Docket No. 08-01-01

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

PEAKING GENERATION COST OF SERVICE CONTRACT FOR DIFFERENCES

Dated October 6, 2008

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THIS AGREEMENT FOR PEAKING GENERATION ("Agreement") dated as of October 6, 2008 ("Execution Date"), is by and between The Connecticut Light and Power Company, ("Buyer") and GenConn Middletown LLC ("Supplier"). Supplier and Buyer together are the "Parties" and each individually is a "Party" to this Agreement. In consideration of the premises and of the mutual agreements herein contained, the Parties to this Agreement covenant and agree as follows:

Article 1 General Definitions

As used herein, the following terms shall have the following meanings. Initially capitalized terms used but not defined in this Agreement shall have the meanings set forth in the ISO-NE Tariff (defined below), Participant's Agreement (defined below), and/or the Second Restated NEPOOL Agreement (defined below), as applicable. References to a given Article, Section, Subsection, or Exhibit are in reference to Articles, Sections, Subsections, or Exhibits in this Agreement, unless otherwise specified. The terms "hereof", "herein", "hereto", and "hereunder" refer to this Agreement as a whole.

"Act" shall mean Public Act 07-242, An Act Concerning Electricity and Energy Efficiency.

"Annual Fixed Revenue Requirement" is equal to the allowable annual rate for recovery of Supplier's capital costs, plus allowable annual fixed operation and maintenance costs, and any other recoverable costs consistent with Section 50 of the Act as determined by the DPUC in rate case decisions in accordance with the Decision.

"Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it (unless such proceeding is dismissed or stayed within thirty (30) calendar days), (ii) makes an assignment or any general arrangement for the benefit of creditors other than collateral assignments or other security instruments in favor of a Financing Party, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

"Bankruptcy" means a proceeding under the Bankruptcy Code.

"Bankruptcy Code" means those laws of the United States of America related to bankruptcy codified and enacted as Title 11 of the United States Code, entitled "Bankruptcy" and found at 11 U.S.C. § 101 et seq., as such laws may be amended, modified, replaced or superseded from time to time.

"Business Day" means any day on which Federal Reserve member banks in New York City are open for business. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time ("EPT").

"Buyer" means the Electric Distribution Company serving as the counterparty to the Supplier in this Agreement.

"Capacity" is the continuous load carrying capability of the generating Facility at a given time; this will be defined consistent with the ISO-NE Documents, as amended from time to time.

"Claimed Capability Audit" refers to the ISO-NE testing of capacity resources to assess the seasonal claimed capability of each resource as specified in ISO-NE Manual M-20, as it may be amended from time to time.

"Claiming Party" shall mean the Party claiming relief from liability or obligations hereunder as the result of a Force Majeure event or circumstance.

"Code of Conduct" is defined in Exhibit D to this Agreement.

"Commercial Operation" reflects a status under which the Facility has officially started commercial operations, and meets all of the requirements set out in Section 2.6 of this Agreement.

"Completion and Performance Security" has the meaning set forth in Section 10.1 of this Agreement.

"Contract Heat Rate" means the amount of energy in BTUs consumed by the Units to produce a kWh of energy as specified in the Supplier's Proposal and listed in Exhibit C.

"Contract Summer Qualified Capacity" is the benchmark measure of capacity established in accordance with Section 2.6(e) of this Agreement and used to calculate the Monthly Payment Amount in Section 6.1.

"Contract Year" means a twelve (12) month period during the Term which begins on the Term Commencement Date or the anniversary date thereof.

"Credit Rating" means the rating assigned to a Party's or Qualified Institution's unsecured senior long-term debt obligations (not supported by third party credit enhancements) or if a Party does not have a rating for its senior unsecured long-term debt, then one rating notch below the rating then assigned to the Party as an issuer and/or corporate credit rating by S&P, Moody's, or Fitch. If there are split ratings, the lowest of the Credit Ratings will apply.

"Day-Ahead Energy Market" refers to the hourly day-ahead energy market currently operated by ISO-NE, or any successor market thereto.

"Decision" refers to the DPUC's final Decision dated December 14, 2007 in Docket No. 07-08-24.

"Defaulting Party" has the meaning set forth in Section 8.6 of this Agreement.

"De-list Bid" shall have the meaning set forth in the Settlement Agreement and the Market Rules as amended from time to time.

"De-listed" shall mean that a resource submitted, and ISO-NE accepted, a De-list Bid in the FCM.

"Deliverable" shall mean that the Facility is electrically interconnected to the ISO-NE System and that the electrical output of the Facility is anticipated to flow to the benefit of Connecticut load during transmission network peak loading conditions, as analyzed by ISO-NE, or a competent third party acceptable to the DPUC.

"Disclosing Party" shall have the meaning set forth in Section 12.10 of this Agreement.

"DPUC" or "Department" means the Connecticut Department of Public Utility Control, or any successor thereto.

"Early Termination Date" has the meaning set forth in Section 8.6 of this Agreement.

"Early Termination Payment " has the meaning set forth in Section 8.7 of this Agreement.

"Effective Date" shall have the meaning set forth in Section 5 of this Agreement.

"Escrow" shall refer to an interest-bearing account at a Qualified Institution.

"Event of Default" has the meaning set forth in Article 8 of this Agreement.

"Execution Date" refers to the later of (i) the date on which both Parties execute this Agreement or (ii) the date on which the second of the Parties executes this Agreement in the event that both Parties were unable to execute the Agreement on the same date.

"Export Bid" shall take the meaning that is defined in the Settlement Agreement and the Market Rules as amended from time to time.

"Facility" is defined as all land, rights of way, Units and related equipment and facilities of the electric generating plants to be or being constructed by the Supplier on site in connection with the Units. The Facility shall include, without limitation, the Units and all shared auxiliary equipment and facilities installed at the plant to the extent such shared equipment and facilities are necessary or used for production, control, delivery or monitoring of electricity produced on the Site by such Units.

"Federal Power Act" means the Federal Power Act, 16 U.S.C. §§ 791 et seq, as amended from time to time.

"FERC" means the Federal Energy Regulatory Commission, or any successor thereto.

"Financial Participant" shall refer to the term used under the Bankruptcy Code, pursuant to 11 U.S.C 11 § 101 (22A), as it may be amended from time to time.

"Financing Parties" means the lending institutions (including any trustee or agent on behalf of such institutions) providing financing or refinancing, any other credit enhancement or interest rate hedging products to the Supplier or any member or shareholder of the Supplier or of Supplier's parent for the acquisition, construction, ownership, operation, maintenance, or leasing of the Facility.

"Fitch" means Fitch Investor's Service, Inc., or its successor.

"Force Majeure" means an event or circumstance, such as natural catastrophes, terrorism, war, riots, or acts of God, that (i) prevents one Party from performing its obligations under this Agreement; (ii) is not within the reasonable control of, or the result of the negligence of, the Claiming Party; and, (iii) by the exercise of due diligence, the Claiming Party is unable to overcome or avoid, or cause to be avoided; provided, however, notwithstanding the foregoing, none of the following events or circumstances will constitute Force Majeure: (a) the loss or failure of Supplier's Fuel supply, except when caused by Force Majeure; (b) the breakdown of Supplier's plant and/or equipment, except when caused by Force Majeure; and (c) an occurrence or an event that merely increases the costs of, or causes an economic hardship to, a Party.

"Forward Capacity Auction" or "FCA" refers to the annual auction that will be held in the Forward Capacity Market, or any successor auction thereto, but does not include the Reconfiguration Auctions of the FCM.

"Forward Capacity Market" or "FCM" refers to the capacity market and capacity market rules that are being established by ISO-NE pursuant to the Settlement Agreement, and any successor market thereto.

"Forward Reserve Auction" or "FRA" refers to the semi-annual auction that will be held in the Locational Forward Reserve Market, and any successor auction thereto.

"Fuel" means any fuel used to start or operate the generating Facility. The type of Fuel used by this Facility is specified in Exhibit C to this Agreement.

"GADS" means the Generating Availability Data System ("GADS"), which is managed by NERC and which collects, records, and retrieves operating information from generators.

"Government Agency" means any federal, state, local territorial or municipal government body; any governmental, judicial, regulatory or administrative department, agency, commission, board, bureau, body, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory, or taxing authority or power, including any independent system operator or any control operator, or any court or governmental tribunal.

"Indemnified Party" has the meaning set forth in Section 12.8 of this Agreement.

"Indemnifying Party" has the meaning set forth in Section 12.8 of this Agreement.

"Initial Notice" has the meaning set forth in Section 12.9 of this Agreement.

"Interconnection Agreement" refers to the contracts that each new generation Facility must sign with ISO-NE and/or with the entity that owns the transmission or distribution facilities with which such new Facility interconnects in order to interconnect to the New England electricity network, as specified by ISO-NE rules on interconnections and the ISO-NE Tariff.

"Investment Grade Rating" means a Credit Rating of "Baa3" or better from Moody's, and "BBB-"or better from S&P or Fitch. If there are split ratings, the lowest of the Credit Ratings will apply.

"ISO New England" or "ISO-NE" shall have the meaning that is set forth in the ISO-NE Tariff, or any successor thereto.

"ISO-NE Billing Policy" means Exhibit 1D of ISO-NE Tariff, or any successor thereto.

"ISO-NE Documents" collectively include the ISO-NE System Rules, the ISO-NE Tariff, the Market Rules, ISO-NE Manuals, ISO-NE proceedings and policies, the Participants Agreement, and the Second Restated NEPOOL Agreement, as may be amended from time to time.

"ISO-NE Manuals" mean the manuals issued by ISO-NE explaining rules and procedures for the New England wholesale electric power markets and bulk power system, including Market Rule 1 and the ISO-NE Tariff, as it may be amended from time to time, and any successors thereto.

"ISO-NE Markets" refers to all markets currently operated by ISO-NE, and any successor markets thereto, and any additional markets that may be developed by ISO-NE in the future.

"ISO-NE System" or "System" shall refer to the electricity network and wholesale market operated by ISO-NE.

"ISO-NE System Rules" has the same meaning as the defined term "ISO New England System Rules" in Section III of the ISO-NE Tariff, or any successor thereto.

"ISO-NE Tariff" means the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as may be amended from time to time, or any successor tariff accepted by FERC.

"kW" shall mean a kilowatt or kilowatts.

"Law" or "Laws" shall mean all laws, rules, regulations, codes, injunctions, judgments, orders, decrees, rulings, interpretations, constitutions, ordinances, common law, or treaty, of the legislature, a Government Agency, a court of competent jurisdiction, or other government entity.

"Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a U.S. branch of a foreign bank. Requirements for qualified Letters of Credit under this Agreement are described in Article 10 of this Agreement.

"Local Sourcing Requirement" shall take the meaning that is defined in the Settlement Agreement and the Market Rules.

"Locational Forward Reserve Market" or "LFRM" refers to the ISO-NE market for procuring locational forward reserves, or any successor market thereto.

"Market Based Rate Authorization" refers to the FERC process authorized pursuant to Section 205 of the Federal Power Act granting generators the right to sell energy, capacity, and/or ancillary services at market based rates.

"Market Change" means any change in the ISO-NE Tariff, including without limitation Section III thereto, Market Rule 1 – Standard Market Design, as well as any other significant and material change to the Market Rules or the operation of the ISO-NE Markets.
"Market Rules" means the market rules established by ISO-NE for the operation of the ISO-NE Markets including but not limited to the Forward Capacity Market, the Locational Forward Reserve Market, and the Day-Ahead Energy Market.

"Milestone Date" refers to the date by which a specific Milestone Event shall be completed, as laid out in Exhibit B to this Agreement.

"Milestone Event" refers to the end of each phase of Facility development, culminating in the Facility's Commercial Operation. Milestone Events under this Agreement are provided in Exhibit B to this Agreement.

"Monthly Contract Price" is defined in Section 6.1 of this Agreement.

"Monthly Payment Amount" is defined in Sections 6.1 and 6.2 of this Agreement.

"Moody's" means Moody's Investors Service or its successor.

"MW" shall mean a megawatt or megawatts.

"NEPOOL" means the New England Power Pool, which is the power pool created by and operated pursuant to the provisions of the Second Restated NEPOOL Agreement, or any successor to the New England Power Pool.

"New England Control Area" is as defined in the ISO-NE Tariff.

"Non-Claiming Party" shall mean the counterparty under this Agreement to the Claiming Party.

"Non-Defaulting Party" shall have the meaning set forth in Section 8.6 of this Agreement.

"Non-Disclosing Party" shall have the meaning set forth in Section 12.10 of this Agreement.

"Non-Paying Party" shall have the meaning set forth in Section 6.4(c) of this Agreement.

"North American Electric Reliability Council" or "NERC" means the North American Electric Reliability Council or any successor organization.

"OCC" means the Connecticut Office of Consumer Counsel or successor entity.

"Original FCM Contract Quantity" shall refer to the summer qualified capacity that was specified in the Supplier's Proposal and was listed in Exhibit A at the Execution Date

"Parties" collectively means both the Supplier and the Buyer.

"Party" means either the Supplier or the Buyer.

"Paying Party" is defined in Section 6.4(c) of this Agreement.

"Period Hours" shall have the meaning of all hours in a specified period of time.

"Permits" means all siting, environmental, and local municipal permits and/or approvals that must be obtained in order for a generation Facility to begin or continue operations in the state of Connecticut.

"Person" means a natural person, firm, trust, partnership, limited partnership, limited liability company, or corporation (with or without share capital), joint venture, sole proprietorship, governmental entity, or other entity of any kind.

"Point of Interconnection" refers to the point on the electricity network at which the Facility interconnects to the electricity network, and is listed in Exhibit A of this Agreement.

"Proposal" shall refer to the proposal submitted by the Supplier to the DPUC in the DPUC's contested case proceeding to implement Public Act 07-242, An Act Concerning Electricity and Energy Efficiency, which resulted in this Agreement.

"Prudent Utility Practice" means the practices, methods, and acts recognized as good engineering practices applicable to the design, building, and operation of electric generating facilities of similar type, size and capacity, and that at a particular time, in the exercise of reasonable judgment in light of the facts known or that shall reasonably have been known at the time a decision was made, will have been expected to accomplish the desired result in a manner consistent with applicable Law, Permits, equipment manufacturer's recommendations, reliability, safety, environmental protection, and the Supplier's obligations under this Agreement. With respect to the Facility, Prudent Utility Practice includes (but is not limited to) taking reasonable steps to ensure that:

1. equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility's needs;

2. sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly (taking into account manufacturers' guidelines and specifications as well as interconnected electric system status), efficiently, and in coordination with the Buyer and ISO-NE and are capable of responding to emergencies as well as normal conditions;

3. preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long-term and safe operation, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;

4. appropriate monitoring and testing are performed to ensure equipment is functioning as designed and will be expected to function properly during normal, abnormal and emergency conditions;

5. equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, the interconnected system, or contrary to Laws or Permits or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt-ampere reactive (VAR) loading, frequency, synchronization, and/or control system limits; and

6. equipment and components meet or exceed the standard of durability that is generally used for electric generation operations in the region and will function as designed over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal conditions and conditions involving an emergency.

"Qualified Capacity" shall be defined as in ISO-NE Market Rule 1 , as it may be amended from time to time.

"Qualified Institution" means a commercial bank or trust company with (i) a Credit Rating of at least (a) "A" by S&P and "A2" by Moody's, if such entity is rated by both S&P and Moody's or (b) "A" by S&P or "A2" by Moody's, if such entity is rated by either S&P or Moody's but not both, and (ii) having a capital surplus of at least $10,000,000,000.

"Ramp Rate" is defined as a Facility's capability to increase or decrease energy output after start-up, synchronization to the system, and technically required hold generation "set" points, for operation between minimum load and maximum continuous rating, as defined in ISO-NE Manuals, as it may be amended from time to time.

"Reconfiguration Auction" shall take the meaning from the Settlement Agreement.

"Reliability Must Run Agreements" or "RMRs" refer to cost-of-service contracts that are signed with generators by ISO-NE for reliability purposes and approved by FERC.

"Representatives" has the meaning set forth in Section 12.10 of this Agreement.

"Return on Equity" or "ROE" means the rate of return on Supplier's equity that is established by the Department in rate cases consistent with the requirements of Section 50 of the Act and the Decision.

"S&P" means Standard & Poor's Rating Group, a division of McGraw-Hill, Inc., and its successors.

"Second Restated NEPOOL Agreement" or ("SRNA") refers to the operating agreement that outlines NEPOOL's governance, which was made effective February 1, 2005, or any successor document thereto approved by FERC.

"Settlement Agreement" refers to the settlement on ISO-NE's Forward Capacity Market filed with the FERC on March 6, 2006 under Docket Nos. ER03-563-000, ER03-563-030, and ER03-563-055, including (i) any successor agreements thereto approved by FERC and (ii) any terms, provisions and conditions in the ISO-NE Documents or Law that interpret, implement, clarify,

settle, amend, or expand upon the terms of the Settlement Agreement or any FERC-approved successor agreement thereto.

"Site" shall mean those parcels of real estate and rights of way on or by which the Facility is or will be located.

"Summer Seasonal Claimed Capability" refers to the maximum dependable load carrying ability (in MW, to three (3) decimal places) of generating units in the summer, excluding Capacity required for station use, as determined by ISO-NE in their Claimed Capability Audits or in a technically similar process acceptable to the DPUC.

"Supplier" refers to the entity that pursuant to this Agreement is assuming the obligations of bidding in a specified quantity of Capacity into the ISO-NE Markets for the Term of this Agreement.

"Tax" or "Taxes" means all taxes that are currently or may in the future be assessed on any products or services that are the subject of this Agreement.

"Term" has the meaning set forth in Article 5 in this Agreement.

"Term Commencement Date" is defined in Section 5.2 of this Agreement.

"Term Termination Date" means the earlier of the date on which (i) this Agreement expires, which will be the day before the Term Commencement Date plus the number of years in the Term, or (ii) the date upon which a Party terminates this Agreement in accordance with the provisions of the Agreement.

"Unit(s)" means the physical generating units(s) of the Facility supporting the Supplier's bidding of Capacity pursuant to the terms of this Agreement.

"Winter Seasonal Claimed Capability" refers to the maximum dependable load carrying ability (in MW, to three (3) decimal places) of generating units in the winter, excluding Capacity required for station use, as determined by ISO-NE in its Claimed Capability Audits or in a technically similar process acceptable to the DPUC.

Article 2 Facility Description and Supplier's Obligations during Development and Construction

2.1 Summary of Facility Development and Construction

(a) The Supplier shall construct, own, operate, and maintain the Facility, which shall consist of a dual fuel-fired, 200 MW (nameplate) peaking generation plant located in Middletown, Connecticut, having an Original FCM Contract Quantity of 187.6 MW. Exhibit A provides a detailed description of the Facility, including identification of all the equipment and components.

(b) Except as otherwise required by Law or ISO New England rules, the Supplier shall at no time after the Execution Date of this Agreement modify, vary, or amend in any respect any of the features or specifications of the Facility described in Exhibit A, in particular any changes affecting the Facility's Original FCM Contract Quantity, Contract Summer Qualified Capacity, level of environmental emissions, or operating efficiency in such a way as will materially and adversely affect the Supplier's ability to perform its obligations under this Agreement, or which changes the economic balance of this Agreement, as defined by the anticipated payments relative to anticipated benefits under this Agreement for each Party as of the Execution Date, except as provided for in Section 2.1(d) of this Agreement.

(c) The Supplier may make immaterial changes to the Facility as long as such immaterial changes do not have an adverse impact on the Supplier's ability to fulfill its obligations under this Agreement. The Supplier must notify the Buyer of any such immaterial changes by providing written notice within thirty (30) calendar days of the immaterial change. The Buyer shall amend this Agreement as needed, send the amended Agreement to the Supplier, and file the amended Agreement with the DPUC within thirty (30) calendar days of the date on which written notice was sent by the Supplier regarding such immaterial changes.

(d) If the Supplier seeks to change any features or specifications of the Facility in Exhibit A in a manner that is material, but which will not adversely affect the Supplier's ability to perform its obligations under this Agreement, the Supplier must submit written notification about such proposed changes and their potential impact on Supplier performance to the DPUC for its review and decision approving, approving with modification or rejecting the proposed changes. If the Department approves any proposed changes, the Supplier shall provide an amended Exhibit A to the Buyer and the DPUC within five (5) Business Days.

2.2 Location

(a) The Facility shall be interconnected to the System such that the Facility's Original FCM Contract Quantity shall be counted as a Connecticut resource, and, specifically, a Qualified Capacity resource to meet Connecticut's Local Sourcing Requirement in the FCM over the Term of the Agreement.

(b) The physical address of the Facility is Middletown Station, 1866 River Road, Middletown, Connecticut. A scaled map that identifies the location of the Facility, the location of the Point of Interconnection, and the location of the important ancillary and interconnection facilities is included in Exhibit A.

2.3 General Design of Facility

The Supplier shall construct the Facility according to Prudent Utility Practice, meeting ISO-NE's interconnection standards, the ISO-NE Documents, and all other applicable Laws and Permits. The Supplier shall ensure that the Facility is designed, engineered and constructed to operate in

accordance with the requirements of this Agreement from the Effective Date until the end of the Term.

2.4 Interconnection

The Supplier shall assume responsibility for compliance with the generator interconnection process requirements for the Facility that are imposed in accordance with (i) the ISO-NE Documents and (ii) applicable Laws. The Supplier shall be responsible for negotiating, entering into, and performing its obligations under the Interconnection Agreement. Consistent with ISO NE rules, procedures and standards, the Buyer shall cooperate with the Supplier and shall make reasonable efforts to ensure the timely negotiation and execution of the Interconnection Agreement and timely completion of the Interconnection and any required system upgrades.

2.5 Milestones for Commercial Operation

The Supplier acknowledges that time is of the essence to the Buyer with respect to attaining Commercial Operation of the Facility by the corresponding Milestone Date set out in Exhibit B, and agrees:

(a) that each of the Milestone Events as described in Exhibit B to this Agreement shall be achieved in a timely manner and by its corresponding Milestone Date. The Supplier will provide written notice to the Buyer and the DPUC substantiating and certifying the completion of each Milestone Event (or, if not completed, providing a status report and expected completion date) no later than five (5) Business Days after the Milestone Date. The Supplier's failure to timely achieve a Milestone Event, except the Milestone Date for Commercial Operation as provided herein, shall not constitute an Event of Default.

(b) If the Supplier fails to achieve Commercial Operation within one hundred and eighty calendar days (180) of the Milestone Date for Commercial Operation listed in Exhibit B hereto, or a revised date set pursuant to Section 2.5(d) or 2.5(g), it shall constitute an Event of Default pursuant to Section 8.1(e) unless the delay is excused by Force Majeure or permitted by an extension of the Milestone Date for Commercial Operation approved by the DPUC pursuant to Section 2.5(d) or 2.5(g).

(c) that, Commercial Operation shall be achieved by the Milestone Date for Commercial Operation listed in Exhibit B hereto or any new Milestone Date for Commercial Operation set by the DPUC pursuant to Section 2.5(d) or 2.5(g). For the first 180 days that Commercial Operation is delayed beyond the Milestone Date for Commercial Operation, the DPUC may disallow inclusion in the calculation of Supplier's Annual Fixed Revenue Requirement of the Supplier's interest during construction that accrues after the Milestone Date for Commercial Operation if the Supplier fails to achieve the Commercial Operation Date, which determination of disallowance, if any, would be made (i) pursuant to and consistent with the parameters established in the Decision for the DPUC's review of Supplier's actual capital expenditures and (ii) after taking into account the provisions of Section 9.2., Force Majeure, and Section 2.5(g) if said sections

are alleged by the Supplier to be applicable to the failure to timely achieve the Milestone Date for Commercial Operation listed in Exhibit B.

(d) The DPUC may grant an extension of the Milestone Date for Commercial Operation beyond 180 calendar days without triggering an Event of Default under Section 8.1(d) if it determines that it is in the interest of ratepayers to grant such an extension.

(e) If the Supplier fails to achieve Commercial Operation within 91 days of the Milestone Date for Commercial Operation listed in Exhibit B hereto, or any new Date for Commercial Operation set by the DPUC pursuant to Section 2.5(d) or 2.5(g), the Supplier shall pay to the Buyer on or before five (5) Business Days after receipt of an invoice from the Buyer, as liquidated damages, an amount equal to U.S. Dollars 150 per MW multiplied by the Original FCM Contract Quantity (MW), for each calendar day starting 91 days after the Milestone Date for Commercial Operation listed in Exhibit B hereto, or set by the DPUC pursuant to Section 2.5(d) or 2.5(g), until Commercial Operation has been achieved or the Supplier causes an Event of Default under Section 8.1.(e) by not achieving Commercial Operation within 180 days of the Milestone Date for Commercial Operation listed in Exhibit B hereto or achieving Commercial Operation by any DPUC extended Milestone Date for Commercial Operation. In any event, the Supplier shall not be liable for paying more than 90 days worth of Liquidated Damages. Each Party acknowledges and agrees with respect to the liquidated damages that: a. the actual damage expected as a result of the Supplier's breach of these requirements would be substantial; b. both Parties intend that the Supplier would pay the specified liquidated damages amount for such a breach; c. this amount of damages is not a penalty; d. the amount of damages is reasonable in the sense that it is not disproportionate to the damages the Parties expect that the Buyer would sustain if the Supplier breaches this provision; e. the amount of Liquidated Damages is a genuine pre-estimate of the loss that the Buyer will incur; and, f. such liquidated damages shall be the sole damages to which the Buyer shall be entitled as a result of the Supplier's breach of these requirements, except that the Buyer is entitled to assess an Early Termination Payment, if also applicable to the Supplier's failure to achieve Commercial Operation.

(f) If this Agreement is terminated due an Event of Default under Section 8.1(e), the Supplier shall pay to Buyer, in addition to liquidated damages provided in this Section, an Early Termination Payment pursuant to Section 8.7.

(g) The damages set out in Sections 2.5(e) and 2.5(f) will not apply and the failure to achieve Commercial Operation by the Milestone Date for Commercial Operation shall not constitute an Event of Default, if the Department determines that the delay is due to (i) a Force Majeure event; (ii) a material breach by the Buyer of its obligations under this Agreement, pursuant to Article 4; (iii) a delay in obtaining final, non-appealable permits or regulatory approval from the Department of Environmental Protection or the Connecticut Siting Council (or any other relevant Government Agency), which was not caused by the Supplier, by the Supplier's failure to perform a required task, or otherwise not the fault of the Supplier or his agent; or (iv) an appeal to the DPUC Decision approving the selection of peaking generation projects in Docket No. 08-01-

01. If the Department determines that a delay is excused by (ii) through (iv) above, a new Milestone Date for Commercial Operation shall be established that results in a day for day extension of the Milestone Date For Commercial Operation corresponding to the length of the delay created by (ii) through (iv) above. Any extension of time provided for a Force Majeure event shall be governed by Section 9.2

2.6 Requirements for Commercial Operation

The Facility will be deemed to have achieved Commercial Operation at the point in time when:

(a) The Supplier (i) has completed its Interconnection Agreement with ISO-NE and, if applicable, FERC has accepted the Interconnection Agreement and (ii) has provided the Buyer and DPUC with copies of the filed Interconnection Agreement with FERC.

(b) The interconnection of the Facility to the ISO-NE System has been completed in accordance with the Interconnection Agreement, and Supplier has provided Buyer and the DPUC with a true copy of written confirmation from ISO-NE confirming that interconnection service is available at the Point of Interconnection.

(c) The Buyer has received a certificate addressed to it from an independent professional engineer, knowledgeable in power facility construction and duly qualified to practice engineering in Connecticut. The Supplier's EPC contractor can serve as an independent engineer as long as the EPC contractor is not the Supplier, subject to the Buyer's approval. The certificate shall be procured at the expense of the Supplier, and shall state that:

1. the Facility has been completed in all material respects excepting punch list items that do not materially and adversely affect the ability of the Supplier to operate the Facility in accordance with, and perform its obligations under, the provisions of this Agreement;

2. the Facility in its current form is capable of operating reliably as a part of the ISO-NE interconnected system, and that the Facility is able to perform according to the terms described in Exhibit C to this Agreement.

(d) The Supplier commits to participating in the LFRM or other markets as determined by the DPUC in accordance with Section 3.3 of this Agreement, that the Facility meets all requirements in the Market Rules for LFRM or other markets, as laid out in the applicable ISO-NE Manual, as it may be amended from time to time, and that the entire Original FCM Contract Capacity also meets all ISO-NE technical requirements for participating in the LFRM as CLAIM30 Capacity.

(e) The Supplier has certified that the Facility is ready to begin Commercial Operation and has provided the documentation to the Buyer and the DPUC resulting from the Facility's operational test, and any other relevant documentation from ISO-NE allowing it to begin Commercial Operation of the Facility, including but not limited to I.3.9 confirmation from the ISO-NE Reliability Committee regarding approval of generation entry and Supplier submission to ISO-NE of the Asset Registration Form, as well as the results of an ISO-NE

Claimed Capability Audit for the purpose of determining the Facility's Summer Seasonal Claimed Capability and Winter Seasonal Claimed Capability. Based on the results of this operational test, the Contract Summer Qualified Capacity shall be set equal to the Facility's Summer Seasonal Claimed Capability.

(f) The Supplier has obtained and submitted to the Buyer certificates of insurance evidencing the coverages required by Section 2.7 of this Agreement.

(g) A duly authorized officer of the Supplier familiar with the Facility must submit to the Buyer and the DPUC an affidavit stating that all Permits to construct and/or operate the Facility have been obtained in compliance with applicable Law and this Agreement by the Suppler (at the Supplier's sole cost and expense) and are in full force and effect, and that Supplier is in compliance with the terms and conditions of this Agreement and said Permits in all material respects.

(h) The Supplier has submitted documentation reasonably acceptable to the Buyer and the DPUC demonstrating that the Supplier has configured the Facility fuel supply arrangements to be capable of maintaining continuous operations at the Facility's Winter Seasonal Claimed Capability for a minimum of twenty-four consecutive hours at the fuel consumption rate determined by the Facility's Contract Heat Rate for its primary fuel, or if applicable, its secondary fuel. The Supplier must provide documentation to the DPUC and the Buyer demonstrating (i) that it has the required Permits to burn its primary and secondary fuels, and, (ii) if secondary fuel requirement is met by consuming liquid fuel stored on site, that it has adequate on-site storage for such liquid fuel and/or contracts to refill on-site storage when the liquid fuel is spent sufficient to operate the Facility for at least 24 consecutive hours on using the secondary fuel. The Supplier must update this documentation annually, as specified in Section 3.2(a) of this Agreement.

2.7 Insurance Covenants

(a) The Supplier hereby agrees to put in effect and maintain, or cause its contractors and subcontractors, where appropriate, to maintain from the commencement of construction of the Facility to the end of the Term, at its own cost and expense, with insurers authorized to underwrite insurance in the state of Connecticut, all the necessary and appropriate insurance that a prudent Person in the business of the Supplier (developing, constructing, and operating an electric generating facility) will maintain, including the following:

(i) "all-risk" property insurance covering property of every description, in the joint names of at least the Supplier and its principal contractors, insuring not less than the full replacement value of the Facility. During the construction of the Facility until the Commercial Operation Date, the policy shall include as additional insureds all subcontractors, but only as their interest may appear.

(ii) boiler and machinery insurance, if applicable, in protecting the interest of the Supplier and its principal contractors, and anyone having an ownership interest in the property in question, as their respective interests may appear, insuring not less

than the full replacement value of the boilers, machinery, pressure vessels, service supply objects and other insurable objects forming part of the Facility.

(iii) commercial general liability insurance covering death, bodily injury and property damage and other types of damage that may be caused to third parties as a result of the Supplier's activities in connection with the Facility or performance of its obligations under this Agreement, and

a. (iv) environmental/pollution liability insurance, providing coverage for any third party claims for bodily injury, property damage and clean-up for pollution and environmental incidents arising out of the construction, operation or maintenance of the Facility.

(b) The Supplier shall provide the Buyer with proof of the insurance required in this Section 2.7 in the form of valid certificates of insurance that reference this Agreement and confirm the required coverage, on or before the commencement of construction of the Facility, and renewal or replacements on or before the expiration of any such insurance. Buyer shall be named as an "additional insured" party on the insurance policy. Each such certificate of insurance shall require the insurance carrier and/or insurance broker to provide the Buyer with thirty (30) calendar days prior notice in the event of any material change, cancellation, or failure to renew the insurance coverage required by this Section 2.7. The Supplier's failure to maintain coverages identified in (i) through (iv) of Section 2.7(a) shall be an Event of Default pursuant to Section 8.1(c).

Article 3 Supplier's Obligations after Commercial Operation of the Facility

3.1 Cost of Service Regulation By the DPUC

(a) The Supplier agrees that the DPUC will determine its cost-of-service rate under this Agreement pursuant to its authority under Section 50 of the Act and in accordance with the Decision, including a review of the cost of service in annual contested case rate cases and a review for the purpose of updating of the return on equity at least every four years, but such Return on Equity shall never go below 9.75%.

(b) The Supplier agrees to have the Units participate and to bid all of the Units in ISO-NE Markets as directed by the DPUC from time to time provided that participation in such markets by the Units is consistent with its design and operating characteristics set forth in Exhibits A and C to this Agreement. Supplier shall be allowed to recover all prudently incurred fuel costs, including fuel costs for operating within the range bounded by the applicable low operating limit and the applicable high operating limit contained in Exhibit C.

(c) The Department may direct that the Supplier make modifications to the Facility. The Supplier shall be entitled to recover costs for any such modifications.

(d) All cost-of-service payments under this Agreement begin when the Facility commences Commercial Operation and all of the Units fully participate in applicable ISO-NE Markets, as set forth in Section 3.3(b) below. Revenues earned prior to Commercial Operation shall be credited against construction costs and included by the DPUC in its determination of the cost of service.

(e) The Supplier agrees that the price provisions in Section 6 of this Agreement may be modified from time to time in DPUC decisions to reflect adjustments the DPUC may make, including but not limited to, adjustments to the Supplier's Annual Fixed Revenue Requirement and the pricing formula contained in Attachment 2 of the Decision dated June 25, 2008 in Docket No. 08-01-01, and as modified by the electric distribution companies and accepted by the Department on July 16, 2008.

(f) Any premium above the book value received by the Supplier in a sale of the Facility pursuant to Section 12.1 shall be paid to the Buyer and returned to ratepayers.

(g) In connection with the Department's annual contested generation rate proceeding, all of the generator's project-related books, accounts and records, including books and records of affiliates relating to costs assessed by such affiliates to the project, shall be made available to the DPUC and OCC for review and inspection.

(h) The Supplier agrees to adhere to all decisions and orders of the DPUC issued pursuant to Section 50 of the Act and DPUC decisions and orders issued pursuant to provisions of this Agreement, including, but not limited, to Sections 12.5 and 12.9 governing resolution of disputes relating to this Agreement.

3.2 Operations and Performance Requirements

(a) During Commercial Operation, the Supplier shall agree to operate and maintain the Facility according to Prudent Utility Practice, consistent with ISO-NE's interconnection standards, and in accordance with the Interconnection Agreement, all Permits and requirements of Law applicable to the Facility.

(b) At all times during Commercial Operation, the Supplier shall be responsible for all performance requirements mandated by the ISO-NE Documents, including performance requirements (and payment of penalties, if any) associated with the ISO-NE Markets, and successors thereto, that the Supplier is contractually obligated to participate in.

(c) The DPUC may deny cost recovery for any penalty payments or payment deductions incurred by the Supplier resulting from the Suppliers' failure to meet ISO NE Market Rule performance requirements if said failure to meet the performance requirement is not excused by Force Majeure.

(d) The Supplier does not bear the risk of changes to the ISO-NE transmission system that are beyond Supplier's control and which may result in the Facility no longer qualifying for Connecticut's Local Sourcing Requirement or in energy from the Facility not being Deliverable within the State of Connecticut.

(e) The Supplier must not undertake any actions (other than actions that are reasonably required in accordance with Prudent Utility Practice), or neglect to perform any reasonably required actions, with respect to the Facility such that any portion of its Seasonal Claimed Capabilities represented in Exhibit A no longer counts toward meeting the Local Sourcing Requirement in the state of Connecticut over the Term of this Agreement.

(f) The Supplier must not undertake any actions (other than actions that are reasonably required in accordance with Prudent Utility Practice), or neglect to perform any reasonably required actions, with respect to the Facility such that energy from any portion of its Seasonal Claimed Capabilities represented in Exhibit A is not Deliverable in the state of Connecticut over the Term of this Agreement.

3.3 New England Market participation

(a) Subject to 3.1(b), the Supplier warrants that the Facility is eligible to and will participate in and bid into all ISO-NE Markets that the DPUC directs it to pursuant to guidelines established by the DPUC, including but not limited to the LFRM, the FCM and the Day-Ahead Energy Market, consistent with ISO-NE Rules. The Supplier will participate in those ISO-NE Markets as directed from time to time by the DPUC.

(b) The Supplier will have the Units bid and participate in the FCM and LFRM in accordance with the guidance provided by the Department in Section II.K. of its Decision dated June 25, 2008 in Docket No. 08-01-01. The Supplier will continue to have the Units bid and participate in the FCM and LFRM until otherwise directed by the DPUC.

(c) The Supplier represents, warrants, and covenants that the Facility will be capable of fully participating in the ISO-NE Markets, based on the design of the Facility and the Facility's compliance with the technical qualifications in current ISO-NE Documents.

(d) This Agreement is exclusive with the Supplier providing the Buyer, upon Commercial Operation, with all of the Supplier's revenues from sales and other activities, including but not limited to those from the sale of the Facility's electricity products and services into the ISO-NE markets; sales of renewable or environmental attribute certificates; and any other revenues available to the Facility, which revenues are netted against the cost of service compensation from the Buyer , as described in Section 6.1. In exchange for providing the Buyer all revenues, the Supplier receives cost of service compensation from the Buyer who collects said compensation through retail rates approved by the DPUC. This Agreement is settled financially on a monthly basis, in accordance with Article 6 and the formula contained in Attachment 2 of the Decision dated June 25, 2008 in Docket No. 08-01-01, and as modified by the electric distribution companies and accepted by the Department on July 16, 2008. The resulting cash flows from month to month may either be to Buyer or to Supplier. Revenues earned prior to Commercial Operation shall be credited against construction costs and included by the DPUC in its determination of the cost of service. If the DPUC orders that the Buyer take title to the Supplier's electricity products and services pursuant to Section 4.1(b), the Supplier shall

provide the Buyer with title to all such products and services including but not limited to energy, capacity, forward reserves, ancillary services, and any renewable or environmental attribute certificates. This Agreement precludes the Supplier from entering into a bilateral contract or other arrangement to sell any of its output, products or services, including but not limited to Reliability Must Run Agreements or any similar arrangement with another third party, ISO-NE, or any Government Agency during the Term of the Agreement, unless approved by the DPUC.

(e) The Supplier cannot submit a De-List Bid for any portion of the Contract Summer Qualified Capacity in the FCA, unless otherwise approved by the DPUC in writing. The Supplier must bid accordingly to ensure the Contract Summer Qualified Capacity is not partially, dynamically, or permanently De-listed from the FCA, unless otherwise approved by the DPUC. Such approval can be sought by the Supplier or the Buyer by requesting it in writing from the DPUC at least sixty (60) calendar days in advance of the qualifications deadline[s] for the FCA in which the Buyer or Supplier would like the Supplier to submit a De-List Bid. Once the DPUC approves a request to submit a De-List Bid, the Supplier must bid accordingly in the next FCA.

(f) The Supplier shall not submit an Export Bid for any portion of the Contract Summer Qualified Capacity in the FCA, unless the DPUC provides prior written approval. Such approval can be sought by the Supplier or the Buyer by requesting it in writing from the DPUC at least sixty (60) calendar days in advance of the qualifications deadline[s] for the FCA in which the Buyer or Supplier would like the Supplier to submit an Export Bid. Once the DPUC approves a request to submit an Export Bid, the Supplier must bid accordingly in the next FCA.

(g) The Supplier must request and take reasonable steps to ensure that ISO-NE issues monthly invoices that identify the market(s) the Supplier participated in and the revenues earned and any penalties accrued by the Supplier. The Supplier must provide the invoices to the Buyer with the monthly bill the Supplier submits to the Buyer. The Supplier's failure to provide said invoices for more than two (2) consecutive months, except if the failure is caused by the ISO-NE's refusal to issue such invoices, constitutes a curable Event of Default, Section 8.1.(c)4., and the Buyer shall withhold monthly payments to the Supplier until said invoices are provided. The Supplier shall make the monthly invoices available to OCC and DPUC upon request.

3.4 Other covenants of the Supplier

(a) The Supplier shall comply with applicable Law and the procedures, rules and regulations of ISO-NE and the requirements of the ISO-NE Documents.

(b) The Supplier, or its agent, will apply for and maintain its Market-based Rate Authorization with FERC or such other appropriate authorization from the FERC under Section 205 of the Federal Power Act to enable the Supplier to participate in the ISO-NE Markets.

(c) The Supplier will comply in full with all relevant and applicable FERC requirements.

(d) The Supplier must keep separate financial records for the Facility, including quarterly revenues and costs and balance sheet statements, and submit them to the DPUC in rate proceedings and, at any other time, make them available upon request in accordance with Section 11 of this Agreement.

(e) Supplier shall provide to Buyer reasonably requested information that the Buyer requires for its accounting analysis or Securities Exchange Commission reporting purposes.

Article 4 Buyer's Obligations

4.1 Payment to Supplier

(a) After the Supplier has attained Commercial Operation and has begun participating in ISO-NE Markets as required by this Agreement, the Buyer shall pay the Supplier and the Supplier shall pay the Buyer the amounts due according to Article 6, as the case may be, in accordance with the terms of this Agreement.

(b) The Buyer shall not take title to any products or services generated, delivered, or sold by the Facility, unless ordered to by the DPUC. The Department on its own motion can order, or either Party can initiate, an amendment to the Agreement to require that the Buyer receive title to the Supplier's output. In such event, Buyer shall provide to Supplier copies of the full set of information provided by the ISO-NE that Supplier would have otherwise received directly from ISO NE prior to such transfer of title of the Supplier's output.

4.2 Certain approvals required

Supplier acknowledges that each Party's payment obligations under this Agreement shall be of no force and effect until the Effective Date of this Agreement.

4.3 Other obligations for the Buyer

(a) The Buyer shall comply with all applicable ISO-NE Market Rules.

(b) The Buyer shall comply with all of its obligations under this Agreement.

(c) Using the information and documentation provided to it by the Supplier, the Buyer shall assess the Supplier's performance under this Agreement and report as appropriate to the DPUC if the Buyer believes the Supplier is not meeting its obligations under this Agreement or if the Buyer believes that it is in the interest of ratepayers for the DPUC to direct the Supplier to participate in a different or different ISO-NE Markets than the market or markets the Supplier is currently participating in. The Supplier shall be copied on such submittal to the DPUC.

(d) The Buyer is responsible for communicating in writing any problems or insufficiency in performance of the Supplier to the DPUC within thirty (30) Business Days following Buyer's discovery thereof. The Buyer shall request direction for treatment for any such problems or insufficiency from the DPUC, unless treatment is detailed under this Agreement. The Supplier shall be copied on such submittals to the Department. Any disputes relating to such claimed problems or insufficiencies shall be resolved in the manner provided for in Sections 12.5 and 12.9.

(e) The Buyer shall comply with all requirements listed in the Code of Conduct, which is attached to this Agreement as Exhibit D.

(f) The Buyer shall provide commercially reasonable assistance, consistent with ISO NE rules, procedures and standards, in supporting the Supplier's efforts to attain Commercial Operation on a timely basis, and shall provide any documents or information that the Supplier may reasonably request that are necessary for the Facility to interconnect to the electric system or to otherwise attain Commercial Operation.

Article 5 Term

5.1 Execution Date and Effective Date

(a) This Agreement is executed on the Execution Date.

(b) This Agreement shall become effective (i) on the later of (A) ten calendar days after the date of approval of this Agreement by the Department or (B) October 16, 2008, if no appeal is taken, or, (ii) if an appeal is taken, when the appeal is finally resolved and no further appeals can be taken (hereinafter, the "Effective Date").

5.2 Term

(a) The Term of this Agreement shall commence on the date the Facility first achieves Commercial Operation and end on the thirtieth (30^{th}) anniversary thereof , unless this Agreement is terminated earlier pursuant to Article 8 of this Agreement or extended pursuant to Section 12.11 of this Agreement.

(b) The first day of the Term is the "Term Commencement Date."

Article 6 Payment Terms and Billing

6.1 Determination of Monthly Payment Amount

(a) The Buyer agrees to pay the Supplier and the Supplier agrees to pay the Buyer, as the case may be, the amounts determined pursuant to the terms of Article 6 of this Agreement for the Term of this Agreement.

(b) All cost-of-service payments under this Agreement begin when the Facility achieves Commercial Operation and fully participates in applicable ISO-NE Markets.

(c) The Monthly Contract Price shall be equal to 1/12th of the Annual Fixed Revenue Requirement, as determined by the DPUC from time to time, (pro-rated for any partial months during the Term) for the Contract Year for the relevant calendar month, plus the Monthly Variable Revenue Requirement, as defined in Attachment 2 of the Decision dated June 25, 2008 in Docket No. 08-01-01.

(d) The Contract Monthly Market Revenue is defined in Attachment 2 of the Decision dated June 25, 2008 in Docket No. 08-01-01.

(e) The Monthly Payment Amount shall be equal to the Monthly Contract Price less the Contract Monthly Market Revenue.

i. If the Monthly Payment Amount is positive (i.e., the Monthly Contract Price is greater than the Contract Monthly Market Revenues), then the Buyer will pay the Supplier the difference between the Monthly Contract Price and Contract Monthly Market Revenues.

ii. If the Monthly Payment Amount is negative (i.e., the Monthly Contract Price is less than the Contract Monthly Market Revenues), then the Supplier will pay the Buyer the difference between the Contract Monthly Market Revenues and the Monthly Contract Price.

iii. If the Monthly Payment Amount is zero, then no payments are due to either Party.

6.2 Billing Period

As soon as practicable after the end of each month during the Term but not later than thirty (30) Business Days after the end of such month, the Supplier shall provide the Buyer with one bill for the Monthly Payment Amount, pursuant to Section 6.1. The bill will include a detailed calculation of the aggregate Monthly Payment Amount for purposes of billing, determined in accordance with the provisions of Article 6 of this Agreement. Depending on the determination of Monthly Payment Amount pursuant to Section 6.1, the Buyer will pay to the Supplier or the Supplier will pay the Buyer, as the case may be.

6.3 Timeliness and Form of Payment

(a) All bills submitted pursuant to Section 6.2 shall bear the date of rendering and shall be due and payable on or before the later of: (a) the last Business Day of the month, or (b) twenty (20) Business Days following the date on which the Buyer received the Supplier's bill. Any amount remaining unpaid after such period shall bear interest at the rate set forth in the regulations of FERC for interest payments on refunds.

(b) All payments sent by Buyer to Supplier shall be sent by electronic funds transfer to the bank account specified by the Supplier.

(c) All payments sent by Supplier to Buyer shall be sent by electronic funds transfer to the bank account specified by the Buyer.

6.4 Adjustments of Invoices and Disputes

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

(b) Any further revisions to any bill will be reflected as soon as practicable and in accordance with the ISO-NE Billing Policy and the provisions of Article 6 of this Agreement. All refunds or additional payments owed to either Party shall include the payment of interest from the due date in the case of additional payments and from the payment date in the case of refunds, in either case to the date of payment calculated in accordance with the regulations of the FERC applicable to the payment of interest on refunds.

(c) If either Party disputes the amount of any bill, it shall so notify the other Party in writing.

a. If the disputed amount is unrelated to an Event of Default, 100of the disputed amount will be held in Escrow for the benefit of the non-paying Party ("Non-Paying Party") until both Parties have resolved the dispute. Once the dispute has been resolved, interest accrued in the Escrow account will be paid on a pro-rata basis to the Buyer and the Supplier relative to the determination regarding the disputed amount.

b. If the disputed amount is related to a Supplier Event of Default, and, the Buyer is the Paying Party:

i. If it is a Supplier Event of Default that has no cure or is an Event of Default that has not been cured within the applicable cure period, then the Buyer shall not pay the disputed amount until the specific Event of Default by Supplier has been cured to the satisfaction of the Buyer, or the dispute has been resolved. Escrow interest accrued in the Escrow account or interest that would have accrued, had payment of a disputed amount been subject to Escrow, will be paid to the Supplier once the Event of Default has been cured, or will be paid on a pro-rata basis to the Buyer and the Supplier relative to the determination regarding the disputed amount.

ii. If the Supplier Event of Default is due to the Supplier's loss of Market Based Ratemaking Authority, 50% of the disputed amount will be paid by the Buyer, with the remainder held in Escrow until this Event of Default has been cured or the dispute has been resolved. Escrow interest accrued

in the Escrow account will be paid to the Supplier once the Event of Default has been cured, or will be paid on a pro-rata basis to the Buyer and the Supplier relative to the determination regarding the disputed amount.

c. If the disputed amount is related to a Buyer Event of Default that has no cure or is an Event of Default that has not been cured within thirty (30) calendar days or within the timeframe allotted pursuant to Section 8.5(b), and if the Supplier is the Paying Party, then the Supplier shall not pay the disputed amount until the specific Event of Default by Buyer has been cured to the satisfaction of the Supplier, or the dispute has been resolved. Escrow interest accrued in the Escrow account will be paid to the Buyer once the Event of Default has been cured, or will be paid on a pro-rata basis to the Buyer and the Supplier relative to the determination regarding the disputed amount.

d. If the Event of Default is related to non-performance of a contract covenant in this Agreement that is itself in dispute and not covered by Sections 6.4(a) through 6.4(c) above, 50% of the disputed amount will be paid by the Paying Party, with the remainder held in Escrow for the benefit of the Non-Paying Party until both Parties have resolved the dispute. Once the dispute has been resolved, interest accrued in the Escrow account will be paid on a pro-rata basis to the Buyer and the Supplier relative to the determination regarding the disputed amount.

e. For all other issues of billing disputes, 50% of the disputed amount will be paid by the Paying Party, with the remainder held in Escrow for the benefit of the Non-Paying Party until the dispute has been resolved. Once the dispute has been resolved, interest accrued in the Escrow account will be paid on a pro-rata basis to the Buyer and the Supplier relative to the determination regarding the disputed amount.

(d) Neither Party shall have the right to challenge any monthly bill or to bring any administrative action of any kind questioning the propriety of any bill after a period of twenty-four (24) months from the date the bill was due; provided, however, that in the case of a bill based on estimates, such twenty-four (24) month period shall run from the due date of the final adjusted bill.

6.5 Payment Obligation with Netting

The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing under this Agreement to each other on the same date, in which case all amounts owed by each Party to the other Party during the monthly billing period under this Agreement, including any related damages, interest, and payments or credits, shall be netted (to the extent possible) so that only the excess amount remaining due shall be paid by the relevant Party.

6.6 Use of Completion and Performance Security for Payment of Invoices

(a) Unless the Buyer notifies the Supplier in writing, and except in connection with liquidation and termination in accordance with Article 8 of this Agreement, all amounts netted pursuant to this Article 6 shall not take into account or include any portion of the Completion and Performance Security, which secures the Supplier's performance under this Agreement.

(b) In the case of non-payment by Supplier, Buyer has the right to monies from the Completion and Performance Security (unless there is a dispute over the billing amount, in which case both Parties shall be guided by Section 6.4(c) if payment is not made on a timely basis.

Article 7 Representations and Warranties

7.1 Representations of the Supplier

The Supplier represents to the Buyer as follows, and acknowledges that the Buyer is relying on such representations in entering into this Agreement:

(a) The Supplier is registered or otherwise fully qualified to carry on business in the State of Connecticut, and has the requisite power to enter into this Agreement and to perform its obligations hereunder.

(b) This Agreement has been duly authorized, executed, and delivered by the Supplier and is a valid and binding obligation of the Supplier enforceable in accordance with its terms except as such enforcement may be limited by Bankruptcy.

(c) The execution and delivery of this Agreement by the Supplier and the consummation of the transactions contemplated by this Agreement will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of the Supplier under:

1. any contract or obligation to which the Supplier is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;

2. the articles, by-laws or other resolutions of the directors or shareholders of the Supplier;

3. any judgment, decree, order or award of any Government Agency or arbitrator;

4. any license, Permit, approval, consent or authorization held by the Supplier; or

5. any Laws that could reasonably be expected to have a material adverse effect on the Supplier or the performance of the Supplier's obligations under this Agreement.

(d) There is no Bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated by the Supplier or, to the knowledge of the Supplier, threatened against the Supplier.

(e) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Government Agency or arbitrator, or, to the knowledge of the Supplier, threatened against the Supplier, which could reasonably be expected to have a material adverse effect on the Supplier, or the ability of the Supplier to perform its obligations under this Agreement except for any appeals arising from the regulatory approvals of this Agreement unless the Court stays the implementation of the Agreement.

(f) All requirements for the Supplier to make any filing, declaration or registration with, give any notice to or obtain any license, Permit, certificate, registration, authorization, consent or approval of, any Government Agency as a condition to entering into this Agreement have been satisfied.

(g) All statements, specifications, data, confirmations, and information that have been set out in the Exhibits to this Agreement are complete and accurate in all material respects and are hereby restated and reaffirmed by the Supplier as representations made from the Supplier to the Buyer under this Agreement and there is no material information omitted from the Exhibits which makes the information in the Exhibits and this Agreement misleading or inaccurate.

7.2 Representations of the Buyer

The Buyer represents to the Supplier as follows, and acknowledges that the Supplier is relying on such representations in entering into this Agreement:

(a) The Buyer is an electric distribution company regulated by the DPUC and has the requisite power to enter into this Agreement and to perform its obligations hereunder. The executed Agreement, however, is subject to final approval by the DPUC.

(b) This Agreement has been duly authorized, executed, and delivered by the Buyer and is a valid and binding obligation of the Buyer enforceable in accordance with its terms, except as enforcement may be limited by Bankruptcy.

(c) The execution and delivery of this Agreement by the Buyer and the consummation of the transactions contemplated by this Agreement will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of the Buyer under:

1. any contract or obligation to which the Buyer is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;

2. the by-laws or resolutions of the directors (or any committee thereof) or shareholder of the Buyer;

3. any judgment, decree, order or award of any Governmental Agency or arbitrator;

4. any license, Permit, approval, consent or authorization held by the Buyer; or

5. any Law that could reasonably expect to have a material adverse effect on the Buyer or the Buyer's performance of its obligations under this Agreement.

(d) There is no Bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against, or being contemplated by the Buyer or, to the knowledge of the Buyer, threatened against the Buyer.

(e) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Government Agency or arbitrator, or, to the knowledge of the Buyer, threatened against the Buyer that could reasonably expect to have a material adverse effect on the Buyer or the Buyer's ability to perform its obligations under this Agreement, except for any appeals arising from the regulatory approvals of this Agreement unless the Court stays the implementation of the Agreement.

(f) All requirements for the Buyer to make any declaration, filing or registration with, give any notice to or obtain any license, Permit, certificate, registration, authorization, consent or approval of, any regulatory authority as a condition to entering into this Agreement have been satisfied.

Article 8 Events of Default; Remedies

8.1 Events of Default of Supplier

(a) Any of the following shall constitute an Event of Default of Supplier if the Supplier has failed to cure such an Event of Default within three (3) Business Days after the date of written notice given by the Buyer to the Supplier and the DPUC, unless the Department determines that it is in the best interest of ratepayers to excuse non-performance and not terminate the Agreement:

1. The Supplier *is no longer eligible to participate* in the FCM, LFRM or any other ISO-NE Markets in which it is obligated to participate under this Agreement for any reason other than those described in Section 8.1(b), 8.1(c), and 8.1(d) below. If the Supplier can demonstrate to the DPUC, within 3 Business Days after the date of written notice given by the Buyer: 1) that the Supplier can cure the Event of Default within 30 Business Days after the date of written notice given by the Buyer, and 2) that the ISO-NE Market rules will permit the Supplier to resume participation and earn revenues in the ISO-NE Markets within 30 Business Days after the date of written notice given by the Buyer, the Supplier's loss of eligibility to participate in ISO-NE Markets shall constitute an Event of Default of Supplier if the Supplier has failed to cure such an Event of Default within thirty (30) Business Days after the date of written notice given by the Buyer. This 30-Business Day cure period does not apply if, after the cure is achieved, the Supplier must remain out of

the FCM for a year or the LFRM for a season in which case the 3-Business Day cure period would apply.

2. The Facility is not electrically located within the state of Connecticut and no longer qualifies to meet Connecticut's Local Sourcing Requirement, due to an action of the Supplier or lack of reasonable action in instances where action was warranted and the Supplier had the ability to provide such action;

3. The Supplier becomes Bankrupt;

4. The Supplier consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of the Supplier under this Agreement pursuant to an assignment or assumption agreement reasonably satisfactory to the Buyer and the DPUC;

5. Supplier seeks or enters into a Reliability Must Run, a Cost of Service contract, or a similar agreement for any part of the Facility's output, products or services without DPUC approval during the Term of this Agreement;

6. The Supplier's dissolution or liquidation;

7. The sale by Supplier from the Facility to a third party of any part of its output, products or services that is not approved by the DPUC;

8. The Supplier intentionally provides false information required by this Agreement or intentionally fails to provide information required by this Agreement on material topics; or,

(b) Any of the following shall constitute an Event of Default of Supplier if the Supplier has failed to cure such an Event of Default within seven (7) Business Days after the date of written notice given by the Buyer to the Supplier and the DPUC, unless the Department determines that it is the best interest of ratepayers to excuse non-performance and not terminate the Agreement:

1. The Supplier fails to maintain the Project Completion and Performance Security, pursuant to Article 10 of this Agreement.

2. The Supplier fails to meet its obligations under Section 12.10 of this Agreement.

(c) Any of the following shall constitute an Event of Default of Supplier if the Supplier has failed to cure such an Event of Default within thirty (30) Business Days after the date of written notice given by the Buyer to the Supplier and the DPUC, unless the Department determines that it is the best interest of ratepayers to excuse non-performance and not terminate the Agreement:

1. The Supplier's failure to comply with any obligation under this Agreement that would result in a material adverse impact on the Buyer;

2. Supplier is unable to participate in the ISO-NE Markets due to the termination of its membership (or the membership of its agent), or suspension of membership rights or termination of its Market Participants Service Agreement unless the ISO-NE Market rules will permit the Supplier to resume participation and earn revenues in the ISO-NE Markets within 30 Business Days after the date of written notice given by the Buyer. This 30-Busines Day cure period does not apply if, after the cure is achieved, the Supplier must remain out of the FCM for a year or the LFRM for a season in which case the 3-Business Day cure period would apply;

3. The Supplier *is eligible to participate but does not participate* in ISO-NE Markets as directed by the DPUC in accordance with Section 3.1(b) unless the ISO-NE Market rules will permit the Supplier to resume participation and earn revenues in the ISO-NE Markets within 30 Business Days after the date of written notice given by the Buyer. This 30-Business Day cure period does not apply if, after the cure is achieved, the Supplier must remain out of the FCM for a year or the LFRM for a season in which case the 3-Business Day cure period would apply;

4. Supplier fails to submit ISO-NE invoices required by Section 3.3.(g) with its bill to the Buyer evidencing its participating and revenues earned in ISO-NE Markets for two (2) consecutive months; or,

5. Supplier fails to meet requirements of Section 2.6(h).

6. Supplier fails to maintain insurance coverages as required by Section 2.7.

(d) Any of the following shall constitute an Event of Default of Supplier if Supplier has failed to cure such an Event of Default within ninety (90) Business Days after the date of written notice given by the Buyer to the Supplier and the DPUC, unless the Department determines that it is the best interest of ratepayers to excuse non-performance and not terminate the Agreement:

1. The Supplier breaches any other covenant or obligation in a material manner in this Agreement not explicitly listed in Sections 8.1(a), 8.1(b) or 8.1(c).

(e) The failure of the Supplier to achieve the Milestone Date for Commercial Operation shall constitute an Event of Default of Supplier if the Supplier has failed to cure such an Event of Default within one hundred eighty (180) calendar days after the date of written notice given by the Buyer to the Supplier and the DPUC unless an extension of time is approved by the DPUC pursuant to Section 2.5 (d) or 2.5(g). In the event the Supplier does not achieve its Milestone Date for Commercial Operation, and the failure is not excused, the Buyer shall provide written notice to the Supplier and DPUC the next Business Day after the Milestone Date for Commercial Operation.(f) For any Event of Default excused by a Department determination that it is the interest of ratepayers to excuse non-performance and not terminate the Agreement, the following terms and conditions apply. The Supplier must cure any Event of Default

on or before a new deadline for curing the Event of Default set by the Department. If the Event of Default is one which will result in the Supplier not participating in the FCM for a year or the LFRM for a season, prior to the Supplier's cure of an Event of Default pursuant to the new Department-established deadline, notwithstanding Section 6.1 and other provisions of this Agreement, the Supplier will be responsible for recovering its monthly costs by participating in any and all ISO NE markets for which it is eligible and/or entering into Department-approved contracts to sell its products and services to a third party or parties. If the Event of Default is one which will result in the Supplier not participating in the FCM for a year or the LFRM for a season, prior to the Supplier's cure of an Event of Default pursuant to the new Department-established deadline, the Buyer is not responsible for paying the Supplier for any shortfall between the Supplier's monthly costs and revenues earned that may occur prior to the cure of an Event of Default. The Supplier may not seek to recover any shortfall in cost recovery that occurs between the Event of Default and prior to its cure of the Event of Default pursuant to the new deadline. If prior to curing the Event of Default, the Supplier earns monthly revenue in excess of its monthly costs, the Supplier must return any excess revenue to the Buyer.

8.2 Remedies available to the Buyer

If there is an Event of Default by Supplier and such Event of Default is not cured in a timely manner by Supplier pursuant to any applicable cure period provided by this Agreement, the Buyer, subject to the approval of the DPUC, shall have the right to take any of the following actions listed below:

(a) to designate an "Early Termination Date" pursuant to Section 8.6;

(b) If the Event of Default by Supplier is the voluntary or involuntary filing of a petition commencing a case under the Bankruptcy Code, then the Buyer shall have the right to terminate this Agreement by notice to the Supplier and such termination shall take effect immediately upon issuance of such notice by Buyer to Supplier. The Buyer shall have the right to damages (if any) calculated pursuant to 11 U.S.C § 562, as it may be amended from time to time, and other applicable Law. The Parties agree that each is a Financial Participant for the purposes of the Bankruptcy Code and waive any right to contest the other's status as a Financial Participant in any proceeding under the Bankruptcy Code. The Early Termination Payment, as described in Section 8.7, will not apply in this instance.

(c) withhold any payments due to the Supplier under this Agreement unless the Supplier continues to perform according to its obligations under this Agreement in which case the Buyer must compensate the Supplier for its services according to this Agreement; any payments required from the Buyer to the Supplier for services prior to the Event of Default will be credited to the Buyer in calculating the Early Termination Payment and/or,

(d) exercise any remedy available under this Agreement to the extent an Event of Default shall have occurred and be continuing.

8.3 Financing Parties' Right to Cure Default of Supplier

(a) Supplier shall provide to Buyer and the DPUC a notice identifying the Financing Parties and providing appropriate contact information for the Financing Parties at the Execution Date of this Agreement, and from time to time during the Term, as such information may change. Following the effective date of such notice, the Buyer shall provide prompt notice of any event described in Section 8.1 hereof to the Financing Parties, and the Buyer will accept a cure performed by the Financing Parties, so long as the cure is accomplished within the applicable cure period set forth in Section 8.1 hereof.

(b) Within ten (10) calendar days following effective date of written notice from the Financing Parties of default, or Financing Parties' intent to exercise any remedies, Supplier shall deliver a copy of such notice to Buyer and the DPUC.

8.4 Events of Default by Buyer

(a) Any of the following shall constitute an Event of Default of Buyer with no cure period:

1. Buyer's dissolution or liquidation. If there is a successor to the Buyer, this shall not constitute dissolution or liquidation as long as the successor assumes all the rights and responsibilities of the Buyer under this Agreement; and/or

2. Buyer consolidates or amalgamates with, or merges into or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting surviving or transferee entity fails to assume all the obligations of Buyer under this Agreement pursuant to an assignment or assumption agreement approved by the DPUC.

(b) The following shall constitute an Event of Default of Buyer if Buyer has failed to cure such an Event of Default within five (5) Business Days after the Buyer receives written notice of such Event of Default from Supplier:

1. Buyer does not meet its obligations under Section 12.9 of this Agreement.

(c) The following shall constitute an Event of Default of Buyer if Buyer has failed to cure such an Event of Default within fifteen (15) calendar days after the Buyer receives written notice of such Event of Default from Supplier:

1. Buyer's failure to make any payment due hereunder.

(d) Any of the following shall constitute an Event of Default of Buyer if Buyer has failed to cure such an Event of Default within thirty (30) calendar days after Buyer's receipt of written notice of such Event of Default from Supplier:

1. Buyer's failure to comply with any other covenant or obligation under this Agreement that will result in a material adverse impact on Supplier;

2. The Buyer intentionally provides false information required by this Agreement or intentionally fails to provide information required by this Agreement on material topics; or,

3. The Buyer becomes Bankrupt and the DPUC is unable to take timely actions to ensure that another entity stands in for the Buyer and performs the Buyer's obligations to the Supplier under this Agreement .

8.5 Remedies available to Supplier

(a) If the Credit Rating of the Buyer falls below Investment Grade level (as per the notifications required in Section 12.2), the Supplier can submit a notice to the DPUC, notifying the DPUC of the potential of an Event of Default. If the DPUC chooses to do so, the DPUC may respond to this notice by facilitating a pre-emptive cure of this potential Event of Default.

(b) In case of an Event of Default of the Buyer pursuant to Section 8.4(a), the Supplier must also send a written notice thereof to the DPUC. If the DPUC issues a reply notice within 10 Business Days of receipt of such notice from the Supplier, this reply notice will temporarily suspend the Supplier's ability to seek any of the remedies available to the Supplier at Law, in equity, or under this Agreement for a period of ninety (90) calendar days, while the DPUC undertakes by exercise of its statutory authority to facilitate the process of curing the Event of Default of Buyer. During the above-mentioned ninety (90) calendar day period, the Supplier temporarily can withhold any payments due to the Buyer under this Agreement until a cure has been achieved. Once the Event of Default has been cured, the Supplier must pay any outstanding payments owed to the Buyer, and the Buyer must pay the Supplier any outstanding payments owed to the Supplier, whichever the case may be

(c) If an uncured Event of Default of Buyer shall have occurred and be continuing, and the Buyer or DPUC has not effected a cure pursuant to Section 8.5(b) within the allotted cure period, the Supplier shall have the right to seek any of the following remedies (or combinations thereof):

1. designate an "Early Termination Date" pursuant to Section 8.6;

2. withhold any payments due to the Buyer under this Agreement;

3. if the Event of Default by Buyer is the voluntary or involuntary filing of a petition commencing a case under the Bankruptcy Code, then the Supplier shall have the right to terminate this Agreement by notice to the Buyer and such termination shall take effect immediately upon issuance of such notice by Supplier to Buyer. The Supplier shall have the right to damages (if any) calculated pursuant to 11 U.S.C § 562, as it may be amended from time to time, and other applicable Law. The Parties agree that each is a Financial Participant for the purposes of the Bankruptcy Code

and waive any right to contest the other's status as a Financial Participant in any proceeding under the Bankruptcy Code. The Early Termination Payment, as described in Section 8.7 will not apply in this instance.

4. suspend performance under this Agreement; and/or

5. exercise any remedy available at Law, in equity, or under this Agreement to the extent an Event of Default has not been timely cured by the Buyer.

8.6 Notice and Declaration of an Early Termination Date

If an Event of Default as set forth in Section 8.1 or Section 8.4, has occurred and is continuing, and any relevant cure period pursuant to Section 8.1 or Section 8.4 has expired, the non-defaulting Party or the DPUC (the "Non-Defaulting Party") shall have the right (i) to notify the defaulting Party (the "Defaulting Party") and to designate a day, no earlier than the effective date of such notice and no later than twenty (20) calendar days after such notice is effective as an early termination date (the "Early Termination Date"); (ii) to request and obtain payment from the Defaulting Party of the Early Termination Payment calculated pursuant to Section 8.7 hereof plus all amounts owed by the Defaulting Party to the Non-Defaulting Party for performance or non-performance that occurred, arose or accrued prior to the Early Termination Date; and, (iii) to terminate the Agreement between the Parties as of the Early Termination Date.

8.7 Calculation of Early Termination Payment

(a) For all Events of Default other than Bankruptcy as described in Sections 8.2(b) and Section 8.5(c)(3), the "Early Termination Payment" will be based on the following "Settlement Amount":

1. if Supplier is the Defaulting Party (and there is no cure achieved pursuant to Section 8.1), the Early Termination Payment will be:

a. For Supplier's termination after Commercial Operation, the Early Termination Payment shall be liquidated damages equal to the Completion and Performance Security determined in Section 10.1 plus the positive difference between the then-prevailing capital cost for a comparable peaking facility for the then-remaining Term of the Agreement (as determined in a commercially reasonable manner by the Buyer and approved by the DPUC) reduced by the fraction of the Term already expired at the time of default, less the present value of that portion of the AFRR in each remaining year of the term that provides capital recovery to the Supplier. The discount rate to be used in the calculation of the Early Termination Payment shall be the Buyer's long-term weighted average cost of capital; and

b. For Supplier's termination before Commercial Operation, the Early Termination Payment shall be liquidated damages, in addition to any liquidated damages assessed pursuant to Section 2.5(e), in the amount of the entire Completion and Performance Security provided pursuant to Section 10.1.

c. The discount rate to be used in the calculation of the Early Termination Payment shall be the Buyer's long-term weighted average cost of capital

2. If Buyer is the Defaulting Party (and there is no cure achieved pursuant to Section 8.4 and 8.5), the Early Termination Payment, which constitutes liquidated damages, will be equal to:

a. The present value of the positive difference (if any) between (a) AFRR, denominated in dollars per year, and (b) the prevailing market price for forward reserves in the LFRM for the then-remaining Term of the Agreement (as determined in a commercially reasonable manner by the DPUC) multiplied by the Contract CLAIM30 Capacity, for the then-remaining Term of the Agreement.

b. In the event that the LFRM is no longer an ISO-NE administered market at the time of default, or is no longer the highest valued market at the time of default, the Early Termination Payment shall be the present value of the positive difference (if any) between (a) the AFRR, denominated in dollars per year, and (b) the prevailing price for forward reserves in the Forward Capacity Market, or successor market thereto for the then-remaining Term of the Agreement multiplied by the Contract Summer Qualified Capacity, less the present value of the expected annual net energy revenues over the then-remaining Term of the Agreement.

c. The discount rate to be used in the calculation of the Early Termination Payment shall be the Buyer's long-term weighted average cost of capital

(b) The Parties must pay one another any outstanding amounts owed.

(c) The Parties further agree that, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party from the Defaulting Party pursuant to Article 10 of this Agreement shall be withdrawn, drawn on, or otherwise collected or netted against the Early Termination Payment and retained by the Non-Defaulting Party.

(d) As soon as practicable after such termination and receipt of security, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Early Termination Payment. The notice shall include a written statement explaining in reasonable detail the calculation of such payment amount. Any amount by which the Early Termination Payment exceeds the funds already received in accordance with Section 8.7(c) shall be paid by the Defaulting Party if it owes any excess within five (5) Business Days after such notice is effective.

(e) Each Party acknowledges and agrees with respect to the liquidated damages in this section that:

1. the actual damage expected as a result of the Defaulting Party's breach of these requirements would be substantial;

2. both Parties intend that the Defaulting Party would pay the specified liquidated damages amount for such a breach;

3. this amount of damages is not a penalty;

4. the amount of damages is reasonable in the sense that it is not disproportionate to the damages the Parties expect that the Non-Defaulting Party would sustain if the Defaulting Party breaches this provision;

5. the amount of liquidated damages is a genuine pre-estimate of the loss that the Non-Defaulting Party will incur; and,

6. such liquidated damages shall be the sole damages to which the Non-Defaulting Party shall be entitled as a result of the Defaulting Party's breach of these requirements.

Article 9 Force Majeure; Limitation on Liability

9.1 Force Majeure

Each Party shall be excused from performing its respective obligations under this Agreement and shall not be liable in damages or otherwise to the Non-Claiming Party if and the Department finds that the Claiming Party is unable to so perform or is prevented from performing its obligations by an event of Force Majeure.

9.2 Limitation on remedies for Force Majeure

(a) If the Department finds that either Party is rendered wholly or partly unable to perform its obligations hereunder because of Force Majeure, then that Party shall be excused from performance of its obligations to the extent that such performance is affected by the Force Majeure, provided that:

1. The Claiming Party shall, as soon as practicable after the occurrence of Force Majeure, give the DPUC, OCC and the Non-Claiming Party written notice describing the particulars of the occurrence and requesting that the Department make a determination within a reasonable amount of time on the issue of whether the occurrence constitutes a Force Majeure event that excuses performance;

2. The suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure;

3. The Claiming Party shall use all commercially reasonable efforts to remedy its inability to perform; and,

4. Nothing in this Section 9.2 shall affect a Party's obligation to make payments when due or becoming due with respect to performance or non-performance prior to the event of Force Majeure.

(b) While an event of Force Majeure is in effect, the Claiming Party shall take all commercially reasonable steps to mitigate the effects of Force Majeure, shall inform the Non-Claiming Party in writing on a weekly basis of when it expects to remove the cause of Force Majeure and what steps it is taking to cure or eliminate the event of Force Majeure.

(c) If an event of Force Majeure causes the Supplier to not achieve a Milestone Event by the relevant Milestone Date, or to not achieve Commercial Operation on the Milestone Date for Commercial Operation, as applicable, then such Milestone Date shall be extended for a period of time equal to the period of delay resulting from such Force Majeure event.

(d) If an event of Force Majeure described in Section 9.20 has delayed Commercial Operation of the Facility by more than eighteen (18) months after the original Milestone Date listed in Exhibit B to this Agreement (prior to any extension pursuant to Section 9.20 or Section 2.5(g)) set out for attaining Commercial Operation of the Facility, then notwithstanding anything in this Agreement to the contrary, while the delay that is a result of the event of Force Majeure is continuing, either Party, with the DPUC's approval, may terminate this Agreement upon written notice to either Party, and, thirty (30) calendar days after the effective date of notice, this Agreement shall automatically terminate and without any costs or payments of any kind to either Party, and the Completion and Performance Security shall be returned forthwith.

(e) If, by reason of Force Majeure, the Supplier is unable to perform or comply with its obligations (other than payment obligations) hereunder after attaining Commercial Operation for more than eighteen (18) months, then notwithstanding anything in this Agreement to the contrary, while the delay that is a result of the event of Force Majeure is continuing, then the Buyer, with the DPUC's approval, may terminate this Agreement upon thirty (30) calendar days' written notice to the Supplier, and thirty (30) calendar days after the effective date of the said written notice, this Agreement shall automatically terminate without any costs or payments of any kind to either Party, and the Completion and Performance Security shall be returned forthwith.

(f) If the Buyer is the Claiming Party and the Buyer is unable to perform or comply with its obligations hereunder after attaining Commercial Operation for more than eighteen (18) months, then notwithstanding anything in this Agreement to the contrary, while the delay that is a result of the event of Force Majeure is continuing, then the Supplier may terminate this Agreement upon thirty (30) calendar days' written notice to the Buyer, and thirty (30) calendar days after the effective date of the said written notice, this Agreement shall automatically terminate without any costs or payments of any kind to either Party, and the Completion and Performance Security shall be returned forthwith.

(g) After the Term Commencement Date, an event of Force Majeure shall not extend the Term of this Agreement.

9.3 Liability and damages

Except as provided for under this Agreement, neither Party shall be liable under this Agreement for any special, indirect, incidental, consequential, or punitive damages of any kind, including but not limited to loss of use, out of pocket expenses, and lost profits (past or future), by statute, in tort or contract, or otherwise.

Article 10 Credit and Security Requirements

10.1 Completion and Performance Security Amount

The Supplier shall provide security to the Buyer on the Effective Date of this Agreement for the performance of the Supplier's obligations under this Agreement, in the applicable amount as set out in Section 10.1 below and in the form described in Section 10.2 (the "Completion and Performance Security").

(a) The amount of the Completion and Performance Security applicable from the Effective Date until the date that is sixty (60) days after the Term Commencement Date shall be set at U.S. Dollar 100 per kW of the Original FCM Contract Quantity.

(b) Effective sixty days after the Facility's Term Commencement Date the amount of the Completion and Performance Security shall be reduced to an amount equal to U.S. Dollar 25 per kW of the Original FCM Contract Quantity, and after a Claimed Capability Audit is performed, of the Summer Seasonal Claimed Capacity for the remaining Term of this Agreement. The amount of this security may be adjusted from time to time to reflect the actual Summer Seasonal Claimed Capacity as determined by subsequent Claimed Capability Audits.

(c) In the event that the Buyer, in accordance with this Agreement, has recovered monies that were due to it using all or part of the Completion and Performance Security, the Supplier shall within a commercially reasonable time, not to exceed thirty (30) calendar days provide replacement security to cover an amount equal to that recovered or paid out of the Completion and Performance Security.

(d) Not maintaining the Completion and Performance Security at its full amount shall be an Event of Default with a seven (7) Business Days cure period, pursuant to Section 8.1.

(e) The Supplier shall provide to the DPUC and the Buyer reasonable evidence of any security that it posts for the same Original FCM Contract Quantity before the Facility reaches Commercial Operation, as described in Section II.G.2.b of the Settlement Agreement. The amount of security provided to ISO-NE may be used to reduce the Completion and Performance Security required under this Agreement as long as the security provided to ISO-NE is not in the form of a guarantee, such that the total security provided by the Supplier to the Buyer and to ISO-NE for the purpose of participating in the FCM totals the Completion and Performance Security calculated pursuant to this Section 10.1.

(f) The Buyer shall return the Completion and Performance Security to the Supplier with accrued interest (if relevant) on the first Business Day following the last calendar day of the Term of this Agreement (or, if relevant, on the first Business Day after the Early Termination Date), provided that the Buyer has determined that the Supplier has paid in full any outstanding liquidated damages or Early Termination Payments.

10.2 Composition of Completion and Performance Security

(a) The Completion and Performance Security shall be provided in the form of either (i) cash, which will be held in an interest-bearing Escrow account by a Qualified Institution selected by the Buyer for the benefit of the Buyer; (ii) a Letter of Credit; (iii) a performance bond; (iv) a certified check made payable to Buyer; (v) a bank draft made payable to Buyer; or (vi) other equivalent form of security acceptable to the Buyer acting reasonably, and subject to the approval of the DPUC, but for certainty, shall not include guarantees. The Completion and Performance Security can also be composed of a mix of such instruments so long as the total amount required under Section 10.1 of this Agreement is achieved. The DPUC's determination under this Section 10.2(a) is not subject to the dispute resolution guidelines listed in Section 12.9.

(b) If cash is provided by the Supplier for the Completion and Performance Security, such cash will be held in an interest-bearing Escrow account by the Buyer in a Qualified Institution. The interest accrued in this Escrow account will be paid to the Supplier upon the Term Termination Date as long as there are no outstanding disputes between the Parties.

(c) If a Letter of Credit is used:

1. The bank providing the Letter of Credit must be a Qualified Institution, or be otherwise submitted to the DPUC for approval.

2. Within two (2) Business Days of the Effective Date, Supplier shall provide to Buyer a Letter of Credit in the amount of $18,384,800.00 to secure Supplier's performance from the Effective Date until either expiration of this Letter of Credit or the Termination Date. The Letter of Credit shall have a term of not less than one (1) year and an evergreen clause acceptable to the Buyer and the DPUC. The Letter of Credit shall provide that if this Agreement remains in effect and the Letter of Credit is due to expire, Buyer shall have the right to draw on the full amount of such Letter of Credit. In that event, Buyer will hold such funds until Supplier has provided Buyer with a replacement Letter of Credit or other form of security that meets the requirements of this Article 10 of this Agreement.

3. If the Credit Rating of the Qualified Institution providing the Letter of Credit falls below the levels specified in the definition of a Qualified Institution, the Supplier shall have five (5) Business Days following written notice by the Buyer to obtain a suitable Letter of Credit from another Qualified Institution, unless the Buyer agrees in writing to extend such cure period.

(d) If a performance bond is used:

1. The performance bond must allow the Buyer, acting reasonably, to determine whether the surety will pay or perform the Defaulting Party's obligations.

2. The performance bond must require the surety to pay all undisputed amounts requested in writing by the Buyer within five (5) Business Days, and must deposit any disputed amounts into an Escrow account for the benefit of the Buyer pending resolution of the dispute between the Buyer and the surety. Any interest accrued in the Escrow account must be paid to the Buyer or the surety on a pro rata basis depending on how the issue is resolved.

3. The performance bond must be irrevocable, and must remain in place or be replaced with an equivalent for the entire Term of this Agreement.

4. The surety must agree to (i) waive notice of any alteration or extension of time provided by either Party under this Agreement; (ii) waive notice of any amendment to this Agreement; (iii) following the occurrence of an uncured Event of Default by the Supplier, the surety must waive any requirement under applicable Law or otherwise that Buyer first proceed against (and obtain judgment against) the Supplier before Buyer can enforce its rights under the performance bond against the surety.

5. In the event that Buyer prevails in its attempts to enforce its rights under the performance bond, the surety must agree to pay for all the documented legal costs, fees, and expenses Buyer incurred in the enforcement action.

6. The performance bond must be governed by and enforced in accordance with the Laws of the state of Connecticut; and any proceeding under the Performance Bond must be instituted in a court of competent jurisdiction in Connecticut.

Article 11 Contract Administration

11.1 Inspection and Audit

Each Party and the DPUC has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, the Supplier shall provide to the DPUC, and the OCC, statements evidencing the performance of its obligations. 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 (as defined in Section 6.3) from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twenty-four (24) months from the rendition thereof, and thereafter any objection shall be deemed waived.

11.2 Notices

(a) Any notice, demand, or request permitted or required under this Agreement shall be delivered in person, by prepaid overnight United States mail or by overnight courier service, return receipt requested, to a Party at the applicable address set forth below:

To Buyer:
Stephen Gibelli
Associate General Counsel
Northeast Utilities Service Company
P.O. Box 270
Hartford, Connecticut 06141-0270
Telephone: (860) 665-5513
Facsimile: (860) 665-5504

To Supplier:
Jonathan J. Milley
Chief Executive Officer
GenConn Energy LLC
c/o NRG Energy, Inc.
211 Carnegie Center
Princeton, NJ 08540
Telephone: (609) 524-4680
Facsimile: (609) 524-4941

and

Anthony Marone
President
GenConn Energy LLC
c/o The United Illuminating Company
157 Church Street
New Haven, CT 06510
Telephone: (203) 499-2032
Facsimile: (203) 499-3611

To DPUC:
Executive Secretary
10 Franklin Square
New Britain, CT 06051
Tel: 860-827-1553

To OCC:
Consumer Counsel
10 Franklin Square
New Britain, CT 06051
Tel: 860-827-2900

(b) Notices by hand delivery or facsimile (provided a copy is also sent by overnight mail) shall be effective at the close of business on the day actually sent, if sent during sending Party's business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day.

(c) The addresses for notice specified in Section 11.2(a) may be changed from time to time by written notice by any Party to all other Parties without amendment of this Agreement.

11.3 Records and Billing Verification Rights

(a) Supplier and Buyer each shall keep complete and accurate records with respect to its performance under this Agreement and shall maintain such data for a period of five (5) years after final billing for verification by the other Party. In the event of any billing dispute, all such records pertaining to the dispute shall be maintained until such later time as the billing dispute is resolved. If a billing dispute establishes that any bill submitted to and paid by Buyer was for an amount greater than properly chargeable under this Agreement, Supplier shall refund to Buyer the excess amount collected together with interest calculated from the date of payment to the refund date in accordance with the regulations of FERC applicable to the payment of interest on refunds. If a billing dispute establishes that any bill submitted to and paid by Buyer was for an amount less than properly chargeable under this Agreement, Buyer shall make such additional payment to Supplier, together with interest calculated from the due date to the date of payment in accordance with regulations of FERC applicable to the payment of interest on refunds.

(b) In the event of a good faith dispute regarding any invoice issued or payment due under this Agreement, each Party shall have the right to verify the accuracy or the calculation of the invoice, at its own expense, to obtain copies of relevant portions of the books and records of the other Party insofar as may be necessary for the purpose of ascertaining the accuracy of any invoice or calculation of payment due. Each Party supplying data hereunder may require that the other Party maintain the confidentiality of such accounts, records and data in accordance with Section 12.10 The Parties agree to individually and jointly request from ISO-NE, or other appropriate source, any data or information that either Party believes is reasonably necessary for purposes of a requested accounting or resolution of a billing dispute.

Article 12 Miscellaneous

12.1 Change of Control, Sale of Facility, or Assignment

(a) In the event that the Supplier elects to sell the Facility during the term of the contract, the Buyer has the right of first refusal to match any bona fide third party offer selected by the Supplier provided that the Buyer shall

select without qualification the terms of any such offer within thirty (30) days of receipt thereof from the Supplier.

(b) Except as part of a collateral assignment or stock pledge in favor of the Financing Parties, no direct or indirect change of control of Supplier shall be allowed without the DPUC approval, such approval shall not be unreasonably withheld. The DPUC will not unreasonably withhold its approval so long as the successor entity assumes all responsibilities and obligations of the Supplier under this Agreement and has sufficiently demonstrated to the DPUC that it, or its agents, has the technical, managerial, and financial wherewithal to serve as the Supplier for the remainder of the Term. The sale or transfer of less than 50% of the membership interest, share capital, or voting rights of the Supplier shall not be prohibited by this Section and shall not require consent, as long as the Supplier continues to fulfill its obligations under this Agreement without modification. Moreover, the sale or transfer of the membership interests, share capital or voting rights of the Supplier or any member or shareholder of the Supplier or of Supplier's parent to another member or shareholder or to a member of the shareholder's affiliate will not be prohibited by this Section and shall not require consent of the Department, as long as the Supplier continues to fulfill its obligations under this Agreement without modification.

(c) The Buyer may assign, pledge or transfer this Agreement to a successor distribution company, subject to DPUC approval and provided that the successor distribution company has an Investment Grade Rating.

(d) When assigned, this Agreement shall be binding upon, and shall inure to the benefit of, and shall be performed by, each successor and permitted assignee of the Parties, except that no assignment, pledge or transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor from any of its obligations under this Agreement unless the DPUC approves to the assignment, pledge or other transfer and expressly releases the assignor, pledgor, or transferor from its obligations hereunder.

(e) Buyer agrees that (i) Supplier may assign, mortgage, hypothecate, pledge or otherwise encumber, by way of security or collateral, all or any portion of the Supplier's interest in and to this Agreement in favor of any Financing Party and its successors and assigns and (ii) any such Financing Party may assign such interest in and to this Agreement to any subsequent assignee in connection with the sale, transfer, or exchange of its rights under this Agreement. Any such Financing Party or its designee may operate or transfer the Facility pursuant to such assignment upon and after the exercise of such Financing Party's rights and enforcement of its remedies against the Supplier or the Facility under any deed of trust or other security instrument, creating a lien in its favor, in each case with notice to, but without the consent of, Buyer, provided that the Financing Party has demonstrated to the reasonable satisfaction of the DPUC that any such Financing Party (or the

security agent acting on behalf of all the Financing Parties, where there are more than one) or its designee or transferee has entered into an agreement with the Buyer under which each Financing Party or its designee or transferee agrees thereafter to be fully bound by all the terms and conditions of this Agreement as if it had been substituted for by the Supplier. The Buyer agrees to enter into a consent and agreement with the Financing Party with respect to this Agreement and the collateral assignment in customary form for project financings In order for a collateral assignment to occur as contemplated in this Section 12.10, there must be a single entity designated as trustee on behalf of all Financing Parties and the trustee or agent, on behalf of all Financing Parties, must agree to comply with all provisions in this Section 12.1.

(f) Any premium above the book value received by the Supplier in a sale of the Facility shall be paid to the Buyer and returned to ratepayers.

12.2 Notice of Deterioration of Financial Indicators

The Parties shall provide notice to the DPUC and each other of any deterioration of any of their respective Credit Ratings, or any other financial indicators agreed upon in writing between the Buyer and the Supplier at the Execution Date. If the Supplier is not a publicly rated entity, immediately upon becoming aware of such deterioration, then the Supplier shall provide written notice to the DPUC and the Buyer of any material deterioration in the Supplier's financial condition.

12.3 Subcontracting

The Supplier may subcontract its duties or obligations under this Agreement without the prior written approval of DPUC and the Buyer, provided, that no such subcontract shall relieve the Supplier of liability for performing any of its duties and obligations hereunder.

12.4 Taxes

(a) Each Party shall be responsible for all federal, state, and local Taxes incurred by it as a result of entering into this Agreement; provided, however, that Supplier shall be responsible for all Taxes imposed on, or assessed to, the Facility, the Site, all payments obtained by the Supplier pursuant to this Agreement and all payments obtained by the Supplier resulting from participation in any of the ISO-NE Markets.

(b) 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.

12.5 Governing Law

(a) The Parties agree that any and all disputes and issues regarding this Agreement must be brought first to the DPUC for resolution. The Parties waive any right to present any

disputes or issues in any other forums except as provided in the Uniform Administrative Procedures Act, General Statutes of Connecticut § 4-166, et seq.

(b) The interpretation and performance of this Agreement shall be governed by the Laws of the State of Connecticut without resort to any conflicts of laws principles that will result in the applications of Laws other than the Laws of the State of Connecticut. (c) To the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby also 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 to support another in obtaining, 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, or support another in obtaining, an order from FERC changing any section of this Agreement specifying the pricing, charges, classifications or other economic terms and conditions agreed to by the Parties. In the event it were to be finally determined that applicable law precludes one or both Parties from waiving its rights to seek changes from FERC to this Agreement (including entering into covenants not to do so) then this Section shall not apply, provided that neither Party shall seek any such changes except under the "public interest" standard of review as 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)(the "Mobile-Sierra" doctrine).

12.6 Relationship of Parties

The Parties acknowledge that as between the Supplier and the Buyer there is an independent contractor relationship, and that nothing in this Agreement shall create any joint venture, partnership, or principal/agent relationship between the Parties. Neither Supplier nor Buyer shall have any right, power, or authority to enter into any agreement or commitment, act on behalf of, or otherwise bind the other Party in any way.

12.7 Complete and Full Agreement; Amendments; Severability; Waiver

(a) This Agreement (including the Exhibits, Schedules and any written supplements hereto) and the DPUC's decisions and orders relating to Section 50 of the Act constitute the entire agreement between the Parties relating to the subject matter.

(b) This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. No amendment or modification to this Agreement shall be enforceable unless reduced to writing, approved by the DPUC, and executed by both Parties.

(c) The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof. If any provision or portion of a provision of this Agreement is held to be invalid, such provision or portion of a provision shall not be severed from this

Agreement; instead, the scope of the rights and duties created thereby shall be reduced by the smallest extent necessary to conform such provision to the applicable Law, preserving to the greatest extent the intent of the Parties to create such rights and duties as set out herein. If necessary to preserve the intent of the Parties hereto and the prevailing economic balance between the Buyer and the Supplier at the Execution Date, the Parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable.

(d) Any number of counterparts of this Agreement may be executed and each shall have the same force and effect as the original, but all of which shall together constitute one and the same instrument.

(e) The captions to Articles and Sections throughout this Agreement are intended solely to facilitate reading and reference to all Articles, Sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

(f) A Party's failure to timely enforce compliance with any term or provision of this Agreement shall not be deemed to be a waiver of any said Party's rights under this Agreement.

(g) Adjustments to Comply with Law or Market Changes

1. If the Supplier can demonstrate (i) that a change in Law, consisting of a revision to existing Law and a new Law, or Market Change occurred subsequent to the Execution of this Agreement, (ii) that the Supplier will not be able to comply with the change in Law or Market Change and perform its obligations under this Agreement if it does not incur the additional costs required by the change in Law or Market Change, and (iii) that the change in Law or Market Change will require it to incur additional costs that were not included in its original cost estimate submitted to the DPUC in Docket No. 08-01-01 and that it will not be able to recover these additional costs consistent with the Decision, the Supplier, in any annual rate proceeding required by Section 50 of the Act, may request that the DPUC allow the Supplier to recover the additional costs.

2. If the Buyer can demonstrate that a change in Law or Market Change that occurred subsequent to the Execution of the Agreement renders it unable to recover all of its prudently incurred costs associated with administering this Agreement, the Buyer may request rate relief from the Department.

3. If the remedies provided for in Section 12.7(g)1 and 2 are not adequate to address a change in Law or Market Change, either Party shall have the right to initiate an amendment to the Agreement pursuant to this Section 12.6 if they can demonstrate to the DPUC that the change in Law or Market Changes will result in or has resulted in a material adverse impact on the economic benefits intended to flow from this Agreement at the Execution Date. The Party seeking to amend the Agreement must provide information on the Law or Market Change and the economic repercussions of this change in Law or Market Change to the

other Party and the DPUC. The Supplier agrees to participate in any modified ISO-NE Markets (including but not limited to FCM, LFRM, and Energy Market) as long as they are eligible to do so. The Buyer and the Supplier must negotiate in good faith to produce an amended Agreement, with as few changes as possible, that restores the economic balance of the Agreement to its level at the Execution Date. The Parties must file any agreed upon proposed amendments with the DPUC for review and a determination. If the Parties are unable to negotiate an agreed upon amended Agreement, the Parties must present any disputes arising in this negotiation to the DPUC for resolution.

12.8 Indemnification

(a) General. Each Party (each, an "Indemnifying Party") shall indemnify, defend and hold harmless the other Party, its parents and affiliates and its and their respective officers, directors, lenders, trustees, employees, contractors, subcontractors, and agents (each an "Indemnified Party"), from and against any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorneys' fees, and all other obligations by or to third parties arising out of or resulting from the Indemnifying Party's (including its affiliates', agents', employees', contractors' and subcontractors') negligence or actions or omissions under, in connection with, or arising out of, this Agreement; provided , however, that the Indemnifying Party shall not be liable for damages or losses arising out of gross negligence or intentional misconduct by the Indemnified Party, its affiliates and its and their respective officers, directors, trustees, employees, contractors, subcontractors, or agents.

(b) Indemnification Procedures. A Party seeking indemnification from another Party under this Section 12.8 shall give the other Party notice of such claim as soon as reasonably practical after the commencement of or actual knowledge of, such claim or action. Such notice shall describe the claim in reasonable detail, and shall indicate the amount (estimated if necessary) of the claim that has been or may be asserted against or sustained by such Party. To the extent that the other Party is reasonably determined to be materially prejudiced as a result of failure to provide such notice, such notice shall be a condition precedent to liability of the other Party under the indemnification provisions of this Agreement. Neither Party may settle or compromise any claim for which indemnification is sought without the prior written consent of the other Party, provided, however, such consent shall not be unreasonably withheld, delayed or conditioned. The indemnification obligations of each Party shall continue in full force and effect regardless of whether this Agreement has expired or terminated, and shall not be limited in any way by any limitation on insurance, on the amount or types of damages (including any such limitations on damages set forth in this Agreement), or by any compensation or benefits payable by the Parties under worker's compensation acts, disability benefit acts or other employee acts.

12.9 Dispute Resolution

Except as otherwise expressly set forth herein, for any and all disputes or issues, the Parties shall refer to this Section 12.9. A Party must respond to the other Party's notice concerning a

disputed issue within ten (10) Business Days of first notification unless otherwise specified in this Agreement.

(a) Negotiation Between Executives. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business ("Initial Notice"). A copy of the Initial Notice shall also be given to the DPUC. Such Initial Notice shall include: (a) a statement of that Party's position and a summary of arguments supporting that position; and (b) the name and title of the executive who will be representing that Party and of any other person who will accompany the executive. Within five (5) Business Days after delivery of the Initial Notice, the receiving Party shall respond with: (a) a statement of that Party's position and a summary of arguments supporting that position; and (b) the name and title of the executive who will represent that Party and of any other person who will accompany the executive. Within fifteen (15) Business Days after delivery of the Initial Notice, the executives of both Parties and, at the Parties request, a representative from the Alternative Dispute Resolution Unit of the DPUC, shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other will be honored. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are unable to resolve the dispute within sixty (60) Business Days after the delivery of the Initial Notice, a Party may petition the DPUC to initiate a proceeding to resolve the dispute. The Parties should report to the DPUC any resolution of disputes agreed to by the Parties within five (5) Business Days of said agreement.

(b) The Parties agree that all disputes or issues arising out of this Agreement shall be brought first to the DPUC for resolution of the dispute or issues. The Parties waive their right to bring disputes or issues to any other forum except as provided in the Uniform Administrative Procedures Act, General Statutes of Connecticut § 4-166, et seq.(c) To the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby also 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 to support another in obtaining, 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, or support another in obtaining, an order from FERC changing any section of this Agreement specifying the pricing, charges, classifications or other economic terms and conditions agreed to by the Parties. In the event it were to be finally determined that applicable law precludes one or both Parties from waiving its rights to seek changes from FERC to this Agreement (including entering into covenants not to do so) then this Section shall not apply, provided that neither Party shall seek any such changes except under the "public interest" standard of review as 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)(the "Mobile-Sierra" doctrine).

12.10 Confidentiality

(a) The contents of this Agreement and all other documents relating to this Agreement and any information made available by a Party ("Disclosing Party") to the other Party ("Non-Disclosing Party") with respect to this Agreement are presumed to be public, unless the DPUC has granted a request for confidential treatment pursuant to Section 12.10(b). To obtain confidential treatment, Parties should file information that they seek to treat as confidential under seal along with a motion for a protective order requesting that the DPUC grant confidential treatment for specific data or information that they deem to be proprietary and confidential. The information filed under seal should clearly be marked "confidential" on the top of each page. The motion should indicate the basis in federal or state law for keeping the information confidential.

(b) Parties requesting confidential treatment from the DPUC must clearly specify exactly which information they seek to treat as confidential, for how long such confidential treatment shall last, and whether or not the information for which confidential treatment is being sought will be provided on a regular basis and whether it shall be protected each time. Once the DPUC has ruled that such information is confidential, the ruling will be valid for the duration of the Term of this Agreement, unless such information has become non-confidential according to Section 12.10(c) of this Agreement.

(c) All information is automatically non-confidential if such information (i) has become generally available to the public other than as a result of a disclosure by the Non-Disclosing Party or its Representatives, or (ii) may be obtained from a non-confidential source that disclosed such information in a manner that is not known by the Non-Disclosing Party to have violated such entity's obligations to the Disclosing Party, if any, in making such disclosure.

(d) In addition, confidentiality status of information does not preclude it from (i) being released to a third party as may be required in response to any summons or subpoena from a regulatory body, or otherwise required in connection with any litigation or to comply with any applicable Law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule (provided that the Non-Disclosing Party shall promptly notify the Disclosing Party of the requested disclosure so that Disclosing Party may seek a protective order or other appropriate remedy, or, in its sole discretion, waive compliance with the terms of this Section 12.10, or (ii) being furnished to the Non-Disclosing Party's Affiliates, and to each of such person's auditors, attorneys, advisors or lenders, investors, potential acquirers, directors or trustees (collectively, "Representatives" without need to know such information in conjunction with this Agreement; provided, however, that any Representatives to whom the Non-Disclosing Party discloses the information shall be required to observe the terms of this Section 12.10.

12.11 DPUC Options To Extend Contract and Direct Electric Distribution Company to Buy Facility

(a) The DPUC can at any time three hundred and sixty-five days before the end of the thirty-year term of this Agreement notify the Supplier and Buyer in writing that the DPUC elects to extend this Agreement for a term not to exceed ten years unless the Supplier consents to a longer term.

(b) The Buyer shall notify the DPUC in writing seven hundred and thirty days before the end of the thirty-year term that the DPUC has three hundred and sixty five days to exercise the option afforded under Section 12.11(a).

(c) All of the terms and conditions of this Agreement will apply to any extended contract term.

(d) If the DPUC extends the term of this Agreement, the Supplier must submit a new cost-of-service plan that includes, but is not limited to, any new capital investment and increased operations and maintenance costs associated with keeping the Facility in operation and in compliance with the terms and conditions of this Agreement during the extended term. The Supplier can also propose amendments to the Agreement as part of its cost-of-service plan submission. The DPUC will issue a decision approving, or approving with modifications, a cost-of-service plan for the extended contract term in an annual rate case prior to the expiration of the initial Term.

(e) If the DPUC has exercised its option to extend this Agreement under Section 12.11(a), the DPUC may no less than three hundred and sixty-five days before the end of the extended Term notify the Supplier in writing that the DPUC elects to cause Supplier to sell all movable equipment and fixture components of the Facility (the "Purchased Assets") to The United Illuminating Company or its successor as Electric Distribution Company, if UI or its successor Electric Distribution Company possess an ownership interest at the time the DPUC exercises its option pursuant to this Section, for a price equal to (a) the sum of (i) the negative salvage value of the Facility and (ii) any un-depreciated capital costs previously approved by the DPUC with respect to the Facility or (b) such lesser amount as the DPUC and Supplier shall have agreed upon. The Supplier agrees to negotiate in good faith with the owner of the land upon which the Facility is located for continued rights to maintain and operate the Facility. The Buyer shall notify the DPUC in writing seven hundred and thirty days before the end of the ten-year extension of 1) the termination date and 2) that the DPUC has three hundred and sixty five days to exercise the option afforded under this Section. If UI or its successor Electric Distribution Company do not possess an ownership interest at the time the DPUC exercises its option pursuant to this Section, the DPUC can elect to cause the Supplier to sell according to the terms and conditions above to the Buyer.

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

GENCONN MIDDLETOWN LLC

By GenConn Energy LLC, its sole member

By: _____
Jonathan J. Milley
Chief Executive Officer, GenConn Energy LLC

By: _____
Anthony Marone
President, GenConn Energy LLC

THE CONNECTICUT LIGHT AND POWER COMPANY

_____
By: Raymond P. Necci,
President & Chief
Operating Officer – CL&P

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

GENCONN MIDDLETOWN LLC

By GenConn Energy LLC, its sole member

By: _____
Jonathan J. Milley
Chief Executive Officer, GenConn Energy LLC

By: _____
Anthony Marone
President, GenConn Energy LLC

THE CONNECTICUT LIGHT AND POWER COMPANY

_____

By: _____

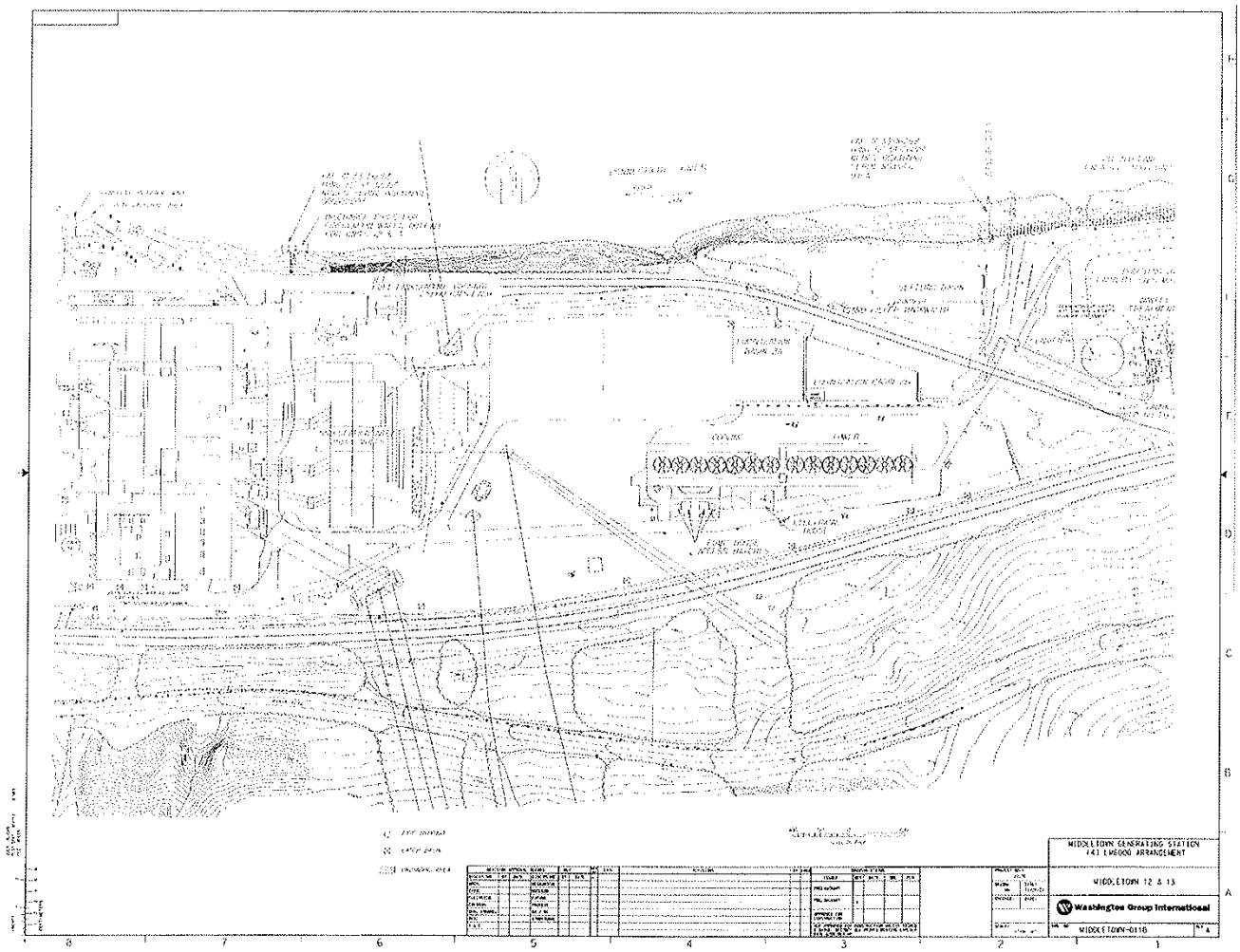
Article 13 Exhibits

Exhibit A: Facility Description and Site Map	
Legal Name of Supplier:	**GenConn Middletown LLC**
Unit:	**Middletown 12A&B, 13A&B**[1]
Summer Capacity (MW):	48.5MW (summer gas) / 46.9MW (summer ULS)
Winter Capacity (MW):	49.3MW (winter gas) / 49.2MW (winter ULS)
Description of Facility Location:	Middletown Station, 1866 River Road, Middletown, CT
USGS scale map showing Facility Location:	See attached
Facility Site Layout Drawing:	See attached
Facility water process mass balance drawing:	Pending Detailed Engineering (31 May 2010)
Facility heat process mass balance drawing:	Pending Detailed Engineering (31 May 2010)
Facility piping and instrumentation drawing:	Pending Detailed Engineering (31 May 2010)
Facility electrical one-line diagram:	See attached preliminary schematic; to be updated upon completion of one-line diagram no later than 31 May 2010
Facility control relay, telemetry, SCADA, GADS, telecommunications and protective relay equipment drawing(s):	Pending Detailed Engineering (31 May 2010)
Facility fire protection system drawing:	Pending Detailed Engineering (31 May 2010)
Type of Generator:	Air cooled, 13.8 kV, 60 Hz
Generator busbar voltage:	13.8 kV
Generator excitation system:	Rotating rectifier excitation system
Generator cooling system description:	Open ventilated air cooling with unit mounted filters
Generator capacity:	
Standard summer generator capacity:	71.176 MVA
Emergency short duration summer generator capacity:	71.176 MVA
Standard winter generator capacity:	71.176 MVA
Emergency short duration winter generator capacity:	71.176 MVA
Description of Key Equipment:	GE LM6000PC combustion turbines, turbine generators, selective catalytic reduction equipment, inlet air chillers
Description of electric generator(s) and generator ancillary equipment:	Air cooled, 13.8 kV, 60 Hz
Description of steam process major equipment (if any):	N/A
Description of Fuel handling equipment major components:	Fuel strainer/fuel forwarding pumps/coalescing filter skid/HP fuel pump
Description of Generator Step Up (GSU)	13.8 kV/345kV 3-winding

[1] Data applies to each unit individually.

Transformer(s)	
Description of GSU cooling system:	ONAN/ONAF/ONAF
GSU interconnection "high side" voltage:	345 kV
Manufacturer of GSU transformer(s):	TBD
Capacity of each GSU transformer	
Summer normal:	75/100/125 MVA
Summer emergency short duration:	
Winter normal:	75/100/125 MVA
Winter emergency short duration:	
Quantity of GSU transformers to be installed:	2
Description of major balance of plant components (as applicable):	SCRs Chillers Water Injection Systems Stacks
Air preparation, separation and handling equipment:	N/A
Water purification system:	Portable De-mineralized-Water Trailer
Bus bar and switchgear components:	High side Motor Operated Disconnect
Facility control system (including software and hardware components):	GE Mark VIe
Steam process equipment, including boilers:	N/A
Plant cooling system:	N/A
Telecommunications, telemetry, SCADA and GADS systems:	SCADA
Solid Fuel handling, conditioning and delivery system:	N/A
Solid Fuel storage facility:	N/A
Liquid Fuel handling, conditioning and delivery system:	Fuel strainer/fuel forwarding pumps/coalescing filter skid/HP fuel pump
Liquid Fuel storage facility:	Up to 1.0 million gallon ULS fuel storage tank
Gas Fuel handling, conditioning and delivery system:	Pressure Regulating Valve, metering equipment
Gas Fuel storage facility:	N/A
Waste (includes ash and combustion solids) disposal and handling system:	N/A
Air quality emission monitoring system:	CEMS




MIDDLETOWN GENERATING STATION
#41 EM6000 ARRANGEMENT
MIDDLETOWN 12 & 13
Washington Group International
MIDDLETOWN-0116

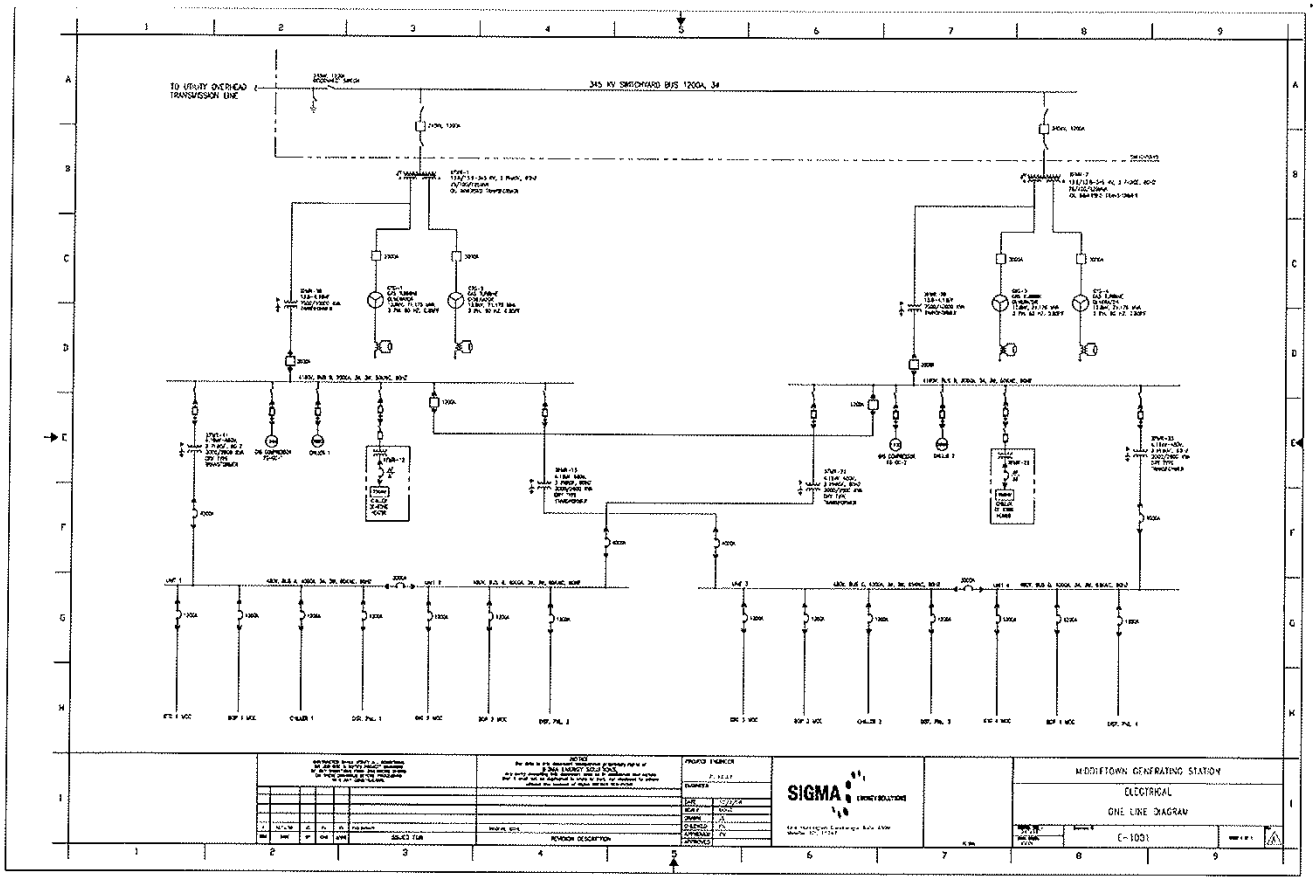

TO UTILITY OVERHEAD TRANSMISSION LINE
345 KV SWITCHYARD BUS 1200A, 3Φ
SIGMA ENERGY SOLUTIONS
MIDDLETOWN GENERATING STATION
ELECTRICAL
ONE LINE DIAGRAM
E-1001

Exhibit B: Milestone Events and Milestone Dates for the Facility

Note that starred Milestone Events represent Key Milestone Events for the purpose of this Agreement.

Milestone Event	Milestone Date
Permanent Site Control achieved	3 March 2008
Major permits applied for, including ISO-NE Interconnection Study, CSC, DEP, and others as applicable	ISO NE ISIS - 5 July 2006 CSC Petition - 31 December 2008 Title V Permit under RCSA Section 22a-174-33(f)(4) request for revision of existing Title V Permit - within 12 months of Commercial Operations
Major permits obtained, including receipt of approvals from the ISO, CSC, DEP, and FERC, as applicable	ISO NE LGIA - 31 October 2009 CSC - 31 October 2009 RCSA Section 22a-174-3a Permit to Construct and Operate - 27 August 2008 Title IV Permit - Station currently has one in effect
Engineering, equipment procurement, and construction contract(s) executed	Detailed Engineering - 1 October 2009 Major Equipment (combustion turbines)- 15 November 2008 Construction Contract(s) - 1 March 2010
Financial closing	1 March 2010
Interconnection Study completed	1 April 2009
Equipment Ordered	31 December 2009
Major Equipment Delivered	1 February 2011
Commencement of Construction	1 June 2010
Foundations laid	1 October 2010
Interconnection completed	In Service Date - 1 April 2011
Completion of Major Construction – Ready for Testing	1 March 2011
Commercial Operation	1 June 2011

Exhibit C: Design Parameters of the Facility and Performance Benchmarks

UNIT CHARACTERISTICS	Middletown 12A&B, 13A&B[2]
Unit configuration (i.e., combined cycle, single cycle, etc.)	Simple Cycle Combustion Turbine
Manufacturer and unit class (i.e., GE Frame H, etc.)	GE LM6000PC Sprint
Primary Fuel:	Natural Gas
Secondary Fuel	Ultra Low Sulfur Distillate (ULS) Fuel
Low Operating Limit:	19.7MW (summer gas)/24.0MW (winter gas) 19.1MW (summer ULS)/23.9MW (winter ULS)
High Operating Limit (normal):	48.5MW (summer gas)/49.3MW (winter gas) 46.9MW (summer ULS)/49.2MW (winter ULS)
High Operating Limit (emergency), MW:	48.5MW (summer gas)/49.3MW (winter gas) 46.9MW (summer ULS)/49.2MW (winter ULS)
Ramp Rate (normal), MW/Minute	5MW/minute
Ramp Rate (emergency), MW/Minute	5MW/minute
Heat Rate (Warranted Heat Rate), Btu/kWh	See attached Operating Performance Data.
Heat Rate for Combined Cycle Facilities:	N/A
Base Warranted Heat Rate, Btu/kWh (hhv) for ___MW	N/A
Duct Firing Heat Rate: _____Btu/kWh (hhv) for ___MW	N/A
Minimum Run Time: _____ hours (__ days)	1 hour
Minimum Shutdown Time: ___ hours	1 hour
Start Up Time (Cold Conditions)*: ___ hours	10 minutes
Start Up Time (Hot Conditions): ___ hours	10 minutes
*Cold start applies after _____ hours from shutdown	N/A
AGC Equipment (Yes/No)?	No

[1] Data applies to each unit individually.

OPERATING PERFORMANCE DATA (New & Clean)

Single Unit Part-Load Operation

Summer (90°F)		*Natural Gas*		*ULS Distillate Fuel*	
Unit Load (Percent)		Capacity (MW)	Heat Rate (BTU/kWh)	Capacity (MW)	Heat Rate (BTU/kWh)
100%	*Chilled*	47.7	10,253	46.1	10,086
100%	*Unchilled*	40.2	10,345	39.0	10,255
90%	*Unchilled*	36.1	10,639	35.1	10,556
80%	*Unchilled*	32.1	11,001	31.1	10,949
70%	*Unchilled*	28.0	11,470	27.1	11,447
60%	*Unchilled*	23.9	12,189	23.1	12,050
50%	*Unchilled*	19.7	13,063	19.1	13,070

Winter (20°F)	*Natural Gas*		*ULS Distillate Fuel*	
Unit Load (Percent)	Capacity (MW)	Heat Rate (BTU/kWh)	Capacity (MW)	Heat Rate (BTU/kWh)
100%	48.9	9,828	48.7	9,643
90%	43.9	10,015	43.8	9,831
80%	39.0	10,318	38.8	10,138
70%	34.0	10,694	33.9	10,514
60%	29.0	11,250	28.9	11,074
50%	24.0	12,057	23.9	11,898

Notes:

1. Figures presented in Attachment 4 and Order 5 reflect Full Station Load (i.e., four units operating at full load). As such, Summer (90°F) operation on natural gas and ULS distillate fuel result in a total output of 193.9 MW (or 48.5 MW per unit) and 187.6 MW (or 46.9 MW per unit), respectively.
2. The difference between unit output based on total Full Station Load and individual unit output based on independent operation (i.e., 48.5 MW vs. 47.7 MW summer running on natural gas) is attributable to economies of scale for station and auxiliary loads. The auxiliary electrical loads for the chillers, fuel handling equipment, demineralization equipment, and transformer losses are not linear and increase at smaller increments as additional units are turned on.
3. "Single Unit Part Load Operation" provides additional information on part load performance of each individual unit.
4. The full load operation of a single unit during the "Summer" starts at 100% chilled output (per Attachment 4) and eliminates chiller output resulting in 100% unchilled output.

Degradation is fired hours based. 1 distillate hour = 2 gas hours. Output and heat rate degradation per manufacturer's degradation curves.

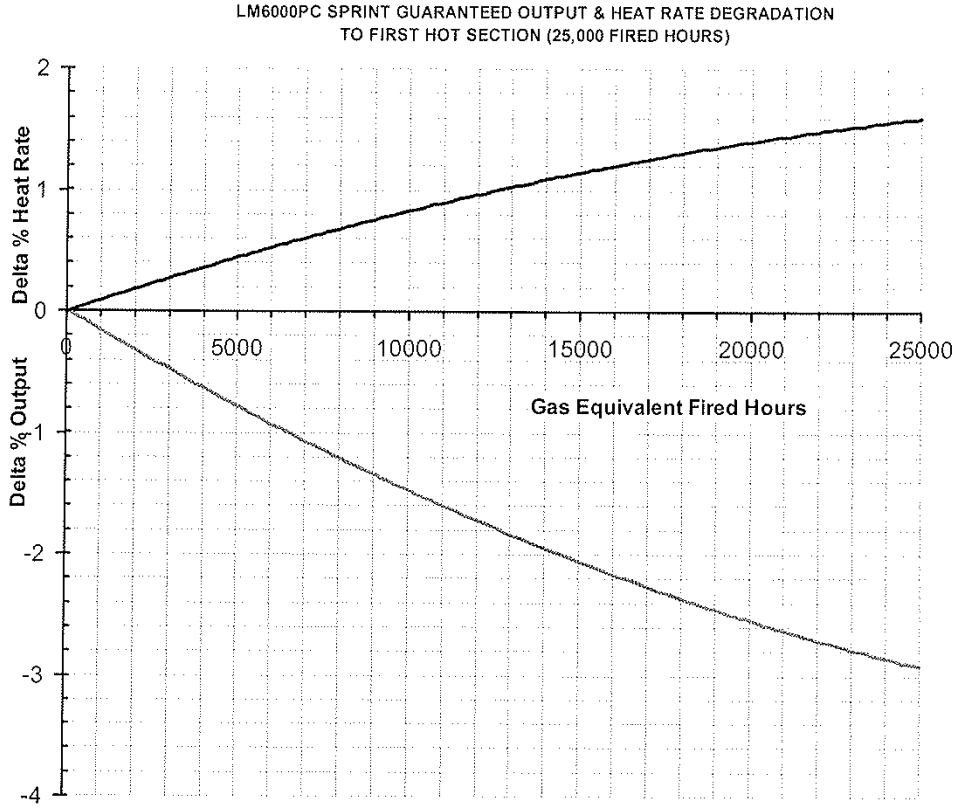


Exhibit D Code of Conduct

Information Disclosure and Communication Protocols

1.1 The distribution company that is serving as the Buyer in this Agreement, and specifically any Reviewing Parties representing the distribution company, will be obliged to sign a DPUC-approved Confidentiality/Non-Disclosure Agreement before receiving this Agreement, which will grant this Agreement the status of "Protected Materials".

1.2 The Confidentiality/Non-Disclosure Agreement shall be based on a Protective Order, which will be approved by the DPUC before the distribution company receives this Agreement.

1.3 As per the Confidentiality/Non-Disclosure Agreement, the distribution company will put in place appropriate "Chinese walls" to safeguard commercially sensitive information that the companies will have access to once they become counterparties to this Agreement.

1.4 The distribution company will treat as confidential the Protected Materials it receives as an administrator of and counterparty to this Agreement. Protected Materials will not be used except as necessary for the administration of this Agreement, nor shall they be disclosed in any manner to any person except an official Reviewing Representative, who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out his or her responsibilities in this proceeding.