

May 15, 2013

VIA HAND DELIVERY AND ELECTRONIC MAIL

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

**RE: 2013 Distributed Generation Classes, Ceiling Prices, Targets, and Enrollment Rules
Request for Amendment and Declaratory Judgment
Dockets 4277 and 4288**

Dear Ms. Massaro:

I have enclosed National Grid's¹ response to Commission Data Request 1-1 in the above-referenced matter. This filing also contains a Motion for Protective Treatment in accordance with Commission Rule 1.2(g) requesting confidential treatment of Attachments B, C-2, C-3, D, and E of this data response, as it contains confidential data including the WED/Coventry enrollment application, interconnection applications, financial data, and non-price evaluations of the enrollment application. In compliance with Rule 1.2(g), National Grid is providing one complete unredacted copy of the confidential documents in a sealed envelope marked "**Contains Privileged and Confidential Materials – Do Not Release.**"²

Thank you for your attention to this filing. Please feel free to contact me if you have any questions concerning this matter at (401) 784-7667.

Very truly yours,



Thomas R. Teehan

Enclosures

cc: Docket 4277/4288 Service Lists
Steve Scialabba (w/confidential attachments)
Jon Hagopian, Esq. (w/confidential attachments)

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

² For ease of review, the headers and identification sequence of the confidential version originally submitted on May 14, 2013 have been revised.

Certificate of Service

I hereby certify that a copy of the cover letter and / or any materials accompanying this certificate has been electronically transmitted, sent via U.S. mail or hand-delivered to the individuals listed below.

Joanne M. Scanlon

May 15, 2013
Date

Docket No. 4288 – Office of Energy Resources Filings: 1) Proposed Distributed Generation (DG) Standard Contract Act Classes and Ceiling Prices; and 2) Proposed DG Standard Contract; and

Docket No. 4277 – National Grid National Grid – Distributed Generation Enrollment Application & Enrollment Process Rules

Service Lists updated 4/30/13

Name/Address of Parties in Docket	E-mail	Phone
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File an original & 10 copies w/: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	Lmassaro@puc.state.ri.us	401-780-2107
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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND PUBLIC UTILITIES COMMISSION

**Distributed Generation Standard Contracts
Classes and Ceiling Prices – Request for Amendment Docket Nos. 4277/4288
and Declaratory Judgment**

**NATIONAL GRID’S REQUEST
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

National Grid¹ hereby requests that the Rhode Island Public Utilities Commission (“Commission”) provide confidential treatment and grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by Commission Rule 1.2(g) and R.I.G.L. § 38-2-2(4)(i)(B). National Grid also hereby requests that, pending entry of that finding, the Commission preliminarily grant National Grid’s request for confidential treatment pursuant to Rule 1.2 (g)(2).

I. BACKGROUND

On May 15, 2013, National Grid is filing with the Commission its Response to the Commission’s First Set of Data Requests in the above-captioned proceeding. In response to Commission Data Request 1-1, the Company is providing the Company’s non-price review of application (Attachment B), the WED/Coventry completed DG Standard Contract Enrollment Application (with attachments) (Attachments C-2 and C-3), and completed WED/Coventry Interconnection applications (Attachments D and E).

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

The Company considers these documents confidential and proprietary and of the type that it would normally not be made public to other applicants.

II. LEGAL STANDARD

The Commission's Rule 1.2(g) provides that access to public records shall be granted in accordance with the Access to Public Records Act ("APRA"), R.I.G.L. §38-2-1, *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a "public record," unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the Commission falls within one of the designated exceptions to the public records law, the Commission has the authority under the terms of APRA to deem such information to be confidential and to protect that information from public disclosure.

In that regard, R.I.G.L. §38-2-2(4)(i)(B) provides that the following types of records shall not be deemed public:

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

The Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would be likely either (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I.2001).

The first prong of the test is satisfied when information is voluntarily provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. Providence Journal, 774 A.2d at 47.

In addition, the Court has held that the agencies making determinations as to the disclosure of information under APRA may apply the balancing test established in Providence Journal v. Kane, 577 A.2d 661 (R.I.1990). Under that balancing test, the Commission may protect information from public disclosure if the benefit of such protection outweighs the public interest inherent in disclosure of information pending before regulatory agencies.

II. BASIS FOR CONFIDENTIALITY

The WED/Coventry DG Standard Contracts enrollment application and interconnection agreements are not the type of documents that the Company would ordinarily make public or share with other applications. The application and interconnection materials contain financial and technical information about the project that could give other applicants a competitively sensitive information regarding the WED/Coventry project. Similarly, the Company does not ordinarily release its non-price review and scoring of a project to the public or to other applicants, but treats it as a confidential and proprietary information so as not to compromise the Company's evaluation process.

III. CONCLUSION

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

Respectfully submitted,

NATIONAL GRID

By its attorney,



Thomas R. Teehan (RI Bar #4698)
National Grid
280 Melrose Street
Providence, RI 02907
(401) 784-7288

Dated: May 15, 2013

The Narragansett Electric Company

d/b/a National Grid

Docket Nos. 4277/4288

In Re: 2013 Distributed Generation Classes, Ceiling Prices, Targets and Enrollment Rules

Request for Amendment and Declaratory Judgment

Responses to Commission's First Set of Data Requests

Issued on May 7, 2012

Request:

Please provide copies of all documents related to the application received by National Grid from Wind Energy Development and/or the Town of Coventry related to the two wind turbines at issue in this matter, including, but not limited to the interconnection applications under R.I.G.L. § 39-26.3, all supporting documentation provided by the applicant, documents produced during National Grid's review of the applications which are not considered attorney work product, and any communications between National Grid and the applicant(s) related to these applications. To the extent any of the information would normally not be made public to other applicants, please provide under seal with the appropriate request for proprietary treatment.

Response:

Please see Attachments A through E.

Prepared by or under the supervision of: Corinne Abrams

ATTACHMENT A
CORRESPONDENCE

Corinne Abrams
Manager, Environmental Transactions
Energy Procurement
[Nationalgrid](#)
40 Sylvan Rd
Waltham, MA 02451

February 28, 2013

Re: WED Coventry Wind Projects

Dear Corrine,

42 Weybosset Street
Providence
Rhode Island 02903
401 626.4839
401 753.6306 FAX

I write to follow up on our conversation last Friday to confirm National Grid's position with regard to the planned implementation of Wind Energy Development's proposed wind projects in Coventry. This request responds to Chris Kearns's suggestion to get National Grid's input on this issue before seeking enrollment in the Distributed Generation program.

WED proposes to develop two 1.5 MW wind turbines on adjacent parcels of property owned by the Town of Coventry. WED has filed interconnection applications with National Grid for both of these turbines. I have enclosed a plan showing the projects. WED proposes to net meter all of the electricity produced by the turbine to the south to the Town of Coventry under a municipal net metering financing arrangement as defined at Rhode Island General Laws §39-26.4-2(7). WED plans to pursue a distributed generation standard contract, identifying the two turbines as one project in which it intends to net meter 1.5MW from the southerly turbine and seek a distributed generation standard contract for the excess energy generated from the northerly 1.5MW turbine, as provided in Rhode Island General Laws §39-26.2-6(g).

As discussed, we would appreciate your confirmation that this project would be eligible for a distributed generation standard contract based on this approach as soon as possible so that WED may proceed as planned.

Thank you.

Sincerely,

Seth H. Handy

cc. Mark Depasquale
Laura Anthony



Thomas R. Teehan
Senior Counsel

April 3, 2013

VIA U.S. MAIL & ELECTRONIC MAIL

Seth H. Handy, Esq.
Handy Law
42 Weybosset Street
Providence, RI 02903

RE: Wind Energy Development (“WED”) Coventry Wind Project

Dear Seth:

I am writing relative to WED’s proposed wind project in Coventry. The proposed project is described to consist of two 1.5 MW wind turbines with a combined nameplate capacity of 3.0 MW. Based on the site plan submitted with WED’s Distributed Generation (“DG”) Standard Contracts enrollment application, these turbines would be located on a piece of property owned by the Town of Coventry. Your February 28, 2013 letter indicates that WED proposes to net meter one of the turbines and to pursue a Distributed Generation (“DG”) Standard Contract with respect to the second wind turbine under the provisions of R.I.G.L. §39-26.2-6(g), identifying the two turbines as one project.

The DG Standard Contracts statute contains a non-segmentation requirement that a project be distinct, and not be a smaller segment of a larger project. Distinct projects are those installed in a different geographical location at a different time, or involving a different type of renewable energy class. Thus under the statute, and as you indicate in your letter, the WED project would be considered one project. The total nameplate capacity for the proposed project would be 3.0 MW.

Unfortunately, for 2013 the maximum approved target nameplate capacity for DG Standard Contract wind projects is 1.5MW. With a total nameplate capacity of 3.0 MW, the proposed WED project would exceed the 2013 enrollment limit of 1.5 MW, and consequently, as configured, it does not qualify for the 2013 enrollments.

If you have any questions, please feel free to contact me at (401) 784-7667.

Very truly yours,

A handwritten signature in blue ink that reads "T. Teehan".

Thomas R. Teehan

cc: Corinne Abrams

Teehan, Thomas R.

From: Teehan, Thomas R.
Sent: Wednesday, April 03, 2013 3:52 PM
To: 'seth@handylawllc.com'
Cc: Abrams, Corinne M. (Marketing)
Subject: WED Project

Attachments: LT re WED Proposal.pdf

Seth:
Attached is a letter discussing the proposed WED wind project. Please feel free to call me at (401) 784-7667 and discuss.

Tom



LT re WED
proposal.pdf (21 KB).

Thomas R. Teehan
Senior Counsel

nationalgrid

April 3, 2013

VIA U.S. MAIL & ELECTRONIC MAIL

Seth H. Handy, Esq.
Handy Law
42 Weybosset Street
Providence, RI 02903

RE: Wind Energy Development ("WED") Coventry Wind Project

Dear Seth:

I am writing relative to WED's proposed wind project in Coventry. The proposed project is described to consist of two 1.5 MW wind turbines with a combined nameplate capacity of 3.0 MW. Based on the site plan submitted with WED's Distributed Generation ("DG") Standard Contracts enrollment application, these turbines would be located on a piece of property owned by the Town of Coventry. Your February 28, 2013 letter indicates that WED proposes to net meter one of the turbines and to pursue a Distributed Generation ("DG") Standard Contract with respect to the second wind turbine under the provisions of R.I.G.L. §39-26.2-6(g), identifying the two turbines as one project.

The DG Standard Contracts statute contains a non-segmentation requirement that a project be distinct, and not be a smaller segment of a larger project. Distinct projects are those installed in a different geographical location at a different time, or involving a different type of renewable energy class. Thus under the statute, and as you indicate in your letter, the WED project would be considered one project. The total nameplate capacity for the proposed project would be 3.0 MW.

Unfortunately, for 2013 the maximum approved target nameplate capacity for DG Standard Contract wind projects is 1.5MW. With a total nameplate capacity of 3.0 MW, the proposed WED project would exceed the 2013 enrollment limit of 1.5 MW, and consequently, as configured, it does not qualify for the 2013 enrollments.

If you have any questions, please feel free to contact me at (401) 784-7667.

Very truly yours,



Thomas R. Teehan

cc: Corinne Abrams

Teehan, Thomas R.

From: Seth Handy [seth@handylawllc.com]
Sent: Thursday, April 04, 2013 12:00 PM
To: Teehan, Thomas R.
Cc: Abrams, Corinne M. (Marketing)
Subject: Re: WED Project

Tom:

Thank you for the letter and for our conversation yesterday evening.

As we discussed, I don't see anything in the statute (definitions or text) or OER's filing with the PUC that requires the reading that a project that is net metering and entering a DG contract for the balance of its production is defined by its total size rather than just the size of the DG contracted portion for the purposes of applying DG project size constraints. In fact, the OER filing refers to "DG system size" and thus appears to establish project size targets based on the contracted amount rather than the total amount of generation at the project site. Judging size by the DG contract portion only is entirely consistent with 39-26.2-6(g) that expressly intends to encourage net metering and DG contracts for the balance of production, as is proposed here. If there's any ambiguity in the statute it should be read consistently with the purposes which are clearly to support developments like this, particularly when there's a municipality involved. I'd also think you would be interested in supporting wind given the fact that it comes at a lower cost.

Anyway, I appreciate your consideration. I can/will put all of this in a letter, fleshing it out, if that would be helpful to you or to expedite resolution. But, if you prefer to discuss or reconsider first, I'm open to that.

Thanks again.

Seth

Seth Handy | Handy Law LLC

42 Weybosset Street, Providence RI 02903
TEL: 401.626.4839 | FAX: 401.753.6306

www.handylawllc.com

On Apr 3, 2013, at 3:51 PM, "Teehan, Thomas R." <Thomas.Teehan@nationalgrid.com> wrote:

Seth:

Attached is a letter discussing the proposed WED wind project. Please feel free to call me at (401) 784-7667 and discuss.

Tom

***** This e-mail and any files transmitted with it, are confidential and are intended

05/14/2013

solely for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error, please reply to this message and let the sender know.

<LT re WED Proposal.pdf>

Teehan, Thomas R.

From: Seth Handy [seth@handylawllc.com]
Sent: Monday, April 08, 2013 1:17 PM
To: Teehan, Thomas R.
Cc: Abrams, Corinne M. (Marketing); Seth Handy
Subject: Re: WED Project

Hi Tom

Hope you had a good weekend.

I'd like to discuss this again this afternoon if possible. If NGRID maintains its position we'll want to advocate elsewhere.

Thanks

Seth

Seth Handy
Handy Law, LLC
42 Weybosset Street
Providence, RI 02903
401.626.4839

On Apr 3, 2013, at 3:52 PM, "Teehan, Thomas R." <Thomas.Teehan@nationalgrid.com> wrote:

Seth:

Attached is a letter discussing the proposed WED wind project. Please feel free to call me at (401) 784-7667 and discuss.

Tom

***** This e-mail and any files transmitted with it, are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error, please reply to this message and let the sender know.

<LT re WED Proposal.pdf>

Teehan, Thomas R.

From: Seth Handy [seth@handylawllc.com]
Sent: Wednesday, April 17, 2013 2:26 PM
To: Teehan, Thomas R.
Subject: Coventry
Attachments: 4.15.13 S-0641 DG Bill (HL redline).doc; ATT00001.htm

Tom:

Here's the proposed revision to 39-26.2-6(g).

I'd appreciate a quick response.

I'd also still like to discuss the resolution of the interconnection tax issue I raised in my voicemail about a week ago.

Thanks.

Seth

Seth Handy | Handy Law LLC

42 Weybosset Street, Providence RI 02903
TEL: 401 626.4839 | FAX: 401 753.6306

www.handylawllc.com

05/14/2013

Coventry proposed amendment 4.15.13
2013 -- S 0641

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STATE OF RHODE ISLAND

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IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS - DISTRIBUTED
GENERATION
STANDARD CONTRACTS

Introduced By: Senators Walaska, Miller, Paiva Weed, Ruggerio, and DiPalma

Date Introduced: March 06, 2013

Referred To: Senate Environment & Agriculture

(Administration)

It is enacted by the General Assembly as follows:

SECTION 1. Sections 39-26.2-3, 39-26.2-4, 39-26.2-6, 39-26.2-1-7, 39-26.2-1-8, and 39-26.2-1-12 of the General Laws in Chapter 39-26.2 entitled "Distributed Generation Standard Contracts" are hereby amended to read as follows:

39-26.2-3. Definitions. -- When used in this chapter, the following terms shall have the following meanings:

- (1) "Annual target" means the target for total renewable energy nameplate capacity of new distributed generation standard contracts set out in section 39-26.2-3.
- (2) "Commission" means the Rhode Island public utilities commission.
- (3) "Board" shall mean the distributed generation standard contract board established pursuant to the provisions of chapter 39-26.2-9, or the office of energy resources. Until such time as the board is duly constituted, the office of energy resources shall serve as the board with the same powers and duties pursuant to this chapter.

(4) "Distributed generation contract capacity" means ten percent (10%) of an electric distribution company's minimum long-term contract capacity under the long-term contracting standard for renewable energy in section 39-26.1-2, inclusive of solar capacity. The distributed generation contract capacity shall be reserved for acquisition by the electric distribution company through standard contracts pursuant to the provisions of this chapter.

(5) "Distributed generation facility" means an electrical generation facility that is a newly developed renewable energy resource as defined in section 39-26.1-1 2, located in the electric distribution company's load zone with a nameplate capacity no greater than five megawatts (5 MW), using eligible renewable energy resources as defined by section 39-26-5, including biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels, and connected to an electrical power system owned, controlled, or operated by the electric distribution company.

(6) "Distributed generation project" means a distinct installation of a distributed generation facility. An installation will be considered distinct if it is installed in a different geographical location and at a different time, or if it involves a different type of renewable energy class.

(7) "Electric distribution company" means a company defined in subdivision 39-1-2(12), supplying standard offer service, last resort service, or any successor service to end-use customers, but not including the Block Island Power Company or the Pascoag Utility District.

(8) "Large distributed generation project" means a distributed generation project that has a nameplate capacity that exceeds the size of a small distributed generation project in a given year, but is no greater than ~~five megawatts (5 MW)~~ three megawatts (3 MW) nameplate capacity.

(9) "Office" means the Rhode Island office of energy resources;

~~(9)~~ (10) "Program year" means a calendar year beginning January 1 and ending December 31.

~~(10)~~ (11) "Renewable energy classes" means categories for different renewable energy technologies using eligible renewable energy resources as defined by section 39-26-5. For each program year, the board shall determine the renewable energy classes as are reasonably feasible for use in meeting distributed generation objectives from renewable energy resources and are consistent with the goal of meeting the annual target for the program year. For the program year ending December 31, 2012, there shall be at least four (4) technology classes and at least two (2) shall be for solar generation technology, and at least one shall be for wind. The board may add, eliminate, or adjust renewable energy classes for each program year with public notice given at least sixty (60) days previous to any renewable

energy class change becoming effective. For each program year, the board shall set renewable energy class targets for each class established. Class targets are the total program-year target amounts of nameplate capacity reserved for standard contracts for each renewable energy class. The sum of all the class targets shall equal the annual target.

(11) (12) "Renewable energy credit" means a New England Generation Information System renewable energy certificate as defined in subdivision 39-26-2(15);

(12) (13) "Small distributed generation project" means a distributed generation renewable energy project that has a nameplate capacity ~~no larger than~~ within the following: Solar: fifty kilowatts (50 KW) to five hundred kilowatts (500 KW); Wind: fifty kilowatts (50 KW) to one and one-half megawatts (1.5 MW). For technologies other than solar and wind, the board shall set the nameplate capacity size limits, but such limits may not exceed one megawatt. The board may lower the nameplate capacity from year to year for any of these categories, but may not increase the capacity beyond what is specified in this definition. In no case may a project developer be allowed to segment a distributed generation project into smaller sized projects in order to fall under this definition.

(13) (14) "Standard contract" means a contract with a term of fifteen (15) years at a fixed rate for the purchase of all capacity, energy, and attributes generated by a distributed generation facility. A contract may have a different term if it is mutually agreed to by the seller and the electric distribution company and it is approved by the commission. The terms of the standard contract for each program year and for each renewable energy class shall be set pursuant to the provisions of this chapter.

(14) (15) "Standard contract ceiling price" means the standard contract price for the output of a distributed generation facility which price is approved annually for each renewable energy class pursuant to the procedure established in this chapter, for the purchase of energy, capacity, renewable energy certificates, and all other environmental attributes and market products that are available or may become available from the distributed generation facility.

39-26.2-4. Standard contracts -- Annual targets. -- (a) To the extent eligible projects are available and submit conforming applications, an electric distribution company shall enter into standard contracts for an aggregate nameplate capacity of at least forty megawatts (40 MW) of distributed generation projects by the end of 2014, unless such schedule is extended by the board. The contracting shall be spread over four (4) years, based on the annual targets, aggregated to reflect annual targets from prior program years, contained in the following four (4) year phased schedule, unless such schedule is adjusted by the board in any given year:

(1) By December 30, 2011: a minimum of five megawatts (5 MW) nameplate;

(2) By December 30, 2012: a minimum aggregate of twenty megawatts (20 MW) nameplate;

(3) By December 30, 2013: a minimum aggregate of thirty megawatts (30 MW) nameplate;

(4) By December 30, 2014: a minimum aggregate of forty megawatts (40 MW) nameplate.

(b) By October 15, 2011 and each calendar year following until October 15, 2013, the board may recommend to the commission that the annual target for the following program year be adjusted upward to reflect any shortfalls in meeting the previous program year's annual target or to reflect any standard contracts entered into during prior program years that are voided.

The board may also recommend to the commission that the annual target for the following program year be adjusted downward by any amounts that the previous program year's annual targets were exceeded by the standard contracts entered into during that program year.

(c) The board may, based on market data and other information available to it including pricing for standard contracts received during previous program years, recommend a reduction of the annual target for the upcoming program year where the board determines that market conditions would be likely to produce unfavorably high target pricing for standard contracts during that upcoming program year. In considering such issues, the board may take into account the reasonableness of current pricing and its impact on all electric distribution customers who will be paying for the output for up to twenty (20) years at such prices. The board may ~~also~~ recommend and the Commission shall authorize an extension of time to achieve the forty megawatt (40 MW) target, to allow for contracting to occur after 2014, if necessary.

(d) The electric distribution company must contract for at least forty megawatts (40 MW) of nameplate capacity distributed generation projects by the end of 2014, unless such schedule is extended by the board. The electric distribution company may not be required to contract for more than forty megawatts (40 MW) or the distributed generation contract capacity, but may do so voluntarily, subject to commission approval.

(e) Each year, the board shall file its recommendations relating to the schedule, along with its report and recommendations regarding ceiling prices, for the commission's review and approval as specified in subsection 39-26.2-5(b).

(f) Nothing in this chapter shall derogate from the statutory authority of the commission or the division, including, but not limited to, the authority to protect ratepayers from unreasonable rates.

39-26.2-6. Standard contract enrollment program. -- (a) Each electric distribution company shall conduct at least three (3) standard contract enrollments during each program year; however, during 2011 the electric distribution company need only conduct one enrollment. Each enrollment shall be open for a two (2) week period during which the electric distribution company is required to receive standard short-form applications requesting standard contracts for distributed generation energy projects. The short-form applications shall require the applicant to provide the project owner's identity and the project's proposed location, nameplate capacity, and renewable energy class and allow for additional information relative to the permitting, financial feasibility, ability to build, and timing for deployment of the proposed projects. For small distributed generation projects, the applicant must submit an affidavit confirming that the project is not a segment of a larger project being planned for enlargement over time. For large distributed generation projects, the short-form application shall also require the applicant to bid a bundled price for the sale of the energy, capacity, renewable energy certificates, and all other environmental attributes and market products that are available or may become available from the distributed generation facility, on a per kilowatt-hour basis for the output of the project. Subject to the provisions of subsections (b) and (c) below, the electric distribution company shall not be required to enter into standard contracts in excess of the annual target for the applicable program year and shall not be required to enter into standard contracts in excess of any limit set by the board and approved by the commission for a given enrollment. However, the electric distribution company may voluntarily exceed an enrollment period limit as long as it does not exceed an annual target for the applicable program year.

(b) For small distributed generation projects, the electric distribution company ~~on a first-come, first-served basis, shall enter into standard contracts at the applicable standard contract ceiling price~~ shall select projects for standard contracts based on the lowest proposed prices received with any distributed generation project which meets the requirements of all applicable tariffs and regulations, and meets the criteria of a renewable energy class in effect, until the class target is met. Enrollment periods will be governed by a solicitation and enrollment process rules that shall be filed with the commission each October 15 by the electric distribution company, and approved by the commission within sixty (60) days of such filing.

(c) For large distributed generation projects, the electric distribution company shall select projects for standard contracts based on the lowest proposed prices received, but not to exceed the applicable standard contract ceiling price, provided, that the selected projects meet the requirements of all applicable tariffs and regulations and meet the criteria of a renewable energy class in effect until the class target is met. Except for 2011, no enrollment period shall seek to enroll more than one-third (1/3) of the annual goal for the distribution company for large distributed generation projects.

(d) If there are more projects than what is specified for a class target at the same price, the electric distribution company shall review the applications submitted and select first those projects that appear to be the furthest along in development and likely to be deployed, in consultation with the office. Those projects that are likely to be deployed on

the earliest timelines shall be selected. To the extent the electric distribution company is unable to make a clear distinction on this basis, the electric company shall report the results to the board and not enter into contracts with those projects that are tied on pricing. In such case, the board may take such action as it deems appropriate for the selection of projects, including seeking more information from the projects.

Alternatively, the board may consider adjustments to the ceiling price and a rebid, or simply wait until the next enrollment. The office and the electric distribution company shall enter into a memorandum of understanding regarding the sharing of the information and data related to the distributed generation program.

(e) Should an electric distribution company determine that it has entered into sufficient standard contracts to achieve a program-year class target, it shall immediately report this to the board, the office of energy resources, and the commission, and cease entering into standard contracts for that renewable energy class for the remainder of the program year. An electric distribution company may exceed the renewable energy class target if the last standard contract entered into may cause the total purchased to exceed the target.

(f) The electric distribution company is authorized to enter into standard contracts up to the applicable ceiling price. As long as the terms of the standard contract are materially the same as the standard contract terms approved by the commission and the pricing is no higher than the applicable ceiling price, such contracts shall be deemed prudent and approved by the commission for purposes of recovering the costs in rates.

(g) A distributed generation project that also is being employed by a customer for net metering purposes may submit an application to sell the excess output from its distributed generation project in which case the size of the distributed generation project is only the amount of the excess output. In such case, however, at the election of the self-generator all of the renewable energy certificates and environmental attributes pertaining to the energy consumed on site may be sold to the electric distribution company on a month-to-month basis outside of the terms of the standard contract. In such case, the portion of the renewable energy certificates that pertain to the energy consumed on site during the net metering billing period shall be priced at the average market price of renewable energy certificates, which may be determined by using the price of renewable energy certificates purchased or sold by the electric distribution company.

Deleted:

39-26.2-7. Standard contract -- Form and provisions. -- The following process shall be implemented to establish the non-price terms and conditions of the standard contract:

(1) A working group ("contract working group") shall be established and supervised by the board, consisting of the following members: (i) The director of the office of energy resources; (ii) A designee from the division of public utilities and carriers; (iii) Two (2) designees of the electric distribution company; (iv) Two (2) individuals designated by the office of energy resources who are experienced developers of renewable generation projects; (v) One individual designated by the office of energy resources who represents a customer of the electric distribution company; and (vi) A lawyer designated by the office of energy resources who has at least three (3) years of experience in negotiating

and/or developing power purchase agreements. With respect to the lawyer designated in (vi) above, the electric distribution company shall enter into a cost reimbursement agreement with such lawyer, to compensate the lawyer for the time spent serving in the contract working group at the reasonable hourly rate negotiated by the office of energy resources. The costs incurred by the electric distribution company under the reimbursement agreement shall be recovered in rates by the electric distribution company in the year incurred or the year following incurrence through an appropriate filing with the commission. The contract working group shall be an advisory group that is not to be considered to be an agency for purposes of the administrative procedures act or any other laws pertaining to public bodies. (2) The contract working group shall work in good faith to develop standard contracts that would be applicable for various technologies for both small and large distributed generation projects. The standard contracts should balance the need for the project to obtain financing against the need for the distribution company to protect itself and its distribution customers against unreasonable risks. The standard contract should be developed from contracting terms typically utilized in the wholesale power industry, taking into account the size of each project and the technology. The standard contracts shall provide for the purchase of energy, capacity, renewable energy certificates, and all other environmental attributes and market products that are available or may become available from the distributed generation facility. However, the electric distribution company shall retain the right to separate out pricing for each market product under the contracts for administrative and accounting purposes to avoid any detrimental accounting effects or for administrative convenience, provided that such accounting as specified in the contract does not affect the price and financial benefits to the seller as a seller of a bundled product. The standard contract also shall:

(i) Hold the distributed generation facility owner liable for the cost of interconnection from the distributed generation facility to the interconnect point with the distribution system, and for any upgrades to the existing distributed generation system that may be required by the electric distribution company. However, a distributed generation facility owner may appeal to the commission to reduce any required system upgrade costs to the extent such upgrades can be shown to benefit other customers of the electric distribution company and the balance of such costs shall be included in rates by the electric distribution company for recovery in the year incurred or the year following incurrence;

(ii) Require the distributed generation facility owner to make a performance guarantee deposit to the electric distribution company of fifteen dollars (\$15.00) for small distributed generation projects or twenty-five dollars (\$25.00) for large distributed generation projects for every renewable energy certificate estimated to be generated per year under the contract, but at least five hundred dollars (\$500) and not more than seventy-five thousand dollars (\$75,000), paid at the time of contract execution;

(iii) Require the electric distribution company to refund the performance guarantee deposit on a pro-rated basis of renewable energy credits actually delivered by the distributed generation facility over the course of the first year of the project's operation, paid quarterly;

(iv) Provide that if the distributed generation facility has not generated ninety percent (90%) of the output proposed in its enrollment application within eighteen (18) months after execution of the contract, the contract is automatically voided shall be terminated and the performance guarantee is shall be forfeited. An eligible small-scale hydropower distributed generation facility that has not generated ninety percent (90%) of the output proposed in its enrollment application within thirty six months (36) months after execution of the contract shall result in the contract being terminated and the performance guarantee being forfeited. Any forfeited performance guarantee deposits shall be credited to all distribution customers in rates and not retained by the electric distribution company;

(v) Provide for flexible payment schedules that may be negotiated between the buyer and seller, but shall be no longer than quarterly if an agreement cannot be reached;

(vi) Require that an electric meter which conforms with standard industry norms be installed to measure the electrical energy output of the distributed generation facility, and require a system or procedure by which the distributed generation facility owner shall demonstrate creation of renewable energy credits, in a manner recognized and accounted for by the GIS; such demonstration of renewable energy credit creation to be at the distributed generation facility owner's expense. The electric distribution company may, at its discretion, offer to provide such a renewable energy credit measurement and accounting system or procedure to the distributed generation facility owner, and the distributed generation facility owner may, at its discretion, use the electric distribution company's program, or use that of an independent third party, approved by the commission, and the costs of such measurement and accounting are paid for by the distributed generation facility owner.

(vii) All distributed generation projects that have executed contracts will be required to submit quarterly reports on the progress of the project to the distribution company and the office of energy resources. Failure to submit these quarterly progress reports may result in the termination of the contract.

(3) If the contract working group reaches agreement on the terms of standard contracts, the board shall file the contracts with the commission for approval. If there are any disagreements, they shall be identified to the commission. The commission shall review the standard contracts for conformance with the standards set forth in subsection (2). Should there be any disputes, the commission shall issue an order resolving them. To the extent the commission needs expert assistance to resolve any disagreements noted in the filing, the commission is authorized to hire a consultant to assist it in the proceedings, the costs of which shall be recovered from electric distribution customers pursuant to a uniform factor established by the commission in rates for recovery by the electric distribution company in the year incurred or the year following incurrence, as requested through a filing by the electric distribution company. The commission shall issue an order approving standard forms of contract within sixty (60) days of the filing.

39-26.2-8 Standard contract – Reporting. – (a) After each enrollment during a program year the electric distribution companies shall provide a report to the board, office of energy resources, and the commission of the aggregate amount of project nameplate capacity that was the subject of standard contracts entered into during that enrollment and the prices under each of the standard contracts that were executed.

(b) Each quarter of a program year, the electric distribution company shall provide an accounting to office of energy resource, the board, and the commission of the total amount paid to distributed generation facilities under standard contracts during that quarter, until the forty megawatt (40 MW) target is met;

(c) Until the forty megawatt (40 MW) target is met, the electric distribution company shall submit preliminary reports to office of energy resources, the board, and the commission indicating the number of standard contracts and total estimated annual generation, price, class, and any other relevant information for the purposes of better specifying classes, targets, or standard contract prices so as to achieve the purposes set forth in this chapter. Such reports shall be submitted no later than sixty (60) days prior to the end of the calendar year.

(d) The electric distribution company shall in consultation with the office utilize uniform standard forms for evaluating project proposals and shall rank projects according to uniform criteria.

(e) At the end of each enrollment, the electric distribution company shall, upon request by an applicant, provide said applicant with written feedback on the evaluation of said applicant's project proposal.

39-26.2-12 Powers and duties. – The board shall have the power to:

- (1) Develop and recommend to the public utilities commission for review and approval ceiling prices for contracts under the distributed generation standard contracts;
- (2) Develop and recommend to the commission adjustments up or down to the annual target for contracts for the following program year;
- (3) Monitor and evaluate performance under the distributed generation contracts act, including an assessment of ratepayer impact and the project selection process, to be submitted annually in a report to the governor and the general assembly.
- (4) Participate in proceedings of the public utilities commission that pertain to the purposes of the board.
- (5) In order to provide funding for the purposes of engaging consultants and professional services as necessary and appropriate for the board to fulfill its duties and purposes, an allocation of no less than fifty thousand dollars (\$50,000) from unused portions of

Regional Greenhouse Gas Initiative ("RGGI") auction proceeds not dedicated to efficiency measures but to overhead expenses shall be transmitted from the office of energy resources to the board.

SECTION 2. This act shall take effect upon passage.

ATTACHMENT B
REVIEW FORM
REDACTED

1 page

ATTACHMENT C-1
BLANK DG STANDARD CONTRACT
POWER PURCHASE AGREEMENT

**POWER PURCHASE AGREEMENT
(TO BE USED ONLY FOR FACILITIES WITH A
NAMEPLATE CAPACITY OF GREATER THAN 500 KW)**

BETWEEN

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

AND

THE SELLER IDENTIFIED HEREIN

**POWER PURCHASE AGREEMENT
(TO BE USED ONLY FOR FACILITIES WITH A
NAMEPLATE CAPACITY OF GREATER THAN 500 KW)**

COVER SHEET

This **POWER PURCHASE AGREEMENT** (this "**Agreement**") is entered into as of _____ (the "**Effective Date**") by and between The Narragansett Electric Company, d/b/a National Grid, a Rhode Island corporation ("**Buyer**"), and the Seller identified below ("**Seller**") and, together with Buyer, each a "**Party**" and collectively the "**Parties**"). This Agreement is comprised of this Cover Sheet, the Appendix to this Cover Sheet, the General Terms and Conditions attached hereto, and the Exhibits to those General Terms and Conditions. This Agreement is the standard form long-term contract for the purchase of energy, capacity and renewable energy certificates from a Distributed Generation Facility (defined in the General Terms and Conditions) meeting the requirements of R.I.G.L. ch. 39-26.2

Seller: _____

Type of Organization and Jurisdiction of Organization of Seller:

Address for Notices:

Street: _____
City, State: _____ Zip: _____
Attention: _____
Fax: _____
Email: _____

Facility Description:

Project Name: _____
Street: _____
City, State: _____ Zip: _____

Technology: _____

Fuel Type: _____

Operational Limitations: _____

Nameplate Capacity: _____ kw

Delivery Point: _____

Proposed Hourly Output: _____ MWh/kWh per hour of Energy and a corresponding amount of all other Products (Note that Proposed Hourly Output is used in determining whether Seller has satisfied the Output Demonstration requirement in Section 3.1 and in establishing Buyer's maximum purchase obligation in any hour)

Projected Annual Energy Output (each of first two Contract Years): _____ MWh (Note that Projected Annual Energy Output is used to establish the Performance Guarantee Deposit under Section 6.2 and to calculate any Termination Payment under Section 8.3 in the first two Contract Years)

Projected Project Useful Life: ____ Years

Performance Guarantee Deposit \$ _____

Is the Facility a Net Metered Facility: __yes __no

If yes, attach completed Schedule B, Appendix A of R.I.P.U.C. Tariff No. 2075, The Narragansett Electric Company Net Metering Provision: Information Required for Application of Renewable Net Metering and Excess Renewable Net Metering Credits.

Seller's Permits:

Construction Permits

Federal Permits	Regulatory Authority(ies)
State Permits	Regulatory Authority(ies)
Local/County Permits	Regulatory Authority(ies)

Operating Permits

Federal Permits	Regulatory Authority(ies)
State Permits	Regulatory Authority(ies)
Local/County Permits	Regulatory Authority(ies)

Bundled Price per MWH: \$ _____ per MWh

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.

BUYER:

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

By: _____
Name:
Title:

SELLER:

By: _____
Name:
Title:

Appendix A to Cover Sheet

Diagram of Interconnection and Delivery Points

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GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

In addition to terms defined in the Cover Sheet hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in this Agreement and not defined herein shall have the same meaning as ascribed to such terms under the ISO-NE Practices and ISO-NE Rules. There is an Index of Definitions at the end 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.

“Board” shall mean the Distributed Generation Standard Contract Board established pursuant to R.I.G.L. Section 39-26.2-9 and any successor thereto.

“Business Day” shall mean a day on which Federal Reserve member banks in New York, New York are open for business.

“Capacity” shall mean 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; provided, however, that in the case of a Net Metered Facility, Capacity means only that portion of capacity from such Facility associated with the Excess Energy Output.

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

“Certificates” shall mean an electronic certificate created pursuant to the Operating Rules of the GIS or any successor thereto 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.

“Code” shall mean the U.S. Internal Revenue Code of 1986, as amended from time to time or any successor law, and regulations issued pursuant thereto.

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

“Commercial Operation Date” shall mean the date on which the conditions set forth in Section 3.3(b) have been satisfied, as set out in a written notice from Seller to Buyer.

“Contract Year” shall mean the twelve (12) consecutive calendar months starting on the first day of the calendar month following the Commercial Operation Date and each subsequent twelve (12) consecutive calendar month period.

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

“Cover Damages” shall mean, with respect to any Delivery Shortfall, an amount equal to (a) the positive net amount, if any, by which the Replacement Price exceeds the applicable Price that would have been paid pursuant to Section 5.1 and the Cover Sheet, multiplied by the quantity of that Delivery Shortfall, plus (b) any applicable penalties and other costs assessed by ISO-NE or any other Person against Buyer as a result of Seller's failure to deliver such Products in accordance with the terms of this Agreement. Buyer shall provide a statement for the applicable period explaining in reasonable detail the calculation of any Cover Damages.

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

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

“Deliver” or **“Delivery”** shall mean with respect to (i) Energy, to supply Energy into Buyer's ISO-NE account at the Delivery Point in accordance with the terms of this Agreement and the rules of the Interconnecting Utility, (ii) RECs, to supply RECs in accordance with Section 4.7(e) and (iii) Capacity, delivery consistent with Section 4.8.

“Delivery Point” shall mean the Facility's busbar on Seller's side of the interconnection point with Buyer's distribution system located within the Facility substation, the currently contemplated location of which is shown as the revenue meter location in Appendix A to the Cover Sheet hereto.

“Distributed Generation Facility” shall mean a Generation Unit that is a Newly Developed Renewable Energy Resource located in Buyer's ISO-NE load zone, with a nameplate capacity no greater than five MW using eligible renewable energy resources as defined by R.I.G.L. § 39-26-5, including biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels, and connected to the electric distribution system owned by Buyer.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in kWh (unless otherwise noted) in Eastern Prevailing Time, less such Facility’s station service use, generator lead losses and transformer losses, which quantity for purposes of this Agreement will never be less than zero.

“Environmental Attributes” shall mean any and all generation attributes under the Renewable Energy Standard 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 attributes of the Facility or the Products produced by the Facility, up to and including the Proposed Hourly Output, during the Services Term.

“Excess Energy Output” shall mean, in the case of a Net Metered Facility, that portion of the Energy generated by the Facility in any calendar month of the Services Term that is in excess of one hundred percent (100%) of the aggregate Energy consumption by the net metering customer(s) (as defined in R.I.G.L. § 39-26.2-2) for that Net Metered Facility during that calendar month.

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

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

“Financial Closing Date” shall mean the date of signing of the initial agreements for any Financing of the Facility.

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

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

“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, regulations, ISO-NE Rules, ISO-NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric industry in New England during the relevant time period, or any of the

practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the 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.

“Interconnecting Utility” shall mean the utility providing interconnection service for the Facility to the transmission or distribution system of that utility.

“Interconnection Agreement” shall mean an agreement between Seller and the Interconnecting Utility regarding the interconnection of the Facility to the transmission or distribution system of the Interconnecting Utility, as the case may be, as the same may be amended from time to time.

“Interconnection Point” shall have the meaning set forth in the Interconnection Agreement.

“Internal Bilateral Transaction” means the purchase or sale of electric energy or regulation obligations between two market participants internal to NEPOOL.

“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.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE, or the RTO, 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.

“kW” shall mean a kilowatt.

“kWh” shall mean a kilowatt-hour.

“Large Distributed Generation Project” shall mean a Distributed Generation Facility that has a nameplate capacity that exceeds the size of a Small Distributed Generation Project but is no greater than 5 MW.

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

“Lender” shall mean any party providing Financing for 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 party.

“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.

“NERC” shall mean the North American Electric Reliability Council and shall include any successor thereto.

“Net Metered Facility” shall mean a Distributed Generation Facility that participates in net metering (as defined in R.I.G.L. § 39-26.2-2) pursuant to R.I.G.L. Chapter 26.2.

“Network Upgrades” shall mean any upgrades to the Pool Transmission Facilities and the Transmission Provider’s transmission and distribution systems, including any System Modifications under the Interconnection Agreement, necessary for Delivery of the Energy to 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.

“Newly Developed Renewable Energy Resource” shall have the meaning given to that term in R.I.G.L. § 39-26.1-2(6).

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

“Non-Peak Months” shall mean the months of September, October, April and May.

“Notification Time” shall mean 1:00 p.m. Eastern Prevailing Time on a Business Day.

“Operational Limitations” of the Facility are the parameters set forth in the Cover Sheet hereto describing the physical limitations of the Facility.

“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.

“Posted Collateral” shall mean all amounts delivered to or received by Buyer as the Performance Guarantee Deposit. All Posted Collateral shall be in the form of Cash.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and the Cover Sheet hereto.

“Products” shall mean Energy, Capacity, RECs and all other products or output associated with the Facility that have a positive value under the ISO-NE Rules or ISO-NE Practices; provided, however, that (i) if the Facility is a Net Metered Facility, only Energy, Capacity, RECs and such other products or output that are associated with the Excess Energy Output shall be deemed Products; provided, further that Energy, Capacity and RECs generated by the Facility in excess of the Proposed Hourly Output shall not be deemed Products, regardless of whether the Facility is a Net Metered Facility.

“Projected Annual Energy Output” shall mean the historic average of actual generation of the Facility or, for a Net Metered Facility, the Excess Energy Output of the Net Metered Facility since the Commercial Operation Date or, solely for the period up to and including the Contract Year immediately after the Contract Year in which the Commercial Operation Date occurred, the amount identified on the Cover Sheet hereto.

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

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

“Qualified Institution” shall mean a major U.S. commercial bank or trust company, the U.S. branch office of a foreign bank, or another financial institution, in any case, organized under the laws of the United States or a political subdivision thereof having assets of at least \$10 billion and a credit rating of at least (A) “A2” from Moody’s or “A” from S&P, if such entity is rated by both S&P and Moody’s or (B) “A” by S&P or “A2” by Moody’s, if such entity is rated by either S&P or Moody’s but not both.

“Renewable Energy Certificates” or **“RECs”** shall mean all of the Certificates and any and all other Environmental Attributes associated with the Products or otherwise produced by the Facility which conform with the eligibility criteria set forth in the applicable Rhode Island regulations and are eligible to satisfy the Renewable Energy Standard, and shall represent title to and claim over all Environmental

Attributes associated with the specified MWh of generation from such Newly Developed Renewable Energy Resource.

“Renewable Energy Standard” shall mean the requirements established pursuant to R.I.G.L. § 39-26-1 et seq. and the regulations promulgated thereunder 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.

“Replacement Energy” shall mean Energy purchased by Buyer as replacement for any Delivery Shortfall.

“Replacement Price” shall mean the price at which Buyer, acting in a commercially reasonable manner, purchases Replacement Energy and Replacement RECs plus (i) transaction and other administrative costs reasonably incurred by Buyer in purchasing such Replacement Energy and Replacement RECs and (ii) additional transmission charges, if any, reasonably incurred by Buyer to transmit Replacement Energy to the Delivery Point; provided, however, that (a) in no event shall Buyer be required to utilize or change its utilization of its owned or controlled assets, contracts or market positions to minimize Seller’s liability, (b) Buyer shall have no obligation to purchase Replacement Energy and/or Replacement RECs, and (c) if Buyer does not purchase Replacement Energy and/or Replacement RECs, the market value of Energy and/or RECs at the time of the Delivery Shortfall (as reasonably determined by Buyer) will replace the price at which Buyer purchases Energy and/or Replacement RECs in the calculation of the Replacement Price.

“Replacement RECs” shall mean any generation or environmental attributes, including any Certificates or other certificates or credits related thereto reflecting generation by a Newly Developed Renewable Energy Resource that are purchased by Buyer as replacement for any Delivery Shortfall.

“Resale Damages” shall mean, with respect to any Rejected Purchase, an amount equal to (a) the positive net amount, if any, by which the applicable Price that would have been paid pursuant to Section 4.4 hereof for such Rejected Purchase, had it been accepted, exceeds the Resale Price multiplied by the quantity of that Rejected Purchase, 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. Seller shall provide a written statement explaining in reasonable detail the calculation of any Resale Damages.

“Resale Price” shall mean the price at which Seller, acting in a commercially reasonable manner, sells or is paid for a Rejected Purchase, plus transaction and other administrative costs reasonably incurred by Seller in re-selling such Rejected Purchase; 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.

“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 Financial Services, LLC, and any successor thereto.

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

“Seasonal Claimed Capacity” shall mean the maximum dependable load carrying ability of the Facility in the summer or winter, excluding capacity required for use by the Facility, as determined by ISO-NE pursuant to the ISO-NE Rules.

“Small Distributed Generation Project” shall mean a Distributed Generation Facility that has a nameplate capacity no larger than the following: solar, 500 kW; wind, 1.5 MW; and Distributed Generation Facilities other than solar or wind, 1.0 MW or such lesser amount as may be established from time to time pursuant to applicable Law.

“Transfer” shall mean, with respect to any Posted Collateral, and in accordance with the instructions of the Party entitled thereto, payment or transfer by wire transfer into one or more bank accounts specified by the Party to whom such Cash is being delivered.

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

“Unit Contingent” means that Seller is obligated to deliver Products only to the extent that the Facility operates and generates Products.

2. EFFECTIVE DATE; CONDITIONS; TERM

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

2.2 Services Term. The "**Services Term**" is the period during which Buyer is obligated to purchase Products Delivered to Buyer by Seller, commencing on the Commercial Operation Date and continuing for a period of fifteen (15) years from the Commercial Operation Date, unless this Agreement is earlier terminated in accordance with the provisions hereof.

3. FACILITY DEVELOPMENT AND OPERATION

3.1 Critical Milestones.

(a) Commencing on the Effective Date, Seller shall develop the Facility in order to achieve the following milestones ("**Critical Milestones**") on or before the date set forth in this Section 3.1(a):

(i) receipt of all Permits necessary to construct the Facility, as set forth on the Cover Sheet hereto, in final form, by the date that is sixteen (16) months after the Effective Date;

(ii) acquisition of all required real property and other site control rights necessary for construction and operation of the Facility, for interconnection of the Facility to the Interconnecting Utility, for construction of the Network Upgrades (to the extent it is Seller's responsibility to do so) and for performance of Seller's obligations under this Agreement, by the date that is sixteen (16) months after the Effective Date;

(iii) issuance of a full notice to proceed by Seller to its general construction contractor and commencement of construction of the Facility by the date that is sixteen (16) months after the Effective Date;

(iv) achievement of an hourly Energy generation rate or, in the case of a Net Metered Facility, hourly Excess Energy Output, that is equivalent to the Proposed Hourly Output for at least four complete hours (which do not need to be four consecutive hours), which amount shall be adjusted to the extent required to reflect a lack of availability of a motive energy (such as wind speed or insolation), and other factors, as proposed by Seller's engineer and accepted by Buyer in its reasonable discretion (the "**Output Demonstration**") within eighteen (18) months after the Effective Date; and

(v) achievement of the Commercial Operation Date by the date that is twenty (20) months after the Effective Date.

(b) Seller shall provide Buyer with written notice of the achievement of each Critical Milestone within seven (7) days after that achievement, which notice shall include information demonstrating with reasonable specificity that such Critical Milestone has been achieved, which information will be acceptable to Buyer in its reasonable discretion.

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

(d) If the Facility does not achieve the Output Demonstration by the milestone date set out in Section 3.1(a)(iv), then (i) Buyer shall retain the full amount of the Performance Guarantee Deposit and (ii) this Agreement shall automatically terminate on such milestone date, and upon such termination neither Party will have any further liability to the other hereunder. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a failure of the Facility to achieve the Output Demonstration 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 retention of the Performance Guarantee Deposit as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

(e) If the Facility does not achieve the Commercial Operation Date by the Commercial Operation Date milestone set out in Section 3.1(a)(v), either Party may terminate this Agreement within sixty (60) days after such 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.

3.2 Construction. 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 regarding Critical Milestones not yet achieved, including projected time to completion of the Facility, in accordance with the form attached hereto as Exhibit A, and shall provide supporting documents and detail regarding the same upon Buyer's request. Seller shall permit Buyer and its advisors and consultants to review and discuss with Seller and its advisors and consultants such progress reports during business hours and upon reasonable notice to Seller

3.3 Commercial Operation.

(a) Seller's obligation to Deliver the Products and Buyer's obligation to pay Seller for such Products commences on the Commercial Operation Date. Energy, Capacity and RECs generated prior to the Commercial Operation Date shall not be deemed Products and shall not be Delivered and sold to, or purchased by Buyer.

(b) The Commercial Operation Date shall occur on the date on which the Facility is capable of regular commercial operation in accordance with Good Utility Practice, the manufacturer's guidelines for all material components of the Facility, all requirements of the ISO-NE Rules and ISO-NE Practices for the delivery of the Products to Seller have been satisfied, and all

performance testing for the Facility has been successfully completed, provided Seller has also satisfied, and continues to satisfy, the following conditions precedent as of such date:

(i) completion of all transmission and interconnection facilities and any Network Upgrades, including final acceptance and authorization to interconnect the Facility from the Interconnecting Utility in accordance with the Interconnection Agreement;

(ii) Seller has obtained and demonstrated possession of all Permits required for the lawful construction and operation of the Facility, for the interconnection of the Facility to the Interconnecting Utility (including any Network Upgrades) and for Seller to perform its obligations under this Agreement, including but not limited to Permits related to environmental matters, all as set forth on the Cover Sheet hereto;

(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 Distributed Generation Facility;

(iv) Seller has established all ISO-NE-related accounts and entered into all ISO-NE-related agreements (including without limitation registration of the Facility as a "settlement only generator" in the ISO-NE Settlement Market System) 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;

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

(vi) Seller has substantially completed the Facility and has successfully completed all pre-operational testing and commissioning for the Facility in accordance with manufacturer guidelines;

(vii) Seller has satisfied and continues to satisfy all Critical Milestones that precede the Commercial Operation Date in Section 3.1;

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

(ix) Seller has obtained any and all necessary authorizations from FERC to sell Energy from the Facility and shall be in compliance with such authorization; and

(x) the Facility, as constructed to date, is under the sole control of Seller (including without limitation with respect to the operation, maintenance and management of the Facility) and is either owned or leased by Seller, and Seller is a party to all material contracts relating to the construction, operation, management and maintenance of the Facility.

3.4 Operation of the Facility.

(a) Compliance With Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; (ii) the Operational Limitations; and (iii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, the Interconnecting Utility, NERC and/or any regional reliability entity, whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities.

(b) Outages. Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to schedule all Generator Maintenance Outages during Non-Peak Months, and shall schedule all Generator Planned Outages (as defined in the ISO-NE Rules) during Non-Peak Months. Seller shall provide Buyer with a schedule setting forth all Generator Planned Outages for the next twelve (12) months no later than January 15th of each calendar year of the Services Term, and shall provide Buyer with notice of any Generator Maintenance Outage within twenty-four (24) hours after Seller schedules such Generator Maintenance Outage.

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

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

(e) Forecasts. Commencing at least thirty (30) days prior to the Commercial Operation Date and continuing throughout the Services Term, Seller shall update and deliver to Buyer on an annual basis and in a form reasonably acceptable to Buyer, twelve (12) month forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice.

(f) 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; provided, however, that if the Facility ceases to qualify as a renewable energy resource solely as a result of a change in Law, Seller shall only be required to use commercially reasonable efforts to maintain such certification after that change in Law.

(g) Compliance Reporting. If Buyer is subject to any certification or compliance reporting requirement with respect to the Products 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.

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

(i) Compliance with Law. Without limiting the generality of any other provision of this Agreement, Seller shall be responsible for complying with all applicable requirements of Law. Seller shall indemnify Buyer against any and all claims arising out of or related to environmental matters relating to the Facility or the Facility site and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements.

(j) FERC Status. Seller shall maintain the Facility's status as a QF or EWG at all times after the Commercial Operation Date and shall obtain and maintain any requisite authority to sell the output, including Energy and Capacity, of the Facility or an exemption from the requirement that it have such authority.

3.5 Interconnection and Delivery Services.

Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, including the costs of the Network Upgrades, consistent with all standards and requirements set forth by any applicable Governmental Entity and the Interconnecting Utility; provided, however, that the PUC may reduce the portion of the Network Upgrade costs to be paid by Seller, so long as the PUC expressly directs that any such Network Upgrade costs not paid by Seller shall be recovered by Buyer in its retail rates in the calendar year following the year in which such Network Upgrade costs are incurred.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Beginning on the Commercial Operation Date and subject to Section 4.1(b), Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products produced by the Facility and capable of being Delivered, up to and including the Proposed Hourly Output, in accordance with the terms and conditions of this Agreement. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same is Unit Contingent and shall be subject to the operation of the Facility.

(b) Buyer shall not be obligated to purchase or accept any Products to the extent that such Products (i) exceed the Proposed Hourly Output in any hour or (ii) are Energy, or RECs associated with Energy, that is produced using any fuel or energy source other than one that qualifies the Facility as a Distributed Generation Facility.

(c) Seller shall Deliver the Products produced by the Facility, up to and including the Proposed Hourly Output, exclusively to Buyer, and Seller shall not sell, divert, grant, transfer or assign such Products or any Certificate or other attribute associated with such Products to any Person other than Buyer during the Term. Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery of Energy.

(a) During the Services Term, Seller 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. Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Real Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission or distribution system). Delivery of the Energy is contemplated to occur within the ISO-NE Settlement Market System through Seller's registration of the Facility as a generation asset and assignment of the Energy to Buyer in such ISO-NE Settlement Market System. Buyer may, in its sole discretion, direct Seller to deliver Energy through any other appropriate ISO-NE market mechanism.

(b) Penalties or similar charges assessed by a Transmission Provider and caused by noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller shall at all times during the Services Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities, 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, other than as set forth in Section 4.8.

4.3 Failure of Seller to Deliver Products.

In the event that Seller fails to satisfy any of its obligations to Deliver any of the Products hereunder in accordance with Section 4.1 and Section 4.2, and such failure is not excused under the express terms of this Agreement (a "**Delivery Shortfall**"), Seller shall pay Buyer an amount for such Delivery Shortfall equal to the Cover Damages. Such payment shall be due no later than the date for Buyer's payment for the applicable month as set forth in Section 5.2 hereof. Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to a Delivery Shortfall would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Cover Damages as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

4.4 Failure by Buyer to Accept Delivery of Products. If Buyer fails to accept or pay for 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.

4.5 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission and/or distribution interconnection, service and delivery charges, including all related ISO-NE administrative fees and other

FERC-approved charges in connection with the Delivery of Energy to and at the Delivery Point.

(c) Buyer shall be responsible for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE, Interconnecting Utility 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.

4.6 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "**Meters**"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice, the GIS Operating Rules and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense once each Contract Year. 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 Facility by the Interconnecting Utility (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility, and if any Meter is out of service or is determined to be registering inaccurately by more than two percent (2%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of the Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to Buyer at no cost.

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

Seller shall provide Buyer with timely notice of any such testing or calibration.

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

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

(f) Telemetry. The Meters shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer.

(g) Net Metering. In the case of a Net Metered Facility, Seller shall have responsibility for the installation of any metering facilities necessary to meet the requirements for metering of the aggregate Energy consumption by the net metering customer(s) (as defined in R.I.G.L. § 39-26.2-2) for that Net Metered Facility.

4.7 RECs.

(a) Seller shall transfer to Buyer all of the right, title and interest in and to the Facility's Environmental Attributes, including the RECs, associated with the Facility's Energy Delivered during the Term in accordance with the terms of this Section 4.7.

(b) All Energy provided by Seller to Buyer from the Facility under this Agreement shall meet the requirements for eligibility pursuant to the Renewable Energy Standard; provided, however, that if the Facility ceases to qualify as a Newly Developed Renewable Energy Resource solely as a result of a change in Law, Seller shall only be required to use commercially reasonable efforts to ensure that all Energy provided by Seller to Buyer from the Facility under this Agreement meets the requirements for eligibility pursuant to the Renewable Energy Standard after that change in Law.

(c) At Buyer's request and at Seller's sole cost, Seller shall seek qualification under the renewable portfolio standard or similar law of New York and/or one or more New England states (in addition to Rhode Island) and/or any federal renewable energy standard. Seller shall use commercially reasonable efforts, consistent with Good Utility Practice, to maintain such qualification at all times during the Services Term, or until Buyer indicates such qualification is no longer necessary.

Seller shall also submit any information required by any state or federal agency (including without limitation the PUC) with regard to administration of its rules regarding Environmental Attributes or its renewable energy standard or renewable portfolio standard to Buyer or as directed by Buyer.

(d) Seller shall comply with all GIS Operating Rules relating to the metering of Energy, the creation and transfer of all RECs to be purchased by Buyer under this Agreement and all other GIS Operating Rules to the extent required for Buyer to achieve the full value of such RECs. 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 compliance shall be at Seller's sole cost if such registration and compliance is requested in connection with Section 4.7(c) above and shall be at Buyer's sole cost in other instances.

(e) Buyer may, solely at its discretion, offer to provide data from the Meters to the GIS if the PUC authorizes Buyer to do so. Seller may, solely at its discretion, accept such offer, and if Seller selects such offer, Seller shall reimburse Buyer for all costs it incurs in providing such data to the GIS. Buyer shall have no liability or responsibility for any data provided to the GIS under this Section 4.7(e).

(f) Prior to the delivery of any Energy hereunder, either (i) Seller shall cause Buyer to be registered in the GIS as the initial owner of all Certificates to be Delivered hereunder to Buyer or (ii) Seller and Buyer shall effect an irrevocable forward transfer of the Certificates to be Delivered hereunder to Buyer in the GIS. 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 B. Notwithstanding the foregoing or any other provision of this Agreement (including without limitation Exhibit B) 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 B) 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).

(g) In the case of a Net Metered Facility, Seller shall be responsible for assuring that Buyer's NEPOOL GIS Account accurately reflects any adjustments for Energy delivered to the Interconnection Point, but utilized for net metering credits in the monthly settlement for the net metering customer(s) (as defined in R.I.G.L. § 39-26.2-2) for that Net Metered Facility. Buyer will use commercially reasonable efforts to cooperate with Seller to effect such adjustments.

4.8 Capacity.

(a) If the Facility is a Large Distributed Generation Facility, Buyer will be the "Project Sponsor" for the Facility under the ISO-NE Rules, and Buyer may, but shall not be required to, qualify the Facility as an Existing Capacity Resource in the Forward Capacity Market after the Commercial Operation Date and participate in every Capacity Commitment Period in the Forward Capacity Market with respect to the Facility. In such case, the following shall apply:

(i) Buyer shall communicate to Seller the general information that Buyer will require to qualify the Facility as an Existing Capacity Resource in the ISO-NE Forward Capacity Market in advance of the beginning of the relevant qualification period.

(ii) For the initial submission by Buyer with respect to the Facility, Buyer will provide Seller with the data requirements for qualifying the Facility as an Existing Capacity Resource in the Forward Capacity Market, and Seller shall provide such requested data within five (5) Business Days of that request. Seller will provide any data subsequently requested by Buyer within two (2) Business Day of that subsequent request by Buyer.

(iii) Without limiting the generality of the foregoing, Seller shall take commercially reasonable actions (including providing Buyer with reasonably requested data and information) necessary in order for Buyer (i) to qualify the Facility in the Forward Capacity Market, (ii) to clear the Facility in each Forward Capacity Auction after the Commercial Operation Date with the maximum Seasonal Claimed Capability available for the Facility, (iii) to secure a Capacity Supply Obligation for the Facility in each Forward Capacity Auction after the Commercial Operation Date and (iv) to avoid the Facility being de-listed from the Forward Capacity Market, consistent with this Section 4.8.

(b) If the Facility is a Small Distributed Generation Facility, Buyer may, in its sole discretion and after consultation with the Rhode Island Division of Public Utilities and Carriers and the Board, elect to require Seller to comply with the requirements of Section 4.8(a) with respect to the Facility.

(c) To the extent that any payment is made with respect to the Facility in the ISO-NE Forward Capacity Market, such payment shall be due solely to Buyer, and Seller shall have no rights or claims with respect to such payment.

(d) Any failure of Seller to perform its obligations under this Section 4.8 shall not be a Default or Event of Default; provided that the Bundled Price paid by Buyer for the Products shall at all times while such failure is continuing be reduced by the product of the Forward Capacity Market clearing price in dollars per kW-month times the following conversion factor:

$$\frac{(12 \text{ months/year}) \times (1000 \text{ kW/MW})}{8760 \text{ hours/year}}$$

which reduction shall be reasonably calculated by Buyer. Such reduction shall be in effect beginning with the first capability period following Seller's failure to perform its obligations under the Section 4.8 and shall continue until the beginning of the capability period immediately following Seller's compliance with this Section 4.8.

4.9 Deliveries During Test Period. During the period from the first Delivery of Energy produced by the Facility to the Delivery Point until the Commercial Operation Date (the "Test Period"), Seller shall sell and Deliver, and Buyer shall purchase and receive, any Energy produced by the Facility and Delivered. Completion of all requirements in Section 3.3(b) necessary to accomplish Delivery shall be complete. Notwithstanding the provisions of Section 5.1, payment for Energy produced and Delivered during the Test Period shall be equal to the product of (x) the MWh of Energy Delivered from the Facility to the Delivery Point and (y) the Real Time Locational Marginal Price at such Delivery Point (as determined by ISO-NE) for each hour of the month when Energy is produced by the Facility. The Test Period shall not exceed two months.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Price for Products.

(a) All Products Delivered to Buyer in accordance with this Agreement shall be purchased by Buyer at the Price specified on the Cover Sheet hereto and in accordance with this Section 5.1.

5.2 Payment and Netting.

(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, and based on the 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 reasonably request. Should an alternative to rendering an invoice become available, such alternative meeting all of Buyer's business requirements, this alternative may be implemented at Buyers sole discretion.

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

(c) Disputes and Adjustments of Invoices.

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

(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 twenty-four (24) months of the date the invoice, or adjustment to an invoice, was rendered. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment along with all available supporting documentation. Upon resolution of the dispute, any required payment or refund shall be made with the next monthly invoice following such resolution.

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

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or

refund as specified above at the lesser of (a) the Collateral Interest Rate plus one percent (1%), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the "Late Payment Rate").

5.4 Taxes, Fees and Levies. Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products ("Seller's Taxes"), unless Buyer collects such taxes, fees and levies upon resale of the Products (as, for example, with a value added tax). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products by Seller and are, therefore, the responsibility of Seller) ("Buyer's Taxes").

6. SECURITY FOR PERFORMANCE

6.1 Grant of Security Interest. Subject to the terms and conditions of this Agreement, Seller hereby pledges to Buyer as security for all outstanding obligations under this Agreement and any other documents, instruments or agreements executed in connection therewith (collectively, the "Obligations"), and grants to Buyer a first priority continuing security interest, lien on, and right of set-off against all Posted Collateral delivered to or received by Buyer hereunder. Upon the return by Buyer to Seller of any Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without further action by either Party.

6.2 Performance Guarantee Deposit. On the Effective Date, Seller shall post a Cash deposit in the amount of fifteen dollars (\$15.00) for a Small Distributed Generation Project 2 or twenty-five dollars (\$25.00) for a Large Distributed Generation Project multiplied by the Projected Annual Energy Output (measured in MWh) for the first Contract Year ("Performance Guarantee Deposit"); provided that in no event will the Performance Guarantee Deposit be less than five hundred dollars (\$500) or more than seventy-five thousand dollars (\$75,000). Buyer shall return a portion of the Performance Guarantee Deposit quarterly during the first Contract Year *pro rata* based on the actual Energy Delivered to Buyer during such quarter compared to the total Projected Annual Energy Output for the first Contract Year. Any Performance Guarantee Deposit remaining at the conclusion of the first Contract Year shall be forfeited to Buyer. Each Party agrees and acknowledges that (i) the damages that the Parties would incur due to a failure of the Facility to achieve the Projected Annual Energy Output in the first Contract Year 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 retention of all or a portion of the Performance Guarantee Deposit as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

6.3 Administration of Posted Collateral.

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

(a) So long as no Event of Default has occurred and is continuing with respect to Buyer, Buyer will be entitled to either hold Cash or to appoint an agent which is a Qualified Institution (a "Custodian") to hold Cash for Buyer. In the event that an Event of Default has occurred and is continuing with respect to Buyer, then the provisions of Section 6.3(a) shall not apply with respect to Buyer and Cash shall be held in a Qualified Institution in accordance with the provisions of Section 6.3(c). Upon notice by Buyer to Seller of the appointment of a Custodian, Seller's Obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Cash by a Custodian will be deemed to be the holding of Cash by Buyer for which the Custodian is acting. If Buyer or its Custodian fails to satisfy any conditions for holding Cash as set forth above, or if Buyer is not entitled to hold Cash at any time, then Buyer will Transfer, or cause its Custodian to Transfer, the Cash to a Qualified Institution and the Cash shall be maintained in accordance with Section 6.3(c). Except as set forth in Section 6.3(c), Buyer will be liable for the acts or omissions of the Custodian to the same extent that Buyer would be held liable for its own acts or omissions.

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

(c) If neither Buyer nor the Custodian is eligible to hold Cash pursuant to Section 6.3(a) then Buyer shall be required to Transfer (or cause to be Transferred) not later than the close of business within five (5) Business Days following the beginning of such ineligibility all Cash in its possession or held on its behalf to a Qualified Institution to be held in a segregated, safekeeping or custody account (the "Collateral Account") within such Qualified Institution with the title of the account indicating that the property contained therein is being held as Cash for Buyer. The Qualified Institution shall serve as Custodian with respect to the Cash in the Collateral Account, and shall hold such Cash in accordance with the terms of this Article 6 and for the

security interest of Buyer and execute such account control agreements as are necessary or applicable to perfect the security interest of Seller therein pursuant to Section 9-314 of the Uniform Commercial Code or otherwise, and subject to such security interest, for the ownership and benefit of Seller. The Qualified Institution holding the Cash will invest and reinvest or procure the investment and reinvestment of the Cash in accordance with the written instructions of Buyer, subject to the approval of such instructions by Seller (which approval shall not be unreasonably withheld). Buyer shall have no responsibility for any losses resulting from any investment or reinvestment effected in accordance with Seller's approval.

(d) Buyer's Rights and Remedies.

If at any time an Event of Default with respect to Seller has occurred and is continuing, then, unless Seller has paid in full all of its Obligations that are then due, including those under Section 8.3(b) of this Agreement, Buyer may exercise one or more of the following rights and remedies, in addition to any rights and remedies under Section 8.3: (i) all rights and remedies available to a secured party under applicable Law with respect to Posted Collateral held by Buyer, (ii) the right to set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or the cash equivalent of any Posted Collateral held by Buyer, or (iii) the right to liquidate any Posted Collateral held by Buyer and to apply the proceeds of such liquidation of the Posted Collateral to any amounts payable to Buyer with respect to the Obligations in such order as Buyer may elect. Seller shall remain liable for amounts due and owing to Buyer that remain unpaid after the application of Posted Collateral, pursuant to this Section 6.3.

(e) Seller's Rights and Remedies.

If at any time a termination date has occurred or been designated as the result of an Event of Default with respect to Buyer, in addition to any rights and remedies under Section 8.3, (i) Buyer will be obligated immediately to return all Posted Collateral provided by Seller, including any accrued interest to Seller, or (ii) to the extent that Posted Collateral provided by Seller, including any accrued interest is not returned pursuant to (i) above, Seller may set-off any amounts payable by Seller with respect to any Obligations against any Posted Collateral or to the extent that Seller does not set off such amounts, withhold payment of any remaining amounts payable by Seller with respect to any obligations of Buyer, up to the value of the remaining Posted Collateral.

6.4 Additional Rights Regarding Posted Collateral

(a) Further Assurances. Promptly following a request by Buyer, Seller shall use commercially reasonable efforts to execute, deliver, file, and/or record any financing statement, specific assignment, or other document and take any other action that may be necessary or desirable to create, perfect, or validate any security interest or lien, to enable Buyer to exercise or enforce its rights or remedies

under this Agreement, or to effect or document a release of a security interest on Posted Collateral or accrued interest.

(b) Further Protection. Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding, or lien that involves the Posted Collateral delivered to Buyer by Seller or that could adversely affect any security interest or lien granted pursuant to this Agreement.

7. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

7.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as of the Effective 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. 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) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(c) Binding Agreement. This Agreement has been duly executed and delivered on behalf of Buyer and, assuming the due execution hereof and performance hereunder by Seller and 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. 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. The execution, delivery and performance by Buyer of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken or that shall be duly obtained, made or taken on or prior to the date required, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable as required under applicable Law.

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

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

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

(a) Organization and Good Standing; Power and Authority. Seller is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Subject to the receipt of the Permits listed in on the Cover Sheet hereto, Seller has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

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

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a

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

(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 the Cover Sheet hereto, 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 the Cover Sheet hereto, 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 the Cover Sheet hereto on or prior to the date such Permits are required under applicable Law, the execution, delivery and performance by Seller of its obligations under this Agreement do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, final and non-appealable. To Seller's knowledge, Seller shall be able to receive the Permits listed on the Cover Sheet hereto in due course and as required under applicable Law to the extent that those Permits have not previously been received.

(g) Newly Developed Renewable Energy Resource. Subject to Section 4.7(b), the Facility shall be a Distributed Generation Facility, qualified by the PUC as a Newly Developed Renewable Energy Resource eligible to participate in the Renewable Energy Standard program under R.I.G.L. § 39-26-1 et seq.

(h) Title to Facility and Products. Seller has and shall throughout the Term have good and

marketable title to the Facility and all Products sold and delivered to Buyer under this Agreement, and all Products sold and delivered to Buyer under this Agreement shall be free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under this Agreement.

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

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

(k) Useful Life. As of the Effective Date, the projected useful life of the Facility is at least twenty-one (21) years.

7.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 7 are made as of the Effective Date and deemed made continually throughout the Term.

8. BREACHES; REMEDIES

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

(a) Representation or Warranty. Any material breach of any representation or warranty of such Party set forth herein, or in filings or reports made pursuant to this Agreement, and such breach continues for more than thirty (30) days after the Non-Defaulting Party has provided written notice to the Defaulting Party that any material representation or warranty set forth herein is false, misleading or erroneous in any material respect without the breach having been cured; 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 thirty (30) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

(c) Other Covenants. Other than a Delivery Shortfall (the sole remedy for which shall be the payment of Cover Damages under Section 4.3), a Rejected Purchase (the sole remedy for which shall be the payment of Resale Damages under Section 4.4), a failure by Seller to perform its obligations under Section 4.8 (which is addressed in Section 4.8(d)), or an Event of Default described in Section 8.1(a), 8.1(b), 8.1(d), 8.1(e) or 8.2,

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; or

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

(e) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit necessary for such Party to perform its obligations under this Agreement and such failure continues for more than sixty (60) days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party.

8.2 Events of Default by Seller. In addition to the Events of Default described in Section 8.1, it shall constitute an Event of Default by Seller hereunder if:

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, to the extent required under this Agreement; or

(c) Failure to Meet Critical Milestones. The failure of Seller to satisfy any Critical Milestone, other than with respect to the Output Demonstration under Section 3.1(a)(iv), and such failure continues for more than thirty (30) days after Buyer has given notice thereof to Seller.

8.3 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, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in this Agreement or, to the extent not inconsistent with the terms of this Agreement, at law, including, without limitation, the termination right set forth in Section 8.3(b).

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

(i) Termination by Buyer. If Buyer terminates this Agreement because of an Event of Default by Seller that occurs after the Commercial Operation Date, the Termination Payment due to Buyer shall be equal to the amount, if positive, calculated according to the following formula:

$$\frac{\sum(RV - CV) + P}{N}$$

where:

" \sum " is the summation over the remainder of the Services N Term.

"RV" is the replacement value of the Products for the remainder of the Services Term, calculated with reference to the applicable Replacement Price and the Supply Forecast, using a discount factor of eight percent (8.0%).

"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, using a discount factor of eight percent (8.0%) (the "Contract Value").

"P" is the amount of any applicable penalties and costs incurred by Buyer in replacing the Products not Delivered to Buyer as a result of the termination of this Agreement.

All such amounts shall be determined by Buyer in good faith and in a commercially reasonable manner, and Buyer shall provide Seller with a reasonably detailed calculation of the Termination Payment due under this Section 8.3(b)(i). Any Termination Payment required from Seller under this

Section 8.3(b)(i) shall be in addition to any Performance Guarantee Deposit forfeited to Buyer under Section 6.2.

(ii) *Termination by Seller*

Prior to Financial Closing Date. If Seller terminates this Agreement because of an Event of Default by Buyer prior to the Financial Closing Date, the Termination Payment due to Seller shall be equal to all of Seller's out-of-pocket expenses incurred in connection with the development and construction of the Facility prior to such termination.

(iii) *Termination by Seller*

On or After Financial Closing Date. If Seller terminates this Agreement because of an Event of Default by Buyer on or after the Financial Closing Date, the Termination Payment due to Seller shall be 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 remainder of the Services Term.

"CV" is the Contract Value.

"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, using a discount factor of eight percent (8.0%).

"P" is the amount of any applicable penalties and 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 8.3(b)(iii).

(iv) *Supply Forecast.*

For purposes of determining the Termination Payment pursuant to Section 8.3(b)(i) and 8.3(b)(iii) above, the quantity of Products to be delivered shall be based upon the then-current Projected Annual Energy Output (the "**Supply Forecast**").

(v) *Acceptability of*

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

(vi) *Payment of Termination*

Payment. The Defaulting Party shall make the Termination Payment within ten (10) Business Days after the notice thereof is effective.

(vii) *Reinstatement of*

Agreement. In the event that Buyer terminates this Agreement prior to the Commercial Operation Date and Seller thereafter achieves the Commercial Operation Date within one (1) year after such termination, Buyer may elect to reinstate this Agreement in accordance with its terms by providing Seller with at least six (6) months' prior written notice of such reinstatement. Upon such reinstatement, Buyer shall return to Seller any Termination Payment made by Seller, together with interest accruing at the Late Payment Rate, on or prior to the date selected for reinstatement of this Agreement.

(c) Set-off.

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

(d) Notice to and Cure Rights of

Lender. Buyer shall provide a copy of any notice given to Seller under this Article 8 to one representative of the Financing providing loans to or for the benefit of Seller and one representative of the Financing providing equity to or for the benefit of Seller, of which Buyer shall have written notice. Buyer shall permit a Lender to Seller to cure an Event of Default by Seller under this Agreement within any cure periods provided to Seller for such Event of Default and subject to all rights and remedies of Buyer with respect to such Event of Default.

(e) Limitation of Remedies,

Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, EACH PARTY'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, EACH PARTY'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.

9. FORCE MAJEURE

9.1 Force Majeure.

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

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under this Agreement, such performance shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under this Agreement, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force

Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. The Party whose performance is affected shall also give prompt notice of the termination of the Force Majeure and shall resume performance of its obligations under this Agreement upon such termination. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Notwithstanding the foregoing, if the Force Majeure prevents full or partial performance under this Agreement for a period of twelve (12) months or more, the Party whose performance is not prevented by Force Majeure shall have the right to terminate this Agreement upon written notice to the other Party and without further recourse.

(d) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the 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 9.1(a) has occurred.

10. 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. EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY DISPUTE.

11. ASSIGNMENT AND CHANGE OF CONTROL

11.1 Prohibition on Assignments. Except as permitted under this Article 11, 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. The Party requesting the other Party's consent to an assignment of this Agreement will reimburse such other Party for all costs and expenses such other Party incurs in connection with that consent, without regard to whether such consent is provided. When assignable, this Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the successors and assignees of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement 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.

11.2 Assignor Remains Liable. Unless specifically agreed in writing, any assignment by a Party as contemplated by this Section 11 shall not be construed to relieve the assignor of any of its obligations under this Agreement, nor shall any such assignment be deemed to modify or otherwise affect any of the rights of the non-assigning Party hereunder.

11.3 Permitted Assignment by Seller. Seller may (i) assign this Agreement without consent of Buyer to an Affiliate of Seller or a purchaser of all or substantially all of the Seller's assets used in connection with performing this Agreement, upon a showing of the proposed assignee's technical and financial capability to fulfill the requirements of Seller under this Agreement, as determined by Buyer in its reasonable discretion, or (ii) transfer, pledge, encumber or assign the Facility, this Agreement or the accounts, revenues or proceeds under the Agreement as security for the project financing associated with the Facility.

11.4 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; or (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; provided that (A) the proposed assignee agrees in writing to assume all of Buyer's obligations under this Agreement and (B) the proposed assignee delivers to Seller a legal opinion as to due power and authority, due authorization, enforceability and regulatory approvals, or (b) to a Person whose credit rating as established by S&P or Moody's is equal or better than BBB- from S&P or Baa3 from Moody's after giving effect to the proposed assignment of this Agreement; provided that (i) the proposed assignee agrees in writing to assume all of Buyer's obligations under this Agreement and (ii) the proposed assignee delivers to Seller a legal opinion as to due power and

authority, due authorization, enforceability and regulatory approvals.

11.5 Prohibited Assignments. Any purported assignment of this Agreement not in compliance with the provisions of this Article 11 shall be null and void.

12. TITLE; RISK OF LOSS

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. Title to and risk of loss with respect to the Capacity shall transfer upon the transfer of title to and risk of loss related to Energy, subject to Section 4.8. Seller warrants that it shall deliver to Buyer the Products free and clear of all liens, claims, charges or encumbrances therein or thereto by any Person.

13. AUDIT

13.1 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. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

13.2 Consolidation of Financial Information. Generally accepted accounting principles and U.S. Securities and Exchange Commission rules may 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 13.2 shall be treated as confidential except that such information may be disclosed for financial statement purposes.

14. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (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 designated by either Party to the other in writing:

If to Buyer: Corinne M. Abrams
National Grid
100 E. Old Country Road
Hicksville, NY 11801-4218
Fax: (516) 545-3130
Email:
Corinne.Abrams@us.ngrid.com

With a copy to: Brooke E. Skulley, Esq.
National Grid
40 Sylvan Road
Waltham, MA 02451-1120
Fax: (781) 907-5701
Email: Brooke.Skulley@us.ngrid.com

If to Seller: at the address provided on the Cover Sheet hereto

15. 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 approval of or filing with the PUC or another Governmental Entity, and if

Buyer determines that such 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 approval is obtained or such filing is made.

16. INTERPRETATION

16.1 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).

16.2 Headings. Article and section headings are for convenience only and shall not affect the interpretation of this Agreement. References to articles, sections, cover sheets, appendices and exhibits are, unless the context otherwise requires, references to articles, sections, cover sheets, appendices 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.

16.3 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.

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

**17. 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.

18. NO DUTY TO THIRD PARTIES

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

19. 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.

20. 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.

21. ENTIRE AGREEMENT

This Agreement, including the Cover Sheet, the Appendix to the Cover Sheet, the Standard Terms and Conditions and the Exhibits to the Standard Terms and Conditions, shall constitute the entire agreement and understanding between the Parties hereto and shall supersede all prior agreements and communications.

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EXHIBIT A

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 result in delays in Commercial Operation Date:

Critical Milestones not yet achieved and projected date for achievement:

Current projection for Commercial Operation Date:

EXHIBIT B

PRODUCTS AND PRICING

1. Payment. Buyer shall, in accordance with the terms of the Agreement and this Exhibit B, with respect to any month after the Commercial Operation Date, pay to Seller, in immediately available funds, for each MWh of Products Delivered by Seller during such month, the Bundled Price per MWh set forth on the Cover Page hereto.

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 RECs futures settlement price as published by the Chicago Climate Futures Exchange for the applicable billing period (the "CCFE Index Price"). In the event that the CCFE Index Price is no longer published, the Parties shall in good faith undertake commercially reasonable efforts to agree on a substitute index that reflects the market value of the RECs. Should such a substitute index not be available or if the Parties are unable to agree upon such a substitute index, the RECs will be valued at the "Alternative Compliance Payment Rate" for the Renewable Energy Standard 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.

ATTACHMENTS C-2 and C-3
REDACTED

Attachment C-2 Standard Contract Enrollment Application – 26 pages

Attachment C-3 Table of Contents, Attachments 1 through 11 – 3 pages

- Attachment C-3-1, Attachment #1: Operation & Maintenance – 45 pages
- Attachment C-3-2, Attachment #2: Wind Resource & Site Specific Engineering – 91 pages
- Attachment C-3-3, Attachment #3: Financial Projections – 16 pages
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- Attachment C-3-5, Attachment #5: Siting & Interconnection Documents – 68 pages
- Attachment C-3-6, Attachment #6: Environmental Assessment & Permit Acquisition – 9 pages
- Attachment C-3-7, Attachment #7: Engineering & Technology – 15 pages
- Attachment C-3-8, Attachment #8: Project Schedule – 2 pages
- Attachment C-3-9, Attachment #9: Project Management/Experience – 29 pages
- Attachment C-3-10, Attachment #10: Company Profile & Bios – 15 pages
- Attachment C-3-11, Attachment #11: Recent Projects – 9 pages

ATTACHMENT D
DG INTERCONNECTION DOCUMENTS
REDACTED

65 pages

ATTACHMENT E
NET METERING INTERCONNECTION DOCUMENTS
REDACTED

65 pages