ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION ("DENTON") PROVIDING FOR, AUTHORIZING, AND APPROVING THE EXECUTION BY THE CITY MANAGER OF THE POWER PURCHASE AGREEMENT ("PPA") BETWEEN DENTON AND BLUE SUMMIT I WIND, LLC ("BLUE SUMMIT"); AUTHORIZING THE ACCEPTANCE AND APPROVAL BY THE CITY MANAGER OF THE LETTER OF CREDIT OR OTHER CREDIT SUPPORT ISSUED ON BEHALF OF BLUE SUMMIT FURTHER SECURING THE OBLIGATIONS OF BLUE SUMMIT TO DENTON FOR THE BENEFIT OF DENTON; APPROVING THE EXECUTION OF SUCH OTHER AND FURTHER RELATED DOCUMENTS DEEMED NECESSARY TO EFFECTUATE THE TRANSACTIONS ALLOWED UNDER THIS AGREEMENT BY THE CITY MANAGER, WHICH ARE INCIDENT TO OR RELATED TO THE PPA; FINDING THAT THE PURCHASE OF CAPACITY AND ENERGY MADE BY DENTON UNDER THE TERMS OF THE PPA ARE IN THE PUBLIC WELFARE; AUTHORIZING THE EXPENDITURE OF FUNDS; DETERMINING THAT SPECIFIC INFORMATION CONTAINED IN DOCUMENTS INVOLVED IN THIS TRANSACTION PERTAIN TO A "COMPETITIVE ELECTRIC MATTER" AS SET FORTH UNDER THE PROVISIONS OF §551.086 AND §552.133 OF THE TEXAS GOVERNMENT CODE, AS AMENDED; ALLOWING THE PUBLIC TO INSPECT AND REPRODUCE THE PPA AS REDACTED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Denton is a home-rule city and a Texas municipal corporation governed by the constitution and laws of the State of Texas ("State"); and

WHEREAS, in accordance with the provisions of §551.086 of the Texas Government Code, after due notice of the public meeting was provided as required by law, the PPA between Denton and Blue Summit (hereafter the "Transaction") was submitted for final consideration of the Denton Public Utilities Board on September 29, 2025; a majority of the Public Utilities Board ("PUB"), a "Public Power Utility Governing Body" as defined by State law, convened in open and closed meetings as permitted by law, and discussed, considered, and deliberated the Transaction; and

WHEREAS, in accordance with the provisions of §551.086 of the Texas Government Code, after due public notice being given, the City Council of Denton (the "City Council"), a "Public Power Utility Governing Body" as defined by State law, convened in open and closed meeting as permitted by law, and discussed, considered, and deliberated the Transaction, the subject of this ordinance, in closed and open meeting of the City Council on September 30, 2025, after receiving a legal opinion of counsel that the Transaction is a proper item for consideration in its open and closed meeting, which item involves competitive electric matters, including business and commercial information, which if disclosed, would give advantage to its competitors or prospective competitor; and

WHEREAS, the City Council has further determined and finds that several of those documents to be entered into by and between Denton and Blue Summit namely the PPA, and all other documents which are related thereto as from time to time may be executed by Denton and/or

Blue Summit, in connection therewith; should be excepted from public disclosure, as permitted by the provisions of §552.133 of the Texas Government Code, as documents that are reasonably related to a competitive electric matter, the disclosure of which documents would provide an advantage to the competitors or prospective competitors of Denton Municipal Electric ("DME"); and

WHEREAS, the City Council has further determined that it is in the public interest that it should exercise its right under Texas Government Code to lawfully safeguard and keep certain of these documents in the preceding paragraph sealed, as they are competitive documents which contain competitive electric and financial information; and

WHEREAS, the City Council finds that there is no divestiture, sale or other disposition of the property of any utility of Denton, and therefore that no public election is required pursuant to the Charter of Denton; and

WHEREAS, the City Council finds that said Transaction involves DME purchasing from Blue Summit, replacement power and energy requirements for a contractual term of ten years from the Project's Commercial Operation Date, as provided in the said PPA; and that such Transaction involves Denton's acquisition of reliable, cost-effective replacement wind power and energy from Blue Summit, and

WHEREAS, the City Council finds and concludes that a diversified portfolio of renewable energy resources is prudent considering the ever-changing present circumstances; and that Denton, through its electric utility, DME provides 100% renewable energy to meet the demands of the customers of DME; and

WHEREAS, the City Council finds that the Transaction provided by this ordinance, will not impair the ability of Denton to comply with the provision of any of its utility revenue bonds, as amended, which ae issued and outstanding; and

WHEREAS, Denton desires to enter into such other arrangements in support of the PPA with Blue Summit, which are incident and related to the said PPA, and to take such additional actions as the City Manager or their designee, shall determine to be necessary and advisable to consummate and effectuate the matters set forth herein; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS

SECTION 1. The recitations contained in the above preamble are incorporate herewith and are considered to be a part of this ordinance.

SECTION 2. The City Council, hereby approves and authorizes the City Manager and City Secretary, to execute and attest respectively, the PPA, by and between Denton and Blue Summit, under the terms and condition set forth in the PPA, attendant with all Exhibits attached thereto, and made part hereof, with such ancillary instruments, changes and additions which are in substantial compliance with said PPA as the City Manager, or their designee may approve, and to consummate the execution and delivery thereof on behalf of Denton by or at the direction of the City Manager, or their designee.

SECTION 3. The City Council, as further security for Blue Summit's performance of this Transaction, hereby approves and authorizes the City Manager and the City Secretary, and their respective designees, to approve and accept the irrevocable non-transferable standby Letter(s) of Credit furnished to Denton by Blue Summit, in accordance with the PPA, said Letter(s) being drawn upon a commercial bank within the United States, on behalf of Denton, as additional credit protection, under the terms and conditions being contained in substantially the form as set forth in said agreements, with such amendments, changes and additions as the City Manager, or their designee may approve, and approval and acceptance thereof on behalf of Denton by or at the direction of the City Manager, or their designee, shall constitute such approval.

SECTION 4. The City Council, hereby approves and authorizes the City Manager and City Secretary, and their respective designees, to execute and attest respectively, all other documents which are incident and related to the PPA referenced herein, and to take such additional actions as the City Manager, or their designee, shall determine to be necessary and advisable to effectuate the matters set forth above.

SECTION 5. The City Council, the Mayor, the City Manager, the City Attorney, or their designees, and each of them individually hereby is, authorized and empowered to perform all such acts and obligations as required with respect to the PPA described herein.

SECTION 6. The Mayor, the City Manager, the City Attorney or their designees, and each of them individually hereby is, authorized, empowered and directed to negotiate, deliver and perform all such acts and things and to sign all such document, certificates, contract, assignments, licenses, leases, agreements, directions, instruments and statements, each together with such amendment, changes and addition thereto as Mayor, the City Manager, the City Attorney or their respective designees shall determine to be necessary or advisable to effectuate the matters set forth herein, any such determination to be conclusively evidenced by the taking or causing to be taken of such action or the execution and delivery of any such document, certificate, agreement, license, lease, direction, instrument or statement by the Mayor, the City Manager, the City Attorney or their designee.

SECTION 7. All prior action taken by the Mayor, the City Manager, the City Attorney, or their designees in furtherance of the foregoing matters are hereby ratified, confirmed, approved and authorized in all respects as of the dates and times such actions were taken.

SECTION 8. Immediately following the execution and deliver of the documents described as the PPA and all Guaranties and Letter(s) of Credit which are incident to such PPA, as provide in this ordinance, the City Secretary is hereby directed to seal and maintain said documents in their custody and control, as documents excepted from public disclosure under the provision of §552.133 of the Texas Government Code (the "Public Power Exception"); unless otherwise lawfully ordered to disclose such documents.

SECTION 9. This ordinance shall be open for public inspection. However, all Exhibits and Attachments which are appended to this ordinance, including without limitation, the Power Purchase Agreement, and all Guaranties and Letter(s) of Credit incident to such PPA, shall not be produced for public inspection, but shall be sealed, as provided for in Section 8 above.

SECTION 10. The expenditure of funds as provided for in this ordinance is hereby authorized.

SECTION 11. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Execution Version

POWER PURCHASE AGREEMENT

By and Between

CITY OF DENTON, TEXAS

and

BLUE SUMMIT I WIND, LLC

This document and any attachments or exhibits thereto may contain information that is confidential, commercially-sensitive, proprietary, and/or public power utility competitive and financial information in accordance with the provisions of Texas Government Code, Section 552.101, 552.104, 552.110 and/or 552.133, and may be protected from required public disclosure.

POWER PURCHASE AGREEMENT

This Power Purchase Agreement (this "**Agreement**"), effective as of the last date upon which the Parties have signed this Agreement (the "**Effective Date**"), is by and between Blue Summit I Wind, LLC, a Delaware limited liability company ("**Seller**") and City of Denton, Texas, a municipal corporation created under the laws of the State of Texas which owns and operated a municipal electric utility known as Denton Municipal Electric, with its principal place of business at 215 E. McKinney Street, Denton, Texas 76201 ("**Buyer**"). Buyer and Seller are each individually referred to herein as a "**Party**" and collectively as the "**Parties.**"

W I T N E S S E T H:

WHEREAS, Seller owns and operates the Blue Summit I wind energy generation facility on a site located in Wilbarger, Texas (as more particularly described in Exhibit B, the "**Facility**"); and

WHEREAS, As specifically set forth herein, Seller desires to generate, sell and deliver, and Buyer desires to purchase and receive, the Product (defined herein) generated by the Facility, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 ***Definitions.***

"**Actual Equivalent Wind Availability Percentage**" has the meaning set forth in Exhibit G.

"**Adjacent Auxiliary Load**" means a behind the meter load application, including any energy storage, located adjacent to the Facility that connects with the Seller's Interconnection Facilities prior to the Delivery Point.

"Adjustment Period" has the meaning set forth in Section 4.3(b).

"**Adverse Change in Tax Law**" means the occurrence, after the Effective Date, of any of the following (a) the adoption or taking effect of any law, tax law, rule, regulation or treaty; (b) any repeal of or other change in any law, tax law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority; or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority that repeals, in whole or in part, the Inflation Reduction Act, or changes any regulations or administrative guidance implementing the Inflation Reduction Act, in a manner that prevents or limits Seller from claiming or monetizing any PTCs or investment tax credits to

any extent (including any impairments to transferability). For the avoidance of doubt, an Adverse Change in Tax Law shall not be a Change in Law.

"**Affiliate**" of any named Person or entity means any other Person or entity that controls, is under the control of, or is under common control with, the named entity. The term "control" (including the terms "controls," "under the control of" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management of the policies of a Person or entity, whether through ownership interest, by contract or otherwise. For the avoidance of doubt, NEE, NEER, XPLR, XPLR OpCo and their respective subsidiaries will be deemed to be Affiliates of the Seller.

"**Affiliate Transaction**" has the meaning set forth in Section 13.2(b)(iii).

"After-Tax Basis" means, with respect to any applicable payment, an additional payment to such recipient in the amount of any tax paid by the recipient or its Affiliates on the receipt or accrual of the payment including such additional payment, which shall be calculated using the Highest Marginal Rate.

"Agreement" has the meaning set forth in the first paragraph hereof.

"**Aggregate Nameplate Capacity**" has the meaning set forth in Exhibit G.

"**Annual Hourly Energy Forecast**" has the meaning set forth in Section 3.17(b).

"**Annual Report**" has the meaning set forth in Exhibit G.

"Applicable Law" means, with respect to any Person or the Facility, collectively, any federal, state or local laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations (including ERCOT Protocols, Governmental Approvals, directives and requirements of all regulatory and other Governmental Authorities, in each case applicable to or binding upon such Person or the Facility (as the case may be) or to which such Person or any of its properties are subject.

"Applicable RPS" means each of (i) the Texas RPS and (ii) the Green-e Standard.

"Applicable RPS Amendment" has the meaning set forth in Section 3.8(c)(ii).

"Authorized Representative" has the meaning set forth in Section 16.2(a).

"Balancing Authority" means the responsible entity that integrates resource plans ahead of time, maintains load interchange-generation balance within a Balancing Authority's area, and supports interconnection frequency in real time.

"Bankrupt" means, with respect to a Party, such Party (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (b) makes an assignment or any

general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent (however evidenced), (d) is generally unable to pay its debts as they fall due, (e) been adjudicated bankruptcy or has filed a petition or an answer seeking an arrangement with creditors, (f) taken advantage of any insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding, (g) become subject to an order, judgment or decree for relief, entered in an involuntary case, without the application, approval or consent of such Party by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive Days, (viii) failed to remove an involuntary petition in bankruptcy filed against it within ninety (90) Days of the filing thereof, or (ix) become subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

"**BESS II**" has the meaning set forth in Section 3.22.

"Business Day" means any day except a Saturday, Sunday or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. CPT and close at 5:00 p.m. CPT. Notwithstanding the foregoing, for scheduling purposes only, the term "Business Day" shall have the meaning given to that term from time to time by NERC on its website (http://www.nerc.com/~oc/offpeaks.html).

"Buyer" has the meaning set forth in the first paragraph of this Agreement.

"**Buyer Capacity Compliance Costs**" has the meaning set forth in Section 3.4(a).

"Buyer Curtailment" means any curtailment of the generation and/or delivery of Energy from the Facility for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure Event and/or a System Curtailment Order, including any reduction or cessation resulting from offers, bids, plans or schedules for the Facility submitted by the Facility QSE or the exercise of other rights with respect to the Facility by the Facility QSE.

"Buyer Curtailment Order" means an instruction from Buyer to Seller (or the Facility QSE) to reduce generation of Energy from the Facility by a specific amount of Facility Capacity for a Buyer Curtailment Period.

"Buyer Curtailment Period" means the period of time during which Seller reduces generation of Energy from the Facility pursuant to a Buyer Curtailment Order. The Buyer Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"Buyer Excuses" has the meaning set forth in Section 3.5(b).

"**Buyer QSE**" has the meaning set forth in Section 3.10(b).

"Buyer's Replacement Costs" has the meaning set forth in Section 3.7(a).

"**Buyer Security**" has the meaning set forth in Section 8.4(g).

"Cash" means United States Dollars.

"Capacity" means the same as "capability" for electric power supply, expressed in MW, supplied to the electric transmission system under specified conditions for a given time interval.

"**Capacity Attributes**" means and includes any current or future credit, allowance, or right associated with the installed Capacity of the Facility which may be available to the Facility under the ERCOT Protocols, either through voluntarily participation in or by required compliance with, any current or future ERCOT System reliability planning and performance processes, procedures or programs (collectively, the "**ERCOT Capacity Program**") pursuant to which any such credits, allowances or rights are apportioned to the Facility based on the actual availability of the installed capacity of the Facility under the conditions specifically set out in any such ERCOT Capacity Program.

"**Capacity Compliance Cap**" has the meaning set forth in Section 3.4(a).

"Capacity Trade" means a transaction that transfers financial responsibility for capacity between QSE's, as set forth in the ERCOT Protocols.

"**Change in Control**" means the occurrence of any one of the following events or actions with respect to Seller (a) a transfer of more than fifty percent (50%) of the direct or indirect ownership or equity interests of Seller, which are not otherwise held by a Facility Lender as the result of a foreclosure of its rights under any one or more Loan Documents in accordance with the provisions of Section 13.4 or a Tax Equity Investor in accordance with the governing documents of Seller; or (b) upon a sale or conveyance of any direct or indirect voting rights, the transferor no longer has the power, directly or indirectly, to direct or cause the direction of the management and policies of Seller, whether through the ownership of voting securities, by contract or otherwise.

"**Change in Law**" means any change in or addition to any Applicable Law (excluding the City Ordinance) or ERCOT Protocols adopted on or after the Effective Date; *provided, however*, for the avoidance of doubt, an Adverse Change in Tax Law is not a Change in Law and, by this reference, is expressly excluded from being a Change in Law.

"**City Ordinance**" means a written ordinance issued by the City Council of Buyer authorizing (a) the execution of this Agreement by Buyer, and (b) the expenditure by Buyer of those funds required pursuant to this Agreement over the Delivery Term.

"**Claims**" has the meaning set forth in Section 10.2.

"**Collateral Assignment**" has the meaning set forth in Section 13.4(a).

"**Commercially Reasonable**" or "**Commercially Reasonable Efforts**" means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with

Prudent Operating Practices (including electric system reliability and stability, state or other regulatory mandates relating to renewable energy portfolio requirements, each as and if applicable to any such decision or action), the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale, decision or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. "Commercially Reasonable" or "Commercially Reasonable Efforts" shall (a) be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable efforts, at the time that a sale, purchase, decision or other action is taken and (b) not be based upon a retroactive review of (i) what would have been optimal at such time or (ii) whether or not a Party expended appropriate costs, if any, in relation to any such purchase, sale, decision or other action made at such time.

"**Compliance Cost Cap**" has the meaning set forth in Section 3.19(b).

"**Compliance Cost Increase**" has the meaning set forth in Section 3.19(b).

"**Compliance Costs Notice**" has the meaning set forth in Section 3.19(b).

"**Condemnation Event**" means any compulsory transfer or taking by condemnation, eminent domain or exercise of a similar power, or transfer under threat of such compulsory transfer or taking, of any part of the Facility, by any Governmental Authority or otherwise pursuant to Applicable Law.

"Confidential Information" has the meaning set forth in Section 12.1(a).

"Contract Price" has the meaning set forth in Section 3.3.

"Contract Year" means each consecutive twelve (12) Month period commencing on the Operation Date (or the applicable anniversary of the Operation Date) and continuing through and including the day immediately preceding each anniversary date of the Operation Date during the Term.

"Costs" means, with respect to the Non-Defaulting Party, the Commercially Reasonable brokerage fees, commissions and other similar transaction costs and expenses incurred by the Non-Defaulting Party to a Person other than a Party or an Affiliate of such Party in connection with terminating any arrangement pursuant to which it has hedged its obligations under this Agreement or in entering into new arrangements to replace this Agreement, and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement.

"CPT" means Central Prevailing Time.

"Credit Rating" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) by a Ratings Agency or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuers rating by the Ratings Agency.

"CRS" means the Center for Resource Solutions.

"CRS Listed" means the designation used by CRS for generation facilities that are registered in a renewable energy tracking system and have an approved Green-e Tracking System Attestation on file.

"Day-Ahead Market" means the ERCOT Day-Ahead Market.

"Day" or "day" means a period of twenty-four (24) consecutive hours beginning at 00:00 hours CPT on any calendar day and ending at 24:00 hours CPT on the same calendar day.

"Day-Ahead Availability Notice" has the meaning set forth in Section 3.17(d).

"Day-Ahead Forecasting Requirements" has the meaning set forth in Section 3.10(e)(viii).

"Deemed Delivered Energy" means the amount of Energy (in MWh) that the Facility would have generated and delivered to the Delivery Point, but did not generate or deliver to the Delivery Point during a Buyer Curtailment Period. The amount of Deemed Delivered Energy shall be determined by Seller using relevant Facility availability, weather and other pertinent data for the Buyer Curtailment Period.

"Defaulting Party" has the meaning set forth in Section 6.1(a).

"Delay Condition" means the occurrence of a (a) Force Majeure Event or (b) any act or omission of Buyer or its Affiliates or its or their respective employees, contractors, or agents that result in or causes a delay in an action being undertaken by Seller hereunder.

"Delivered Energy" means all Energy (expressed in MWh) generated by the Facility, less Station Service and less transformation and transmission losses and other adjustments (e.g., Seller's load other than station use), if any, and delivered by Seller to the Delivery Point. For purposes of calculating payments under this Agreement, Delivered Energy shall be measured by the Metering System.

"Delivery Term" has the meaning set forth in Section 2.1.

"Delivery Term Security" has the meaning set forth in Section 8.4(a).

"Delivery Point" means (a) with respect to Delivered Energy, the Facility's point of interconnection with the Transmission Operator's System, as more particularly described in Exhibit B, and (b) with respect to any Products other than Delivered Energy, the point at or method by which such Product is delivered to Buyer.

"Disclosing Party" has the meaning set forth in Section 12.1(a).

"Dispute" has the meaning set forth in Section 16.1.

"Downgrade Event" means that at any time during the Delivery Term that, as applicable, either Guarantor's Credit Rating or Buyer's Credit Rating falls below the Minimum Credit Rating.

"Early Termination Date" has the meaning set forth in Section 6.2(a).

"**EA Transfer Deadline**" has the meaning set forth in Section 3.8(c)(iv).

"**Economic Loss**" means, with respect to the Non-Defaulting Party, the amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the early termination of this Agreement. If Seller is the Non-Defaulting Party, its economic loss will be the positive amount, if any, equal to (a) the present value of the payments it would receive under this Agreement for Product minus (b) the present value of the payments it would receive for Product under transactions replacing this Agreement, in each case for the period from the early termination date through the scheduled end of the Delivery Term and determined by Seller in a Commercially Reasonable manner. If Buyer is the Non-Defaulting Party, its economic loss will be the positive amount, if any, equal to (x) the present value of the payments it would be required to make under transactions replacing this Agreement minus (y) the present value of the payments it would be required to make for Product under this Agreement, in each case for the period from the early termination date through the scheduled end of the Delivery Term and determined by Buyer in a Commercially Reasonable manner. The Non-Defaulting Party is not required to enter into any replacement transaction in order to determine its Economic Loss.

"Effective Date" has the meaning set forth in the Preamble to the Agreement.

"Emergency" means that an "Emergency Condition" has been declared as provided in the ERCOT Protocols.

"Energy" means electric energy.

"**Energy Offer Curve Floor**" means, (a) for so long as the Facility qualifies for the PTC, the PTC Value, times (-1); and (b) for each Contract Year thereafter, $0/MWh.

"Energy Trades" has the meaning set forth in ERCOT Protocol 4.4.2, or its successor.

"**Environmental Attributes**" means any current and future emissions, air quality or other environmental attribute, aspect, characteristic, claim, credit, compliance premium, benefit, reduction, offset or allowance, howsoever entitled or designated, resulting from, attributable to or associated with the Facility's benefits to the environment and capable of being measured, verified or calculated, including Renewable Energy Credits and the reporting rights related to any such attributes, aspects, characteristics, claims, credits, benefits, reductions, offsets or allowances, including the right of a Person to report the ownership thereof in compliance with federal or state law, if applicable, or otherwise to a federal or state agency or any other Person, including under any present or future federal, state or local law, regulation or bill or any international or foreign emissions trading program. Notwithstanding the foregoing, Environmental Attributes do not include Energy, Capacity Attributes, Facility Attributes, reliability other power attributes from a

renewable energy project, PTCs, investment tax credits, or any other federal, state or local tax credits, grants or other tax incentives or other incentives, and (b) Seller's obligations under the Agreement with respect to qualification for, reporting to or otherwise relating directly or indirectly to participation in or compliance with any international or foreign emissions trading program will be limited to the use of Seller's Commercially Reasonable Efforts, at Buyer's reasonable request and expense.

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

"**Equivalent Wind Available Hours**" has the meaning set forth in Exhibit G.

"**Equivalent Wind Unavailable Hours**" has the meaning set forth in Exhibit G.

"**Equivalent Wind Unexcused Hours**" has the meaning set forth in Exhibit G.

"**ERCOT**" means the Electric Reliability Council of Texas, Inc., or its successor.

"**ERCOT Capacity Program**" has the meaning set forth in the definition of Capacity Attributes.

"**ERCOT Protocols**" means the rules, protocols, procedures, and standards from time to time promulgated by ERCOT and with respect to which participants in the ERCOT market are required to comply, including the ERCOT Nodal Protocols and the associated "market guides," "business practice manuals," and "other binding documents," as amended.

"**ETT**" means Electric Transmission Texas LLC.

"Event of Default" has the meaning set forth in Section 6.1.

"**Excess Compliance Costs**" has the meaning set forth in Section 3.19(b).

"Executive" has the meaning set forth in Section 16.2(a).

"Facility" has the meaning set forth in the Recitals.

"**Facility Attributes**" means, with respect to the Facility, any of the services identified by either a Transmission Operator in its transmission tariff or by ERCOT in the ERCOT Protocols as "ancillary services," including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services. For the avoidance of doubt, Facility Attributes does not include Energy, Environmental Attributes or Capacity Attributes and shall not be deemed to include any Tax Attributes.

"Facility Capacity" means 139.8 MW nameplate capacity of the Facility.

"Facility Lender" or **"Facility Lenders"** means (a) any and all Persons or successors in interest thereof lending money, extending credit or providing loan guarantees (whether directly to Seller or to an Affiliate of Seller) as follows: (i) for any development, construction, bridge, interim or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility (including the maintenance, repair, replacement or improvement of the Facility); (iii) for any credit support, credit enhancement or interest rate protection in connection with the Facility; (iv) for any capital improvement or replacement related to the Facility; or (v) any lessor under a lease finance arrangement relating to the Facility; and (b) to whom the Facility (or the equity interests of the Seller) has been pledged as collateral for the repayment of any obligations of Seller under any one or more of the provisions of clause (a) hereof.

"**Facility Lender's Agent**" means the Administrative Agent and/or Collateral Agent (as each may be defined under the Loan Documents) of the Facility Lenders identified on Exhibit H.

"**Facility QSE**" has the meaning set forth in Section 3.10(b).

"Fitch" means Fitch Ratings, Inc., doing business as Fitch Ratings, or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"**Forced Outage**" means any unplanned reduction or suspension of the electrical output from the Facility or unavailability of the Facility in an amount greater than ten percent (10%) of the Facility Capacity in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction, or any other unavailability of the Facility for maintenance or repair that is not a Planned Outage, due to a System Curtailment, or the result of a Force Majeure Event.

"Force Majeure Event"

(a) means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, other than the obligation to pay amounts due, but only to the extent (i) such event is not within the reasonable control of the Party seeking to have its performance obligation(s) excused thereby, (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the result of the fault or negligence of the Party seeking to have its performance obligations excused thereby.

(b) Subject to the foregoing, events that could qualify as a Force Majeure Event include the following:

(i) acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcano, other natural disaster or unusual or extreme adverse weather-related events;

(ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, explosion, blockade, insurrection, revolution, expropriation or confiscation;

(iii) except as set forth in subpart (c)(vi) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);

(iv) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials;

(v) air crash, shipwreck, train wrecks or other failures or delays of transportation;

(vi) vandalism beyond that which could be reasonably prevented by the affected Party;

(vii) the discovery of endangered species, as defined by Applicable Law; or

(viii) breakdown or failure of equipment as a result of a manufacturer defect or flaw.

(c) A Force Majeure Event shall not be based on:

(i) Buyer's inability economically to use or resell the Product purchased hereunder;

(ii) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;

(iii) Seller's inability to obtain Governmental Approvals or other approvals of any type for the operation, or maintenance of the Facility;

(iv) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to operate the Facility, except to the extent Seller's inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event of the specific type described in any of subsections (a)(i) through (a)(viii) above;

(v) Seller's failure to obtain financing or other funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement; or

(vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller or Seller's Affiliates.

"**Foreclosure Assignment**" has the meaning set forth in Section 13.2(b)(ii).

"**Future Environmental Attributes**" has the meaning set forth in Section 3.8(a).

"General Terms and Conditions" means those General Terms and Conditions of Buyer attached hereto as Exhibit D.

"Governmental Approvals" means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, ordinances, orders, licenses, exemptions and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law that are required for the use and operation of the Facility.

"Governmental Authority" means any federal, state, local or municipal government body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; any court or governmental tribunal; or any independent operator, regional transmission organization or other regulatory body; in each case having jurisdiction over either Party, the Site, the Facility, Seller's Interconnection Facilities, the Interconnection Provider's Interconnection Facilities, or the Transmission Operator's System.

"Governmental Charges" has the meaning set forth in Section 11.2.

"**Green-e Standard**" means the Green-e Renewable Energy Standard for Canada and the United States, Version 4.4 or its successors.

"**Guaranteed Wind Availability Percentage**" has the meaning set forth in Exhibit G.

"Guarantor" means an entity which at the time it is to provide a Guaranty (a) satisfies the Minimum Credit Rating, and (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

"Guaranty" means a Guaranty substantially in the form of Exhibit C-1 or an alternative form reasonably acceptable to the Party in whose favor the Guaranty is issued.

"**Highest Marginal Rate**" means the then highest marginal combined tax rate in effect applicable to corporations (excluding subchapter S corporations) generally taking into account the federal, state, and applicable local income tax rates, as adjusted by any applicable deductions to the federal income tax base rate for state and local income tax payments.

"**Inflation Reduction Act**" means the Inflation Reduction Act of 2022, as may be amended, modified or restated.

"Initial Negotiation End Date" has the meaning set forth in Section 16.2(a).

"Interconnection Agreement" means the Fourth Amended and Restated ERCOT Standard Generation Interconnection Agreement between ETT and Blue Summit Interconnection, LLC (individually and as authorized agent for Seller, Blue Summit II Wind, LLC, Blue Summit III Wind, LLC, Blue Summit Storage, LLC and Blue Summit II Storage, LLC), dated December 11, 2024, as such agreement may be amended from time to time.

"Interconnection Provider" means the Person that owns the portion of the Transmission System (including the Interconnection Facilities that are not Seller's Interconnection Facilities) at the Delivery Point. As of the Effective Date, the Interconnection Provider is ETT.

"Interest Rate" means the lower of (a) annual rate equal to the Prime Rate then in effect plus one percent (1%) and (b) the maximum rate permitted by Applicable Law.

"Letter of Credit" means an irrevocable, non-transferable, standby letters of credit, issued by a Qualified Institution substantially in the form of Exhibit C-2 or an alternative form reasonably acceptable to the Party in whose favor the letter of credit is issued.

"**Letter of Credit Default**" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events: (a) the issuer of such Letter of Credit shall fail to be a Qualified Institution, (b) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (c) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (d) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the Term of this Agreement; provided, however, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to the Qualified Institution or the Party for whose account such Letter of Credit was issued in accordance with the terms of this Agreement.

"**Loan Documents**" means, as to Seller, each of the agreements, documents or other instruments representing or reflecting the loans, rights and/or interests (including security and collateral interests) in and to the Facility and/or the equity of Seller (or any Affiliate) by the Facility Lenders set out in clauses (a) and (b) of the definition of "Facility Lender"; *provided, however*, "Loan Documents" shall not include any loans, rights and/or interests including security and collateral interests) in and to the Facility and/or the equity of Seller (or any Affiliate) arising or granted under or otherwise set out in the governing documents of Seller (or any applicable Affiliate).

"**Locational Marginal Price**" has the meaning set forth in the Definitions and Acronyms as set forth in the ERCOT Protocols.

"**Loss Event**" means (a) any property casualty or loss or other similar event affecting the Facility (but specifically excluding a Transformer Failure) or (b) any Condemnation Event.

"**Meter Adjustment**" has the meaning set forth in Section 4.3(b).

"Metering System" means all of Seller's or Transmission Operator's meters, metering devices and related instruments used to measure and record Energy and to determine the amount of such Energy that is being made available or delivered by the Facility at the Delivery Point.

"Minimum Credit Rating" means that such Person has at least two of the following Credit Ratings: (a) "Baa3" or higher from Moody's, (b) "BBB-" or higher from S&P, or (c) "BBB-" from Fitch, and no credit rating below these levels from any of these agencies.

"**Month**" means a calendar month.

"**Monthly Hourly Energy Forecast**" has the meaning set forth in Section 3.17(c).

"Moody's" means Moody's Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"MW" means a megawatt (or 1,000 kilowatts) of AC of Capacity .

"MWh" means a megawatt hour of Energy.

"**NEE**" means NextEra Energy, Inc., a Delaware corporation.

"**NEER**" means NextEra Energy Resources, LLC, a Delaware limited liability company.

"Non-Defaulting Party" has the meaning set forth in Section 6.2.

"Notice" has the meaning set forth in Section 17.1.

"**Operating Conditions**" means that (a) the Facility's SCADA, Metering Systems and communications systems have all been fully tested as required under the ERCOT Protocols and are functioning and reliable, and (b) Seller has the ability to fulfill the forecasting requirements set forth in each of the Annual Hourly Energy Forecast and Monthly Hourly Energy Forecast applicable at such time, including the ability to provide Buyer the Day-Ahead Availability Notice.

"Operating Procedures" has the meaning set forth in Section 3.12.

"**Operation Date**" means that date which is the first day of the Month immediately following the Month in which the last of the Operating Conditions have been satisfied.

"Outside OC Satisfaction Date" means December 31, 2025.

"Parties" has the meaning set forth in the first paragraph of this Agreement.

"Party" has the meaning set forth in the first paragraph of this Agreement.

"Performance Assurance" means, as applicable, (a) collateral provided by Seller to Buyer to secure Seller's obligations hereunder and includes Delivery Term Security or (b) if to be

provided by Buyer, collateral provided by Buyer to Seller to secure Buyer's obligations hereunder.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority, limited liability company or any other entity of whatever nature.

"Planned Outage" means the removal of all or a portion of the Facility from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the period designated for such Planned Outage in the Planned Outage Schedule, and in Seller's sole discretion, must be of the type that is necessary to reliably maintain the Facility consistent with Prudent Operating Practices, (b) cannot be reasonably conducted during the Facility's operations, and (c) causes the generation level of the Facility to be reduced by at least ten percent (10%) of the Facility Capacity.

"**Planned Outage Schedule**" has the meaning set forth in Section 3.15(a).

"**Point of Delivery**" means the interconnection point of Seller's Interconnection Facilities to Interconnection Facilities, which point shall be depicted on Exhibit B.

"Prime Rate" means, for any date, the lesser of (a) the prime rate as published in *The Wall Street Journal* on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday, and (b) the maximum rate permitted by Applicable Law.

"Product" has the meaning set forth in Section 3.1.

"Prudent Operating Practices" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for wind facilities in ERCOT of similar size, type, and design, that, at the relevant time period and in the exercise of reasonable judgment, in light of the facts known at the time a decision was made, would have been expected to accomplish the desired results in a manner consistent with good business practices, Applicable Law, reliability, safety, environmental protection and standards of economy and expedition and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Laws and regulations. Prudent Operating Practices are not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

"**PTC**" means production tax credits applicable to electricity produced from certain renewable resources pursuant to 26 U.S.C. §45 as published by the U.S. Internal Revenue Service for the then relevant time period.

"**PTC Rate**" means the tax credits applicable to electricity produced from certain renewable resources pursuant to Section 45 or Section 45Y of the Internal Revenue Code (as may be amended, supplemented or replaced (in whole or in part) from time to time), measured in US dollars.

"**PTC Value**" means an amount equal to the PTC Rate on an After-Tax Basis.

"**PUCT**" means the Public Utility Commission of Texas or its successor in interest.

"**Qualified Institution**" means a major U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- from S&P, A3 from Moody's or A- by Fitch and having assets of at least $10 Billion, which has not previously been a disqualified Qualified Institution due to a Letter of Credit Default.

"**Qualified Operator**" means a Person that, individually or together with its Affiliates, or has engaged another Person to operate the Facility that, in either case, (a) has at least five (5) years of continuous experience operating and maintaining wind energy generation facilities with an aggregate nameplate capacity of no less than five hundred (500) MW, (b) has the foregoing experience in such wind energy generation facilities within ERCOT and (c) is qualified within ERCOT as a Qualified Scheduling Entity.

"**Qualified Scheduling Entity**" or "**QSE**" has the meaning set forth in the ERCOT Protocols and means the entity that provides the Facility scheduling, bidding services and financial settlement with ERCOT.

"**Qualify**" means (a) with respect to the Texas RPS, that the Facility is certified in accordance with the requirements of, and eligible to produce RECs under, the Texas RPS and (b) with respect to the Green-e Standard, that the Facility (including Environmental Attributes generated by the Facility) satisfies the eligibility requirements of the Green-e Standard. The terms "Qualified," "Qualification" and "Qualifies" have a meaning correlative thereto.

"Ratings Agency" means either S&P, Moody's or Fitch.

"Receiving Party" has the meaning set forth in Section 12.1.

"Receiving Party's Representatives" has the meaning set forth in Section 12.1(b)(ii).

"Referral Date" has the meaning set forth in Section 16.2(a).

"**Replacement EA Damages**" has the meaning set forth in Section 3.8(c)(v).

"**Replacement EA Value**" means with respect to a calendar year, the amount that Buyer would be required to pay in order to purchase the Environmental Attributes (including Renewable Energy Credits) associated with one MWh of Energy generated by a renewable energy facility during such calendar year and that satisfy the eligibility requirements of both the Texas RPS and Green-e Standard, as determined by taking the average of three dealer quotes representing a live bid to purchase such Environmental Attributes associated with the energy generated from any

renewable energy generation facility in ERCOT and of the equivalent vintage as the applicable Contract Year(s) for which Replacement EA Value is being determined.

"Replacement Price" means the price at which Buyer, acting in a Commercially Reasonable manner, purchases a replacement for the Product if it is not delivered by Seller, plus (a) costs reasonably incurred by Buyer in purchasing such substitute Product and (b) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point or, at Buyer's option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a Commercially Reasonable manner; *provided*, in no event shall such price include any penalties, transmission costs, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability.

"Sales Price" means the price at which Seller, acting in a Commercially Reasonable manner, sells the Product if it is not received by Buyer, minus (a) costs reasonably incurred by Seller in selling such Product and (b) additional transmission charges, if any, reasonably incurred by Seller to the Delivery Point or, at Seller's option, the market price at the Delivery Point for such Product not received as determined by Seller in a Commercially Reasonable manner; *provided*, in no event shall such price include any penalties, transmission costs, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Buyer's liability.

"S&P" means Standard & Poor's or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

"SCADA" means Supervisory Control and Data Acquisition.

"SEC" means the U.S. Securities and Exchange Commission.

"Security-Constrained Economic Dispatch" has the meaning set forth for such term in the ERCOT Protocols.

"Seller" has the meaning set forth in the first paragraph of this Agreement.

"Seller Curtailment" means any curtailment of Delivered Energy resulting from (a) a failure of Seller's Interconnection Facilities that causes the Facility to be disconnected, suspended or interrupted, in whole or in part, or (b) Seller's default under this Agreement or the Interconnection Agreement.

"Seller Excused Hours" has the meaning set forth in Section 3.5(a).

"Seller's Compliance Actions" has the meaning set forth in Section 3.19(b).

"Seller's Interconnection Facilities" means the interconnection facilities, control and protective devices and the Metering System required to connect the Facility with the Transmission Operator's System up to, and on Seller's side of, the Delivery Point.

"Seller's Replacement Costs" has the meaning set forth in Section 3.6(a).

"Site" has the meaning set forth in Exhibit B.

"Station Service" means the electric energy produced by the Facility that is used within the Facility to power the lights, motors, control systems and other auxiliary electrical loads that are necessary for operation of the Facility.

"System Curtailment" means any curtailment of delivery of Delivered Energy as the result of any of the following (a) an Emergency, (b) an action taken by the Interconnection Provider, the Transmission Operator, or any Governmental Authority having jurisdiction to decrease the production of the Facility's Delivered Energy to resolve transmission and reliability constraints, (c) any other order or directive of the Interconnection Provider or the Transmission Operator, which order or directive may be directly communicated to Seller by the Interconnection Provider or the Transmission Operator, or indirectly to Seller by Buyer.

"System Curtailment Order" means the instruction from the Interconnection Provider or the Transmission Operator to a Party or the QSE to reduce generation from the Facility by the amount, and for the period of time set forth in such order, due to a System Curtailment.

"Tax Attributes" means (a) all federal and state PTCs, investment tax credits and any other tax credits (including any grants or payments in lieu thereof) and any other tax deductions or benefits under federal, state or other Law available as a result of the ownership and operation of the Facility or the output generated by the Facility (including tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (b) present or future (whether known or unknown) payments in Cash, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Facility.

"**Tax Equity Financing**" has the meaning set forth in Section 13.2(b)(i).

"Tax Equity Investor" or "**Tax Equity Investors**" means an investor that has acquired an equity interest in Seller pursuant to a financing structure that assigns to such investor rights, title and benefits to the Tax Attributes of Seller and includes each one or all of the Tax Equity Investors identified as such on Exhibit H.

"Term" has the meaning set forth in Section 2.1(a).

"Termination Payment" has the meaning set forth in Section 6.3.

"**Texas RPS**" means the Goal for Renewable Energy codified at Section 39.904 of the Texas Utilities Code, as amended, the related PUCT rules promulgated at Section 25.173 of Title 16 of the Texas Administrative Code, as amended, and the related provisions of the ERCOT Protocols.

"**Tracking System**" means, subject to Section 3.8(c)(ii) and as applicable under this Agreement, each of the systems maintained by (a) ERCOT for the purpose of tracking the creation, trading, and retirement of RECs in connection with the Texas RPS, as described in the ERCOT Protocols or (b) CRS's Green-e certification program for purposes of tracking the creation, trading and retirement of RECs in connection with the Green-e Standard as described more fully therein.

"**Transformer**" means all or part of the main generator step-up transformer at the Facility, including the circuit breakers and any and all other switchgear, line, and associated equipment associated therewith, but not including the Seller's Interconnection Facilities or any equipment related thereto).

"**Transformer Failure**" means, to the extent preventing Energy from being generated by the Facility, a failure with respect to all or part of the Transformer so long as (a) such failure is not caused by the acts or omissions of Seller and (b) Seller has operated and maintained the Transformer in accordance with Prudent Operating Practice.

"**Transmission Operator**" means ETT, ERCOT or any successor independent system operator, regional transmission operator or other transmission operator from time to time having authority to control the transmission Balancing Authority into which the Facility is interconnected.

"**Transmission Operator's System**" means the electric transmission system used to transmit the Delivered Energy from the Delivery Point.

"**TRE**" means the Texas Reliability Entity, Inc., and its successor.

"**Weather Station**" has the meaning set forth in Section 3.18(a).

"**Wind Availability Damages**" has the meaning set forth in Exhibit G.

"**Wind Availability Damage Multiplier**" has the meaning set forth in Exhibit G.

"**Wind Capacity Reduction**" has the meaning set forth in Exhibit G.

"**Wind Capacity Reduction Amount**" has the meaning set forth in Exhibit G.

"**Wind Excused Hours**" has the meaning set forth in Exhibit G.

"**Wind Mechanical Availability Period**" has the meaning set forth in Exhibit G.

"**Wind Period Hours**" has the meaning set forth in Exhibit G.

"**XPLR**" means XPLR Infrastructure, LP.

"**XPLR OpCo**" means XPLR Infrastructure Operating Partners, LP.

1.2 *Interpretation.*

The following rules of construction shall be followed when interpreting this Agreement (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter; (b) words used or defined in the singular include the plural and vice versa; (c) references to Articles and Sections refer to Articles and Sections of this Agreement; (d) references to Annexes, Exhibits and Schedules refer to the Annexes, Exhibits and Schedules attached to this Agreement, each of which is specifically incorporated herein and made a part hereof for all purposes; (e) references to Applicable Laws refer to such Applicable Laws as they may be amended from time to time, and references to particular provisions of an Applicable Law include any corresponding provisions of any succeeding Applicable Law and any rules and regulations promulgated thereunder; (f) terms defined in this Agreement are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto as so defined; (g) references to money refer to legal currency of the United States of America; (h) the words "includes" or "including" shall mean "including without limitation," "including, but not limited to," and comparable terms which convey a similar meaning as being non-exclusive or not all inclusive; (i) the words "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear, unless otherwise specified; (j) all references to a particular entity shall include a reference to such entity's successors and permitted assigns but, if applicable, only if such successors and permitted assigns are permitted by this Agreement; (k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time; the word "or" will have the inclusive meaning represented by the phrase "and/or", unless the context clearly indicates that an exclusive meaning is intended; (l) the words "shall" and "will" have equal force and effect and express an obligation; and (m) the words "writing," "written" and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

ARTICLE 2
TERM

2.1 *Term.*

This Agreement is effective on the Effective Date and, unless earlier terminated pursuant to the terms of this Agreement or by agreement of the Parties, will remain in effect through the end of Delivery Term (the "**Term**"). The delivery term under this Agreement (the "**Delivery Term**") shall be the period commencing on the Operation Date and continuing through and including the fifteenth (15^{th}) anniversary of the Operation Date. The Term may be renewed or extended by mutual consent of the Parties, upon terms and conditions upon which the Parties mutually agree in connection with such extension or renewal, including, as applicable pricing and the value of Performance Assurance for any such extension or renewal term.

ARTICLE 3
OBLIGATIONS AND DELIVERIES

3.1 *Product.*

The "**Product**" to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is Delivered Energy, Capacity Attributes, Environmental Attributes (consistent with the requirements described in PUCT Substantive Rule §25.173(e)), Facility Attributes and other ancillary products, services or attributes similar to the foregoing which are or can be produced by or associated with the Delivered Energy in accordance with the terms hereof and as may be hereinafter specified in the ERCOT Protocols.

3.2 *Purchase and Sale.*

Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point, and Buyer shall pay Seller for the Product in accordance with the terms hereof.

3.3 *Contract Price.*

During the Delivery Term, Buyer shall pay Seller for all Delivered Energy the applicable rate set forth in Exhibit A (as applicable during the respective periods, the "**Contract Price**"). Seller acknowledges and agrees that consideration for the transfer of all Product is contained within the Contract Price paid by Buyer for the Delivered Energy.

3.4 *Capacity Attributes.*

(a) In the event the PUCT or ERCOT establishes an ERCOT Capacity Program requiring Buyer to show resources in reserve to satisfy Buyer's load requirements, and to the extent the Facility would qualify as such a resource, Seller shall use Commercially Reasonable Efforts to comply with such ERCOT Capacity Program; *provided*, that if any such Commercially Reasonable Efforts require Seller to incur costs and expenses in excess of an aggregate [redacted] over the Term (the "**Capacity Compliance Cap**"), Seller shall not be required to incur any costs and expenses in excess of the Capacity Compliance Cap unless Buyer agrees to reimburse Seller for such amounts (the "**Buyer Capacity Compliance Costs**"). By the payment of the Contract Price, the Buyer shall (i) own and have a right to all Capacity Attributes of the Facility, and (ii) as the owner thereof, be entitled, consistent with such ERCOT Capacity Program, to claim for such purposes the Capacity Attributes associated with the Facility Capacity.

(b) At Buyer's request, the Parties shall execute such documents and instruments as may be reasonably required to effectuate the foregoing recognition of ownership and rights to such Capacity Attributes, if any, to Buyer. Seller shall transfer such Capacity Attributes to Buyer in accordance with the requirements of the ERCOT Capacity Program: *provided*, Buyer shall be responsible for any and all costs and expenses associated with transferring such Capacity Attributes to Buyer, except and to the extent that any such costs and expenses are more so administrative in nature and, as applicable and are consistent with the costs and expenses Seller

would otherwise incur relative to transferring such Capacity Attributes to Buyer; *provided, however*, no such costs payable by Buyer under this Section 3.4(b) shall be duplicative of any Buyer Capacity Compliance Costs. For the avoidance of doubt, the foregoing shall not (i) give Buyer the right to direct the operation or maintenance of the Facility, or to modify the design of the Facility or any component thereof, or (ii) require that Seller undertake any capital investment in the Facility for purposes of affecting the production, quantity, quality, nature or value of the Facility Capacity.

(c) For the avoidance of doubt, the establishment of an ERCOT Capacity Program by the PUCT and/or ERCOT shall not be deemed to be a Change in Law for purposes of Section 3.19.

3.5 ***Performance Excuses.***

(a) The performance of Seller to deliver the Energy shall be excused only during those hours during which the Facility Capacity is unavailable as a result (i) a Force Majeure Event, (ii) a Transformer Failure, (iii) Buyer's breach of its obligations under this Agreement or its negligence or willful misconduct, (iv) a System Curtailment Order or a Buyer Curtailment Order, (v) Security-Constrained Economic Dispatch, or (vi) Planned Outages ("**Seller Excused Hours**"). Seller Excused Hours shall only apply to the volume of Energy Seller is not able to deliver to the Delivery Point during any hour when any of the events set out in clauses (i) through (vi) are appliable.

(b) The performance of Buyer to receive and pay for the Product shall be excused only (i) during periods of a Force Majeure Event, (ii) by Seller's breach of its obligations under this Agreement or its negligence or willful misconduct in the performance of its obligations hereunder, (iii) a Forced Outage, (iv) during System Curtailments or (v) during a period of Security-Constrained Economic Dispatch ("**Buyer Excuses**").

3.6 ***Buyer's Failure to Accept Delivery of Energy.***

(a) If Buyer fails to take and purchase all or part of the Energy and such failure is not excused due to Buyer Excuses, 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 equal to product of (i) the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price, *multiplied by* (ii) the amount of Energy (expressed in MWh) that Buyer failed to take during such Month *plus*, (iii) solely in the event that such Buyer failure to take and purchase all or any part of the Energy prevented the Facility from generating Energy, the PTC Value ("**Seller's Replacement Costs**"). The Limitation of Liability provisions of Section 15.2 shall apply to this Section 3.6(a) such that Seller's Replacement Costs are the sole and exclusive remedy for Seller in the event of a failure by Buyer to accept delivery of Energy hereunder.

(b) Seller shall include in a monthly invoice delivered to Buyer pursuant to Section 7.1 the amounts owed by Buyer pursuant to Section 3.6(a) and a description, in reasonable detail, of the calculation of Seller's Replacement Costs.

3.7 ***Seller's Failure to Deliver Energy.***

(a) If Seller fails to deliver all or part of the Energy and such failure is not excused

during any Seller Excused Hours, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the Month in which the failure occurred, an amount equal to the product of (i) positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price, *multiplied by* (ii) the amount of Energy (expressed in MWh) that Seller failed to deliver during such Month ("**Buyer's Replacement Costs**"). The Limitation of Liability provisions of Section 15.2 shall apply to this Section 3.7(a) such that Buyer's Replacement Costs are the sole and exclusive remedy for Buyer in the event of a failure by Seller to deliver Energy hereunder

(b) No later than the tenth (10th) Day of the Month following any Month in which Buyer's Replacement Costs have been determined, Buyer shall deliver to Seller an invoice showing the amounts owed by Seller and a description, in reasonable detail, of the calculation of Buyer's Replacement Costs. Seller shall credit Buyer, in an amount equal to any undisputed amount of the Buyer's Replacement Costs, against the amounts owed by Buyer to Seller; *provided*, if the amount of such credit is greater than the amount payable by Buyer for such Month, the excess portion of such credit shall be payable by Seller to Buyer within five (5) Business Days of the date any such determination has been made by Seller.

3.8 ***Offsets, Allowances and Future Environmental Attributes.***

(a) Throughout the Delivery Term, Buyer is entitled to all Environmental Attributes resulting from the generation of all or part of the Delivered Energy that is purchased by Buyer pursuant to this Agreement. If additional Environmental Attributes become available after the Effective Date but during the Delivery Term ("**Future Environmental Attributes**"), Buyer may, by Notice to Seller, request that all such Future Environmental Attributes be transferred to Buyer by Seller. Upon such request, Seller will take Commercially Reasonable Efforts to promptly effectuate each such transfer; *provided*, that Buyer shall be responsible for any and all costs and expenses associated with providing such Future Environmental Attributes to Buyer, except and to the extent that any such costs and expenses are more so administrative in nature and, as applicable, are consistent with the costs and expenses Seller would otherwise incur relative to transferring such Future Environmental Attributes to Buyer.

(b) Seller shall be entitled to all Tax Attributes and Buyer shall have no rights to any such Tax Attributes at any time during the Term.

(c) RPS Compliance.

(i) Seller shall take all necessary steps, including making or supporting timely filings, including filings with the PUCT and, if applicable, CRS, to (A) certify the Facility in accordance with, or otherwise cause the Facility to Qualify under, the requirements of the Texas RPS and (B) cause the Facility to Qualify under the Green-e Standard, in each case prior to the Operation Date. In furtherance of the foregoing obligation, Seller shall take such actions as are necessary, including by maintaining a Green-e Tracking System Attestation in effect with CRS, to denote that each REC associated with a MWh of Energy generated and delivered by the Facility to the Point of Interconnection is eligible for use in a "Green-e Energy Certified" product (as defined in the Green-e Standard). Seller shall (X) subject to Section 3.8(c)(ii), maintain the certification of the Facility with the PUCT and the eligibility of the Facility and its Environmental

Attributes with CRS and otherwise cause the Facility and the Environmental Attributes generated by the Facility to Qualify and remain Qualified under each Applicable RPS for so long as the Facility remains eligible under such Applicable RPS (without requiring Seller to undertake any capital investment in the Facility after the Operation Date to maintain such qualification or eligibility), and (Y) provide such certifications or attestations to Buyer as are reasonably necessary to verify that all Environmental Attributes associated with one MWh of Energy generated by the Facility and delivered (or deemed delivered) to the Point of Interconnection have been transferred to Buyer.

(ii) Following the Operation Date, to the extent the Applicable RPS or Applicable Law related to creation or transfer of Environmental Attributes hereunder is amended, supplemented, or otherwise modified (an "**Applicable RPS Amendment**") and, if due to such Applicable RPS Amendment, Seller is required to take any action necessary to transfer the Environmental Attributes to Buyer, then, upon Buyer's written request, Seller will use Commercially Reasonable Efforts to take such action in order to comply with such Applicable RPS Amendment. Seller will bear all costs of registration, verification, monitoring, tracking, transferring, certifying and reporting of the Environmental Attributes, as applicable, prior to transfer of title to such Environmental Attributes to Buyer, and Buyer will bear all other costs related to registration, verification, monitoring, tracking, transferring, certifying, and reporting of such Environmental Attributes (including those incurred at and after transfer of title to such Environmental Attributes to Buyer). Further, if Buyer requests, in writing, that Seller register the Facility with one or more additional tracking system(s), then Buyer shall be responsible for the costs associated with such new registration(s), except to the extent that any such costs are more so administrative in nature and, as applicable, are consistent with costs Seller would otherwise incur relative to an Applicable RPS or Applicable RPS Amendment.

(iii) Seller shall not, and shall cause its Affiliates to not, report to any Person, or permit any other Person to report, that the Environmental Attributes that Seller is required to deliver to Buyer pursuant to Section 3.8 belong to anyone other than Buyer, and Buyer has the exclusive right to report, whether under any Applicable RPS, any other program, or otherwise, that such attributes purchased hereunder belong to it. If Buyer determines that Seller or any other Person has made a statement, claim, or other communication that could reasonably be expected to adversely affect Buyer's right to claim the exclusive ownership of or reporting rights associated with the Environmental Attributes purchased under this Agreement, Seller shall promptly following receipt of Notice from Buyer of such determination take such commercially reasonable actions as may be necessary or that Buyer may reasonably request in order to retract or otherwise correct such statement, claim, or other communication or to cause such statement, claim, or other communication to be retracted or otherwise corrected, as applicable.

(iv) Seller shall, prior to the Operation Date, establish a trading account with each applicable Tracking System for the purpose of receiving and transferring to Buyer the Environmental Attributes associated with the Delivered Energy. Seller shall in accordance with the rules and procedures of each such Tracking System transfer all Environmental Attributes associated with the Delivered Energy from Seller's account to Buyer's designated account within thirty (30) days, following the later of (A) the end of the Month in which the Delivered Energy associated with such Environmental Attributes was generated and (B) the date such Environmental Attributes are created and available for transfer (the "**EA Transfer Deadline**"). If either Party

receives notice from the administrator of the applicable Tracking System that a transfer of Environmental Attributes will not be completed, the Parties shall promptly confer and take such actions as may be necessary to cure any defects in the proposed transfer so that the transfer can be completed. In the event that the applicable Tracking System becomes temporarily unavailable for the transfer of Environmental Attributes, Buyer may elect to require Seller to either retire or transfer to Buyer (via an alternative tracking system or other, alternative means allowed under the Applicable RPS), at no additional cost to Seller, those Environmental Attributes that Seller would otherwise be responsible for transferring to Buyer via the applicable Tracking System. In the event an applicable Tracking System becomes indefinitely unavailable for the transfer of Environmental Attributes, Buyer may elect another tracking system for Seller to use to transfer the Environmental Attributes to Buyer, at no additional cost to Seller (which, if an alternate tracking system is elected, such tracking system will thereafter be the applicable Tracking System for purposes of this Agreement), or, alternatively, Buyer may elect that Seller provide such attestations (including Green-e Seller Attestations) and other supporting documentation necessary or reasonably requested by Buyer to evidence the transfer to Buyer of, and Buyer's rights with respect to, all Environmental Attributes associated with the Delivered Energy during the Delivery Term. Seller shall not have any liability to Buyer for any delay in transferring Environmental Attributes to Buyer, or retiring or providing attestations to Buyer in lieu of transferring Environmental Attributes to Buyer, directly or indirectly resulting from any such temporary or indefinite unavailability of the Tracking System. For the avoidance of doubt, if Buyer elects to designate a replacement tracking system, Buyer shall be solely responsible for any additional costs incurred by Seller in switching to such tracking system, except to the extent that any such costs are more so administrative in nature and, as applicable, are consistent with costs Seller would otherwise incur relative to the applicable Tracking System for which such replacement tracking system is applicable.

(v) If Seller fails to transfer any Environmental Attributes associated with the Delivered Energy to Buyer by the applicable EA Transfer Deadline in accordance with Section 3.8(c)(iv) and such failure is not excused under the terms of this Agreement or by Buyer's failure to perform, then Seller shall, with respect to the quantity of Environmental Attributes that Seller failed to transfer, elect to either (A) transfer to Buyer, within thirty (30) days after the applicable EA Transfer Deadline, substitute Environmental Attributes (1) from a singular wind generation facility in ERCOT for each delivery of such substitute Environmental Attributes, and (2) each having the same vintage as the applicable Contract Year(s) for those Environmental Attributes that Seller failed to transfer; or (B) pay to Buyer as damages ("**Replacement EA Damages**") an amount (expressed in U.S. Dollars) equal to the product of (1) the Replacement EA Value for the Contract Year associated with such Environmental Attributes (including the vintage applicable thereto), *multiplied* by (2) the quantity of Environmental Attributes that Seller failed to timely transfer to Buyer. In the event Seller elects to pay to Buyer the Replacement EA Damages, then Seller shall include in a monthly invoice delivered to Buyer pursuant to Section 7.1 the amounts owed by Buyer pursuant to this Section 3.8(c)(v), including and a description, in reasonable detail, of the calculation of the Replacement EA Damages. The Limitation of Liability provisions of Section 15.2 shall apply to this Section 3.8(c)(v) such substitute Environmental Attributes or Replacement EA Damages, as applicable, are the sole and exclusive remedy for Buyer in the event of a failure by Seller to transfer any Environmental Attributes hereunder.

3.9 *Transmission.*

Seller shall be responsible for maintaining Transmission Operator approval of the Facility interconnection requirements and transmission facilities so that Seller can perform its Energy deliveries hereunder in accordance with such Transmission Operator's requirements. Buyer shall be responsible for arranging for all transmission services required to effectuate Buyer's purchase of Product, including obtaining firm transmission service, in an amount of capacity equal to the Facility Capacity, and shall be responsible for the payment of any charges related to such transmission services thereunder, including charges for transmission or wheeling services, ancillary services, imbalance, control area services, congestion charges, transaction charges and line losses from and after the Point of Delivery. The Parties acknowledge that the Contract Price does not include charges for such transmission services from and after the Point of Delivery, all of which shall be paid by Buyer.

3.10 *Scheduling.*

(a) The Parties shall comply with all ERCOT Protocols, associated operation standards and guidelines, and the Operating Procedures.

(b) Seller shall arrange for a QSE on behalf of the Facility (the "**Facility QSE**"). Seller is solely responsible for (i) the compensation of the Facility QSE, (ii) ensuring that the Facility QSE satisfies the applicable ERCOT Protocols on behalf of the Facility, and (iii) all costs and expenses associated with the foregoing and the participation of the Facility in the markets administered by ERCOT.

(c) Buyer shall either register with ERCOT as QSE or Buyer shall arrange for a QSE registered with ERCOT on behalf of Buyer (as applicable, the "**Buyer QSE**"). Buyer is solely responsible for (i) the compensation of the Buyer QSE, (ii) ensuring that the Buyer QSE satisfies the applicable ERCOT Protocols on behalf of the Buyer, and (iii) all costs and expenses associated with the foregoing and the participation of the Buyer in the markets administered by ERCOT.

(d) The Facility QSE shall:

(i) schedule Delivered Energy and applicable Products to the Delivery Point and settle with ERCOT such Delivered Energy;

(ii) communicate all orders, instructions, or other directives to Seller and Buyer's QSE, including such that may result in the curtailment of, or the inability or diminished ability to generate, Delivered Energy;

(iii) submit energy schedules, resource plans, and energy offer curves (in no event less that the Energy Offer Curve Floor) in accordance with the requirements of ERCOT Protocols, this Agreement and Applicable Law;

(iv) complete the delivery to Buyer's QSE and the settlement of Delivered Energy and associated Products at the Delivery Point utilizing Energy Trades in accordance with the ERCOT Protocols, including, to the extent reflective of the ERCOT Protocols, the provisions

set forth in Exhibit E utilizing a fifteen (15)-minute interval trade volumes based on the Metering System settlement data for the relevant flow date; and

(v) transfer the Capacity Attributes associated with the Facility Capacity to Buyer's QSE utilizing Capacity Trades in accordance with the ERCOT Protocols, including, to the extent reflective of the ERCOT Protocols, the provisions set forth in Exhibit E utilizing a quantity equal an amount determined in accordance with the Short-Term Power Potential Forecast (STPPF) prepared by ERCOT for the Facility, and extended at least through Hour Ending 24 of the following day.

(e) The Seller shall, or cause the Seller's QSE to, undertake the following actions (including the transmission to Buyer or the Buyer QSE, the following information), all of which shall be further set out in the Operating Procedures as are to be mutually agreed upon by the Parties:

(i) timely transmit relevant non-ICCP settlement data and notices to ERCOT from the Facility;

(ii) settlement and billing data that has been reviewed and trued up with ERCOT settlement data;

(iii) forward payments received from ERCOT for the benefit of Buyer that are not due to Seller pursuant to this Agreement, including any generator revenue benefits such as the Operating Reserve Demand Curve "ORDC" and/or Congestion Revenue Rights Auction Revenue Distributions (CARD); *provided*, Buyer will be responsible for making payments to ERCOT related to, or reimbursing Seller with respect to, any negative Locational Marginal Price associated with any Delivered Energy;

(iv) provide Notice of all resource outages, required outage scheduling information, authorizations and corresponding updates;

(v) all required meter data, telemetry, and settlement data, via ICCP SCADA data, including delivery to ERCOT, according to ERCOT Protocols, associated operating guides, and the Operating Procedures;

(vi) provide all information requested by Buyer or Buyer's QSE so that Buyer may review scheduling and billing/settlement activities of Seller as they apply to Buyer's obligations under this Agreement;

(vii) install, or cause to be installed, all control and communication equipment to enable the automatic control of the output of the Facility by the Facility QSE;

(viii) provide next hour and next day output forecasts, by no later than 06:00 hours CPT 24 hours in advance for the next day and for each of the following seven days (the "**Day-Ahead Forecasting Requirements**"); and

(ix) install and telemeter to ERCOT the site-specific meteorological information that ERCOT requires from the Facility in accordance with ERCOT Protocols.

3.11 *Sales for Resale.*

All Product delivered to Buyer hereunder shall be sales for resale, with Buyer reselling such Product for use in satisfying its native load requirements or that of other ERCOT market participants. Buyer shall provide Seller with documentation reasonably requested by Seller for regulatory or tax purposes to evidence that the deliveries of Product hereunder are sales for resale.

3.12 *Operating Procedures.*

Buyer and Seller shall use Commercially Reasonable Efforts to develop and mutually agree to written operating procedures for the Facility **("Operating Procedures")** consistent with the criteria set forth in Exhibit F. Such Operating Procedures shall be in accordance with ERCOT Protocols, associated operating guides and Prudent Operating Practices. Upon written mutual agreement, Seller and Buyer may update the Operating Procedures without amendment to this Agreement. Any disputes with respect to the Operating Procedures shall be resolved in accordance with the terms set forth in ARTICLE 16. If, as of the Operation Date, the Parties have not reach mutual agreement as to the terms of the Operating Procedures, the Parties shall continue to cooperate and use Commercially Reasonable Efforts to come to agreement on the Operating Procedures; *provided, however*, util such time as Operating Procedures have been put in place, each of the Parties agree that the operation of the Facility and the obligations of the Parties hereto relative to the operation of the Facility shall be undertaken by the Parties (and each of their designees) in accordance with the provisions of Section 3.13 below.

3.13 *Standards of Care.*

(a) Seller shall comply with all applicable requirements of Applicable Law, ERCOT, TRE and NERC relating to the Facility (including those related to construction, ownership, operation and/or maintenance of the Facility).

(b) Each Party shall perform all generation, scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of ERCOT and Prudent Operating Practices.

(c) Seller agrees to abide by all (i) NERC, TRE and ERCOT reliability requirements, including all such reliability requirements for generator owners and generator operators, and (ii) all applicable requirements regarding interconnection of the Facility, including the requirements of the Transmission Operator and Interconnection Provider (including those set out in the Interconnection Agreement).

3.14 *Curtailment.*

(a) Except as set forth in this Section 3.14, Seller shall not curtail or interrupt deliveries of Energy for economic reasons of any type whatsoever; *provided*, Seller's obligation to generate, deliver and sell Product to Buyer shall be excused during any Seller Excused Hours. Buyer shall have no obligation to purchase Product during any Seller Excused Hours.

(b) Seller shall reduce generation of Energy from the Facility as required pursuant to a

System Curtailment Order or a Buyer Curtailment Order; *provided*, that Buyer shall pay Seller the Contract Price *plus* the PTC Value for all Deemed Delivered Energy associated with a Buyer Curtailment Period. Buyer shall notify Seller and the Facility QSE, by telephonic communication or other method as may be set forth in the Operating Procedures, of a Buyer Curtailment Order, but in no event later than thirty (30) minutes prior to the effectiveness of such Buyer Curtailment Order. In all cases involving a Buyer Curtailment, Seller shall reduce the Delivered Energy delivered by Seller to Buyer at the Delivery Point to the level stated by Buyer. Except for a Buyer Curtailment, in no event will Buyer curtail or interrupt deliveries of Delivered Energy from the Facility as required by this Agreement for economic reasons of any type whatsoever. During any such period where Buyer fails to take Energy and also fails to pay Seller's Replacement Costs associated therewith, Seller shall have the right to make available, for sale, for resale or any other purpose, any rights and commercial benefits associated with the Product to the extent permitted under Applicable Law or ERCOT Protocols.

(c) Seller shall at all times during the Delivery Term comply with System Curtailment Orders, the directives of the Transmission Operator and the Interconnection Provider given pursuant to the Interconnection Agreement. Seller will notify Buyer, as soon as reasonably practicable, but in no event later than thirty (30) minutes, by telephonic communication or other method as may be set forth in the Operating Procedures, of a System Curtailment Order, upon receipt of such direction by Seller (or Seller's agent) as the market participant registered by Transmission Operator for the Facility. In all cases involving a System Curtailment, Seller shall reduce the Delivered Energy delivered by Seller to Buyer at the Delivery Point on a non-discriminatory, pro-rata basis to the level stated by the Transmission Operator or the Interconnection Provider, as applicable. Buyer shall have no obligation to purchase Product to the extent of a System Curtailment and Seller shall promptly notify Buyer of the termination of any such System Curtailment.

(d) If Seller fails to comply with the curtailment directives and instructions set forth in Section 3.14(b) and Section 3.14(c), Seller shall reimburse Buyer for any penalties or fines imposed on Buyer by any Governmental Authority and any actual direct damages suffered by Buyer as a result of Seller's failure to comply, reduced by any amount Buyer is able to realize for the sale of any Product delivered in violation of the Buyer Curtailment Order or the System Curtailment Order, as applicable. Notwithstanding the foregoing, Seller's failure to comply with a Buyer Curtailment Order or System Curtailment Order shall not be a Seller Event of Default; *provided*, Seller's failure to reimburse Buyer for any such fines, penalties or actual damages incurred by Buyer as a result of Seller's failure to comply shall be considered a default under this Agreement pursuant to Section 6.1(a)(i).

(e) Upon Buyer's reasonable request, Seller shall promptly provide to Buyer, or permit Buyer (or its authorized representative) to audit and examine during normal business hours, any additional and supporting documentation, including the Facility's operating data and SCADA data necessary for Buyer (or its authorized representative) to audit and verify any matters set forth in Section 3.14.

3.15 ***Outage Notification.***

(a) Seller shall schedule Planned Outages in accordance with Prudent Operating

Practices and the Parties acknowledge that in all circumstances, Prudent Operating Practices shall dictate when Planned Outages should occur. Seller shall notify Buyer of its proposed Planned Outage schedule for the following calendar year by submitting a written Planned Outage schedule no later than (i) for the first calendar year (or portion thereof) following the Operation Date, thirty (30) days prior to the Operation Date, and (ii) for each calendar year thereafter, on or before October 1st of the calendar year prior to the beginning of each calendar year of the Delivery Term (each such schedule being a "**Planned Outage Schedule**"); *provided, however*, Seller shall use its Commercially Reasonable Efforts to not schedule Planned Outages during the months of January, February, June, July, August and September of each applicable calendar year during the Delivery Term hereof. Seller shall contact Buyer with any requested changes to the Planned Outage Schedule if Seller believes the Facility must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Prudent Operating Practices or as necessary to maintain equipment warranties. Seller shall not (i) change its Planned Outage Schedule without Buyer's approval, not to be unreasonably withheld, conditioned or delayed, or (ii) substitute Energy from any other source for the output of the Facility during a Planned Outage.

(b) In addition to Planned Outages, Seller shall use Commercially Reasonable Efforts to notify Buyer of any Forced Outage as soon as reasonably practicable, [but in no event later than thirty (30) minutes], by telephonic communication or other methods as may be set forth in the Operating Procedures. Following such initial notification, Seller shall provide to Buyer Notice of the Forced Outage, which shall contain information describing the nature of the Forced Outage, the beginning date and hour of such Forced Outage, the expected end date and hour of such Forced Outage, the amount of Energy, if any, that Seller expects will be delivered to the Delivery Point during such Forced Outage, and any other information reasonably requested by Buyer.

3.16 ***Operations Logs and Access Rights.***

(a) Seller shall maintain a complete and accurate log of all material operations and maintenance information for each day of the operation of the Facility (the "**Operating Log(s)**"). Such Operating Log shall include information on power production, efficiency, availability, maintenance performed, Planned Outages, Forced Outages, System Curtailment Orders, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall maintain the Operating Logs in accordance with Applicable Law, ERCOT Protocols, and Prudent Operating Practices, as applicable. In case of conflict, Applicable Law shall prevail. Upon Buyer's reasonable request, Seller shall provide material operations and maintenance information maintained in the Operating Logs electronically to Buyer within five (5) days of Buyer's request. Such information will be treated by Buyer as the Confidential Information of Seller pursuant to ARTICLE 12.

(b) Buyer, its authorized agents, employees and inspectors shall have the right of ingress to and egress from the Facility during normal business hours upon reasonable advance Notice and for any purposes reasonably connected with this Agreement, including the right to review the Operating Logs in connection with the operation of the Facility; *provided*, that (i) Buyer and its authorized agents, employees and inspectors shall observe all applicable Facility safety rules that Seller has communicated to Buyer and its authorized agents, employees and inspectors and (ii) Buyer shall indemnify Seller for the actions of its authorized agents, employees, and

inspectors for harm or liabilities caused by Buyer, any such authorized individuals or any activities undertake by any of them while at the Site or the Facility.

3.17 ***Availability Forecasting.***

(a) Seller shall provide Buyer with an Annual Hourly Energy Forecast (as defined below) consistent with this Section 3.17 and the Operating Procedures. Each such Annual Hourly Energy Forecast shall include the updated status of all Facility equipment that may impact availability. Seller shall use Commercially Reasonable Efforts to forecast the delivery of Energy under this Agreement accurately and to transmit such information in a format reasonably acceptable to Buyer. Buyer and Seller shall agree upon reasonable changes to each Annual Hourly Energy Forecast and procedures set forth below from time-to-time, as necessary to accommodate changes to operating and scheduling procedures of Buyer.

(b) No later than ten (10) Business Days prior to (i) the Operation Date for the first Contract Year; and (ii) the anniversary of the Operation Date for each subsequent Contract Year, Seller shall provide to Buyer a non-binding forecast of the hourly delivery of Energy under this Agreement for an average day in each Month of the following Contract Year in a form reasonably acceptable to Buyer (each such forecast being a "**Annual Hourly Energy Forecast**") .

(c) In the event Seller reasonably anticipates there will be deviations in Delivered Energy from the volume of Delivered Energy reflected in the Annual Hourly Energy Forecast, then no later than (i) ten (10) Business Days prior to the Operation Date; and thereafter (ii) ten (10) Business Days before the beginning of each Month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Delivered under this Agreement for each day of the following Month in a form reasonably acceptable to Buyer (each such forecast being a "**Monthly Hourly Energy Forecast**").

(d) On a daily basis, commencing on the day immediately preceding the Operation Date and consistent with the Day-Ahead Forecasting Requirements, a day-ahead estimate of available Facility Capacity (the "**Day-Ahead Availability Notice**") for each day. Each Day-Ahead Availability Notice shall clearly identify, for each hour of such day, Seller's forecast of Delivered Energy for each such hour. If Seller fails to timely provide Buyer with a Day-Ahead Availability Notice, then, until Seller provides a Day-Ahead Availability Notice, Buyer may rely on the most recently delivered Day-Ahead Availability Notice submitted by Seller to Buyer as the estimate of available Facility Capacity for each such succeeding day.

3.18 ***Weather Station.***

(a) During the Delivery Term, Seller, at its own expense, shall install and maintain at least one stand-alone meteorological station at the Site (as part of the Facility) to monitor and report the meteorological data required under Section 3.18(b) (the "**Weather Station**"). Seller shall maintain the Weather Station as necessary to provide the applicable Facility meteorological data.

(b) Upon the Operation Date, and continuing through the end of the Delivery Term, Seller shall record and maintain the following data:

(i) real Energy production by the Facility for each hour;

(ii) changes in operating status and maintenance events of and at the Facility;

(iii) any unusual conditions found during inspections;

(iv) any significant events related to the operation of the Facility; and

(v) one (1) minute and hourly time-averaged measurements from data samples at ten (10) seconds or greater frequency for the following parameters at the Facility: wind speed (mps); wind direction (degrees relative to true north); temperature (Celsius); pressure (mb); air density (kg/m); relative humidity; and present weather status.

(c) Buyer shall have real-time access to the required meteorological data as prescribed in the Operating Procedures. Seller shall provide Buyer a report within thirty (30) Days after the end of each Month providing the meteorological data collected by the Weather Station for such Month as well as any other additional information that Buyer reasonably requests regarding the operation of the Facility that is collected and maintained by Seller in the ordinary course of Facility operations.

(d) Seller shall make available to Buyer all data from any weather monitoring portals Seller elects to install at the Site as part of the Weather Station.

3.19 ***Change in Law.***

(a) The Parties agree that the Contract Price may not be revised as a result of any Change in Law that alters either Buyer's or Seller's costs in connection with this Agreement, the operation of the Facility or the value of the Energy, Environmental Attributes, Capacity Attributes or Facility Attributes delivered or transferred under this Agreement, or affects in any other material way the purpose or economics of this Agreement.

(b) Notwithstanding the foregoing, if a Change in Law occurs Seller shall use Commercially Reasonable Efforts to cause the Facility to comply with such Change in Law following the effective date of such Change in Law ("**Seller's Compliance Actions**"). Within sixty (60) days following the enactment of any Change in Law requiring Seller's Compliance Actions, Seller shall provide Buyer with Notice (the "**Compliance Costs Notice**") setting forth Seller's good faith estimate of those Compliance Costs Seller expects to incur with respect to such Seller's Compliance Actions (the "**Compliance Costs**"), including documentation and calculations to support its estimate of the Compliance Costs. During the Term, Seller will be responsible for an aggregate [redacted] of Compliance Costs associated with Seller's Compliance Actions (the "**Compliance Cost Cap**"). To the extent the Compliance Cost Notice reflects Compliance Costs in excess of the Compliance Cost Cap (the "**Excess Compliance Costs**"), the Parties shall agree to meet within ten (10) Business Days from Buyer's receipt of the Compliance Costs Notice and negotiate in good faith to reach an agreement as to the obligations of the Parties to pay all or any portion of the Excess Compliance Costs. If the Parties are unable to reach agreement as to the payment of the Excess Compliance Costs within thirty (30) days of the commencement of such negotiations, then Seller shall have the right, but

not the obligation, to terminate this Agreement upon Notice to Buyer, such Notice to be effective ten (10) Business Days after Buyer's receipt of the Notice. Upon termination of this Agreement pursuant to this Section 3.19(b), the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and, shall not incur any additional liability to each other as a result of such termination. Within five (5) Business Days of such termination, each Party shall return to the other Party any Performance Assurance posted by such other Party.

(c) For purposes of this Section 3.19, a Change in Law does not include and Buyer shall not have any liability or responsibility to Seller, Facility Lenders or any Tax Equity Investors (including under Section 10.3) as the result of any Adverse Change in Tax Law.

3.20 ***Guaranteed Wind Mechanical Availability; Loss Events.***

(a) Seller guarantees that the Facility shall be mechanically available to generate and deliver Delivered Energy in accordance with the provisions of Exhibit G. If Seller fails to achieve the Guaranteed Wind Availability Percentage, it shall be liable to Buyer for Wind Availability Damages as set forth in Exhibit G.

(b) Seller shall have sixty (60) days following the occurrence of a Loss Event in which to elect to either repair and restore the portion of the Facility Capacity affected by the Loss Event or determine whether it is unable or unwilling to do so. Notwithstanding anything to the contrary in this Agreement, if during such sixty (60) day period, Seller elects to repair and restore the portion of the Facility Capacity affected by the Loss Event, then Seller will be afforded a maximum period of three hundred sixty five (365) days following the occurrence of the Loss Event in which to complete such repair and restoration; *provided*, that such period will be extended on a day-for-day basis by the number of days by which the occurrence or continuance of any Delay Condition prevents Seller from completing such repair and restoration. If Seller determines that it is unable or unwilling to repair and restore the portion of the Facility Capacity affected by the Loss Event (Notice of which will be provided to Buyer within not more than ten (10) Business Days of the date of any such determination by Seller) or if Seller fails to complete such repair and restoration within such three hundred sixty-five (365) day period then, from and after such date, the Facility Capacity (and associated Products) shall be permanently reduced by the portion affected by such Loss Event.

3.21 ***Transformer Failure.***

(a) Seller shall be limited to one (1) Transformer Failure during the Delivery Term; *provided*, such Transformer Failure cannot exceed three hundred sixty-five (365) days in duration.

(b) In the event of a Transformer Failure and upon mutual agreement of the Parties, Seller may substitute all Product from other similar sources for the output of the Facility during an outage resulting from a Transformer Failure; *provided*, that (i) if any such substituted Product is agreed to be provided, it shall be provided substantially under the terms and conditions of this Agreement as if no Transformer Failure has occurred or was pending at that time (including, at Seller's cost, delivery to the applicable Delivery Point), (ii) each of the Parties will have all of the rights and obligations related to such substituted Product as if such Product were generated from

the Facility and (iii) notwithstanding any such agreement to provide substituted Product, the occurrence of the Transformer Failure shall not be deemed to have been cured by any such agreement for such substituted Product.

(c) Notwithstanding the provisions of Section 3.21(b) to the contrary, if the Transformer Failure at the Facility is not remedied within the three hundred sixty-five (365) day period provided for therein, Buyer shall have the right, exercisable on no less than ten (10) Business Days' Notice, to terminate this Agreement; *provided, however*, if the Transformer Failure is remedied prior to the date of termination set out in the foregoing notice, such termination shall not be deemed to occur. Upon a termination of this Agreement in accordance with this Section 3.21(c), the provisions of Section 18.1 shall apply, including, at Buyer's sole option, the right to collect from Seller a Termination Payment.

3.22 *Adjacent Auxiliary Load.*

Buyer acknowledges and agrees that Blue Summit II Storage, LLC (an Affiliate of Seller) is currently developing and constructing a battery energy storage facility (the "**BESS II**") adjacent to the Facility. Excluding BESS II, Seller (or any of its Affiliates), with Buyer's express written consent (which consent shall not be unreasonably withheld, conditioned or delayed) shall have the right, but not the obligation, in its sole discretion, to install and operate an additional Adjacent Auxiliary Load at or adjacent to the Facility, at Seller's sole cost and expense; *provided that* at such time (a) there remains sufficient interconnection capacity rights under the Interconnection Agreement dedicated to the Facility to deliver Energy generated by the Facility to the Delivery Point, and (b) the installation and operation of Adjacent Auxiliary Load will not (i) diminish Buyer's rights or benefits under this Agreement, (ii) increase Buyer's obligations or liabilities under this Agreement (including the Contract Price), or (iii) reduce the Facility Capacity or the quantity of Energy capable of being delivered by the Facility to the Delivery Point.

ARTICLE 4
METERING AND MEASUREMENT

4.1 *Facility Metering.*

The Facility will be interconnected into the Transmission Operator's System and be operated pursuant to the Interconnection Agreement.

4.2 *Metering System.*

Seller shall ensure the Metering Systems, including all equipment required to provide ERCOT and Buyer, their agents and successors, with a real-time MW signal, are designed, located, constructed, installed, owned, operated and maintained in accordance with the Interconnection Agreement, the ERCOT Protocols and Prudent Operating Practices in order to measure and record the amount of Energy delivered from the Facility to the Delivery Point. Buyer shall, in no way, be responsible, financially or otherwise, for the Metering Systems.

4.3 ***Inspection and Adjustment.***

(a) Seller shall be obligated to inspect and test all the Metering Systems at such times as will conform to Prudent Operating Practices, but not less often than once during every Contract Year during the Delivery Term. Seller shall notify Buyer not less than five (5) Business Days prior to the date on which Seller will inspect any one or all of the meters for the purpose of enabling Buyer (or its designee) to witness and verify proper testing, inspection, maintenance, adjustments and replacement of any part of the Metering System. All reports received by Seller regarding meter accuracy will be provided to Buyer within two (2) Business Days of any inspection and adjustment (if any).

(b) If any seal securing a meter is found broken, if the Metering System fails to register, or if the measurement made by a metering device is found upon testing to vary by an amount exceeding any applicable tolerances set forth in the ERCOT Protocols or Operating Procedures, an adjustment shall be made correcting all measurements of Energy made by the Metering System (the "**Meter Adjustment**") during: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, the period from the date of the last test of the Metering System to the date such failure is discovered and adjusted or such test is made and no such adjustment is required ("**Adjustment Period**"). If the Parties are unable to agree on the Meter Adjustment to be made for the applicable Adjustment Period, the amount of the Meter Adjustment shall be determined: (A) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or (B) if not so ascertainable, by estimating on the basis of deliveries made under similar conditions during a similar period immediately preceding the beginning of the Adjustment Period. Within thirty (30) Days after the determination of the amount of any Meter Adjustment, Buyer shall pay Seller any additional amounts then due for Delivered Energy during the Adjustment Period or, conversely, Buyer shall be entitled to a credit against any subsequent payments for Delivered Energy.

ARTICLE 5
CONDITION PRECEDENT

5.1 ***Conditions Precedent.***

(a) The Operation Date shall be subject to the condition precedent that the completion of the Operating Conditions shall have occurred on or before the Outside OC Satisfaction Date.

(b) If the Operating Conditions have not been satisfied on or before the Outside OC Satisfaction Date, then either Party shall have the right to terminate this Agreement on no less than fifteen (15) Business Days' Notice. Notwithstanding any provision of this Agreement to the contrary, in the event of termination pursuant to this Section 5.1, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination, *provided,* that such termination shall not discharge or relieve either Party from its confidentiality obligations under ARTICLE 12, which provisions shall survive any termination of this Agreement. Within five (5) Business Days of such termination, each Party shall return to the other Party any Performance Assurance posted by such other Party.

ARTICLE 6
EVENTS OF DEFAULT

6.1 ***Events of Default.***

An "**Event of Default**" shall mean:

(a) With respect to a Party that is subject to the Event of Default (the "**Defaulting Party**") the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof; *provided, however*, that if such failure is not reasonably capable of being remedied within the thirty (30) day cure period, but is reasonably capable of being cured within a ninety (90) day cure period, such Party will have such additional time (not exceeding an additional sixty (60) days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently continues to pursue such remedy;

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default under this Section 6.1(a)) and such failure is not remedied within thirty (30) days after Notice thereof; *provided, however*, that if such failure is not reasonably capable of being remedied within the thirty (30) day cure period, but is reasonably capable of being cured within a ninety (90) day cure period, such Party will have such additional time (not exceeding an additional sixty (60) days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently continues to pursue such remedy;

(iv) such Party fails to satisfy the Performance Assurance requirements set forth in Section 8.4, as applicable, in each case within ten (10) Business Days after receipt of Notice of such failure;

(v) a Letter of Credit Default occurs and is not timely cured in accordance with Section 8.4(f).

(vi) such Party becomes Bankrupt;

(vii) such Party assigns this Agreement or any of its rights hereunder other than in compliance with ARTICLE 13; or

(viii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another Person and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee Person fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) With respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy that was not generated by the Facility, except as otherwise agreed to by the Parties pursuant to Section 3.21(b) or Section 14.1(b);

(ii) a second Transformer Failure occurs at any time during the Term;

(iii) any Guarantor (A) fails to make payment under any Guaranty in accordance with clause (i) of Section 6.1(a) following Notice, (B) becomes Bankrupt, or (C) repudiates, fails to honor or disaffirms the validity of any Guaranty provided hereunder; or

(iii) Seller fails to maintain insurance coverages required by Section 8.1 and such failure continues for thirty (30) Business Days after Notice.

6.2 ***Remedies; Declaration of Early Termination Date.***

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the right to the following:

(a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**");

(b) accelerate all amounts owing between the Parties and terminate the Delivery Term effective as of the Early Termination Date;

(c) withhold any payments due to the Defaulting Party under this Agreement;

(d) suspend performance; and

(e) exercise its rights pursuant to Section 8.4 to draw upon and retain Performance Assurance.

6.3 ***Termination Payment.***

Upon termination of this Agreement in connection with an Event of Default, the Non-Defaulting Party shall calculate its Economic Loss and Costs, if any, in respect of this Agreement. The Non-Defaulting Party shall aggregate all amounts owing between the Parties under this Agreement into a single amount by netting (a) all amounts due to the Defaulting Party under this Agreement, including, at the option of the Non-Defaulting Party, any Performance Assurance available to the Non-Defaulting Party against (b) all amounts due to the Non-Defaulting Party under this Agreement, including the Non-Defaulting Party's Economic Loss and Costs, if any, such that all amounts due between the Parties are netted into a single amount (the "**Termination Payment**") payable by one Party to the other Party; *provided*, if the Termination Amount reflects an amount due to the Defaulting Party, the Termination Amount shall be zero ($0.00). The Termination Payment shall not include consequential, incidental, punitive, exemplary, special, indirect or

business interruption damages; *provided, however*, that any lost Capacity Attributes and Environmental Attributes shall be deemed direct damages covered by this Agreement and shall, if the Defaulting Party is Seller, be included by Buyer, as the Non-Defaulting Party, in its calculation of the Termination Payment. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Termination Payment. Each Party agrees and acknowledges that (x) the actual damages that the Non-Defaulting Party would incur in connection with the termination of this Agreement would be difficult or impossible to predict with certainty, (y) the Termination Payment described in this section is a reasonable and appropriate approximation of such damages, and (z) the Termination Payment described in this section is the exclusive remedy of the Non-Defaulting Party in connection with the termination of this Agreement but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect to terminate this Agreement as its remedy for an Event of Default by the Defaulting Party.

6.4 *Notice of Payment of Termination Payment.*

As soon as practicable after a designation of the Early Termination Date and the calculation of the Termination Payment by the Non-Defaulting Party, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the basis for such calculation (including, if applicable, any sources from which the Non-Defaulting Party received information or quotes used for purposes of determining the value of the Termination Payment (which may be provided on a no-name basis)). The Termination Payment shall be made to the Non-Defaulting Party within ten (10) Business Days after such Notice is effective.

6.5 *Disputes with Respect to Termination Payment.*

If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party Notice setting forth a detailed written explanation of the basis for such dispute of the calculation of the Termination Payment and the Defaulting Party's calculation of the Termination Payment. Disputes regarding the calculation of the Termination Payment shall be determined in accordance with ARTICLE 16.

6.6 *Rights and Remedies Are Cumulative.*

Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this ARTICLE 6 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

6.7 *Mitigation.*

The Non-Defaulting Party shall attempt, using Commercially Reasonable Efforts, to mitigate its Costs and Economic Losses resulting from any Event of Default of the other Party under this Agreement.

6.8 *Facility Lender(s) / Tax Equity Investor Cure Periods.*

Notwithstanding the foregoing provisions of this ARTICLE 6, Buyer will provide Notice of any Event of Default by Seller to the Facility Lender's Agent and the Tax Equity Investors (as applicable) to the address provided to Buyer with respect to such Facility Lender's Agent or Tax Equity Investors (which information may be updated from time to time upon Notice to Buyer without need for amendment to this Agreement). Relative to any such Event of Default by Seller, the Facility Lenders or the Tax Equity Investors (as applicable) shall have the right (but not the obligation) to (a) cure the Event of Default on behalf of Seller, or (b) upon payment to Buyer of amounts due from Seller but not paid by Seller, to assume, or cause its designee or a lessee or purchaser of the Facility to assume, all of the rights and obligations of Seller under this Agreement arising as of the date of such assumption, as more fully described in Section 13.4 or as provide for in any certificate, consent, estoppel or other such document negotiated between the Buyer and the Facility Lender's Agent or Tax Equity Investors. For the avoidance of doubt, if authorized by the Facility Lenders under the applicable Loan Documents, the Facility Lender's Agent may undertake actions on behalf of the Facility Lenders under this Section 6.8.

ARTICLE 7
PAYMENT

7.1 *Billing and Payment.*

No later than the tenth (10th) day of each Month beginning with the Month following the Month in which the Operation Date occurs and every Month thereafter, and continuing through and including the first Month following the end of the Delivery Term, Seller shall provide to Buyer an invoice setting forth, for the preceding Month, the amount of Delivered Energy determined in accordance with ARTICLE 4 (which may include preceding Months to the extent any adjustments are applicable for any such preceding Months), with all component charges and unit prices identified and all calculations used to arrive at invoiced amounts described in reasonable detail, including, as and if applicable, any credits (including the balance thereof) reflected in any such invoice owed by Seller to Buyer. Buyer shall pay the undisputed amount of each such invoice on or before thirty (30) days after the date each invoice is received by Buyer. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by facsimile or e-mail.

7.2 *Disputes and Adjustments of Invoices.*

A Party may, in good faith, (a) dispute the correctness of any invoice, or any adjustment to an invoice, rendered under this Agreement or (b) adjust any invoice for any arithmetic or computational error, in each case within twenty-four (24) Months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder results in a Dispute, payment of the undisputed portion of the invoice shall be required to be made when due. Notice of any Dispute shall be in writing and

shall state the basis for the Dispute. Payment of amount which is the subject of a Dispute shall not be required until the Dispute is resolved by the Parties (or otherwise in accordance with the provisions of ARTICLE 16. Upon resolution of the Dispute, any required payment shall be made within two (2) Business Days of such resolution. Inadvertent overpayments shall be returned upon request within ten (10) calendar days. Any Dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 7.2 within twenty-four (24) Months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not Affiliated with any Party and such third party corrects its information after the expiration of such twenty-four (24) Month period. If an invoice is not rendered within twelve (12) Months after the close of the Month during which performance occurred, the right to payment for such performance is waived.

7.3 *Netting of Payments.*

The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the Monthly billing period under this Agreement shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

ARTICLE 8
INSURANCE, CREDIT AND COLLATERAL REQUIREMENTS

8.1 *Insurance.*

In connection with Seller's performance of its duties and obligations under this Agreement, during the Delivery Term, Seller shall maintain insurance in accordance with Exhibit I.

8.2 *Grant of Security Interest.*

To secure its obligations under this Agreement and to the extent Seller delivers Performance Assurance hereunder, Seller hereby grants to Buyer a present and continuing first priority security interest in, and lien on (and right of setoff against), and assignment of, all collateral in the form of Cash and its equivalent in collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Buyer, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Buyer's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and during the continuation of an Event of Default by Seller or an Early Termination Date as a result thereof, Buyer may do any one or more of the following (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under Applicable Law then in effect; (ii) exercise its rights of setoff against such collateral and any and all proceeds resulting therefrom or from the liquidation thereof; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all or any portion of any Performance Assurance then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller or any Facility Lender or any Tax Equity Investors, including any equity or right of purchase or redemption by Seller or any Tax Equity Investors.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Seller's obligations under this Agreement (Seller remaining liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.3 ***Seller Financial Statements.***

Seller shall be deemed to have provided financial reporting to Buyer as long as the following reports remain publicly available (a) the audited annual report or 10K report of NEE, and (b) the quarterly reports of NEE. Seller shall provide such reports to Buyer concurrent with the date each such report is available if at any time the reports identified in (a) and (b) above cease to be publicly available; *provided*, that each such report shall be provided (x) as to the audited annual report, not more than ninety (90) days following the end of each fiscal year of NEE, and (y) as to the quarterly reports, not more than forty-five (45) days following the last day of each applicable calendar quarter during each calendar year of the Delivery Term.

8.4 ***Performance Assurance.***

(a) Within five (5) Business Days of the Operation Date, Seller will deliver to Buyer Performance Assurance to secure its obligations under this Agreement, which Seller shall maintain in full force and effect for the Term in the amount of (i) from the Operation Date until the expiration of the seventh Contract Year, [redacted] (ii) from the commencement of the seventh Contract Year until the expiration of such seventh Contract Year, [redacted] and (iii) from the commencement of the eighth Contract Year until the expiration of the Delivery Term, [redacted] ((i), (ii) and (iii), the "**Delivery Term Security**") in the form of Cash, a Letter of Credit or Guaranty from Seller's Guarantor. The Delivery Term Security will be subject to replenishment throughout the Term, which Seller may replenish by delivery of any form of Performance Assurance reasonably acceptable to Buyer; *provided*, Seller's obligation to replenish the Delivery Term Security shall not exceed [redacted] in the aggregate.

(b) Any amounts owed by Seller to Buyer under this Agreement (other than disputed amounts) and not satisfied within any applicable cure period applicable thereto after becoming due and owing may be satisfied by Buyer drawing on Seller's Performance Assurance until such Performance Assurance has been exhausted; provided, however, any lack of Performance Assurance funds due to draw-down by Buyer does not excuse Seller from those amounts due and owing, if any, to Buyer by Seller in excess of any such exhaustion of such Performance Assurance at that time. In addition, upon termination, Buyer shall have the right to draw upon Seller's Performance Assurance for any undisputed amounts owed to Buyer under this Agreement if not paid when due pursuant to Section 7.1.

(c) Cash held by Buyer as Seller's Performance Assurance shall be held in an interest bearing, segregated deposit account at a Qualified Institution. All accrued interest on the Delivery Term Security shall be transferred to Seller in the form of Cash by wire transfer to the bank account specified by Seller. Interest on any such collateral in the form of Cash shall accrue at the rate payable by the Qualified Institution at which such Cash collateral is being held.

(d) If, during the Term, there shall occur a Downgrade Event in respect of Seller's

Guarantor, then, within not more than five (5) Business Days from the date of any such Downgrade Event, Seller shall deliver to Buyer replacement Performance Assurance in the form of a Letter of Credit, Cash or a replacement Guaranty from a Guarantor (meeting the Minimum Credit Ratings) in lieu thereof in an amount equal to the then applicable amount of Performance Assurance; *provided, however*, that upon Notice from Seller that Seller's prior Guarantor shall again satisfy the Minimum Credit Ratings, Seller shall have the right to substitute a new Guaranty from such prior Guarantor for any replacement Performance Assurance previously provided under this Section 8.4(d).

(e) Seller's obligation to maintain the Delivery Term Security shall terminate upon the occurrence of the following (i) the expiration of the Term of this Agreement, or if the Agreement has been earlier terminated pursuant to Section 6.2, as applicable; and (ii) all payment obligations of Seller arising under this Agreement, including any Termination Payment, indemnification payments or other damages owing by Seller to Buyer have been paid in full. Upon the occurrence of the foregoing, Buyer shall promptly return to Seller the unused or undrawn portion of the Delivery Term Security, including any interest accrued thereon to the extent not otherwise used to satisfy the obligations of Seller as set out in this Section 8.4(e).

(f) With respect to Performance Assurance in the form of a Letter of Credit, Seller shall either cause the Letter of Credit to be renewed or provide substitute Credit Support, in each case at least thirty (30) Days prior to the expiration date of the Letter of Credit. If a Letter of Credit Default occurs with respect to an outstanding Letter of Credit, the Seller shall within five (5) Business Days following Notice from the Buyer transfer to the Buyer substitute Performance Assurance. For purposes of this Section 8.4(f), the aggregate value of substitute Performance Assurance Seller is required to transfer to the Buyer must be at least equal to the amount required to cause the total value of all outstanding Performance Assurance provided to Buyer to be at least equal to the full value of all Performance Assurance then required to be provided by Seller under this Agreement. All costs and expense associated with establishing, maintaining, renewing, substituting, cancelling, increasing, or reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by Seller.

(g) Seller acknowledges and agrees that, as of the Effective Date, Buyer's creditworthiness is satisfactory, and Buyer need not post security. If at any time after the Effective Date Buyer experiences a Downgrade Event, Buyer shall promptly provide Seller with written Notice of such Buyer Credit Event, and within five (5) Business Days of the Downgrade Event, Buyer shall provide to Seller security in an amount equal to the Delivery Term Security (the "**Buyer Security**"). The Delivery Term Security requirements of Seller set forth in Sections 8.4(a), 8.4(b), 8.4(c), 8.4(e) and 8.4(f) shall apply *mutatis mutandis* to the Buyer Security in the event the Buyer experiences a Downgrade Event.

ARTICLE 9
REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 *Representations and Warranties.*

On the Effective Date, each Party represents and warrants to the other Party that, throughout the Term:

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

(b) (i) as to Seller, it has and shall maintain all Governmental Approvals necessary for it to perform its obligations under this Agreement, including all Governmental Approvals necessary to operate and maintain the Facility and related Seller's Interconnection Facilities, and (ii) as to Buyer, it has and shall maintain all Governmental Approvals, including the City Ordinance, necessary for its to perform its obligations under this Agreement;

(c) the execution, delivery and performance of this Agreement is within its powers and have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) except as may be set forth in reports filed with the SEC by a Party subject to the rules and regulations of the SEC, there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its or, as applicable, its Affiliates', obligations under this Agreement;

(g) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

(i) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or the ability to make or take delivery of the Product as provided in this Agreement.

Relative to the City Ordinance of Buyer as set out in clause (b)(ii) above, if not otherwise available on the Buyer's website once issued by the City Council, Buyer will, within five (5) Business Days of the issuance of the City Ordinance by the City Council of Buyer, provide a copy of the City Ordinance to Seller for its files.

9.2 *General Covenants.*

Each Party covenants that throughout the Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement;

(c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law; and

(d) it shall not dispute its status as a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

ARTICLE 10
TITLE, RISK OF LOSS, INDEMNITIES

10.1 *Title and Risk of Loss.*

Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any Person (including Facility Lenders) arising prior to or at the Delivery Point.

10.2 *Indemnities by Seller.*

Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all third-party actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, fines, fees, penalties and interest, including reasonable costs and attorneys' fees (collectively, "**Claims**") resulting from, or arising out of or in any way connected with (a) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and at the Delivery Point, (b) Seller's development, permitting, construction, ownership, operation and/or maintenance of the Site and/or the Facility, (c) the failure by Seller, the Site or the Facility to comply with Applicable Laws, (d) any Governmental Charges for which Seller is responsible hereunder, (e) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller, or (f) to the extent not otherwise prohibited under Applicable Law, any injury (bodily or otherwise) to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claims to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

10.3 *Indemnities by Buyer.*

To the extent allowed by Applicable Law, Buyer shall release, indemnify, defend, and hold harmless, Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way

connected with (a) any event, circumstance, act, or incident relating to the Product received by Buyer under this Agreement after the Delivery Point, (b) the failure by Buyer to comply with Applicable Laws, (c) any Governmental Charges for which Buyer is responsible hereunder; or (d) any injury (bodily or otherwise) to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claims to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

ARTICLE 11
GOVERNMENTAL CHARGES

11.1 *Cooperation.*

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

11.2 *Governmental Charges.*

Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority ("**Governmental Charges**") on or with respect to the Product or the transactions under this Agreement arising prior to and at the Delivery Point, including ad valorem taxes and other taxes attributable to the Facility, the Site, land rights or interests in the Site and/or the Facility. Buyer shall pay or cause to be paid applicable Governmental Charges on or with respect to the Product or the transactions under this Agreement from the Delivery Point. In the event Seller is required by Applicable Law to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. In the event Buyer is required by Applicable Law to remit or pay Governmental Charges which are Seller's responsibility hereunder, Seller shall promptly reimburse Buyer for such Governmental Charges. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Law.

ARTICLE 12
CONFIDENTIAL INFORMATION

12.1 *Confidential Information.*

(a) The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Facility and the performance of their respective obligations hereunder that they consider confidential and proprietary (together with the terms and conditions of this Agreement, the "**Confidential Information**"). Notwithstanding the confidential and proprietary nature of such Confidential Information, the Parties (each, the "**Disclosing Party**") may make such Confidential Information available to the other (each, a "**Receiving Party**") subject to the provisions of this Section 12.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall:

(i) treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third-party except as required by Applicable Law or as otherwise set out herein, subject to the restrictions set forth below;

(ii) restrict access to such Confidential Information to only those Affiliates and each of their respective directors, officers, employees, consultants, subcontractors, suppliers, vendors, representatives and advisors (the "**Receiving Party's Representatives**") whose access is reasonably necessary for the development, construction, operation or maintenance of the Facility and for the purposes of the performance of this Agreement who shall be bound by the terms of this Section 12.1;

(iii) use such Confidential Information solely for the purpose of operating and maintaining the Facility and for purposes of the performance of this Agreement; and

(iv) upon the termination of this Agreement, destroy or return any such Confidential Information in written or other tangible form and any copies thereof, subject to any records retention requirements of a Party and any obligation to retain any such Confidential Information under any Applicable Law.

(c) The restrictions of this Section 12.1 do not apply to:

(i) release of this Agreement to any Governmental Authority required for obtaining any approval or making any filing pursuant to Section 12.2, *provided* that each Party agrees to cooperate in good faith with the other to maintain the confidentiality of the provisions of this Agreement by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law;

(ii) information which is, or becomes, publicly known or available other than through the action of the Receiving Party or the Receiving Party's Representatives in violation of this Agreement;

(iii) information which is in the possession of the Receiving Party or the Receiving Party's Representatives prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party or the Receiving Party's Representatives, *provided* that the Person or Persons developing such information have not had access to any Confidential Information;

(iv) information which is received from a third-party which is not known (after due inquiry) by Receiving Party or the Receiving Party's Representatives to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) information which is, in the reasonable written opinion of counsel of the Receiving Party, required to be disclosed pursuant to Applicable Law (including any Freedom of Information Act or Texas Public Information Act request); *provided, however,* that the Receiving Party, prior to such disclosure and to the extent permissible, shall provide reasonable advance Notice to the Disclosing Party of the time and scope of the intended disclosure in order to provide the Disclosing Party an opportunity to obtain a protective order or otherwise seek to prevent, limit

the scope of, or impose conditions upon such disclosure; *provided further, however*, any such disclosure required to be made by the Receiving Party in order to avoid any penalties or fines for delay or notwithstanding the efforts by the Disclosing Party to seek to prevent, limit the scope of, or impose conditions upon such disclosure (to the extent pending when disclosure is required or in the absence of success by the Disclosing Party, shall not be a breach of this Section 12.1 by the Receiving Party.

(d) Notwithstanding the foregoing, Seller may disclose Confidential Information to (i) the Facility Lenders and any other financial institutions expressing an interest in providing equity or debt financing or refinancing and/or credit support to Seller, and the agent or trustee of any of them, (ii) Tax Equity Investors, and (iii) *bona fide* potential purchasers and their representatives of an interest in the Receiving Party or, with respect to Seller, the Facility, in each case, subject to any such Person being expressly obligated to comply with the provisions of this Section 12.1 or otherwise having in place an agreement with the Seller placing substantially similar confidentiality restrictions on any such Person, including its Affiliates and each of their respective directors, officers, employees, agents, consultants and other representatives.

(e) Neither Party shall issue any press or publicity release or otherwise release, distribute or disseminate any information, with the intent that such information will be published concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written approval of the other Party, which approval will not be unreasonably withheld, conditioned or delayed. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Facility or as are necessary in order to fulfill such Party's obligations under this Agreement.

(f) The obligations of the Parties under this Section 12.1 shall remain in full force and effect for three (3) years following the expiration or termination of this Agreement.

12.2 *Texas Public Information Act.*

Notwithstanding any other provision of this ARTICLE 12, the Parties understand that Buyer is a governmental entity and is required to comply, and Buyer does hereby agree to comply, with the Texas Public Information Act (Chapter 552 of the Texas Government Code) when responding to requests for records in its possession except where the information is considered public power utility competitive information protected by the provisions of the Texas Government Code, Sections 552.101, 552.104, 552.110 and/or 552.133. Disclosure of information required by the Texas Public Information Act shall not constitute a breach of any provision contained herein if so ordered by the State of Texas Attorney General or otherwise required to be released in compliance with the Texas Public Information Act. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement is confidential, commercially sensitive information protected from disclosure pursuant to the Texas Public Information Act. In the event that Buyer is requested or required by Applicable Law or by any Governmental Authority to disclose this Agreement in the absence of permissible redaction, Buyer shall promptly notify Seller of such request or requirement prior to disclosure, if permitted by Applicable Law, so that Seller may seek an appropriate protective order. In the event that a protective order or other remedy is not obtained or disclosure is required by Buyer prior to Seller having obtained or sought to obtain any such remedy, Buyer

agrees to furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, is consistent with the scope of requested or required disclosure and to use Commercially Reasonable Efforts to obtain assurance that confidential treatment will be accorded such Confidential Information, but shall not be in breach hereof is any such efforts are unsuccessful.

ARTICLE 13
ASSIGNMENT

13.1 *Successors and Assigns.*

This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

13.2 *Assignment by Seller.*

(a) This Agreement shall not be assigned or transferred by Seller without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Notwithstanding the foregoing, no consent shall be required for:

(i) any Collateral Assignment of this Agreement by Seller to a Facility Lender pursuant to Section 13.4, or the direct or indirect transfer of shares of, or equity interests in, the Seller to a Tax Equity Investor in accordance with the governing documents of Seller (such transfer of shares or equity interests being a "**Tax Equity Financing**");

(ii) any assignment by the Facility Lenders to a Person after the Facility Lenders have exercised their foreclosure rights with respect to this Agreement or the Facility in accordance with any Loan Documents (a "**Foreclosure Assignment**");

(iii) any assignment to, or transactions between or among, Affiliates of Seller, including any corporate reorganization, merger, combination or similar transaction or transfer of assets or ownership interests between or among Affiliates of Seller (each an "**Affiliate Transaction**"); or

(iv) any Change in Control of Seller;

in each case (other than with respect to a Collateral Assignment) subject to the conditions that such assignee or transferee (A) is, or has retained for the operation of the Facility, a Qualified Operator, and (B) has assumed in writing all of the obligations of Seller under this Agreement (including Seller's obligations to post and maintain Performance Assurance) and agreed to be bound by all the terms and conditions of this Agreement accruing or arising from and after the effectiveness of such assignment or transfer. Seller shall give Notice to Buyer of any such assignment or transfer (X) with respect to a Foreclosure Assignment for an Affiliate Transaction, at least ten (10) Business Days after the assignment or transfer, and (Y) with respect to a Change in Control, at least ten (10) Business Days prior to such transfer. Notwithstanding any such assignment or transfer, Seller will

remain liable hereunder until such time as any such assignee or transferee has provided Performance Assurances required hereunder to Buyer.

(c) Upon an event of default under any Loan Documents relating to the Facility, Seller shall, or shall cause any one or more of the applicable Facility Lenders or the Facility Lender's Agent to, provide Notice to Buyer of any such event of default and, following any such event of default, any one of the Facility Lenders may (but shall not be obligated to), whether acting directly or through the Facility Lender's Agent, assume, or cause its designee or a new lessee or purchaser of the Facility (each of who shall be or shall have retained a Qualified Operator for the Facility), to assume, all of the interests, rights and obligations of Seller thereafter arising under this Agreement; *provided*, that, regardless of whether any such Facility Lender, the Facility Lender's Agent, or its designee assumes all of the interests, rights and obligations of Seller thereafter arising under this Agreement, Buyer's interests, rights and obligations under this Agreement will remain in full force and effect and Seller shall remain obligated hereunder until such time as Buyer has received from any Facility Lender, the Facility Lender's Agent or its designee the Performance Assurance required hereunder. Notice of any such assignment and/or assumption by a Facility Lender, the Facility Lender's Agent or its designee or a new lessee or purchaser of the Facility, shall be provided to Buyer prior to or concurrent with any such assignment or assumption and shall provide Buyer with confirmation of the name, address and other pertinent information of any such Person, including, as applicable, (i) the name of the Qualified Operator (if not the assignee or assuming Person) and (ii) that any such Person meets and, as of the date of any such assignment or assumption, will have met all of the conditions to any such assignment or assumption set out in this Agreement (including the date on which Performance Assurance is to be provided to Buyer if not provided on the date of any such assignment or assumption).

(d) If the rights and interests of Seller in this Agreement shall be assumed, sold or transferred as herein provided, and the assuming party agrees in writing to be bound by and to assume, the terms and conditions hereof and any and all obligations to Buyer arising or accruing hereunder from and after the date of such assumption (including the provision of applicable Performance Assurance), then, subject to the provisions of this Section 13.2 to the contrary, Seller shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Buyer shall continue this Agreement with the assuming party as if such Person had been named as Seller under this Agreement; *provided, however,* solely with respect to a Foreclosure Assignment, that if any such Person assumes this Agreement as provided herein, Buyer acknowledges and agrees that such Person shall not be personally liable for the performance of such obligations hereunder, except to the extent of the total interest of the Facility Lenders in the Facility. Notwithstanding any such assumption by any of the Facility Lenders or its designee thereof or in the event of a Change in Control, Seller shall not be released and discharged from and shall remain liable for any and all obligations to Buyer arising or accruing hereunder prior to such assignment and assumption or transfer.

(e) The provisions of this Section 13.2 are for the benefit of the Facility Lenders, the Facility Lender's Agent and the Parties hereto and the Facility Lenders and Facility Lender's Agent, as express third-party beneficiaries solely as to this Section 13.2, may enforce the rights afforded to them hereunder. Buyer hereby agrees that neither the Facility Lenders, nor the Facility Lender's Agent or any trustee acting on their behalf, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Seller

or shall have any obligation or liability to Buyer with respect to this Agreement, except to the extent any of them becomes a party hereto pursuant to this Section 13.2 or otherwise acts for or on behalf of the Seller in undertaking any obligations hereunder.

13.3 ***Assignment by Buyer.***

(a) This Agreement shall not be assigned or transferred by Buyer without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Notwithstanding the foregoing, no consent shall be required for any assignment or transfer of this Agreement by Buyer to an Affiliate of Buyer or to a Person succeeding to all or substantially all of the assets of Buyer; *provided*, that such Affiliate or successor (i) has a Credit Rating that is equal to or better than that of Buyer at the time of any such assignment (and not less than the Minimum Credit Rating), (ii) has the technical ability necessary to perform all of the Buyer's obligations under the Agreement, and (iii) undertakes the legal obligations to perform all such obligations under the Agreement. Buyer shall give Notice to Seller of any such assignment or transfer at least ten (10) Business Days after the assignment or transfer.

(c) If the rights and interests of Buyer in this Agreement shall be assumed, sold or transferred as herein provided, and the assuming party agrees in writing to be bound by and to assume, the terms and conditions hereof and any and all obligations to Seller arising or accruing hereunder from and after the date of such assumption, then Buyer shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Seller shall continue this Agreement with the assuming party as if such Person had been named as Buyer under this Agreement.

13.4 ***Collateral Assignment.***

(a) Seller, without approval of Buyer, may, by security, charge or otherwise encumber its interest under this Agreement and all payments to be made by Buyer hereunder for the purposes of financing the development, construction, operation and/or maintenance of the Facility and the Seller's Interconnection Facilities, including as collateral security for obligations under any Loan Documents entered into with such Facility Lender (each, a "**Collateral Assignment**").

(b) Concurrently with making such encumbrance, Seller shall provide Notice to Buyer in writing of the name, address, and telephone numbers of each Facility Lender (or, if applicable, the Facility Lender's Agent) to which Seller's interest under this Agreement has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Facility Lenders to whom all Notices are to be addressed, including, as applicable, any Facility Lender's Agent.

(c) After giving Buyer such initial Notice, Seller shall promptly give Buyer Notice of any change in the information provided in the initial Notice or any revised Notice.

(d) If Seller is subject to or encumbers its interest under this Agreement as permitted by this Section 13.4 or if Seller is subject to or enters into a Tax Equity Financing, then the

following provisions shall apply:

(i) the Parties, except as provided by the terms of this Agreement, shall not modify or cancel this Agreement without the prior written consent of the Facility Lenders (which may be given by the Facility Lender's Agent) or Tax Equity Investors (as applicable), which consent shall not be unreasonably withheld, delayed or conditioned;

(ii) the Facility Lenders or the Facility Lender's Agent and the Tax Equity Investors (if and as applicable) shall have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller and such act performed by the Facility Lenders or the Facility Lender's Agent, or the Tax Equity Investors (if and as applicable), shall be as effective to prevent or cure an Event of Default as if done by Seller; *provided*, that, if any such Facility Lender or the Facility Lender's Agent, or Tax Equity Investors (if and as applicable), elect to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller, Buyer will not be deemed to have waived or relinquished its rights and remedies as provided in this Agreement;

(iii) Buyer shall, upon reasonable request by Seller and at Seller's costs, execute statements reasonably acceptable to Buyer certifying that this Agreement is unmodified (or, modified and stating the nature of the modification), in full force and effect and the absence or existence (and the nature thereof) of Events of Default hereunder by Seller and, with respect to a Facility Lender, the documents of consent to such assignment to the encumbrance and any assignment to such Facility Lenders; and

(iv) upon the receipt of a Notice from Seller, any Facility Lender, the Facility Lender's Agent or a Tax Equity Investor, Buyer shall, as reasonably acceptable to Buyer and at Seller's cost, execute, or arrange for the delivery of, such estoppels, certificates and other documents as may be reasonably necessary in order for Seller to consummate any financing (including a Tax Equity Financing) or refinancing of the Facility or any part thereof and will enter into reasonable and mutually acceptable agreements with such Facility Lender (or its Facility Lender's Agent) or Tax Equity Investor, which agreements will grant certain rights to the Facility Lenders or Tax Equity Investor (as applicable) as more fully developed and described in such documents, including, to the extent acceptable to Buyer (in its reasonable discretion) (A) this Agreement shall not be terminated (except for termination pursuant to the terms of this Agreement) without the consent of the Facility Lender (or the Facility Lender's Agent) or Tax Equity Investor, which consent is not to be unreasonably withheld, delayed or conditioned, (B) Facility Lenders (through the Facility Lender's Agent) or the Tax Equity Investors (as applicable) shall be given Notice of, and the opportunity to cure (as provided in any such mutually acceptable agreements) any breach or default of this Agreement by Seller and each of the Facility Lenders and Tax Equity Investors (as applicable) shall (or the Facility Lenders shall cause the Facility Lender's Agent to) give Notice to Buyer of any event of default of Seller under any Loan Documents with the Facility Lender (as contemplated in Section 13.2(c)) or, with respect to a Tax Equity Financing, any default by Seller under the governing documents of Seller associated with such Tax Equity Financing, (C) that, solely with respect to a Facility Lender, if such Facility Lender forecloses, takes a deed in lieu of foreclosure or otherwise exercise its remedies pursuant to any Loan Documents (whether directly or through the Facility Lender's Agent), then (1) Buyer shall, at Facility Lender's or the Facility Lender's Agent, as applicable, request, continue to perform all of its obligations hereunder

provided that Facility Lender, the Facility Lender's Agent or its nominee (who shall be or shall have retained a Qualified Operator and such Person has complied with the Performance Assurance provisions of this Agreement) may perform in the place of Seller, and may assign this Agreement to another Person in place of Seller (provided any such Person is or has retained a Qualified Operator for the Facility and such Person has complied with the Performance Assurance provisions of this Agreement), (2) neither the Facility Lender nor the Facility Lender's Agent shall have liability under this Agreement except during the period of such Facility Lender's (or the Facility Lender's Agent's on behalf of such Facility Lender) ownership or operation of the Facility (whether directly or through a Qualified Operator) (in which event all obligations and liabilities of Seller shall be deemed to have been assumed by such Facility Lender (or Facility Lender's Agent, as applicable) including the obligations under ARTICLE 8, ARTICLE 9 and ARTICLE 10 hereof), and (3) that Buyer shall accept performance in accordance with this Agreement by Facility Lender, the Facility Lender's Agent or its nominee, and (D) that Buyer shall confirm the representation and warranties of Buyer hereunder remain in full force and effect.

ARTICLE 14
FORCE MAJEURE

14.1 ***Force Majeure Events.***

(a) To the extent either Party is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure Event to the other Party as detailed below, then the Party impacted by the Force Majeure Event shall be excused from the performance of its obligations to the extent impacted. As soon as practicable after becoming aware of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the Force Majeure Event, and within five (5) Business Days following such oral notice, the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the claimed Force Majeure Event (subject in all cases to Seller's right to observe any safety precautions that it determines are required in connection with such Force Majeure Event, which may prolong a determination of impact). The suspension of performance due to a claim of a Force Majeure Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event. Buyer shall not be required to make any payments for any Product that Seller fails to schedule, deliver or provide as a result of a Force Majeure Event during the term of such Force Majeure Event except where both Parties mutually agree to a substitute Product as provided herein.

(b) Upon mutual agreement of the Parties, Seller may substitute all Product from other similar sources for the output of the Facility during an outage resulting from a Force Majeure Event. If any such substituted Product is agreed to be provided, it shall be provided under the terms and conditions of this Agreement as if no Force Majeure Event has occurred or was pending at that time (including, at Seller's cost, delivery to the applicable Delivery Point) and each of the Parties will have all of the rights and obligations related to such substituted Product as if such Product were generated from the Facility.

(c) This Agreement may be terminated by either Party with no further obligation to the other Party if such Force Majeure Event prevents the performance of a material portion of the obligations hereunder and such Force Majeure Event is not resolved within twelve (12) Months

after the commencement of such Force Majeure Event; *provided, however*, if Seller is the non-performing Party, Seller shall have up to ninety (90) days following such Force Majeure Event to obtain a report from an independent, third party engineer stating whether the Facility is capable of being repaired or replaced within twelve (12) Months or less from the date of the report. Seller shall provide Buyer with a copy of the engineer's report, at no cost to Buyer. If such engineer's report concludes that the Facility is capable of being repaired or replaced within such twelve (12) Month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section 14.1(c) until the expiration of the period deemed necessary by the engineer's report (not to exceed such twelve (12) Month period), after which time, Buyer may terminate this Agreement unless the Facility has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying its performance obligations under this Agreement.

ARTICLE 15
LIMITATIONS ON LIABILITY

15.1 ***Disclaimer of Warranties.***

Except as set forth in this Agreement, there is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed.

15.2 ***Limitations on Liability.***

To the extent allowed by Applicable Law, the Parties confirm that the express remedies and measures of damages provided in this Agreement satisfy the essential purposes hereof. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligor's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived, unless the provision in question provides that the express remedies are in addition to other remedies that may be available to the other Party. Except for (a) a Party's indemnity obligations in respect of Claims, (ii) any damages arising from a Party's gross negligence or willful misconduct, or (iii) as otherwise expressly provided herein, neither Party shall be liable for consequential, incidental, punitive, special, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise. Unless expressly herein provided, and subject to the provisions of ARTICLE 10, it is the intent of the Parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, or otherwise obtaining an adequate remedy is inconvenient and the damages calculated hereunder constitute a reasonable approximation of the harm or loss.

ARTICLE 16
DISPUTE RESOLUTION

16.1 *Intent of the Parties.*

Except as provided in the next sentence, the sole procedure to resolve any claim between the Parties arising out of or relating to this Agreement or any dispute as to the calculation of any payment to be made by one Party to the other Party (including the calculation of the Termination Payment) (each a "**Dispute**") is the dispute resolution procedure set forth in this ARTICLE 16. Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the Dispute by means of the dispute resolution procedure set forth in this ARTICLE 16.

16.2 *Management Negotiations.*

(a) The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party's authorized representative designated in writing as a representative of the Party (each an "**Authorized Representative**"). Either Authorized Representative may, by Notice to the other Party, request a meeting to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such Notice, at a mutually agreed time and place (either in person or telephonically). If the matter is not resolved within fifteen (15) Business Days of the first meeting of the Authorized Representatives ("**Initial Negotiation End Date**"), the Authorized Representatives shall refer the matter to the designated senior officers of their respective companies that are familiar with and have authority to settle (without any other approvals or authority) the Dispute (each an "**Executive**"). Within five (5) Business Days of the Initial Negotiation End Date ("**Referral Date**"), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be subject to the confidentiality provisions of ARTICLE 12 and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.

(d) If the Dispute is not resolved within thirty (30) days of the initial meeting date for the Executives established by the Parties, if a Party, subsequent to the Referral Date, does not delivery Notice confirming the referral and identifying the name and title of its Executive as specified in Section 16.2(a) above or if an Executive of a Party refuses to meet to resolve the Dispute within the thirty (30) days provided for in Section 16.2(b), then, subject to Section 15.2, Section 18.7 and Section 18.8 of this Agreement, either Party may pursue all remedies available to it at law or in equity.

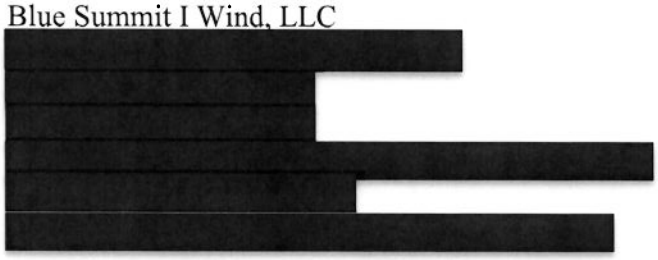
ARTICLE 17
NOTICES

17.1 ***Notices.***

Whenever this Agreement requires or permits delivery of a "**Notice**" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified in herein and to the addresses set forth below; *provided, however*, that Notices of Outages or other Scheduling or dispatch information or requests, shall be provided in accordance with the terms set forth in the relevant section of this Agreement. Invoices may be sent by facsimile or e-mail. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. CPT (and if received after 5:00 p.m. CPT, on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received on the Business Day after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a schedule or dispatch order for the delivery or acceptance of the Product or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

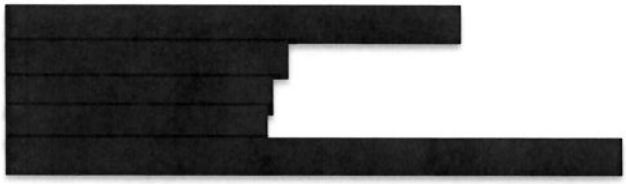
If to Seller:

Blue Summit I Wind, LLC



With a copy to:

Blue Summit I Wind, LLC



If to Buyer:

Denton Municipal Electric
1659 Spencer Road
Denton, TX 76205
Attn: General Authorized Representative
Telephone: (940) 349-8487
Email: RTOps@cityofdenton.com

With a copy to:

City Attorney
215 E. McKinney Street
Denton City Hall

Denton, Texas 76201
Telephone: (940) 349-8333
Email: legal@cityofdenton.com

ARTICLE 18
MISCELLANEOUS

18.1 ***Effectiveness of Agreement; Survival.***

Subject to Section 5.1, this Agreement shall be in full force and effect, enforceable and binding in all respects as of the Effective Date until the conclusion of the Term or earlier termination pursuant to the terms of this Agreement; *provided however*, that this Agreement shall remain in effect until (a) the Parties have fulfilled all obligations under this Agreement, including payment in full of amounts due for the Product delivered prior to the end of the Term, the Termination Payment, indemnification payments or other damages or charges (whether directly or indirectly such as through set-off or netting) and (b) the undrawn or unused portion of the Delivery Term Security is released and/or returned as applicable (if any is due or to be returned). All indemnity rights shall survive the termination or expiration of this Agreement for the longer of twelve (12) Months or the expiration of the statute of limitations period of the Claim underlying the indemnity obligation. Notwithstanding any provisions herein to the contrary, the obligations set forth in ARTICLE 10, ARTICLE 12 and ARTICLE 15 shall survive (in full force) the expiration or termination of this Agreement.

18.2 ***Audits.***

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party specifically related to this Agreement and the performance of a Party's obligations hereunder to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made or due until paid; *provided, however*, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after such twelve (12)-month period.

18.3 ***Amendments.***

This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

18.4 ***Waivers.***

Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a default under this Agreement or

with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

18.5 ***Severability.***

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect; *provided* that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties such that, to the best of the Parties' reasonable ability, the economic benefits of the Parties remain substantially in effect.

18.6 ***Standard of Review.***

(a) FERC Standard of Review. Absent the agreement of all parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in clause (c) below is unenforceable or ineffective as to such Party), a non-party or FERC acting sua sponte, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 128 S.Ct. 2733 (2008) and NRG Power Marketing, LLC v. Maine Public Utilities Commission 130 S. Ct. 693 (2010).

(b) Standard of Review for ERCOT Transactions. Absent the agreement of the Parties to the proposed change, the standard of review for changes to any portion of this Agreement with respect to any transaction entered into hereunder having a Delivery Point in ERCOT, whether proposed by a Party (to the extent that any waiver in clause (c) below is unenforceable or ineffective as to such Party), a non-party, or the PUCT acting sua sponte, shall be the "public interest" standard of review set forth in High Plains Natural Gas Co. v. Railroad Commission, Tex. Civ. App. - Austin 1971, writ ref'd n.r.e.

(c) In addition, and notwithstanding the foregoing, to the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC or PUCT by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC or PUCT changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party shall unilaterally seek to obtain from FERC or PUCT any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that Applicable Law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this Section 18.6(c) shall not apply, provided that, consistent with the foregoing clauses (a) and (b) of this Section 18.6, neither Party shall seek any such changes

except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing clauses (a) and (b) of this Section 18.6.

(d) The Parties agree that in the event that any portion of this Section 18.6 is determined to be invalid, illegal or unenforceable for any reason, the provisions of clauses (a) and (b) of this Section 18.6 shall be unaffected and unimpaired thereby, and shall remain in full force and effect, to the fullest extent permitted by Applicable Law.

18.7 ***Governing Law; Venue.***

(a) ***This Agreement and the rights and duties of the Parties hereunder shall be governed by, interpreted and construed, enforced and performed in accordance with the laws of the State of Texas, without regard to principles of conflicts of law.***

(b) This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and shall be exclusively enforced in accordance with the laws of the State of Texas. It is agreed that the provisions and obligations of this Agreement are performable in the City of Denton, Denton County, Texas. Each Party irrevocably and unconditionally submits to (i) the exclusive jurisdiction of the United States District Court for the Northern District of Texas located in Dallas, Texas, and the Parties hereby submit to the personal jurisdiction of such court for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement, or (ii) if such federal court does not have jurisdiction, or otherwise declines jurisdiction, the State District Courts in and for Dallas County, Texas.

18.8 ***Waiver of Trial by Jury.***

Each of the Parties hereto hereby knowingly, voluntarily and intentionally waives the right either of them may have to a trial by jury in respect of any action, suit or proceeding based hereon, or arising out of, under or in connection with this Agreement and any agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any Party hereto. This provision is a material inducement for the Parties entering into this Agreement.

18.9 ***Attorneys' Fees.***

In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action, to the extent any of the foregoing are expressly stated by any court to be recoverable by such Party from the other Party.

18.10 ***No Third-Party Beneficiaries.***

Except as expressly set forth in Section 13.2 and Section 13.4, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

18.11 ***No Agency.***

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

18.12 ***Cooperation.***

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to undertake Commercially Reasonable Efforts to cooperate and assist each other in making such change.

18.13 ***Further Assurances.***

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable, and reasonably acceptable to each such Party, to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made by the other Party pursuant to this Section 18.13.

18.14 ***General Terms and Conditions.***

For all purposes of this Agreement, Seller shall and shall cause any one or more of its Affiliates involved in or otherwise undertaking any of Seller's obligations hereunder, to comply with the General Terms and Condition. In the event of a conflict between the terms of this Agreement and those set out in the General Terms and Conditions, those of the General Terms and Conditions shall control.

18.15 ***Captions; Construction.***

All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. Any term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

18.16 ***Entire Agreement.***

This Agreement shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement, including any non-disclosure, confidentiality or similar agreement entered into between the Parties prior to the Execution Date, if any, for purposes Seller responding to a Request

for Proposal issued by Buyer relative to transactions in Energy which are now more fully set out in this Agreement.

18.17 ***Forward Contract.***

The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

18.18 ***Counterparts.***

This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each to be effective as of the Effective Date.

BLUE SUMMIT I WIND, LLC
A Delaware Limited Liability Company

By:_____
[redacted]

Date:_____

CITY OF DENTON, TEXAS
A municipal corporation created under the laws of the State of Texas which owns and operates a municipal electric utility known as Denton Municipal Electric

By:_____
Sara Hensley, City Manager

Date:_____

ATTEST:

Ingrid Rex, Interim City Secretary

By: _____

Approved As To Legal Form:
Mack Reinwand, City Attorney

By: _____

EXHIBIT A
PRODUCT CONTRACT PRICE

PERIOD	PRODUCT CONTRACT PRICE ($/MWh)
From the Operation Date and through the Delivery Term	[redacted]

EXHIBIT B
DESCRIPTION OF THE FACILITY; DELIVERY POINT; ONE-LINE DIAGRAM

Seller owns and operates a wind energy generation facility on a site located in Vernon, Texas located in Wilbarger County, Texas (the "**Site**"). The Facility generates electrical power that will be sold wholesale.

The Facility consists of:

- Eighty-two (82) wind turbines at 1.62 MW each; 132.84 MW
- Three (3) wind turbines at 2.32 MW each; 6.96 MW
- Delivery Voltage: 345 kV
- Interconnection Point: dead-end structure inside Transmission Operator's Jim Treece 345 kV substation
- ERCOT Settlement Point and the Metering System

EXHIBIT C-1
FORM OF SELLER GUARANTY

GUARANTY

THIS GUARANTY (this "**Guaranty**"), dated as of _____, 2025 (the "**Effective Date**"), is made by NEXTERA ENERGY CAPITAL HOLDINGS, INC. ("**Guarantor**"), in favor of CITY OF DENTON, TEXAS, municipal corporation created under the laws of the State of Texas which owns and operates a municipal electric utility known as Denton Municipal Electric ("**Counterparty**").

RECITALS:

A. WHEREAS, Counterparty and Guarantor's indirect, wholly-owned subsidiary Blue Summit Wind I, LLC ("**Obligor**") have entered into, or concurrently herewith are entering into, that certain Power Purchase Agreement dated as of _____, 2025 (as amended, restated, supplemented, or otherwise modified from time to time, the "**Agreement**"; capitalized terms used but not otherwise defined in this Guaranty have the meanings specified in the Agreement); and

B. WHEREAS, Guarantor will directly or indirectly benefit from the Agreement between Obligor and Counterparty;

NOW THEREFORE, in consideration of the foregoing premises and as an inducement for Counterparty's execution, delivery and performance of the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby agrees for the benefit of Counterparty as follows:

* * *

1. **GUARANTY.** Subject to the terms and provisions hereof, Guarantor hereby absolutely, irrevocably, and unconditionally guarantees the timely payment when due of all obligations owing by Obligor to Counterparty arising pursuant to the Agreement (the "**Obligations**"). This Guaranty shall constitute a continuing guarantee of payment and not of collection. The liability of Guarantor under this Guaranty shall be subject to the following limitations:

(a) Notwithstanding anything herein or in the Agreement to the contrary, the maximum aggregate obligation and liability of Guarantor with respect to the Obligations, and the maximum recovery from Guarantor under this Guaranty with respect to the Obligations, shall in no event exceed (i) from the Operation Date until the expiration of the seventh Contract Year, [redacted] (ii) from the commencement of the seventh Contract Year until the expiration of such seventh Contract Year, [redacted] and (iii) from the commencement of the eighth Contract Year until the expiration of the Delivery Term, [redacted] (the "**Maximum Recovery Amount**").

Notwithstanding the foregoing, if an Event of Default has occurred and is continuing with respect to Obligor or any dispute or other claim raised by Counterparty is outstanding that, if resolved against Obligor, would result in an obligation of Guarantor to make a payment to Counterparty under this Guaranty as an Overdue Obligation (as defined in *Section 2(a)*), then the applicable reduction to the Maximum Recovery Amount will not be effective until such time as (i) no Event of Default is continuing with respect to Obligor, or (ii) such dispute or other claim is resolved, or (iii) Guarantor has paid any such Overdue Obligation to Counterparty in connection with such resolution, following the receipt of which by Counterparty; *provided, however*, any reduction of the Maximum Recovery Amount set out herein, shall not reduce the overall Obligations of Obligor to Counterparty under the Agreement, including, as applicable, any provisions for Performance Assurance set out therein.

(b) The obligation and liability of Guarantor under this Guaranty is specifically limited to the Obligations (subject in all instances, to the limitations imposed by the Maximum Recovery Amount as specified in *Section 1(a)* above), as well as costs of collection and enforcement of this Guaranty (including attorney's fees) not to exceed a maximum aggregate amount of $1,000,000.00 to the extent reasonably and actually incurred by the Counterparty; provided, however, Guarantor shall not be liable for such fees and expenses if it is finally determined by a court of competent jurisdiction that no payment under the Guaranty is due. Except to the extent included in the Obligations, in no event shall Guarantor be liable for or obligated to pay any consequential, indirect, incidental, lost profit, special, exemplary, punitive, equitable or tort damages, save and to the extent that any of the foregoing are included in any Claim which is an obligation of Obligor under the Agreement and for which Guarantor becomes obligated to pay under this Guaranty.

2. DEMANDS AND PAYMENT.

(a) If Obligor fails to pay any Obligation to Counterparty when such Obligation is due and owing under the Agreement (an "**Overdue Obligation**"), Counterparty may present a written demand to Guarantor calling for Guarantor's payment of such Overdue Obligation pursuant to this Guaranty (a "**Payment Demand**").

(b) Guarantor's obligation hereunder to pay any particular Overdue Obligation(s) to Counterparty is conditioned upon Guarantor's receipt of a Payment Demand from Counterparty satisfying the following requirements: (i) such Payment Demand must identify the specific Overdue Obligation(s) covered by such demand, the specific date(s) upon which such Overdue Obligation(s) became due and owing under the Agreement, and the specific provision(s) of the Agreement pursuant to which such Overdue Obligation(s) became due and owing; (ii) such Payment Demand must be delivered to Guarantor in accordance with *Section 9* below; and (iii) the specific Overdue Obligation(s) addressed by such Payment Demand must remain due and unpaid at the time of such delivery to Guarantor.

(c) After issuing a Payment Demand in accordance with the requirements specified in *Section 2(b)* above, Counterparty shall not be required to issue any further Notices or make any further demands with respect to the Overdue Obligation(s) specified in that Payment Demand, and Guarantor shall be required to make payment with respect to the Overdue Obligation(s) specified in that Payment Demand within five (5) Business Days after Guarantor receives such Payment Demand. As used herein, the term "**Business Day**" shall mean all weekdays (*i.e.*, Monday through Friday) other than any weekdays during which commercial banks or financial institutions are authorized to be closed to the public in the State of Texas.

3. REPRESENTATIONS AND WARRANTIES. Guarantor represents and warrants that:

(a) it is a corporation duly organized and validly existing under the laws of the State of Florida and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guaranty;

(b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty; and

(c) this Guaranty constitutes a valid and legally binding agreement of Guarantor, enforceable against Guarantor in accordance with the terms hereof, except as the enforceability thereof may be limited

by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

4. **RESERVATION OF CERTAIN DEFENSES.** Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which Obligor is or may be entitled arising from or out of the Agreement, except for defenses (if any) based upon the bankruptcy, insolvency, dissolution or liquidation of Obligor; any lack of power or authority of Obligor to enter into and/or perform the Agreement; or the validity, regularity, or enforceability of the Agreement.

5. **AMENDMENT OF GUARANTY.** No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Counterparty.

6. **WAIVERS AND CONSENTS.** Subject to and in accordance with the terms and provisions of this Guaranty:

(a) Except as required in *Section 2* above, Guarantor hereby waives (i) notice of acceptance of this Guaranty; (ii) presentment and demand concerning the liabilities of Guarantor; and (iii) any right to require that any action or proceeding be brought against Obligor or any other person, or to require that Counterparty seek enforcement of any performance against Obligor or any other person, prior to any action against Guarantor under the terms hereof.

(b) No delay by Counterparty in the exercise of (or failure by Counterparty to exercise) any rights hereunder or under the Agreement shall operate as a waiver of such rights or of any other rights, and does not release Guarantor from or impair its obligations hereunder (with the understanding, however, that the foregoing shall not be deemed to constitute a waiver by Guarantor of any rights or defenses which Guarantor may at any time have pursuant to or in connection with any applicable statutes of limitation).

(c) Without notice to or the consent of Guarantor, and without impairing or releasing Guarantor's obligations under this Guaranty, Counterparty may: (i) change the manner, place or terms for payment of all or any of the Obligations (including renewals, extensions or other alterations of the Obligations); (ii) release any person (other than Obligor or Guarantor) from liability for payment of all or any of the Obligations; or (iii) receive, substitute, surrender, exchange or release any collateral or other security for any or all of the Obligations (and Guarantor's obligations under this Guaranty are not affected by the existence, validity, enforceability, perfection or failure to perfect, or extent of any such collateral or other security).

(d) Guarantor waives any defense based on (i) the lack of power or authority of Obligor to enter into and/or perform the Agreement or (ii) the validity, regularity, or enforceability of the Agreement.

(e) Subject to *Section 4*, except as otherwise provided in this *Section 6*, Guarantor waives any other event or circumstance that might otherwise constitute a legal or equitable defense or discharge of a guarantor.

7. **REINSTATEMENT.** Guarantor agrees that this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if all or any part of any payment made hereunder is at any time avoided or rescinded or must otherwise be restored or repaid by Counterparty as a result of the bankruptcy or insolvency of Obligor, all as though such payments had not been made.

8. **TERMINATION.** This Guaranty and the Guarantor's obligations hereunder will terminate automatically and immediately upon the earlier of (i) the date on which the Agreement has terminated and

all Obligations have been satisfied in full or (ii) 11:59:59 Eastern Prevailing Time on that date three (3) months after the last day of the Delivery Term; *provided, however*, that no such termination shall affect Guarantor's liability with respect to any Obligations incurred prior to the time the termination is effective, which Obligations shall remain subject to this Guaranty.

9. NOTICE. Any Payment Demand, notice, request, instruction, correspondence or other document to be given hereunder (herein collectively called "**Notice**") by Counterparty to Guarantor, or by Guarantor to Counterparty, as applicable, shall be in writing and may be delivered either by (i) U.S. certified mail with postage prepaid and return receipt requested, or (ii) recognized nationwide courier service with delivery receipt requested, in either case to be delivered to the following address (or to such other U.S. address as may be specified via Notice provided by Guarantor or Counterparty, as applicable, to the other in accordance with the requirements of this *Section 9*):

TO GUARANTOR: *	*TO COUNTERPARTY:**
[redacted]	[redacted]
[redacted]	[redacted]

* *(NOTE: Copies of any Notices to Guarantor under this Guaranty shall also be sent via facsimile to ATTN: Contracts Group, Legal, Fax No.* [redacted] *and ATTN: Credit Department, Fax No.* [redacted] *and copies of any Notices to Counterparty under this Guaranty shall also be sent via overnight courier to* [redacted] *City Attorney. However, such facsimile or email transmissions, as applicable, shall not be deemed effective for delivery purposes under this Guaranty, and the failure to provide such additional notices shall not affect the effectiveness of any Notice otherwise given or issued to Guarantor or Counterparty in accordance with this Section 9 or, if applicable, Guarantor's or Counterparty's obligations with respect thereto.)*

Any Notice given in accordance with this *Section 9* will (i) if delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient on such date, and (ii) if not delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient at the start of the recipient's normal business hours on the next Business Day after such delivery.

10. SUBROGATION. Upon payment in full of the Obligations, Guarantor will be subrogated to the corresponding rights of Counterparty and Counterparty shall take, at Guarantor's expense, all such steps as Guarantor may reasonably request to implement such subrogation.

11. MISCELLANEOUS.

(a) This Guaranty shall in all respects be governed by, and construed in accordance with, the law of the State of New York, without regard to principles of conflicts of laws thereunder (other than Sections 5-1401 and 5-1402 of the New York General Obligations Law).

(b) This Guaranty shall be binding upon Guarantor and its successors and permitted assigns and inure to the benefit of and be enforceable by Counterparty and its successors and permitted assigns. Guarantor may not assign this Guaranty in part or in whole without the prior written consent of Counterparty. Counterparty may not assign its rights or benefits under this Guaranty in part or in whole without the prior written consent of Guarantor, except that Counterparty may collaterally assign this Guaranty in connection with any financing or other financial arrangements of Counterparty or its Affiliates.

(c) This Guaranty embodies the entire agreement and understanding between Guarantor and Counterparty and supersedes all prior agreements and understandings relating to the subject matter hereof.

(d) The headings in this Guaranty are for purposes of reference only and shall not affect the meaning hereof. Words importing the singular number hereunder shall include the plural number and vice versa, and any pronouns used herein shall be deemed to cover all genders. The term "person" as used herein means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated association, or government (or any agency or political subdivision thereof), but shall not, for the avoidance of doubt, include Counterparty.

(e) Wherever possible, any provision in this Guaranty which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any one jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

(f) Counterparty (by its acceptance of this Guaranty) and Guarantor each hereby irrevocably: (i) consents and submits to the exclusive jurisdiction of the courts sitting in Dallas County, Texas for the purposes of any suit, action or other proceeding arising out of this Guaranty or the subject matter hereof or any of the transactions contemplated hereby brought by Counterparty, Guarantor or their respective successors or assigns; and (ii) waives (to the fullest extent permitted by applicable law) and agrees not to assert any claim that it is not personally subject to the jurisdiction of the above-named courts, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Guaranty or the subject matter hereof may not be enforced in or by such court.

(g) COUNTERPARTY (BY ITS ACCEPTANCE OF THIS GUARANTY) AND GUARANTOR EACH HEREBY IRREVOCABLY, INTENTIONALLY AND VOLUNTARILY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY.

* * *

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty on _____, 2025, but it is effective as of the Effective Date.

NEXTERA ENERGY CAPITAL HOLDINGS, INC.

By:_____

Name:_____

Title:_____

EXHIBIT C-2
FORM OF LETTER OF CREDIT

DATE:	[ ]
IRREVOCABLE STANDBY LETTER OF CREDIT NO.	[ ]
APPLICANT:	[_____] ("Applicant") [_____]
BENEFICIARY:	[_____], a [_____] ("Beneficiary")

By order and for the account of the Applicant, we hereby open our irrevocable standby letter of credit no. [ ] (this "**Letter of Credit**") in favor of Beneficiary in the amount of _____ US Dollars [*amount in words*] ([*amount in figures*]) (the "**Available Amount**"). We understand this Letter of Credit is provided in connection with the obligations of Applicant to Beneficiary, relating to that certain Environmental Attribute Purchase and Sale Agreement between Beneficiary and Applicant dated as of [ ] ("the **Covered Agreement**"). Except as provided below, this Letter of Credit expires at our counters with our close of business on the expiry date: [*date*].

Payments under this Letter of Credit are available to you upon presentation of (a) a demand in the form attached hereto as Annex 1 (the "**Demand**"), appropriately completed and signed by an authorized officer of Beneficiary, dated the date of presentation and (b) the original or a copy of the Letter of Credit, each of which may be presented in person or by courier or as electronic records, followed by notice from the Beneficiary signifying when electronic presentation is complete.

If presentation of the Demand is duly made by the Beneficiary to [*Bank name*] at or prior to 4:00 p.m., [*specify city in which Bank is located*] time on any Banking Day, payment shall be made by [*Bank name*] at or prior to 5:00 p.m., [*specify city in which Bank is located*] time, on the fourth Banking Day immediately following such presentation. If presentation is duly made after 4:00 p.m., [*specify city in which Bank is located*] time, on any Banking Day, payment shall be made by the [*Bank name*] at or prior to 1:00 p.m., [*specify city in which Bank is located*] time, on the fifth Banking Day following such presentation.

As used herein, the term "**Banking Day**" means any day other than a Saturday, Sunday, or a day on which banks in the State of [__] are authorized or required to be closed, and a day on which payments can be effected on the Fedwire system.

We engage with you that presentations made under and in compliance with the terms and conditions of this Letter of Credit will be duly honored on presentation if presented at our office in person or by courier at _____ (address) ATTN: [Standby Letter of Credit Unit] or via electronic mail to [_____]@[_____].com, on or before the expiration date of this Letter of Credit, including any extension hereto. All payments due hereunder shall be made by wire transfer to the Beneficiary per their instructions. ALL DOCUMENTS PRESENTED MUST BE IN ENGLISH.

All payments under this Letter of Credit shall be made in US Dollars and for value on the due date to the

bank account of the Beneficiary specified in the Demand. Subject to the terms of this Letter of Credit, we unconditionally and irrevocably undertake to the Beneficiary to pay to the Beneficiary the amount demanded in such Demand.

More than one demand, or partial demands, may be made under this Letter of Credit; *provided* that the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless we send you notice, in writing by certified mail, courier or hand delivery, at least sixty (60) calendar days prior to the expiration date then applicable, that we elect not to extend this Letter of Credit for an additional one-year period.

This Letter of Credit shall expire, but without prejudice to any Demand validly presented under this Letter of Credit which remains unpaid, on the earliest to occur of (i) the date set forth in a notice to you that this Letter of Credit shall expire on the date stated in the first paragraph above or a subsequent anniversary thereof, provided that we have given at least sixty (60) calendar days prior written notice of such expiration as set forth in the preceding paragraph; (ii) the date on which the Available Amount has been drawn by the Beneficiary; and (iii) the date set forth in a certificate in the form of Annex 2 (Form of Termination Certificate) attached hereto requesting termination of this Letter of Credit.

All fees and expenses associated with this Letter of Credit are for the Applicant's account.

This Letter of Credit is subject to the International Standby Practices, International Chamber of Commerce (ICC) Publication No. 590 (the "**ISP98**"), except to the extent that the terms of this Letter of Credit are inconsistent therewith and as to matters not governed by the ISP 98, such matters (including any non-contractual matters) shall be governed by and construed in accordance with the Laws of the State of New York, excluding any choice of Law rules that would apply the Law of a different jurisdiction. The state courts of, or any federal court sitting in New York have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Standby Letter of Credit.

[Issuing Bank]

[Signature]

_____

Authorized signature

ANNEX 1: FORM OF DEMAND

[On Buyer's letterhead]

Date: [INSERT DATE]

[Address of Issuing/Confirming Bank, as applicable]

Dear Sirs:

Reference is made to the Irrevocable Standby Letter of Credit No. _____ dated _____ (as the same may have been subsequently amended from time to time, the "Letter of Credit") issued by _____ ("Issuing Bank") at the request of [__] ("Applicant") in favor of [Buyer] ("Beneficiary"). [IF APPLICABLE: The Letter of Credit is confirmed by _____ ("**Confirming Bank**") by Irrevocable Standby Letter of Credit No. _____ on _____.] On behalf of Beneficiary, I hereby confirm that:

Applicant has failed to pay Beneficiary monies owed under that certain Environmental Attribute Purchase and Sale Agreement dated as of _____, (the "Agreement") between Beneficiary and Applicant dated as of [Date] [and transferred to [ ] pursuant to Section 15.1 (Assignment) of such Agreement on [, 20]].].

OR

[An Event of Default of Applicant has occurred under that certain Environmental Attribute Purchase and Sale Agreement between Beneficiary and Applicant dated as of [Date] [and transferred to [ ] pursuant to Section 15.1 (Assignment) of such Agreement on [, 20]].]

OR

[The Letter of Credit will expire in thirty (30) days or less from its expiration date and Beneficiary has failed to receive an acceptable replacement irrevocable standby letter of credit or other acceptable performance assurance in accordance with that certain Environmental Attribute Purchase and Sale Agreement between Beneficiary and Applicant dated as of [Date] [and transferred to [ ] pursuant to Section 15.1 (Assignment) of such Agreement on [, 20]].]

Payment made to the following bank count of Beneficiary:

Bank account details: [INSERT BANK ACCOUNT DETAILS]

Yours faithfully,

duly authorized signatory for Beneficiary

ANNEX 2: FORM OF TERMINATION CERTIFICATE

[Bank name]

Reference is made to the Irrevocable Standby Letter of Credit (the "Letter of Credit"), No. [_____], dated [_____], issued by you, in favor of [Buyer] ("*Beneficiary*"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in the Letter of Credit.

The undersigned, being duly authorized to execute this certificate on behalf of Beneficiary, hereby certifies and hereby requests that the Letter of Credit be terminated as of [_____].

This certificate has been duly executed by the undersigned as of the [___] day of [_____], [Buyer].

By: _____

Name: _____

Title: _____

EXHIBIT D
GENERAL TERMS AND CONDITIONS

For all purposes of these General Terms and Conditions, the term "Contractor" or "Vendor" shall mean and refer to Seller, and the use of the term "the City," "City," or "City of Denton" shall mean and refer to Buyer.

No Excess Obligations

City will budget its obligations under the Agreement in accordance with all applicable laws of the State of Texas, including Chapter 102 of the Local Government Code of the State of Texas, and Article VIII of the City Charter, each as amended.

Tax Exempt

No taxes shall be included in the invoice. City is exempt from the payment of taxes and the purchase order serves as the required exemption certificate for tax exemption. The City will provide other exemption certificates or documentation confirming its tax-exempt status as requested.

Insurance

City is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by City shall, without further requirement, satisfy all insurance obligations of City under the Agreement.

Limitations

City is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on City property; disclaimers and limitations of warranties; disclaimers and limitation of liability for damages; waivers, disclaimers, and limitation on litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on City, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. By signing this Agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the Agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms "discriminate against a firearm entity or firearm trade association," "firearm entity" and "firearm trade association" shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. By signing this Agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition On Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

Section 2252 of the Texas Government Code restricts City from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. By signing this Agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor, pursuant to Chapter 2252, is not ineligible to enter into this Agreement and will not become ineligible to receive payments under this Agreement by doing business with Iran, Sudan, or a foreign terrorist organization. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Agreement immediately without any further liability if the City of Denton determines, in its sole judgment, that this Agreement meets the requirements under Chapter 2275, and Contractor is, or will be in the future, (i) owned by or the majority of stock or

other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other country designated by the Texas Governor pursuant to Chapter 2275 (each, a "**Designated Country**"), (ii) directly controlled by a Designated Country, or (iii) is headquartered in a Designated Country.

Prohibition against Personal Interest in Contracts

The Contractor agrees to comply with the conflict of interest provisions of the City of Denon Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Agreement resulting from that solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Agreement voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Agreement.

No Gift of Public Property

The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

No Waiver of Sovereign Immunity

The Parties expressly agree that no provision of the Agreement is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

EXHIBIT E
SCHEDULING PROTOCOLS

1) Seller Initiation of Capacity Trades. Seller shall, or shall cause the Facility QSE to, at least 90 minutes prior to the DRUC Schedule Deadline with respect to the applicable Operating Day, submit to ERCOT a Capacity Trade that specifies for each Settlement Interval of the Operating Day, a quantity equal to the Delivered Energy according to the Short-Term Power Potential Forecast (STPPF) prepared by ERCOT for the Facility.

2) Seller Initiation of Energy Trades. Seller shall, or shall cause the Facility QSE to, at least 90 minutes prior to the final scheduling deadline established by ERCOT for the submission of an Energy Trade with respect to an Operating Day, submit to ERCOT an Energy Trade for such Operating Day at the Resource Node that specifies the Delivered Energy for each Settlement Interval of such Operating Day as the quantity under the Energy Trade for such Settlement Interval.

3) Buyer Confirmations. Buyer shall cause Buyer's QSE to confirm each Capacity Trade and Energy Trade and any related updates thereto by no later than 30 minutes prior to the applicable ERCOT scheduling deadline. Such Capacity Trade and Energy Trade shall conform to the requirements of the ERCOT Protocols applicable to such Capacity Trade and Energy Trade.

Capitalized terms used herein and not defined have the meanings set forth in the ERCOT Protocols.

For purposes of this Exhibit E, "Settlement Interval" means the period of time utilized by ERCOT as the basis for settlement calculations in the applicable market.

EXHIBIT F
OPERATING PROCEDURES CRITERIA

The Operating Procedures for the Facility to be agreed upon by Buyer and Seller pursuant to Section 3.12 shall address and include, among others, the following:

(a) Energy Trades

(b) Capacity Trades

(c) Buyer Curtailment Orders

(d) Outage and Operational Notifications

(e) Day-Ahead Availability Notice

(f) Metering of Delivered Energy

(g) Contact Information for Operations and Operational Issues

EXHIBIT G
GUARANTEED WIND MECHANICAL AVAILABILITY

1. Definitions. Capitalized terms used in this Exhibit G and not defined herein shall have the meanings assigned to them in the Agreement to which this Exhibit G is attached.

"***Actual Equivalent Wind Availability Percentage***" means a percentage calculated as (a) 100, *multiplied* by (b) the result of (i) the sum of all Equivalent Wind Available Hours for the Facility in the relevant Wind Mechanical Availability Period, *divided* by (ii) the sum of all Wind Period Hours in the relevant Wind Mechanical Availability Period.

"***Aggregate Nameplate Capacity***" means the product of the number of Facility wind turbines, multiplied by the nameplate MW rating of such wind turbines, which shall not be less than the Facility Capacity.

"***Annual Report***" has the meaning set forth in Section 4 of this Exhibit G.

"***Equivalent Wind Available Hours***" means the Wind Period Hours during a Wind Mechanical Availability Period minus the Equivalent Wind Unexcused Hours during such Wind Mechanical Availability Period.

"***Equivalent Wind Unavailable Hours***" means, with respect to a Wind Mechanical Availability Period, an amount equal to (i) the sum of all Wind Capacity Reduction Amounts for such Wind Mechanical Availability Period, *divided by* (ii) the Aggregate Nameplate Capacity and multiplied by (iii) the Wind Period Hours.

"***Equivalent Wind Unexcused Hours***" means the positive difference, if any, calculated by subtracting Wind Excused Hours from Equivalent Wind Unavailable Hours.

"***Guaranteed Wind Availability Percentage***" has the meaning set forth in Section 2(a) of this Exhibit G.

"***Wind Availability Damage Multiplier***" has the meaning set forth in Section 2(b) of this Exhibit G.

"***Wind Availability Damages***" has the meaning set forth in Section 2(b) of this Exhibit G.

"***Wind Capacity Reduction***" means, during any Wind Period Hour, the product of the number of Facility wind turbines out of service during such Wind Period Hour, multiplied by the nameplate MW rating of such wind turbines.

"***Wind Capacity Reduction Amount***" means, with respect to any Wind Capacity Reduction, an amount equal to the Wind Capacity Reduction *multiplied by* the number of Wind Period Hours over which such Wind Capacity Reduction occurred.

"***Wind Excused Hours***" means all Seller Excused Hours occurring during the Wind Period Hours of a Wind Mechanical Availability Period.

"***Wind Mechanical Availability Period***" means each period of two Contract Year during the Delivery Term, with the first Wind Mechanical Availability Period beginning on the Operation Date and ending on the day that immediately precedes the second anniversary of the Operation Date, and each successive Wind Mechanical Availability Period beginning on the day that immediately follows the last day of the immediately preceding Wind Mechanical Availability Period and including two Contract Years, except that if the final day of the Term occurs on a day other than the day that immediately precedes applicable anniversary of the Operation Date, the Wind Mechanical Availability Period that would have ended on the day immediately preceding such applicable anniversary of the Operation Date will instead end on the last day of the Term.

"***Wind Period Hours***" means 17,520 hours.

2. Mechanical Availability.

(a) Availability Guarantee. Seller guarantees that the Facility shall have achieved an Actual Equivalent Wind Availability Percentage equal to or greater than [redacted] for the first Wind Mechanical Availability Period, and for each Wind Mechanical Availability Period thereafter until the end of the Term (each, a "***Guaranteed Wind Availability Percentage***").

(b) Availability Damages. For any Wind Mechanical Availability Period during which Seller fails to satisfy the applicable Guaranteed Wind Availability Percentage, Seller shall, consistent with Section 4 hereof, pay Buyer damages in the amount equal to [redacted] for each one tenth of one percent (0.1%) (the "***Wind Availability Damage Multiplier***") that the Actual Equivalent Wind Availability Percentage for such Wind Mechanical Availability Period is less than the Guaranteed Wind Availability Percentage (the "***Wind Availability Damages***"). In no instance shall Buyer be responsible for paying Wind Availability Damages to Seller. A sample calculation of the Wind Availability Damages that would be owed by Seller under certain stated assumptions is provided as Attachment 1 to this Exhibit G. The Parties agree that the actual damages that Buyer will suffer if the Guaranteed Wind Availability Percentage is not achieved are difficult to ascertain and that the Wind Availability Damages set forth in this Exhibit G are a reasonable estimate of the damages Buyer will suffer and not a penalty. In no event shall the Wind Availability Damages exceed [redacted] in any Contract Year and [redacted] in the aggregate over the Term.

3. Sole Remedy. The Parties agree that Buyer's sole and exclusive remedy, and Seller's sole and exclusive liability, for any failure to meet the Guaranteed Wind Availability Percentage shall be the payment of Wind Availability Damages pursuant to this Exhibit G, and shall not be subject to the collection of any other damages or any other remedies, including specific performance, absent Seller's fraud, gross negligence or willful misconduct. For the avoidance of doubt, the foregoing exclusive remedy relates solely to Seller's failure to meet the Guaranteed Wind Availability Percentage and such exclusive remedy does not limit the remedies afforded Buyer associated with a default by Seller.

4. **Annual Report; Damage Payment.** No later than the thirtieth (30th) Business Day after each Wind Mechanical Availability Period, Seller shall deliver to Buyer a calculation showing Seller's computation of the Actual Equivalent Wind Availability Percentage for such Wind Mechanical Availability Period and the Wind Availability Damages, if any, due to Buyer

(the "***Annual Report***"). Such Annual Report shall also reflect the total amount of Wind Availability Damages paid to Buyer under the Agreement. Wind Availability Damages due from Seller, if any, shall be paid to Buyer on or before the tenth (10th) Business Days following delivery of the Annual Report.

ATTACHMENT 1 TO EXHIBIT G

EXAMPLE CALCULATION OF AVAILABILITY DAMAGES

Example of Actual Equivalent Wind Availability Percentage Calculation (Passed):

Wind Turbines Affected (A)	87
Hours in the Wind Mechanical Availability Period (B)	17,520
Wind Period Hours (C = A * B)	1,524,240
Equivalent Wind Unavailable Hours – Wind Excused Hours (D)	152,424
Equivalent Wind Available Hours (E = C – D)	1,371,816
Actual Equivalent Wind Availability Percentage (F = E/C)	90.0%

Example of Actual Equivalent Wind Availability Percentage Calculation (Failed):

Wind Turbines Affected (A)	87
Hours in the Wind Mechanical Availability Period (B)	17,520
Wind Period Hours (C = A * B)	1,524,240
Equivalent Wind Unavailability Hours – Wind Excused Hours (D)	304,848
Equivalent Wind Available Hours (E = C – D)	1,219,392
Actual Equivalent Wind Availability Percentage (F = E/C)	80.0%

Example of Wind Availability Damages Calculation

Actual Equivalent Wind Availability Percentage (F)	80%
Guaranteed Wind Availability Percentage (G)	85%
Wind Availability Damage Multiplier (H)	$800 per 0.1%
Wind Availability Damage (H * (G-F))	$40,000

EXHIBIT H
FACILITY LENDER'S AGENT, TAX EQUITY INVESTORS NOTICE INFORMATION

EXHIBIT I
INSURANCE REQUIREMENTS

(a) Seller shall obtain at its own cost and expense, and maintain in full force and effect throughout the Term of this Agreement the minimum types and limits of insurance set forth in this Exhibit I. Such insurance shall be obtained and maintained with reputable and solvent insurance companies that (i) have, where available, an A.M. Best's insurance rating of A-VII or better, S&P Global Rating or a comparable financial rating from a reputable rating bureau; and (ii) are lawfully authorized to do business in the jurisdiction(s) where the applicable activities are to be performed. Minimum insurance requirements include the following:

(i) Commercial General Liability (including Premises/Products/Completed Operations, Personal/Advertising Injury and Blanket Contractual), with limits not less than $1,000,000 per occurrence/$1,000,000 aggregate for Bodily Injury and $1,000,000 per occurrence for Property Damage, or $2,000,000 Combined Single Limit. Buyer shall be named as additional insured under the required commercial general liability insurance.

(ii) Workers' Compensation and Employer's Liability with statutory limits, if applicable.

(b) Seller shall deliver to Buyer certificates of insurance or other evidence of the coverage required by this Exhibit I prior to the Operations Date, and within a reasonable time after Seller renews or replaces such coverage. Buyer's receipt or acceptance of evidence of coverage that does not comply with these requirements, or Seller's failure to provide evidence of coverage, shall not constitute a waiver or modification of the insurance requirements as set forth herein. In the event of cancellation of coverage, Seller shall promptly replace coverage so that no lapse in insurance occurs. All deductibles and self-insured retentions are to be paid by Seller. The minimum insurance requirements set forth in this Exhibit I do not limit the liability assumed elsewhere in the Agreement, including Seller's defense and indemnity obligations.