretion that FERC approval of that amendment to or restatement of the Interconnection Agreement is needed, then such party shall promptly apply for such FERC approval. If (x) an agreement on such amendment or restatement is not reached after the additional sixty (60) day negotiating period or (y) FERC approval of such amendment or restatement is not received by the date that is twelve (12) months after the date the party seeking such FERC approval has filed for such approval with FERC, then, notwithstanding any other provision of this Section 8.5, this Agreement will terminate and neither Party will have any further liability or obligations hereunder except for obligations arising under Section 6.1, Section 12 and Section 13.

(e) Nothing set forth in this Agreement, including this Section 8.5, shall obligate Buyer or any Affiliate of Buyer to own, operate or otherwise participate in the Transmission Cable.

9. BREACHES; REMEDIES

9.1 Events of Default by Either Party. The occurrence of any of the following shall each constitute an event of default ("**Event of Default**"), with respect to a Party if not cured within the corresponding cure periods set forth below:

(a) Representation or Warranty. Any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement, is false or misleading in any material respect as of the date made, and such breach continues for more than thirty (30) days after the Non-Defaulting Party has provided written notice of such breach to the Defaulting Party; provided, however, that such period shall be extended (x) for an additional reasonable period if the Defaulting Party is unable to cure within that thirty (30) day period, provided that corrective action has been commenced by the Defaulting Party within such thirty (30) day period, and (y) for so long as such cure is diligently pursued by the Defaulting Party, until such Default had been corrected; or

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than five (5) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than a Rejected Purchase (the sole remedy for which shall be the payment provided for under Section 4.5) or an Event of Default described in Section 9.1(a), 9.1(b), 9.1(e), or 9.2, such Party fails to perform, observe or otherwise to comply with any obligation hereunder and such failure continues for more than thirty (30) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; provided, however, that such period shall be extended (x) for an additional reasonable period if the Defaulting Party is unable to cure within that thirty (30) day period, provided that corrective action has been commenced by the Defaulting Party within such thirty (30) day period, and (y) for so long as such cure is diligently pursued by the Defaulting Party, until such Default had been corrected; or

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

(e) Permit Compliance. Such Party fails to maintain in full force and effect any material Permit (other than the PPA Regulatory Approval or the Transmission Regulatory Approvals) necessary for such Party to perform its obligations under this Agreement, including in the case of Seller any Permit necessary to construct, operate and maintain the Facility as and when such Permit is required, and such failure is not cured within ninety (90) days after the Non-Defaulting Party has provided written notice of such breach to the Defaulting Party; provided, however, that such period shall be extended (x) an additional reasonable period if the Defaulting Party is unable to cure within that

ninety (90) day period, provided that corrective action has been commenced by the Defaulting Party within such ninety (90) day period and (y) for so long as such cure is diligently pursued by the Defaulting Party until such Default had been corrected.

9.2 Events of Default by Seller. The following events shall each constitute an Event of Default of Seller if not cured within the corresponding cure periods set forth below:

(a) Delivery of Products to Third Party. Seller delivers any portion of any Product (other than Rejected Purchases), or any certificate or other entitlement to a Product, required to be delivered to Buyer under this Agreement to any Person other than Buyer and those deliveries continue for more than fifteen (15) days after Buyer has provided written notice of such breach to the Seller; or

(b) Taking of Facility Assets. Except pursuant to security arrangements between Seller and any Lender, any asset of Seller that is material to the construction, operation or maintenance of the Facility or the performance of Seller's obligations hereunder is taken upon execution or by other process of law directed against Seller and Seller has not retaken possession of the asset within ninety (90) days after the Buyer has provided written notice of such breach to Seller and such taking adversely affects Seller's ability to Deliver Products to Buyer; or

(c) Failure to Maintain Credit Support. The failure of Seller to provide or maintain the Development Period Security or the Operating Period Security required pursuant to Article 6 of this Agreement, and such failure continues for more than thirty (30) days after Buyer has provided written notice thereof to Seller.

9.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under this Agreement until such Event of Default has been cured, (ii) suspend its performance hereunder (it being understood that any Products for which Seller is permitted to suspend delivery under this Section 9.3 may be resold by Seller to any third party, and, notwithstanding anything to the contrary in this Agreement, such resale shall not constitute a breach of Seller's obligations hereunder and further, that such resale shall not limit Seller's right to Resale Damages under Section 4.5), and (iii) exercise such other remedies as provided for in this Agreement or at law, including, without limitation, the termination right set forth in Section 9.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under this Agreement. Notwithstanding anything to the contrary in this Agreement, Buyer may not suspend or withhold payments due under this Agreement for Products delivered to Buyer in accordance with the terms of this Agreement during the continuance of any Event of Default and prior to termination.

(b) Termination and Termination Payment. Upon the occurrence of an Event of Default, the Non-Defaulting Party may terminate this Agreement at its sole discretion by providing written notice of such termination to the Defaulting Party. If either Buyer or Seller terminates this Agreement under this Section 9.3(b), it shall be entitled to calculate and receive as its sole remedy for such Event of Default a **"Termination Payment"** as follows:

(i) *Termination by Seller Prior to Close of Construction Financing.* If Seller terminates this Agreement at any time prior to the close of construction Financing for the Facility due to an Event of Default of Buyer, Buyer shall reimburse Seller for all its out-of-pocket expenses in connection with the development and construction of the Facility.

(ii) *Termination by Seller On or After Construction Financing.* If Seller terminates this Agreement because of an Event of Default by Buyer occurring on or after the close of construction Financing for the Facility, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula:

$$\sum_{N}[(CV - MV) + P]$$

where:

"$\sum_{N}$" is the summation over the Services Term.

"CV" is the contract value of the Products for the remainder of the Services Term calculated with reference to the applicable Price and the Supply Forecast.

"MV" is the market value of the Products for the remaining Services Term as determined with reference to the applicable Resale Price and the Supply Forecast.

"P" is the amount of any applicable penalties and administrative costs incurred by Seller in selling the Products not accepted and paid for by Buyer as a result of the termination of this Agreement.

All such amounts shall be determined by Seller in good faith and in a commercially reasonable manner, and Seller shall provide Buyer with a reasonably detailed calculation of the Termination Payment due under this Section 9.3(b)(ii), which calculation shall be binding upon Buyer, absent manifest error.

(iii) *Supply Forecast.* For purposes of determining the Termination Payment on or after the fourth Contract Year, pursuant to this Section 9.3, the quantity of Products projected to be delivered for the remainder of the Services Term shall be based upon actual quantities delivered under this Agreement during the immediately preceding Contract Year, to the extent the Facility was fully operable during that preceding Contract Year. For the purposes of determining the Termination Payment during the first three Contract Years, or in the event the Facility was not fully operable during any preceding Contract Year, the calculation shall be based on a good faith estimate of the quantity of such Products as if the Facility was fully operable (the **"Supply Forecast"**) for the remainder of the Services Term.

(iv) *Termination by Buyer Prior to Commercial Operation.* If Buyer terminates this Agreement prior to Commercial Operation (whether as a result of an Event of Default or otherwise), the Termination Payment due to Buyer shall be $0.

(v) *Termination by Buyer After Commercial Operation.* If Buyer terminates this Agreement because of an Event of Default by Seller occurring on or after Commercial Operation, the Termination Payment due to Seller shall be equal to the amount, if positive, calculated according to the following formula:

$$\sum_{N}[(PV - CV) + P]$$

Where:

"PV" is the market value of the Products for the remaining Services Term as determined with reference to the forward curve for power prices in ISO-NE and the Supply Forecast.

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

(vii) *Payment of Termination Payment.* Buyer, or Seller, as applicable shall make any Termination Payment due hereunder within ten (10) Business Days after the notice of termination provided under this Section 9.3(b) is effective. If either Party disputes the other Party's calculation of the Termination Payment, in whole or in part, the disputing Party shall, within ten (10) Business Days of receipt of the calculation of the Termination Payment, provide to the other Party a detailed written explanation of the basis for such dispute; provided, however, the Party owing the Termination Payment shall first transfer Credit Support to the other Party in an amount equal to the Termination Payment as calculated by the Party owed the Termination Payment. If the Parties are unable to resolve the dispute within thirty (30) days, Article 11 shall apply.

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

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

10. FORCE MAJEURE

10.1 Force Majeure.

(a) The term **"Force Majeure"** means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence (the **"Claiming Party"**); (ii) that could not have been prevented or avoided by the Claiming Party through the exercise of reasonable diligence; and (iii) that limits, prohibits or prevents the Claiming Party from performing its obligations under this Agreement. Notwithstanding the foregoing, under no circumstances shall Force Majeure include (w) any occurrence or event that merely increases the costs or causes an economic hardship to the Claiming Party, (x) any occurrence or event that was caused by the Claiming Party, (y) Seller's ability to sell the Products at a price greater than that set out in this Agreement, or (z) Buyer's ability to procure the Products at a price lower than that set out in this Agreement. In addition, a delay or inability to perform attributable to the Claiming Party's lack of preparation, the Claiming Party's failure to timely obtain and maintain all necessary Permits (excepting the PPA Regulatory Approval and the Transmission Cable Regulatory Approvals), failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure. Force Majeure shall also not include any Transmission Cable Outage, which, for purposes of this Agreement, is addressed exclusively in Section 4.4.

(b) Subject to the Claiming Party's compliance with Section 10.2, if a Claiming Party is unable by Force Majeure to perform any of its obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. Such inability shall be promptly corrected by the Claiming Party to the extent it may be corrected through the exercise of all due diligence. Neither Party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing, if a Force Majeure prevents full or partial performance by the Claiming Party under this Agreement for a period of thirty-six (36) months or more, the Party whose performance is not prevented by Force Majeure (the **"Non-Claiming Party"**) shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse.

(d) Without limiting the generality of the last sentence of Section 10.1(a), neither Party may raise a claim of Force Majeure based on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy 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 Section 10.1(a) has occurred.

10.2 Procedure for Claiming and Resolving Force Majeure.

(a) The Claiming Party shall give written notice of any claimed Force Majeure to the Non-Claiming Party promptly upon the occurrence of such claimed Force Majeure and, in any event, within three (3) Business Days of such claimed Force Majeure. Such notice shall provide details regarding the nature, extent and expected duration of the claimed Force Majeure, the day and time when the claimed Force Majeure began, its anticipated effect on the ability of the Claiming Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such claimed Force Majeure, and shall be updated or supplemented to keep the Non-Claiming Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure.

(b) The Non-Claiming Party shall, within three (3) Business Days of its receipt of the notice described in Section 10.2(a), either acknowledge or dispute the occurrence of the claimed Force Majeure in writing. Any failure to respond to a notice under Section 10.2(a) within three (3) Business Days shall be deemed to be acknowledgement of the Force Majeure by the Non-Claiming Party. If the Non-Claiming Party disputes the occurrence of the Force Majeure, that dispute shall be resolved in accordance with the dispute resolution provisions in Section 11.

(c) The Claiming Party shall notify the Non-Claiming Party in writing of the resolution of any Force Majeure promptly and in any event within three (3) Business Days after such resolution. Such notice shall include details regarding the nature of the resolution of the Force Majeure, the date on which the Force Majeure was resolved and a commitment by the Claiming Party to recommence the performance in full of its obligations under this Agreement effective as of the date the Force Majeure was resolved, as set forth in such notice. The Non-Claiming Party shall, within three (3) Business Days of its receipt of that notice, either acknowledge or dispute the resolution of the Force Majeure in writing. Any failure to respond to a notice under this Section 10.2(c) within three (3) Business Days shall be deemed to be acknowledgement of the resolution of the Force Majeure by the Non-Claiming Party. If the Non-Claiming Party disputes the resolution of the Force Majeure, that dispute shall be resolved in accordance with the dispute resolution provisions in Section 11.

10.3 Extension of Agreement; Effect on Price. For any Force Majeure that occurs during the Services Term and lasts longer than sixty (60) days, the Claiming Party may elect to extend the Services Term day for day by the period of that Force Majeure; provided, however, that all such extensions of the Services Term elected by Seller under this Section 10.3, together with all extensions of the Services Term elected by Seller for Transmission Cable Outages under Section 4.4(b), shall not exceed thirty six (36) months in the aggregate. Any election to extend the Services Term under this Section 10.3 must be made in writing prior to the end of the Force Majeure giving rise to that extension. Any extension of the Services Term under this Section 10.3 will result in an adjustment of the Escalation Date as set forth in Section 5.1(b) and the beginning and end of the remaining Contract Years as set forth in Section 1. If Buyer elects to extend the Services Term under this Section 10.3, Buyer shall deliver a certification in the form of Exhibit F (revised to reflect the fact that Buyer has exercised the extension election) setting forth the total number of days of such extension and establishing the new annual Escalation Date and the start date and end date for each remaining Contract Year, going forward from the date such certification

is delivered. In such event, Seller shall approve such certification in its sole discretion, and any dispute regarding such certification shall be resolved in accordance with Section 11.

11. DISPUTE RESOLUTION

In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a **"Dispute"**), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior management of the Parties, then the Parties may seek to resolve such Dispute in the courts of the State of Rhode Island. The Parties agree to the exclusive jurisdiction of the state and federal courts located in the State of Rhode Island for any legal proceedings that may be brought by a Party arising out of or in connection with this Agreement.

12. CONFIDENTIALITY

12.1 Nondisclosure. Buyer and Seller each agree not to disclose to any Person and to keep confidential, and to cause each of its respective Affiliates, and its and their respective officers, directors, employees, partners and representatives not to disclose to any Person and to keep confidential, any non-public information relating to the terms and provisions of this Agreement that (i) is sensitive, proprietary and confidential which, if disclosed to or used by others, could cause economic and/or other harm or hardship to the non-disclosing Party and (ii) is marked as "Confidential." Notwithstanding the foregoing, any such information may be disclosed:

(a) to the extent Buyer determines it is appropriate in connection with efforts to obtain or maintain the PPA Regulatory Approval or the Transmission Cable Regulatory Approvals or to seek rate recovery for amounts expended by Buyer under this Agreement or to the extent Seller determines it is appropriate in connection with Seller's exercise of its rights under Section 8.2 or Section 8.5, Seller's efforts to obtain or maintain the Permits, or in connection with any Financing or re-Financing of the Facility;

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

(c) to the Affiliates of either Party or a Party's Restricted Persons (defined below) and to either Party's Lenders or potential Lenders and their Representatives (defined below), but solely to the extent they perform a function reasonably related to that information;

(d) in order to comply with any rule or regulation of ISO-NE or any stock exchange or similar Person, or for financial disclosure purposes;

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

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

provided, however, in each case, that the Party seeking such disclosure shall, to the extent practicable, use commercially reasonable efforts to prevent or limit the disclosure. In the case of disclosure to a Governmental Entity, the disclosing Party shall seek or request confidential treatment by the Governmental Entity, to the extent permitted by applicable law, of any information that is marked "confidential" on every page or section that is deemed confidential by the Party to whom such information belongs. The Parties shall be entitled to all remedies available at law or in equity to enforce or seek relief in connection with this Section 12.1.

12.2 Restricted Persons. Notwithstanding any other provision herein, the Parties acknowledge that no person or entity shall be deemed to be a Restricted Person solely because he or she possesses knowledge of the Agreement. For the avoidance of doubt, persons or entities who are not Restricted Persons shall not be bound by this Agreement in any respect, and neither Party's Investors (defined below) or their Affiliates shall be restricted in any manner by this Article 12 with respect to any activities including without limitation (x) the trading of any securities, conducted by Employees (defined below) or Representatives thereof who are not Restricted Persons and (y) any activities of such Employees or Representatives in their capacity acting for a Party. The definitions set forth in this Section 12.2 shall apply to this Article 12. For purposes of this Section 12.2, **"Restricted Persons"** means (i) the managers, directors, officers, members of the board of managers or directors, and employees of a Party ("**Employees**"), (ii) the attorneys, financial advisors, bankers, consultants and accountants or other representatives of a Party ("**Representatives**"), (iii) the members, Affiliates, shareholders, predecessors, subsidiaries or investors of a Party ("**Investors**") and (iv) the Employees, Representatives and Investors of each person and entity described in clauses (i) through (iii) above, in each case, where such Restricted Person has actually received Confidential Information of a disclosing Party and, for the avoidance of doubt, only in respect of such Confidential Information actually received.

13. INDEMNIFICATION AND INDEMNIFICATION PROCEDURES

13.1 Indemnification. Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold the other Party, its Affiliates and each of their direct or indirect members, shareholders, investors or unitholders, and their respective managers, members of the Board of Directors or Managers, officers, employees and agents (including, but not limited to, contractors and their employees) (each an "**Indemnified Party**"), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever (collectively, **"Claims"**) brought by third parties against the Indemnified Party related to this Agreement and arising from the Indemnifying Party's gross negligence or willful misconduct, except that the Indemnifying Party shall not have any obligations under this Section 13.1 to the extent arising out of the gross negligence or willful misconduct of any Indemnified Party.

13.2 Additional Seller Indemnification. In addition to the indemnification set forth in Section 13.1, Seller shall indemnify Buyer and each of its direct or indirect members, shareholders, investors or unitholders, and their respective managers, members of the Board of Directors or Managers, officers, employees and agents (including, but not limited to, contractors and their employees)(each also being considered an "Indemnified Party" under this Agreement), harmless from and against all Claims arising out of or related to any environmental matters relating to the Facility or the Facility site, except to the

extent arising out of the gross negligence or willful misconduct of Buyer or any Indemnified Party of Buyer.

13.3 Indemnification Procedures. Each Indemnified Party shall promptly notify the Indemnifying Party of any claim in respect of which the Indemnified Party is entitled to be indemnified under this Article 13. Such notice shall be given as soon as is reasonably practicable after the Indemnified Party becomes aware of each claim; provided, however, that failure to give prompt notice shall not adversely affect any claim for indemnification hereunder except to the extent the Indemnifying Party's ability to contest any claim by any third party is materially adversely affected. The Indemnifying Party shall have the right, but not the obligation, at its expense, to contest, defend, litigate and settle, and to control the contest, defense, litigation and/or settlement of, any claim by any third party alleged or asserted against any Indemnified Party arising out of any matter in respect of which such Indemnified Party is entitled to be indemnified hereunder. The Indemnifying Party shall promptly notify such Indemnified Party of its intention to exercise such right set forth in the immediately preceding sentence and shall reimburse the Indemnified Party for the reasonable costs and expenses paid or incurred by it prior to the assumption of such contest, defense or litigation by the Indemnifying Party. The Indemnifying Party shall have the right to select legal counsel to defend a claim for which the Indemnified Party is seeking indemnification pursuant to this Section 13.3, subject to the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. If the Indemnifying Party exercises such right in accordance with the provisions of this Article 13 and any Indemnified Party notifies the Indemnifying Party that it desires to retain separate counsel in order to participate in or proceed independently with such contest, defense or litigation, such Indemnified Party may do so at its own expense. If the Indemnifying Party fails to exercise it rights set forth in the third sentence of this Section 13.3, then the Indemnifying Party will reimburse the Indemnified Party for its reasonable costs and expenses incurred in connection with the contest, defense or litigation of such claim. No Indemnified Party shall settle or compromise any claim in respect of which the Indemnified Party is entitled to be indemnified under this Article 13 without the prior written consent of the Indemnifying Party; provided, however, that such consent shall not be unreasonably withheld by the Indemnifying Party.

13.4 Survival. The provisions of this Section 13 shall survive the expiration or earlier termination of this Agreement.

14. ASSIGNMENT

14.1 Prohibition on Assignments. Except as permitted by this Article 14, this Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement unless the other Party (or its successors or assigns) consents in writing to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations thereunder. Any purported assignment not in compliance with these provisions shall be null and void.

14.2 Permitted Assignment by Seller. Seller shall have the right to assign this Agreement without consent of Buyer (i) to an Affiliate of Seller, and (ii) in connection with any Financing in

connection with the development, construction, and ownership of the Facility (or any refinancing of that Financing), including, in each case, any assignment by operation of law resulting from any of the foregoing transactions.

14.3 Permitted Assignment by Buyer. Buyer shall have the right to assign this Agreement without consent of Seller (a) in connection with (i) any merger or consolidation of Buyer with or into another Person; (ii) any exchange of all of the common stock or other equity interests of Buyer or Buyer's parent for cash, securities or other property; (iii) any acquisition, reorganization, or other similar corporate transaction involving all or substantially all of the common stock or other equity interests in, or assets of, Buyer, or (b) to any substitute purchaser of the Products, provided that, in the case of either (a) or (b), either (1) the proposed assignee's credit rating as established by S&P or Moody's (or the credit rating of its nearest direct or indirect parent if that proposed assignee does not have such a credit rating) either (x) is equal to or better than BBB from S&P or Baa2 from Moody's or (y) is equal to or better than that of Buyer at the time of the proposed assignment, or (2) such assignment or, in the case of clause (a) above, the transaction associated with such assignment, has been approved by a Rhode Island Governmental Entity with jurisdiction over such assignment or transaction.

15. NON-RECOURSE

The Parties agree that their obligations arising under (or relating to) this Agreement shall be without recourse to any member, unitholder, shareholder or partner of either Party, any controlling Person thereof, or any successor of any such member, unitholder, shareholder, partner or controlling Person (each a member of the **"Extended Group"**); and no member of the Extended Group shall have any liability in such capacity for the obligations of either Party. For the avoidance of doubt, each member of the Extended Group is a third-party beneficiary of this Section 15. The Parties reserve the right to modify or terminate this Agreement without the consent of any member of the Extended Group.

16. AUDIT

16.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under this Agreement, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. Information provided under this Section 16.1 shall constitute Confidential Information. 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 at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

16.2 Consolidation of Financial Information. The Parties agree that generally accepted accounting principles and SEC rules require Buyer to evaluate whether Buyer must consolidate Seller's financial information on Buyer's financial statements. Buyer shall require access to financial records and personnel to determine if consolidated financial reporting is required. If Buyer determines at any time that such consolidation is required, Buyer shall require the following from Seller within fifteen (15) days after the end of every calendar quarter for the Term of this Agreement:

(a) complete financial statements and notes to financial statements for such quarter;

(b) financial schedules underlying such financial statements; and

(c) access to records and personnel to enable Buyer's independent auditor to conduct financial audits (in accordance with generally accepted auditing standards) and internal control audits (in accordance with Section 404 of the Sarbanes-Oxley Act of 2002). Any information provided to Buyer under this Section 16.2 shall be Confidential Information except that such information may be disclosed for financial statement purposes.

17. NOTICES

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

If to Buyer:
Madison N. Milhous
Director
National Grid
100 E. Old Country Road
Hicksville, NY 11801-4218
Fax: (516) 545-3130
Email: madison.milhous@us.ngrid.com

With a copy to:
Ronald T. Gerwatowski, Esq.
Deputy General Counsel
National Grid
40 Sylvan Road
Waltham, MA 02451-1120
Fax: (781) 907-5701
Email: ronald.gerwatowski@us.ngrid.com

If to Seller:
William M. Moore
Chief Executive Officer
Deepwater Wind Block Island, LLC
c/o Deepwater Wind Holdings, LLC
36-42 Newark St., Suite 402
Hoboken, NJ 07030
Fax: (201) 850-1716
Email: wmoore@dwwind.com

With a copy to: Jeffrey M. Grybowski
Hinkley, Allen & Snyder, LLP
50 Kennedy Plaza, Suite 1500
Providence, RI 02903-2319
Fax: (401) 457-5177
Email: jgrybowski@haslaw.com

(b) Prior to Commercial Operation, each Party shall identify a principal contact or contacts, which contact(s) shall have adequate authority and expertise to make day-to-day decisions with respect to the administration of this Agreement.

18. WAIVER AND MODIFICATION

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

19. INTERPRETATION

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

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

19.3 Forward Contract; Commodities Exchange Act. The Parties acknowledge and agree that this Agreement and the transactions contemplated hereunder are a "forward contract" within the meaning of the United States Bankruptcy Code. Each Party represents and warrants, solely as to itself, that it is (i) a "forward merchant" within the meaning of the United States Bankruptcy Code and (ii) an "eligible commercial entity" and an "eligible contract participant" within the meaning of the United States Commodities Exchange Act.

19.4 Change in ISO-NE Rules or ISO-NE Practices. This Agreement is subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of this Agreement, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material

alteration of a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend or clarify this Agreement to embody the Parties' original intent regarding their respective rights and obligations under this Agreement, provided that neither Party shall have any obligation to agree to any particular amendment or clarification of this Agreement. The intent of the Parties is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to this Agreement, or (ii) the Price.

19.5 Standard of Review.

(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. __ (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).

20. COUNTERPARTS; FACSIMILE SIGNATURES

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

21. NO DUTY TO THIRD PARTIES

Except as provided in any consent to assignment of this Agreement, and as provided in Section 13 and Section 15, nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a Party to this Agreement.

22. SEVERABILITY

If any term or provision of this Agreement or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of this Agreement and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law. For the avoidance of doubt, this Agreement shall survive any repeal, modification or amendment of R.I.G.L. §39-26.1.

23. INDEPENDENT CONTRACTOR

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

24. ENTIRE AGREEMENT

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

25. LENDER'S RIGHTS

(a) Notice to Lenders. Buyer shall provide a copy of any notice given to Seller under Section 9 to any Lender of which Buyer shall have written notice, and Buyer shall afford each such Lender the same opportunities to cure defaults under this Agreement as are provided to Buyer hereunder; provided, however, that Buyer shall have no liability to any Lender unless that Lender agrees to assume all of the obligations of Seller under this Agreement.

(b) Assignment to Lenders. Seller may pledge or assign the Facility, this Agreement or the revenues under this Agreement to any Lender as security for the project financing of the Facility, subject to Buyer's execution of a consent to assignment that is in form and substance reasonably satisfactory to Seller and such Lender that incorporates terms and conditions customary for a transaction of this type; provided, however, that Buyer shall not be obligated to enter into any consent which will adversely affect Buyer's rights under this Agreement. Buyer shall not unreasonably withhold, condition or delay providing its consent to an assignment to a Lender.

[Signature page follows]

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

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

By: _____
Name: Thomas B. King
Title: President

DEEPWATER WIND BLOCK ISLAND, LLC

By: Deepwater Wind Rhode Island, LLC, its Member
By: Deepwater Wind Holdings, LLC, its Member

By: _____
Name: William M. Moore
Title: Chief Executive Officer and Managing Director

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

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

By: _____
Name: Thomas B. King
Title: President

DEEPWATER WIND BLOCK ISLAND, LLC

By: Deepwater Wind Rhode Island, LLC, its Member
By: Deepwater Wind Holdings, LLC, its Member

By: _____
Name: William M. Moore
Title: Chief Executive Officer and Managing Director

EXHIBIT A

DESCRIPTION OF FACILITY

Facility: The Facility will be a wind generating facility to be located in the waters off the coast of Block Island, Rhode Island. The nameplate capacity of the Facility will be no more than thirty (30) MW.

This Exhibit A will be supplemented with the Operational Limitations prior to Commercial Operation.

EXHIBIT B

SELLER'S PERMITS

Part 1 – Permits

a. Construction Permits

Federal Permits	**Regulatory Authority(ies)**
Right-of-Way Grant (Federal Waters)	Mineral Management Service
Section 10	United States Army Corps of Engineers (USACE)
NEPA Review	Federal Lead Agency – USACE
Essential Fish Habitat Consultation and T&E (Section 7 of the ESA, Magnuson-Stevens Act and Marine Mammals protection Act) Consultation	National Marine Fisheries Service (NMFS)
T&E (Section 7 of the ESA) Consultation	United States Fish and Wildlife Service (USFWS)/ NMFS
Cultural Resources (Section 106 NHPA)	Tribes/Rhode Island Natural History Survey
Determination of no hazard to vessel traffic and Approval for private aid to navigation	United States Coast Guard (USCG)
Conformity Determination/Air Emissions Permit	United States Environmental Protection Agency (USEPA)
Notice of Proposed Construction or Alteration	Federal Aviation Administration (FAA)
State Permits	**Regulatory Authority(ies)**
State Assent	Rhode Island Coastal Resources Management Council (CRMC)
Marine Dredging Permit	CRMC
Coastal Consistency Determination	CRMC
Lease/License of Offshore Land	CRMC
Coastal and Freshwater Wetlands Permit	CRMC/RIDEM
Determination of Consistency with WQM Plan	CRMC

Section 106 Consultation	Rhode Island Natural History Survey
Road Use permits (cable installation)	RIDOT
Local/County Permits	**Regulatory Authority(ies)**
Storm water Pollution Prevention Plan Approval	County and/or municipal departments and agencies in New Shoreham, Wakefield, Narragansett Beach, and Washington County
Temporary Dewatering Permit	
County Engineering Approval	
Tree Removal Approval	
Temporary Fencing Approval	
Local Site Plan Approval	
Zoning Certificates or Variances	
Engineering Release	
Construction Permits	

b. Operating Permits

Federal Permits	**Regulatory Authority(ies)**
Market-Based Rate Authority (unless exempt)	Federal Energy Regulatory Commission (FERC)
Exempt Wholesale Generator Certification or Qualifying Facility Certification or Self-Certification	FERC
Federal Power Act Section 204 Blanket Authorization	FERC
Order accepting the Interconnection Agreement (if applicable)	FERC

EXHIBIT C

FORM OF PROGRESS REPORT

For the Quarter Ending:_____

Status of construction and significant construction milestones achieved during the quarter:

Status of permitting and significant Permits obtained during the quarter:

Status of Financing for Facility:

Events during quarter expected to results in delays in Commercial Operation:

Current projection for Commercial Operation:

EXHIBIT D

Insurance Requirements

1 Prior to the commencement of construction of the Facility, through final expiration or longer where specified below, Seller shall provide and maintain, at its own expense, insurance policies, intended to be primary (with no right of contribution by any other coverage available to National Grid USA its direct and indirect parents, subsidiaries and affiliates (the "Insured Entities")), covering all Operations, Work and Services to be performed by Seller under or in connection with this Agreement, issued by reputable insurance companies with an A.M. Best Rating of at least B+, which meet or exceed the requirements listed herein:

(a) **Workers' Compensation and Employers Liability insurance** as required by the State in which the Work activities under this Agreement will be performed. If applicable, Coverage shall include the U.S. Longshoreman's and Harbor Workers Compensation Act, and the Jones Act. The employer's liability limit shall be $500,000 each per accident, per person disease, and disease by policy limit.

(b) **Commercial General Liability (CGL) Insurance,** covering all operations to be performed by or on behalf of Seller under or in connection with this Agreement, with combined single limits for bodily injury and property damage of $1,000,000 per occurrence and $2,000,000 in the aggregate.

- Coverage shall include: contractual liability (with this Agreement, and any associated verbal agreements, being included under the definition of "Insured Contract" thereunder), products/completed operations, and if applicable, explosion, collapse and underground (XC&U).
- If the products-completed operations coverage is written on a claims-made basis, the retroactive date shall not precede the effective date of this Agreement and coverage shall be maintained continuously for the duration of this Agreement and for at least two years thereafter.
- Additional Insured as required in Article 3 below,
- The policy shall contain a separation of insureds condition.
- In the event Seller is a governmental entity such as a town, county, municipality etc., and such entity's liability to a third party is limited by law, regulation, code, ordinance, by-laws or statute (collectively the "Law"), this liability insurance shall contain an endorsement that waives such Law for insurance purposes only and strictly prohibits the insurance company from using such Law as a defense in either the adjustment of any claim, or in the defense of any suit directly asserted by an Insured Entity.

(c) **Automobile Liability,** covering all owned, non-owned and hired vehicles used in connection with all operations, work or services to be performed by or on behalf of Seller under or in connection with this Agreement with a combined single limit of liability for bodily injury and property damage of $1,000,000 per accident.

Additional Insured as required in Article 3 below.

(d) **Umbrella Liability or Excess Liability** coverage, with a **minimum** per occurrence limit of $4,000,000. This coverage shall run concurrent to the CGL required in Article 1(b) above, shall apply excess of the required automobile, CGL and employer's liability coverage required in this Exhibit D, and shall provide additional insured status as outlined in Article 3 below.

(e) **Watercraft Liability,** if used in connection with this Agreement, with the same limits of liability as outlined in requirement 1(b) above, and naming the Insured Entities, including their officers and employees, as additional insured as outlined in article 3.

(f) **Aircraft Liability,** if used in connection with this Agreement, with a limit of liability of $10,000,000 combined single limit per occurrence, and naming the Insured Entities, including their officers and employees, as additional insured's as required in Article 3 below. Such coverage shall not include a per-passenger or per seat coverage limit.

(g) **Contractors Pollution Liability (CPL):** covering sudden and accidental pollution liability which may arise out of, under, or in connection with the performance of this Agreement, by or on behalf of Seller, or that arise out of the Seller's use of any owned, non-owned or hired vehicles, with a combined single limit of liability for bodily injury and property damage of $1,000,000 per occurrence and in the aggregate.

This requirement may be satisfied by providing either this CPL policy, which would include naming the Insured Entities, including their officers and employees, as additional insured's as outlined in Article 3 below; **OR** by providing coverage for sudden and accidental pollution liability under the CGL and commercial automobile insurance policies required above - limited solely by the Insurance Services Organization (ISO) standard pollution exclusion, or its equivalent.

In the event Seller is unable to secure and/or maintain any or all of this sudden and accidental pollution liability coverage, Seller agrees to indemnify and hold the Insured Entities harmless against any and all liability resulting from any coverage deficiency that is out of compliance with this insurance requirement.

(h) **Risk of Loss:** Seller shall be responsible for all risk of loss to its equipment and materials, and any other equipment and materials owned by its employees or by other third parties that may be in their care, custody and control. If this coverage is excluded from the Commercial General Liability policy, then coverage will be acceptable under Seller's property policy.

In the event that any equipment or materials (Goods) are supplied by the Insured Entities, an Insured Entities' representative will provide the insurable value of the Goods to Seller in writing, both cumulatively and on a maximum per item basis. Seller will provide replacement cost insurance for these Goods under a blanket builder's risk policy, an equipment floater, or other equivalent coverage, while such Goods are under the care, custody and control of Seller. Such insurance shall cover all Goods outlined in the Agreement or as noted on subsequent contract amendments. The coverage limit shall apply on either a per location basis or a maximum per item basis, and shall name the Insured Entities, as a Loss Payee with respect to their insurable interest as required in Article 3 below.

(i) **Limits:** Any combination of Commercial General Liability, Automobile Liability and Umbrella Liability policy limits can be used to satisfy the limit requirements in items 1 b, c & d above.

If the term of this agreement is longer than five (5) years, in the fifth year, and every five (5) years thereafter, the Commercial General Liability and Umbrella/Excess Liability insurance limits required above shall be increased by the percentage increase in the Consumer Price Index from the month the Agreement was executed to the month immediately preceding the first month of the year in which the increase is required.

2. **Self-Insurance**: Proof of qualification as a qualified self-insurer, if approved in advance in writing by an Insured Entities representative, will be acceptable in lieu of securing and maintaining one or more of the coverages required in this Exhibit D. Such acceptance shall become a part of this insurance provision by reference herein.

For Workers' Compensation, such evidence shall consist of a copy of a current self-insured certificate for the State in which the work will be performed.

In order for self insurance to be accepted, Seller's unsecured debt must have a financial rating of at least investment grade. For purposes of this section, "Investment Grade" means (i) if Seller has a Credit Rating from both S&P and Moody's then, a Credit Rating from S&P equal to or better than "BBB-" and a Credit Rating from Moody's equal to or better than "Baa3"; (ii) if Seller has a Credit Rating from only one of S&P and Moody's, then a Credit Rating from S&P equal to or better than "BBB-" or a Credit Rating from Moody's equal to or better than "Baa3; or (iii) if the Parties have mutually agreed in writing on an additional or alternative rating agency, then the equivalent credit rating assigned to an entity by such additional or alternative rating agency that is equal to or better than "BBB-" from S&P and/or "Baa3" from Moody's.

3 **Additional Insured and Loss Payee:** The intent of the Additional Insured requirement under the CGL, Auto, CPL, Umbrella/Excess, Aircraft and Watercraft policies is to include the Insured Entities, their directors, officers and employees, as Additional Insured's for liabilities associated with, or arising out of, all operations, work or services to be performed by or on behalf of Seller, including ongoing and completed operations, under this Agreement. The following language should be used when referencing the additional insured status: **National Grid USA, its subsidiaries and affiliates shall be named as additional insured.**.

The Loss Payee language, as required in article 1.h above, shall read as follows: **National Grid USA, its subsidiaries and affiliates shall be included as a Loss Payee as their interest may appear**.

To the extent Seller's insurance coverage does not provide the full Additional insured coverage as required herein, Seller agrees to indemnify and hold harmless the Insured Entities against any and all liability resulting from any deficiency in Seller's insurance coverage that may be out of compliance with this insurance requirement.

4 **Waiver of Recovery:** Seller and its insurance carrier(s) shall waive all rights of recovery against the Insured Entities and their directors, officers and employees, for any loss or damage covered under those policies referenced in this insurance provision, or for any required coverage that may be self-insured by Seller. To the extent Seller's insurance carriers will not waive their right of subrogation against the Insured Entities, Seller agrees to indemnify the Insured Entities for any subrogation activities pursued against them by Seller's insurance carriers. However, this waiver shall not extend to the gross negligence or willful misconduct of the Insured Entities or their employees, sub-contractors or agents.

5 **Contractors**: In the event Seller uses Contractors in connection with this Agreement, it is expressly agreed that Seller shall have the sole responsibility to make certain that all Contractors are in compliance with these insurance requirements and remains in compliance throughout the course of this Agreement, and thereafter as required. Seller shall remain liable for the performance of the Contractor, and such sub-contract relationship shall not relieve Seller of its obligations under this agreement.

Unless agreed to in writing the by the Risk Management Department of National Grid USA Service Company, any deductible or self insured retentions maintained by any Contractor, which shall be for the account of the Contractor, and shall not exceed $1,000,000. In addition, Contractor shall name both the Seller and National Grid USA, (including their subsidiaries, affiliates, officers and employees), as additional insured's under the Commercial General Liability and Umbrella/Excess Liability insurance. If requested by National Grid, Seller shall provide National Grid with an insurance certificate from its Contractor evidencing this coverage.

In the event any Contractor is unable to maintain all of the same insurance coverage as required in this insurance article, Seller shall notify National Grid and the Parties shall reasonably agree to replacement insurance given the scope and nature of the works of Contractor.

6 **Insurance Certification**: Upon execution of this Agreement, Seller shall promptly provide National Grid with (a) **Certificate(s) of Insurance** for all coverage's required herein at the following address:

National Grid
Attn: Risk Management Bldg. A-4
300 Erie Boulevard West
Syracuse, NY 13202

Such certificates, and any renewals or extensions thereof, shall outline the amount of deductibles or self-insured retentions which shall be for the account of Seller. Such deductibles or self-insured retentions shall not exceed $1,000,000 unless agreed to in writing by the Risk Management Department of National Grid USA Service Company, whose approval shall not be unreasonably withheld, delayed or conditioned.

Seller shall endeavor to provide National Grid with at least 30 days prior written (10 days for non-payment of premium) notice of any cancellation or diminution of the insurance coverage required in this insurance article.

7 **Insurance Obligation:** If any insurance coverage is not secured, maintained or is cancelled and Seller fails to timely procure other insurance as specified, National Grid has the right, but not the obligation, to procure such insurance and to invoice Seller for said coverage.

8 **Incident Reports:** Seller shall furnish the Risk Management Department of National Grid USA Service Company with copies of any non-privileged accident or incident report(s)(collectively, the "Documents") sent to Seller's insurance carriers covering accidents, incidents or events occurring as a result of the performance of all operations, work and services performed by or on behalf of Seller under or in connection with this Agreement, excluding any accidents or incidents occurring on Seller property. If any of the National Grid Companies are named in a lawsuit involving the operations and activities of Seller associated with this Agreement, Seller shall promptly provide copies of all insurance policies relevant to this accident or incident if requested by National Grid. However, in the event such Documents are deemed privileged and confidential (Attorney Client Privilege), Seller shall provide the relevant facts of the accident or incident in a format that does not violate such Attorney Client Privilege.

9 **Other Coverage**: These requirements are in addition to any which may be required elsewhere in this Agreement. In addition, Seller shall comply with any governmental site specific insurance requirements even if not stated herein.

10 **Coverage Representation:** Seller represents that it has the required policy limits available, and shall notify National Grid USA Service Company's Risk Management Department in writing when the coverage's required in this article herein have been reduced as a result of claims payments, expenses, or both. However, this obligation does not apply to any claims that would be handled solely with in Seller's deductible or self-insured retention.

11 **Responsibility:** The complete or partial failure of the Seller's insurance carrier to fully protect and indemnify the Insured Entities per the terms of the Agreement, including without limitation, this Exhibit D, or the inadequacy of the insurance shall not in any way lessen or affect the obligations of the Seller to the Insured Entities.

12 **Coverage Limitation**: Nothing contained in this article is to be construed as limiting the extent of the Seller's responsibility for payment of damages resulting from all operations, work and services to be

performed by or on behalf of Seller under or in connection with this Agreement, or limiting, diminishing, or waiving Seller's obligation to indemnify, defend, and save harmless the Insured Entities in accordance with this Agreement.

EXHIBIT E

PRICING AND PAYMENTS

1. Payment. Buyer shall, in accordance with the terms of the Agreement and this Exhibit E, with respect to any month, pay to Seller, in immediately available funds, for each MWh Delivered by Seller during such month, the Bundled Price per MWh set forth on Appendix X hereof with respect to the applicable calendar year in which such month occurs (as adjusted pursuant to the applicable provisions of this Exhibit E). In addition, Seller shall, if applicable, provide Buyer with the credit set forth on Appendix Y (the "**Wind Outperformance Adjustment Credit**").

2. Allocation of MWh Price. The Bundled Price per MWh for each billing period shall be allocated between Energy and RECs as follows:

   RECs = The "Alternative Compliance Payment Rate" published by the PUC for the applicable billing period.

   Energy = The $/MWh price of Energy for the applicable month shall be equal to the Bundled Price per MWh less the RECs allocation determined under this Section 2 for the applicable billing period and the $/MWh equivalent of the adjustment for Forward Capacity Market payments as set forth in Section 3 for that billing period.

3. Adjustment to Bundled Price for Forward Capacity Market Payments. Beginning in the fourth Contract Year, each monthly payment due to Seller under this Exhibit E will be reduced by the amount that Seller is or would have been eligible to receive in the ISO-NE Forward Capacity Market or any replacement market for capacity in ISO-NE, without regard to whether the Facility has actually qualified as a Capacity Resource in the Forward Capacity Market or whether the Facility has received a Capacity Supply Obligation for the Capacity Commitment Period during which the applicable billing period occurred. If the Facility has not qualified as a Capacity Resource or received a Capacity Supply Obligation for the relevant Capacity Commitment Period, Buyer shall calculate the reduction due under this Section 3 assuming that the Facility had qualified as a Capacity Resource and received a Capacity Supply Obligation, based on information obtained from Seller and publicly available information from ISO-NE, which calculation shall be binding, absent manifest error. Seller shall use commercially reasonable efforts to cooperate with Buyer in calculating this reduction.

APPENDICES

Appendix X: Bundled Price per MWh

Appendix Y: Wind Outperformance Adjustment Credit

Appendix X

Bundled Price per MWH

The Bundled Price per MWH shall be $235.75/MWh, commencing in 2012. Subject to Section 5.1(b), the Bundled Price per MWH shall escalate by a factor of 3.5% on each Escalation Date.

Appendix Y

Wind Outperformance Adjustment Credit

1. The notice delivered under Section 3.3(b)(i) notifying Buyer that Commercial Operation has occurred shall set forth the nameplate generating capacity of the Facility (the "**Nameplate Capacity**").

2. Commencing after Commercial Operation, Seller shall establish and maintain records of the following accounts as of the end of each Contract Year:

(a) The Target Production Account, which shall set forth (i) for each Contract Year, an amount (the "**Annual Production Target**"), measured in MWh, equal to the product of (x) the Nameplate Capacity; (y) 8760 hours and (x) a target net capacity factor of 40%; and (ii) as of the end of each Contract Year, the cumulative aggregate of all Annual Production Targets during the Services Term, through such date (the "**Aggregate Production Target**"); and

(b) The Actual Production Account, which shall set forth (i) for each Contract Year, the quantity of Product, measured in MWh, Delivered to or Rejected by Seller (the "**Actual Annual Production**"); and (ii) as of the end of each Contract Year, the cumulative aggregate of all Actual Annual Production during the Services Term, through such date (the "**Aggregate Actual Production**").

3. If, as of the end of any Contract Year, the Aggregate Actual Production exceeds the Aggregate Production Target, as adjusted pursuant to the last sentence of this paragraph (the "**Production Surplus**"), then, Seller shall calculate the quantity of Product equal to 50% of such Production Surplus and shall credit such quantity (the "**Wind Outperformance Adjustment Credit**") to Buyer in the next billing cycle, without charge (carrying over any unused credit to subsequent billing cycles if necessary). The amount of any Production Surplus as of the end of any future Contract Year shall be adjusted by deducting the cumulative aggregate Production Surplus from all prior Contract Years (the "**Aggregate Prior Surplus**").

4. Notwithstanding the foregoing, Seller shall not have any obligation to credit any quantity of Product to Buyer, or to make any payment in respect of any surplus in the Aggregate Actual Production over the Aggregate Production Target as of the last Contract Year of the Services Term.

EXAMPLE

Nameplate Capacity: 28.8MW	TARGET PRODUCTION ACCOUNT (MWh)		ACTUAL PRODUCTION ACCOUNT (MWh)		SURPLUS	
Contract Year	Annual Production Target	Aggregate Production Target	Actual Annual Production	Aggregate Actual Production	Aggregate Prior Surplus	Production Surplus
2012-2013	100915.2	100915.2	99000	99000		-1915.2
2013-2014	100915.2	201830.4	98000	197000		-4830.4
2014-2015	100915.2	302745.6	102000	299000		-3745.6
2015-2016	100915.2	403660.8	112000	411000		7339.2
2016-2017	100915.2	504576	103000	514000	7339.2	2084.8
2017-2018	100915.2	605491.2	102000	616000	9424	1084.8
2018-2019	100915.2	706406.4	100000	716000	10508.8	-915.2

Explanation: In Contract Years 2012-2013 through 2014-2015, there is no Production Surplus and hence no credit is given in the subsequent Contract Year. In Contract Years 2015-2016 through 2017-2018, there is a Production Surplus of which 50% is credited to Buyer in the subsequent Contract Year. In Contract Year 2018-2019, there is no Production Surplus, and hence no credit is paid in Contract Year 2019-2020.

EXHIBIT F[1]

Form of Certification of Extension, New Escalation Date and New Contract Years

Deepwater Wind Block Island, LLC ("**Seller**") delivers this certification pursuant to Sections 1 and 5.1(b) of the Power Purchase Agreement dated as of [_____] (the "**Agreement**") between Seller and The Narragansett Electric Company, d/b/a National Grid ("**Buyer**"). All capitalized terms not defined herein have the meanings given to them in the Agreement.

Seller certifies as follows:

1. Seller has elected to [extend the Commercial Operation Date pursuant to Section 3.1(b) of the Agreement] [extend the Services Term pursuant to Section 4.4(b) of the Agreement] [extend the Services Term pursuant to Section 10.3 of the Agreement], and the total period of such extension is [_____] days.

2. As a result of such extension and taking into account all prior extensions of the Commercial Operation Date and Services Term under the Agreement:

a. the Services Term [will begin on [_____] and] will end on [_____].

b. the Escalation Date from today until the earlier of the expiration of the Term or the election by Seller of another extension pursuant to Section 3.1(b) of the Agreement, Section 4.4(b) of the Agreement or Section 10.3 of the Agreement, shall be [_____] of each year.

c. each Contract Year from today until the earlier of the expiration of the Services Term or the election by Seller of another extension pursuant to Section 4.4(b) or Section 10.3 of the Agreement [will begin on [_____] of each calendar year and will end on [_____] of each calendar year, subject to further adjustments in accordance with Section 1 of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certification this [__] day of [_____].

DEEPWATER WIND BLOCK ISLAND, LLC

By:_____
Name:
Title:

[1] The language in this Exhibit will be revised appropriately if Buyer elects to extend the Services Term under Section 10.3 of the Agreement.

Acknowledged and Agreed:

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

By: _____
Name:
Title: