

POWER PURCHASE AGREEMENT

between

**Golden Spread Electric Cooperative, Inc.
("Buyer")**

and

**[BUSINESS NAME].
("Seller")**

for the

PURCHASE OF RENEWABLE ENERGY

Dated as of [MONTH] _____, 201[]

1. DEFINITIONS AND INTERPRETATION	1
2. RULES OF INTERPRETATION.....	8
1. <u>General</u>	8
2. <u>Headings</u>	8
3. <u>Entire Agreement</u>	8
3. TERM; FACILITIES DEVELOPMENT	8
1. <u>Term and Termination</u>	9
2. <u>Milestone and Commercial Operations</u>	9
4. DELIVERIES OF OUTPUT.....	9
1. <u>Purchase and Sale</u>	9
2. <u>Title and Risk of Loss of Output</u>	9
3. <u>Curtailment</u>	10
5. COSTS.....	10
1. <u>Interconnection Costs and Charges</u>	10
2. <u>Station Service</u>	10
3. <u>Costs of Ownership and Operation</u>	10
6. INTERCONNECTION.....	11
1. <u>Interconnection</u>	11
2. <u>Coordination with Interconnection Provider</u>	11
7. ERCOT MARKET REGISTRATION	11
1. <u>Registration</u>	11
8. PAYMENT.....	12
1. <u>Price for Energy</u>	12
2. <u>Statements and Payments</u>	12
3. <u>Due Date</u>	12
4. <u>Late Payments</u>	12
5. <u>Calculation Methods</u>	13
6. <u>Disputed Payments</u>	13
7. <u>Offsets</u>	13
9. NOTIFICATIONS AND REPORTS	13
1. <u>Outages</u>	13
2. <u>Scheduling</u>	13
3. <u>Electronic Communications</u>	14

4. <u>Reports</u>	14
6. <u>Short Range Forecasts and Updates</u>	15
7. <u>Information to Governmental Authorities</u>	15
8. <u>Data Requests</u>	15
10. FACILITY OPERATIONS DATA SHARING	15
1. <u>General</u>	15
2. <u>Solar Panel Information</u>	16
3. <u>Wind Turbine Information</u>	16
4. <u>Additional Information</u>	16
11. METERING.....	16
1. <u>Metering</u>	16
12. COMPLIANCE WITH LEGAL REQUIREMENTS	18
1. <u>Compliance with Legal Requirements</u>	18
13. REPRESENTATIONS AND WARRANTIES.....	18
1. <u>Mutual Representations and Warranties</u>	18
2. <u>Seller’s Further Representations and Warranties</u>	19
3. <u>Litigation</u>	19
4. <u>Accuracy of Information</u>	19
5. <u>Required Facility Documents</u>	19
6. <u>Wind and Solar Agreements</u>	20
7. <u>Sellers Rights</u>	20
8. <u>No Other Representations or Warranties</u>	20
9. <u>Continuing Nature of Representations and Warranties;</u> <u>Notice</u>	20
14. DEFAULTS AND REMEDIES	20
1. <u>Defaults</u>	20
2. <u>Termination and Remedies</u>	22
3. <u>Termination of Duty to Buy</u>	22
4. <u>Cumulative Remedies</u>	22
5. <u>Duty/Right to Mitigate</u>	23
15. DISPUTE RESOLUTION	23
1. <u>Negotiation of Disputes and Disagreements</u>	23
2. <u>Mediation</u>	23
3. <u>Pendency of Dispute</u>	24
4. <u>Settlement Discussions</u>	25

5. <u>Waiver of Jury Trial</u>	25
6. <u>Specific Performance</u>	25
16. INDEMNITIES	26
1. <u>INDEMNITY BY SELLER</u>	26
2. <u>INDEMNITY BY BUYER</u>	26
3. <u>Additional Cross Indemnity</u>	26
4. <u>Defense</u>	27
5. <u>Failure to Defend</u>	27
6. <u>No Dedication</u>	27
7. <u>Consequential Damages</u>	27
8. <u>Limitation on Liability</u>	27
17. MISCELLANEOUS PROVISIONS	28
1. <u>Several Obligations</u>	28
2. <u>Choice of Law</u>	28
3. <u>Partial Invalidity</u>	28
4. <u>No Waiver</u>	28
5. <u>Counterparts</u>	28
6. <u>Survival</u>	28
7. <u>Further Assurances</u>	29
8. <u>Governmental Jurisdiction and Authorization</u>	29
9. <u>Successors and Assigns</u>	29
10. <u>Notices/Changes of Address</u>	29
11. <u>General Operations</u>	30
12. <u>Duties</u>	30

- Exhibit A - Buyer’s Initial Designated Representative
- Exhibit B - Contact Information for Notice Requirement
- Exhibit C - Load Shedding, Curtailments, Redispatch
- Exhibit D - Method of Payment
- Exhibit E - Environmental Attributes
- Exhibit F - Description of Facilities and Premises
- Exhibit G - Points of Delivery/Interconnection Facilities/Metering

**POWER PURCHASE AGREEMENT
(PURCHASE OF NONFIRM ENERGY FROM QF FACILITIES)**

THIS POWER PURCHASE AGREEMENT (PURCHASE OF NONFIRM ENERGY) (“Agreement”), entered into this ___ day of _____, is between [Company Name] a (“Seller”), [Entity Type] and Golden Spread Electric Cooperative, Inc. (“Buyer”), a Texas electric cooperative corporation. Seller and Buyer are sometimes hereinafter referred to collectively as the “Parties” and individually as a “Party.”

WHEREAS, Seller intends to sell output from its (insert Nameplate Capacity of Facility) (insert facility type) facility located in (insert city), Texas (“the Facilities”);

WHEREAS, Seller has warranted and represented that it owns and will operate the Facilities and has the exclusive right to all energy and capacity from the Facilities;

WHEREAS, Seller represents that it meets the requirements to be a “Qualifying Facility” as that term is defined under applicable regulations of the Federal Regulatory Energy Commission (“FERC”);

WHEREAS, Seller desires to sell and deliver to Buyer the Output (as all such terms are hereinafter defined) from the Facilities, and Buyer desires to buy the same from Seller, under this Agreement;

WHEREAS, Seller agrees that Buyer is not purchasing any capacity under this agreement; and

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, mutually agree as follows:

1.
DEFINITIONS AND INTERPRETATION

Unless otherwise required by the context in which any term appears, initially capitalized terms used herein shall have the following meanings:

“AAA” is defined in Section 15.2.

“Affiliate” means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with such entity, with “control” meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities (if applicable) or by contract or otherwise. Notwithstanding the foregoing, with respect to Buyer, Affiliate does not include members of Buyer.

“Ancillary Service” means a service necessary to support the transmission of energy to Loads while maintaining reliable operation of the Transmission Service Provider’s (TSP’s) transmission system using Good Utility Practice.

“Avoided Costs” means the marginal costs for the Buyer to produce or purchase an additional MW of energy but for the acquisition of energy from the Seller, calculated pursuant to this Agreement.

“Billing Period” means a calendar month.

“Business Day” means any day on which banks in Dallas, Texas are not authorized or required by Requirements of Law to be closed, beginning at 6:00 a.m. and ending at 5:00 p.m. local time in Dallas, Texas.

“Buyer” is defined in the Recitals.

“Buyer Indemnities” is defined in Section 16.1.

“Calculation Period” means each measured interval integrated into an hour during the Term.

“Commercial Operation” means that all or part of the Facilities are fully operational and reliable and are fully interconnected, fully integrated, and synchronized with the Interconnection System.

“Commercial Operation Date” means the date that Commercial Operation is achieved for all or part of the Facilities.

“Contract Price” is defined in section 7.4.

“Day-Ahead” means the period of time starting at 0001 and ending at 2400 on the day prior to the Operating Day.

“Day-Ahead Market” “(DAM)” means a daily, co-optimized market in the Day-Ahead for Ancillary Service capacity, certain CRRs, and forward financial energy transactions.

“Dispute Notice” is defined in Section 15.1.

“Distributed Generation” “(DG)” is an electrical generating facility located at a Customer’s point of delivery (point of common coupling) ten megawatts (MW) or less and connected at a voltage less than or equal to 60 kilovolts (kV) which may be connected in parallel operation to the utility system.

“Effective Date” is the date the PPA is signed by the latter of either Buyer or Seller.

“Electric System Authority” means each of NERC, ERCOT, ECC, a regional or sub-regional reliability council or authority, and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the geographic area in which the Facilities are located.

“ECC” means the interconnection or reliability coordinating council designated by NERC as responsible for enforcing electric reliability standards for the geographic area in which the Facilities are located.

“Environmental Attributes” means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by Buyer. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides, nitrogen oxides, carbon monoxide, and other pollutants; and (2) any avoided emissions of carbon dioxide, methane, and other greenhouse gases defined by U.S. laws or regulations. Environmental Attributes do not include (i) tax incentives existing now or in the future associated with the construction, ownership or operation of the Facilities, (ii) matters designated by Buyer as sources of liability, or (iii) any adverse wildlife or environmental impacts.

“Environmental Contamination” means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, or to present a material risk that as a consequence of the application of federal, state or local laws and regulations that (i) the Premises will not be available or usable for the purposes contemplated by this Agreement or (ii) the potential resulting liabilities could impair Seller’s ability to meet its obligations hereunder.

“ERCOT” means the Electric Reliability Council of Texas, a Texas nonprofit corporation that has been certified by the PUCT as the Independent organization for the ERCOT Region.

“Event of Default” is defined in Section 14.1.

“Facility” or “Facilities” is defined in **Exhibit F**.

“FERC” means the Federal Energy Regulatory Commission.

“Final Settlement Statement” means a statement created by the ERCOT at the end of the fifty-ninth (59th) calendar day following the Operating Day.

“Generation Interconnection Agreement” means the agreement or agreements entered into separately between Seller and Interconnection Provider concerning, among other things, the interconnection of the Facilities to Interconnection Provider’s Interconnection System via the Interconnection Facilities.

“Governmental Authority” means any supranational, federal, state or other political subdivision thereof, having jurisdiction over Seller, Buyer, or this Agreement, including any municipality, township or county, and any entity or body exercising executive, legislative,

judicial, regulatory or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled by any of the foregoing.

“Hazardous Materials” means any substance, material, gas, or particulate matter that is regulated by any Governmental Authority, as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including protection of non-human forms of life, land, water, groundwater, and air, including any material or substance that is (1) defined as "toxic," "polluting," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "solid waste" or "restricted hazardous waste" under any provision of local, state, or federal law; (2) petroleum, including any fraction, derivative or additive; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive material; (6) designated as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (33 U.S.C. §1251); (7) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6901); (8) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. §9601); (9) defined as a "chemical substance" under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (15 U.S.C. §2601); or (10) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.* (7 U.S.C. §136).

“Initial Settlement Statement” means the first iteration of a settlement statement issued for a particular operating day.

“Interconnection Facilities” means all the facilities installed, or to be installed, for the purpose of interconnecting the Facilities to the Interconnection System, including electrical transmission lines, line upgrades, transformers, capacitor banks, inductor banks, and associated equipment, substations, relay and switching equipment, and safety equipment; and as further described in a Generation Interconnection Agreement.

“Interconnection Provider” means the Buyer or another person or entity that owns and/or operates the distribution and transmission lines and the other equipment and facilities to which the Seller interconnects at the Point of Delivery. Seller must have a Generation Interconnection Agreement with the Interconnection Provider.

“Interconnection System” means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by the Interconnection Provider, which shall include, after construction and installation of the Facilities, the circuit reinforcements, extensions, and associated terminal facility reinforcements or additions required to interconnect the Facilities, all as set forth in a Generation Interconnection Agreement.

“kW” means kilowatt.

“kWh” means kilowatt-hour.

“Liabilities” is defined in Section 16.1.

“Load Zone” A group of Electrical Buses assigned to the same zone under Section 3.4, of the ERCOT Nodal Protocols. Every Electrical Bus in ERCOT with a Load must be assigned to a Load Zone for Settlement purposes. A NOIE Load Zone is a type of Load Zone.

“Locational Marginal Price” (“LMP”) means the offer and/or bid-based marginal cost of serving the next increment of Load at an Electrical Bus, which marginal cost is produced by the DAM process or by the SCED process.

“Market Related Charges” (“MRC”) means any charges to a QF with Nameplate Capacity Rating of 10 MW or greater as related to market activities in ERCOT.

“Mediation Location” means Amarillo, Texas.

“Mediation Notice” is defined in Section 15.2.

“Mediation Procedures” is defined in Section 15.2.

“MW” means megawatt.

“MWh” means megawatt hour.

“NAESB” means the North American Energy Standards Board.

“Nameplate Capacity Rating” [Insert Nameplate Capacity Rating]

“Negative RTLMP Period” means the period commencing with start of the first Calculation Period in which the RTLMP is negative and ending with the start of the first Calculation Period in which the RTLMP is again zero or positive.

“NERC” means the North American Electric Reliability Corporation.

“Non-Modeled Generator” is a generator that is capable of providing net output of energy to the ERCOT system; ten MW or less in size; or greater than ten MW and registered with the PUCT according to P.U.C. Subst. R. 25.109, Registration of Power Generation Companies and Self Generators, as a self-generator; and registered with ERCOT as a Non-Modeled Generator, which means that the generator may not participate in the Ancillary Service or energy markets, RUC, or SCED.

“Operating Day” The day, including hours ending 0100 to 2400, during which energy flows.

“Output” means energy produced by the Facilities and sold to Buyer.

“Permits” means all of the permits, licenses, approvals, certificates, entitlements and other authorizations issued by Governmental Authorities required for the construction, ownership or operation of the Facilities, and the wholesale sale of energy or capacity therefrom, and occupancy of the Premises, and all amendments, modifications, supplements, general conditions and addenda thereto.

“Point of Delivery” means the point of interconnection between the Facilities and the Interconnection System, as provided for in the applicable Generation Interconnection

Agreements and as further described in **Exhibit G**. At this location Buyer accepts title to and risk of loss for the energy delivered by the Seller to the Buyer.

“Premises” means the real property on which the Facilities are or will be located, as more fully described on **Exhibit F**.

“Prevailing Time” or “PT” means Central Standard Time or Central Daylight Time, as applicable on the day in question.

“Prudent Utility Practices” means any of the practices, methods and acts engaged in or accepted by a significant portion of the electrical utility industry in the United States of America at the time the decision was made or any of the practices, methods and acts that, in the exercise of reasonable judgment in the light of the facts known or that should reasonably have been known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with law, regulation, permits, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. Prudent Utility Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

“PPA” means this Power Purchase Agreement between Buyer and Seller.

“QF” or “Qualifying Facility” means a qualifying small power production facility or qualifying cogeneration facility under regulatory qualification criteria as defined in 16 U.S.C.A. § 796(17)(C) and (18)(B).

“Qualified Scheduling Entity” (“QSE”) is a market participant that is qualified by ERCOT in accordance with Nodal Protocols Section 16, Qualifications of Qualified Scheduling Entities and Registration of Market Participants, to submit balanced schedules and ancillary service bids and settle payments with ERCOT.

“Real-Time Market” (“RTM”) means the market operated by ERCOT continuously in real-time to balance generation and load.

“Reporting Month” is defined in Section 9.4.1.

“Required Facility Documents” means all Permits, authorizations, rights and agreements now or hereafter necessary for construction, operation, and maintenance of the Facilities, and the wholesale sale of energy or capacity therefrom.

“Requirements of Law” means any applicable federal, state and local law, statute, regulation, rule, action, order, code or ordinance enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority or regulatory body (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

“Reliability Unit Commitment” “(RUC)” means a process to ensure that there is adequate Resource capacity and Ancillary Service capacity committed in the proper locations to serve ERCOT forecasted Load.

“Resource Entity” “(RE)” means an Entity that owns or controls an All-Inclusive Resource and is registered with ERCOT as a Resource Entity.

“Resource Node” means either a logical construct that creates a virtual pricing point required to model a Combined-Cycle Configuration or an Electrical Bus defined in the Network Operations Model, at which a Generation Resource's Settlement Point Price or WSL's Settlement Point Price is calculated and used in Settlement. All Resource Nodes shall be identified in accordance with the document titled "Procedure for Identifying Resource Nodes," which shall be approved by the appropriate TAC subcommittee and posted to the MIS Public Area. For a Generation Resource that is connected to the ERCOT Transmission Grid only by one or more radial transmission lines that all originate at the Generation Resource and terminate in a single substation switchyard, the Resource Node is an Electrical Bus in that substation. For all other Generation Resources, the Resource Node is the Generation Resource's side of the Electrical Bus at which the Generation Resource is connected to the ERCOT Transmission Grid.

“Security-Constrained Economic Dispatch” “(SCED)” means the determination of desirable generation resource output levels using energy offer curves while considering state estimator (SE) output for load at transmission-level electrical buses, generation resource limits, and transmission limits to provide the least offer-based cost dispatch of the ERCOT System.

“Scheduled Commercial Operation Date” means the anticipated Commercial Operation Date for the Facilities. The Scheduled Commercial Operation Date for the Facilities is the effective date of this Agreement.

“Seller” is defined in the Recitals.

“Seller Indemnities” is defined in Section 16.1.

“Settlement Interval” means the applicable period of energy integration for the applicable market settlement function. In the Day-Ahead Market the Settlement Interval is hourly. In the Real-Time Market the Settlement Interval is every fifteen-minutes starting with the top of each hour.

“Settlement Point” means a Resource Node, Load Zone, or hub.

“Settlement Point Price” means a price calculated for a Settlement Point for each Settlement Interval using LMP data and the formulas detailed in ERCOT Nodal Protocols Section 4.6, DAM Settlement, and ERCOT Nodal Protocols Section 6.6, Settlement Calculations for the Real-Time Energy Operations.

“System Emergency” means a condition on Buyer's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

“Term” is defined in Section 3.1.

“Wind and Solar Agreements” means those agreements with respect to real property that are or will be required to operate the Facilities, and which are necessary for Seller to perform any obligations hereunder.

2.
RULES OF INTERPRETATION

1. **General.** Terms used in this Agreement but not specifically defined in this Article 1 shall have meanings as commonly used in the English language and, where applicable, in Prudent Utility Practices. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in accordance with such recognized meanings. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to “Articles,” “Sections,” “Schedules,” “Annexes,” “Appendices” or “Exhibits” are to articles, sections, schedules, annexes, appendices or exhibits hereof; (c) all references to a particular entity or an electricity market price index include a reference to such entity’s or index’s successors; (d) “herein,” “hereof” and “hereunder” refer to this Agreement as a whole; (e) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) “including” means “including, without limitation” or “including, but not limited to”; and (h) all references to a particular tariff, law or statute mean that tariff, law or statute as amended from time to time. Each term hereof shall be construed simply according to its fair meaning and not strictly for or against either Party. The Parties have jointly prepared this Agreement, and no term hereof shall be construed against a Party on the ground that the Party is the author of that provision.

2. **Headings.** The headings used for the sections and articles hereof are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions hereof.

3. **Entire Agreement.** This Agreement sets forth the full and complete understanding of the Parties relating to the subject matter hereof as of the date hereof, and supersedes any and all negotiations, agreements, understandings and representations made or dated prior thereto with respect to such subject matter. No modification hereof shall be effective unless it is in writing and executed by both Parties.

3.
TERM; FACILITIES DEVELOPMENT

1. **Term and Termination.** The initial term of this Agreement shall continue for a period of one year from the date it is signed by the latter of Buyer or Seller. The Agreement shall continue on a year-to-year basis unless terminated as provided below. Seller may terminate this Agreement by providing written notice to the Buyer to terminate this Agreement effective upon the end of the applicable renewal period, such notice to be provided no later than 90 days prior to the noticed termination date. Buyer may terminate this Agreement if (1) Buyer's obligation to purchase the energy of the Seller is eliminated by legislation, regulation, or an order of the FERC; or (2) it becomes necessary to enter into a replacement agreement because the Public Utility Commission of Texas ("PUCT") approves changes to this standard purchase agreement. Buyer shall provide notice of termination no later than 90 days prior to the noticed termination date.

2. **Milestone and Commercial Operations.** On or before the Scheduled Commercial Operation Date Seller shall cause the Facilities to achieve Commercial Operation. To the extent that Commercial Operation has not commenced on or before the Scheduled Commercial Operation Date, then Seller may by written notice to Buyer within three (3) business days after the Scheduled Commercial Operation Date, extend the Scheduled Commercial Operation Date by no more than one-hundred-eighty (180) days. Seller shall provide written notice to Buyer stating when each of the Facilities has achieved Commercial Operation.

4.
DELIVERIES OF OUTPUT

1. **Purchase and Sale.** Except as otherwise expressly provided herein, beginning on the Effective Date Seller shall sell and deliver to Buyer, and Buyer shall purchase and receive, the Output from the Facilities at the applicable Point of Delivery to the extent that energy is available. Seller and Buyer agree that the purchases and sale of Output do not convey title to any Environmental Attributes associated with the Output or otherwise resulting from the generation of energy by the Facilities. In the event that Buyer notifies Seller that it is interested in purchasing Seller's Environmental Attributes, Seller must offer Buyer the right of first refusal in all Environmental Attributes in the event that Seller owns the same upon the effective date of this agreement. [If the Parties agree that Buyer shall purchase Seller's Environmental Attributes, this can be addressed in an Exhibit attached to the PPA or through modification of this Section 4.1 and the Costs provisions located in Section 5]

2. **Title and Risk of Loss of Output.** Seller shall deliver Output free and clear of all liens, claims and encumbrances. Title to and risk of loss of Output shall transfer from Seller to Buyer upon its delivery to Buyer at the applicable Point of Delivery. Seller shall be deemed to be in exclusive control of, and responsible for any damage or injury caused by, all Output up to and at the Point of Delivery. Buyer shall be deemed to be in exclusive control of, and responsible for any damages or injury caused by, Output from the Point of Delivery. Delivery of Output to Buyer on any particular day shall be subject to the provisions of this Agreement.

3. **Curtailment.** All delivery arrangements are subject to all applicable NERC reliability standards, NAESB standards, and ERCOT curtailment policies and procedures. Additionally, non-firm energy purchases may be interrupted in case of a System Emergency or when a hazardous condition exists if, in the Buyer's sole judgment, the continuation of such purchases would contribute to the System Emergency or hazardous condition. Upon ten (10) minutes' notice to the Seller to cease delivery of energy, non-firm energy purchases may be interrupted due to operational circumstances, including instances when the amount of energy produced by the Seller exceeds the portion of the Buyer's load that can reliably be served by said energy. The foregoing language shall be interpreted in accordance with Public Utilities Commission of Texas Section 25.200-Load Shedding, Curtailment, Redispatch attached in Exhibit C.

5. COSTS

1. **Interconnection Costs and Charges.** Seller shall be responsible for paying or satisfying when due all costs or charges imposed in connection with the scheduling and delivery of Net Output up to and at the Points of Delivery, including transmission costs, transmission line losses, and any operation and maintenance charges imposed by Interconnection Provider pursuant to a Generation Interconnection Agreement. Without limiting the generality of the foregoing, Seller, in accordance with a Generation Interconnection Agreement, shall bear all costs associated with the modifications to Interconnection Facilities or Interconnection System caused by or related to (a) the interconnection of the Facility or Facilities with the Interconnection System and (b) any increase in generating capacity of the Facility or Facilities.

2. **Station Service.** The Parties recognize that this Agreement does not provide for the supply of any electric service by Buyer to Seller or to the Facilities and Seller must enter into separate arrangements for the supply of electric services to the Facilities. The Parties acknowledge and agree that the arrangements for the supply of electric services to the Facilities shall be separate and free-standing arrangements and that the terms of this Agreement are not binding upon the supplier of such electric services. Notwithstanding any other provision in this Agreement, nothing in the arrangements for the supply of retail electric services to the Facilities shall alter or modify Seller's or Buyer's rights duties and obligations under this Agreement. This Agreement shall not be construed to create any rights between Seller and the supplier of such retail electric services.

3. **Costs of Ownership and Operation.** Without limiting the generality of any other provision hereof, Seller shall be solely responsible for paying when due (a) all costs of owning and operating the Facilities in compliance with existing and future Requirements of Law and the terms and conditions hereof, and (b) all taxes and charges (however characterized) now existing or hereinafter imposed on or with respect to the Facilities, their operation, or on or with respect to emissions or other environmental impacts of the Facilities, including any such tax or

charge (however characterized) to the extent payable by a generator of such energy or Environmental Attributes, including but not limited to sales, use, excise, ad valorem and any other similar taxes, imposed or levied by any Governmental Authority.

6.
INTERCONNECTION

1. **Interconnection.** At Seller's sole cost and expense, Seller shall build, operate, maintain and repair the Facilities and the Interconnection Facilities in accordance with (i) the applicable and mandatory standards, criteria and formal guidelines of ERCOT, the PUCT, and NERC, and any successors to the functions thereof; (ii) the Permits and Required Facility Documents; (iii) the applicable Generation Interconnection Agreement; (iv) all Requirements of Law; (v) the requirements hereof; (vi) the Wind and Solar Agreements and (vii) Prudent Utility Practices. Seller will have no claims against Buyer under this Agreement with respect to the provision of station service. Seller shall be responsible for the costs and expenses associated with interconnection of the Facilities at their Nameplate Capacity Rating at the applicable Point of Delivery, including the costs of any Interconnection System upgrades beyond the Point of Delivery necessary to interconnect the Facilities with the Interconnection System and to allow the delivery of all Output to the Point of Delivery. Seller shall have no claims hereunder against Buyer with respect to any requirements imposed by or damages caused by (or allegedly caused by) acts or omissions of the Interconnection Provider, in connection with a Generation Interconnection Agreement or otherwise. Seller shall be solely responsible for, and shall defend, indemnify and hold Buyer harmless against, any Liabilities arising out of Seller's performance or failure to perform under a Generation Interconnection Agreement. Seller's failure to obtain, or perform under, or breach of, a Generation Interconnection Agreement, or its other contracts and obligations to Interconnection Provider is not an event of Force Majeure.

2. **Coordination with Interconnection Provider.** Seller shall be responsible for the coordination and synchronization of the Facilities and the Interconnection Facilities with Interconnection Provider and ERCOT as necessary. In the event there are unanticipated changes in FERC or Electric System Authority rules sufficiently significant to change the benefits, risks and burdens held by the Parties, the Parties shall meet in good faith to adjust the terms of this Agreement to provide for the Parties the originally intended allocation of benefits, risks and burdens.

7.
ERCOT MARKET REGISTRATION

1. **Registration.**

7.1.1 Facility Nameplate Capacity Rating of less than 1 MW. Pursuant to ERCOT Protocols, a generation resource with Nameplate Capacity Rating of less than 1 MW will not be required to register with ERCOT.

7.1.2 Facility Nameplate Capacity Rating of 1-10 MW. Pursuant to ERCOT Protocols, a generation resource with Nameplate Capacity Rating of 10 MW or less is considered Distributed Generation. Seller will be responsible for registering with ERCOT according to the ERCOT Protocols and will designate Buyer as the QSE and its facility as the RE. Seller's facility will be considered a Non-Modeled Generator and will not have market implications.

7.1.3 Facility Nameplate Capacity Rating of 10 MW or greater. Seller will be responsible for registering with ERCOT according to the ERCOT Protocols and will designate Buyer as the QSE and its facility as the RE. Seller's facility will be modeled and will have market implications.

8. PAYMENT

1. **Price for Energy.** Rates for the purchase of non-firm energy under this Agreement are based on the Buyer's Avoided Cost of energy. The price for the purchase of non-firm energy under this Agreement shall be at the applicable ERCOT Settlement Point Price ("SPP") ("Contract Price"). The applicable SPP shall be the generator SPP at the applicable Resource Node. If the generator SPP is not available then the applicable SPP shall be the SPP related to the Load Zone assigned to Buyer's Load in ERCOT. Seller shall not be entitled to any compensation over and above the Contract Price for the Capacity Rights associated therewith.

2. **Statements and Payments.** The Buyer shall send a monthly statement and make a payment on or before the 20th calendar day of the month following the delivery of energy. The payment will be based on data in the Initial Settlement Statement. Any changes or adjustments made in the Final Settlement Statement will be reflected in the monthly statement following such change or adjustment. The statement will show the summation of the hourly kilowatt-hours of energy delivered by the Seller to the Buyer, the hourly price per kWh based on the Price for each Settlement Interval in that hour, and administrative fees assessed by the Buyer to be paid by the Seller. Payments due under this Agreement shall be paid by electronic funds transfer, or by wire transfer, as designated by Seller on Exhibit D of this Agreement. If an undisputed amount is not paid on or before the due date, a late payment charge shall be applied to the unpaid balance.

3. **Due Date.** If the due date occurs on a date other than a business day, the late payment charge shall begin to accrue on the next succeeding business day.

4. **Late Payments.** Any late payment charge shall be due and payable within thirty days of the date it begins to accrue. The late payment charge shall be calculated by the lesser

of (a) the highest rate permitted under Requirements of Law and (b) 200 basis points per annum plus the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by Citibank, N.A as its “prime rate”. If a Citibank, N.A. prime rate is not available, the applicable prime rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest is being paid.

5. **Calculation Methods.** The monthly payment to the Seller shall be the aggregate of the hourly payments for that month minus all other miscellaneous Market Related Charges, as well as administrative charges. Each Seller’s monthly administrative charge for the computation, billing, and creation of the Seller’s credit statement shall be \$215. The administrative charges will be subtracted from the Seller’s monthly credit statement regardless of whether the Buyer has purchased non-firm energy from the Seller during such billing period. Buyer shall pay the Seller for all energy sold to Buyer by the Seller.

The method for calculating the rate payable to the Seller shall be as follows:

(Energy production as measured by revenue quality meter per interval) * (applicable Settlement Point Price per interval) – other miscellaneous Market Related Charges = total amount payable per interval before administrative charges.

Although the method for calculating the rate payable to the seller reflects ERCOT’s 15 minute settlement intervals, the statement provided to Seller will reflect an hourly settlement period.

6. **Disputed Payments.** When a billing dispute is resolved, the amount owed shall be paid within five business days of the date of resolution, with late payment charges calculated on the amount owed in accordance with the provisions of Section 8.2.

7. **Offsets.** Each party may offset against any and all amounts due and owed by it to the other party any and all undisputed amounts, including damages and other payments that are owed by the other party or that are past due under other accounts for other services relating to the sale of energy by Seller to Buyer.

9.
NOTIFICATIONS AND REPORTS

1. **Outages.** Seller will inform Buyer, via telephone to the Electric Trading Analyst specified in Exhibit B, of any major limitations, restrictions, deratings or outages known to Seller affecting the Facilities for the following day and will promptly update Seller’s notice to the extent of any material changes in this information, with “major” defined as affecting more than five percent (5%) of the Nameplate Capacity Rating of the Facilities.

2. **Scheduling.**

9.2.1 Daily Scheduling. Buyer may request from Seller a daily schedule of net output forecasted or awarded from the Day-Ahead Market.

9.2.2 Cooperation and Standards. With respect to any and all scheduling requirements hereunder, (a) Seller shall cooperate with Buyer with respect to scheduling Net Output, and (b) each Party shall designate authorized representatives in Exhibit B to communicate with regard to scheduling and related matters arising hereunder. Each Party shall comply with the applicable variable resource standards and criteria of any applicable Electric System Authority.

3. Electronic Communications.

1. Telemetry. Seller shall provide the following data to Buyer on a real-time basis to the extent it is available to Seller on a real-time basis and Seller has a data collection system capable of providing the data to Buyer:

- a. instantaneous MW and MVAR output at the applicable Point of Delivery for each unit of the Facility or Facilities;
- b. the Facility's total instantaneous generation output.

Seller shall also transmit to Buyer all other data from the Facility or Facilities that Seller receives on a real time basis. Seller shall provide such real time data to Buyer on the same basis on which Seller receives the data (e.g., if Seller receives the data in four second intervals, Buyer shall also receive the data in four second intervals).

Seller shall provide to Buyer the data addressed in Section 10 to the extent it is available on a real-time basis either by installing, owning, operating and maintaining or causing to be installed, operated, and maintained a dedicated direct communication circuit between Buyer and Seller's data collection system or by such other arrangement for communication equipment as the Parties may agree.

4. Reports.

9.4.1 Monthly Reports. Within thirty (30) days after the end of each calendar month during the Term (each, a "**Reporting Month**") or such other schedule as Seller and Buyer may mutually agree to, Seller shall provide to Buyer a report in electronic format, which report shall include (a) summaries of the Facilities' [Insert renewable source type] Output data for the Reporting Month in intervals not to exceed one hour (or such shorter period as is reasonably possible with commercially available technology), including information from the Facilities' computer monitoring system; (b) summaries of any other significant events related to the construction or operation of the Facilities for the Reporting Month; and (c) any supporting information that Buyer may from time to time reasonably request (including historical [Insert renewable source type] data for the Facilities).

9.4.2 Electronic Fault Log. Seller shall maintain an electronic fault log of operations of the Facilities during each hour of the Term commencing on the Effective Date. Seller shall provide Buyer with a copy of the electronic fault log within thirty (30) days after the end of the Reporting Month to which the fault log applies.

6. **Short Range Forecasts and Updates.** Buyer may request short range availability and projected output. Upon request, Seller shall provide to Buyer by 0600 CT of each Business Day an hourly forecast of deliveries for each hour of the next three calendar days. Seller shall update a forecast provided hereunder any time information becomes available indicating a material change in the forecast of generation of Net Output from the then-current forecast.

7. **Information to Governmental Authorities.** Seller shall, promptly upon written request from Buyer, provide Buyer with all data collected by Seller related to the Facilities reasonably required by Buyer, a member of Buyer or an Affiliate thereof for reports to, and information requests from, any Governmental Authority or Electric System Authority. Along with this information, Seller shall provide to Buyer copies of all submittals to Governmental Authorities or Electric System Authorities directed by Buyer and related to the operation of the Facilities with a certificate that the contents of the submittals are true and accurate to the best of Seller's knowledge. Seller shall use commercially reasonable efforts to provide this information to Buyer with sufficient advance notice to enable Buyer to review such information and meet any submission deadlines imposed by the requesting organization or entity. Upon sending or filing any statement, application, and report or any document with any Governmental Authority or Electric System Authority relating to operation and maintenance of the Facilities, Seller shall promptly provide to Buyer a copy of the same.

8. **Data Requests.** Seller shall, promptly upon written request from Buyer, provide Buyer with data reasonably required for information requests from any Governmental Authorities, state or federal agency intervener or any other party achieving intervener status in Buyer rate proceeding or other proceeding before any Governmental Authority. Seller shall use commercially reasonable efforts to provide this information to Buyer sufficiently in advance to enable Buyer to review it and meet any submission deadlines.

10.
FACILITY OPERATIONS DATA SHARING

1. **General.** A Seller shall inform the Buyer of any planned or unplanned outage or de-rate or any other significant change to the operating capability of the Seller as soon as reasonably practicable so that the Buyer can effectively manage its obligations under this Agreement and in the ERCOT Market, and to provide such other information regarding the Seller as may be reasonably required. The Seller shall provide such additional information regarding its operations that the Buyer may reasonably request. For wind or solar resources, the Seller shall provide to the Buyer the operating specifications of the generating unit(s), along with historical and real-time meteorological data, unit availability, and operating data, including wind turbine operating data, for each of the units comprising the Seller. The Parties will make reasonable efforts to implement a system to automatically communicate with onsite equipment in order to acquire data for actual monitored real-time data point information using communications mutually agreed upon by the Parties. Until such automated systems are established, upon request by the Buyer, the Seller will provide its operating specifications to the Buyer, along with historical wind speeds for wind Sellers.

2. **Solar Panel Information.** Each Seller with Solar Panels registered by Buyer shall provide the following information to Buyer: panel manufacturer(s); panel model(s) and year(s) of all panels; panel inverters and metrological instrumentation; solar power manufacturer power curve; latitude and longitude of the center of the solar panels for every inverter; longitude and latitude of the center of the solar panels for every meteorological tower; real time data for the following: inverter generation (kW), inverter ability, direct normal isolation, global horizon irradiance, ambient temperature (Celsius), barometric pressure (mb), wind speed (mbs), wind direction (degrees relative to true north). The information provided shall be refreshed as frequently as allowed by the SCADA system, not to exceed sixty (60) second intervals.

3. **Wind Turbine Information.** Each Seller with wind turbines registered by Seller shall provide the following information to Buyer: turbine manufacturer(s); turbine models and year, including any prefixes and suffixes if available, Turbine Manufacturer power curve; Number of turbines; Nameplate capacity of each turbine; Hub height of the center of each turbine in meters above ground level; Rotor blade diameter of each turbine in meters; Temperature range of operation in degrees Celsius; Manufacturer, model and year of all meteorological instrumentation; Longitude and latitude of the center of the wind facility; Longitude and latitude of the met tower/nacelle anemometer; real time data for the following: Turbine generation (kW); Turbine availability; Air density; Ambient temperature; Wind speed (mps); Wind direction (in degrees relative to true north); Wind Pressure (mb)

4. **Additional Information.** Each Seller shall provide additional facilities operation information that Buyer may reasonably request.

11. METERING

1. **Metering.** The Buyer shall install at Seller's expense Metering Devices consistent with this Agreement, and any applicable Interconnection Agreement.

Any Seller with an aggregate nameplate capability of one-half (0.5) megawatt or greater shall also install telemetry equipment as required by the Buyer to ensure reliable operations.

All Metering Devices used to provide data for the computation of payments due under this Agreement shall be sealed and the seal may only be broken when the Metering Devices are to be inspected, tested, or adjusted in accordance with this Agreement. Both the Seller and the Buyer shall be given the opportunity to be present, with at least fifteen (15) calendar days' prior notice. The number, type, and location of Metering Devices shall be configured to accurately measure power purchases by the Buyer from the Seller. Either the Seller or the Buyer shall have the right to install and maintain a back-up metering device.

The Metering Devices may be inspected and tested by the Buyer at its option at least once every (12) months while making purchases under this Agreement, and the Seller shall provide the appropriate ingress and egress to Buyer for completing such inspections according to the provisions of this Agreement.

If a Metering Device fails to register, or if the measurement made by a Metering Device is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Metering Device for both the amount of the inaccuracy and the period of the inaccuracy in the following matters:

- a. If the Metering Device is found to be defective or inaccurate, the Buyer and the Seller shall use back-up metering, if installed, to determine the amount of the inaccuracy, provided that the back-up metering has been tested and maintained in accordance with the provisions of this Agreement. If back-up metering is installed on the low side of the Seller's step-up transformer, if back-up metering is unavailable, or if back-up metering is also found to be inaccurate by more than one percent (1.0%), the Buyer and the Seller shall estimate the amount of the necessary adjustment on the basis of the sum of the metered energy adjusted for historical line losses.
- (b) If such information is not available, the estimate shall be based on deliveries of energy from the Seller during periods of similar operating conditions when the Metering Device was metered accurately. The adjustment shall be made for the period during which inaccurate measurements were made.
- c. If the Seller and the Buyer cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (a) the last one-half of the period from the last test of the Metering Device to the test that found the Metering Device to be defective or inaccurate, or (b) one hundred eighty (180) calendar days immediately preceding the test that found the Metering Device to be defective or inaccurate.
- d. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by the Buyer, the Buyer shall use the corrected measurements as determined in accordance with this Agreement to re-compute the amount due for the period of the inaccuracy and shall subtract the previous payments by the Buyer for this period from the recomputed amount. If the difference indicates undercompensated production by the Seller, the difference shall be paid by the

Buyer to the Seller; if the difference indicates over-compensation for production by the Buyer, that difference shall be paid by the Seller to the Buyer, or at the discretion of the Buyer, may take the form of a debit against payments due to the Seller by the Buyer for the subsequent Billing Period.

- e. Payment of this difference by the owing party shall be made not later than thirty (30) calendar days after the owing party receives notice of the amount due, unless the Buyer elects payment by way of an offset.

Seller shall provide at its own cost sufficient communications capabilities to allow the Buyer to remotely read the Metering Devices electronically. Buyer shall read the Metering Devices monthly. Seller shall provide the Buyer written notice within two (2) calendar days of the connection of any telephone communication hook up to the Metering Device or modifications thereto. Seller shall maintain the communication facilities and repair non-functional communication facilities within five (5) calendar days of notice from Buyer.

12.
COMPLIANCE WITH LEGAL REQUIREMENTS

1. **Compliance with Legal Requirements.** Each Seller shall be solely responsible for complying with all applicable laws and regulations that apply to the Facility and its operations, including all environmental laws and permitting requirements. Seller shall not attempt to assert that Buyer is in any way responsible for compliance with any such legal requirements by virtue of its purchases of energy under this Agreement. If Buyer is held responsible by a governmental authority for any non-compliance by the Facility with such legal requirements, Seller will be obligated to indemnify Buyer in accordance with Section 16.1.

13.
REPRESENTATIONS AND WARRANTIES

1. **Mutual Representations and Warranties.** Mutual Representations and Warranties. Each Party represents, covenants, and warrants to the other that: Organization. It is duly organized and validly existing under the laws of its State of organization. Authority. It has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof. Corporate Actions. It has taken all corporate or limited liability company actions

(as applicable) required to be taken by it to authorize the execution, delivery and performance hereof and the consummation of the transactions contemplated hereby. No Contravention. The execution and delivery hereof do not contravene any provision of, or constitute a default under, any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which it is bound, or any valid order of any court, or any regulatory agency or other body having authority to which it is subject. Valid and Enforceable Agreement. This Agreement is a valid and legally binding obligation of it, enforceable against it in accordance with its terms, except as the enforceability hereof may be limited by general principles of equity or bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies.

2. **Seller's Further Representations and Warranties.** Seller further represents, covenants, and warrants to Buyer that: Seller is duly organized and validly existing under the laws of [REDACTED] and all of Seller's Facility or Facilities meet the requirements of a Qualifying Facility under applicable FERC regulations. Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it currently engaged and (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification. No Contravention. The execution, delivery, performance and observance by Seller of its obligations hereunder do not: (i) contravene, conflict with or violate any provision of any material Requirements of Law presently in effect having applicability to either Seller or any Affiliate of Seller; (ii) require the consent or approval of or material filing or registration with any Governmental Authority or other person other than such consents and approvals which have been obtained or are expected to be obtained in due course; or (iii) result in a breach of or constitute a default under any provision of any security issued by Seller or any Affiliate of Seller or any material agreement, instrument or undertaking to which either Seller or any Affiliate of Seller is a party or by which the property of Seller or any Affiliate of Seller is bound.

3. **Litigation.** No litigation, arbitration, investigation or other proceeding is pending or, to the best of Seller's knowledge, threatened against Seller or any Affiliate of Seller with respect hereto and the transactions contemplated hereunder. No other investigation or proceeding is pending or threatened against Seller or any Affiliate of Seller.

4. **Accuracy of Information.** No exhibit, contract, report or document furnished by Seller to Buyer in connection with this Agreement, or the negotiation or execution hereof contains any material misstatement of fact or omits to state a material fact or any fact necessary to make the statements contained therein not misleading.

5. **Required Facility Documents.** Pursuant to the Required Facility Documents, Seller holds as of the Effective Date, or will hold by the Commercial Operation Date, all Permits, authorizations, rights and agreements necessary to construct, own, operate and maintain the Facilities and to deliver Net Output to Buyer in accordance with this Agreement. The anticipated use of the Facilities complies with all applicable restrictive covenants affecting the Premises and all Requirements of Law.

6. **Wind and Solar Agreements.** Seller is a party to all Wind and Solar Agreements.

7. **Sellers Rights.** As of the Effective Date, (1) Seller owns the Facilities and has all powers and rights necessary to fulfill its obligations under this Agreement, including, but not limited to, exclusive rights to sell the Net Output to Buyer from the Facilities, and (2) that this Agreement does not conflict with any agreement Seller has with any other party. Seller further acknowledges and agrees that Buyer has not verified, and has no obligation whatsoever to verify, that Seller has all rights necessary to fulfill its obligations under this Agreement.

8. **No Other Representations or Warranties.** Each Party acknowledges that it has entered hereinto in reliance upon only the representations and warranties set forth in this Agreement, and that no other representations or warranties have been made by the other Party with respect to the subject matter hereof.

9. **Continuing Nature of Representations and Warranties; Notice; Time to Cure.** The representations and warranties set forth in this Section 13.1 are made as of the Effective Date and deemed made continually throughout the Term. If at any time during the Term, any Party obtains actual knowledge of any event or information which causes any of the representations and warranties in this Section 13.9 to be materially untrue or misleading, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make such representations and warranties true and correct. The notice required pursuant to this Section 13.9 shall be given as soon as practicable after the occurrence of each such event. In any event, Seller must cure any materially untrue or misleading representations and warranties in Section 12.2 within five (5) business days of discovery.

14.
DEFAULTS AND REMEDIES

1. **Defaults.** The following events are defaults (each a “default” before the passing of applicable notice and cure periods, and an “**Event of Default**” thereafter) hereunder:

Defaults by Either Party.

a. A Party fails to make a payment of an undisputed amount when due hereunder if the failure is not cured within ten (10) days after the non-defaulting Party gives the defaulting Party a notice of the default.

b. A Party (i) makes an assignment for the benefit of its creditors (except a permitted assignment in compliance with Section 17.9); (ii) files a petition or otherwise

commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (iii) becomes insolvent; or (iv) is unable to pay its debts when due.

c. A Party breaches a representation or warranty made by it herein if the breach is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party a notice of the default.

d. A Party otherwise fails to perform any material obligation hereunder if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; provided, however, that, upon written notice from the defaulting Party, this 30-day period shall be extended by an additional sixty (60) days if (a) the failure cannot reasonably be cured within the 30-day period despite diligent efforts, (b) the default is capable of being cured within the additional 60-day period, and (c) the defaulting Party commences the cure within the original 30-day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

Additional Defaults by Seller.

a. Seller fails to maintain all powers and rights necessary to fulfill its obligations under this Agreement, including, but not limited to, the exclusive right to sell the Net Output from the Facilities to Buyer.

b. Seller sells Net Output from the Facilities to a Party other than Buyer in breach hereof, if Seller does not permanently cease such action and compensate Buyer for the damages arising from the breach within ten (10) days after Buyer gives Seller a notice of such default.

c. Seller (i) defaults under any material agreement with a third party relating to the ownership, interconnection, operation, transmission from, maintenance or repair of the Facilities, and (ii) Seller fails to cure such default within the time required under the third-party agreement, after the expiration of applicable notice, cure and waiver periods.

d. After the Effective Date, Seller (or Facility Owners) fails to maintain any Required Facility Documents, Permits, Wind and Solar Agreements, land rights, interconnection rights or other material rights necessary to own, operate or make wholesale sales from the Facilities, after the expiration of applicable notice, cure and waiver periods.

A Seller default described in (e) through (g) above shall be a Seller Event of Default if the default is not cured within thirty (30) days after Buyer gives Seller notice of the default; provided, however, that, upon written notice from Seller, this 30-day period shall be extended by an additional sixty (60) days if (a) the failure cannot reasonably be cured within the 30-day period despite diligent efforts, (b) the default is capable of being cured within the additional 60-day period, and (c) the Seller commences the cure within the original 30-day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

2. **Termination and Remedies.** Upon the occurrence of, and during the continuation of, an Event of Default, subject to the cure rights provided for herein, the non-defaulting Party shall be entitled to all remedies available under this agreement or at law or in equity, and may terminate this Agreement by notice to the other Party designating the date of termination and delivered to the defaulting Party no less than ten (10) days before such termination date; *provided, however*, that as a precondition to Seller's exercise of this termination right, Seller must also provide copies of such notice to the notice addresses of then-current Senior Vice President of Commercial Operations and Director of Market Operations of Buyer set forth in Exhibit B. Such copies shall be sent by registered overnight delivery service or by certified or registered mail, return receipt requested and shall state prominently therein in type font no smaller than fourteen (14) point all-capital letters that "THIS IS A TERMINATION NOTICE UNDER THE PPA BETWEEN GSEC AND [INSERT SELLER FACILITY'S NAME]. YOU MUST CURE A DEFAULT, OR THE PPA WILL BE TERMINATED," and shall state therein any amount purported to be owed and wiring instructions, or the nature of any non-payment default alleged. Seller shall not have any right to terminate this Agreement if the Event of Default that gave rise to the termination right is cured within the fifteen (15) Business Days of Buyer's receipt of such notice. Further, during the continuation of default by Seller, and until Buyer has recovered all damages incurred on account of such default by Seller, without exercising its termination right, Buyer may offset its damages against any payment due Seller. The rights contemplated by this Section are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights. In the event of a termination hereof:

a. Each Party shall pay to the other all amounts due the other hereunder for all periods prior to termination, subject to offset by the non-defaulting Party against damages incurred by such Party.

b. The amounts due pursuant to Section 8.2 shall be calculated and paid within thirty (30) days after the billing date for such charges and shall bear interest thereon at the Contract Interest Rate from the date of termination until the date paid. The foregoing does not extend the due date of, or provide an interest holiday for, any payments otherwise due hereunder.

c. Except in circumstances in which a remedy provided for in this Agreement is described as a Party's sole or exclusive remedy, before and after the effective date of termination, the non-defaulting Party may pursue any and all legal or equitable remedies provided by law, equity or this Agreement.

3. **Termination of Duty to Buy.** If this Agreement is terminated because of a default by Seller, neither Seller nor Facility Owners may thereafter require or seek to require Buyer to purchase energy from the Facilities under PURPA (on account of its status as a QF), or any other Requirements of Law, for any periods that would have been within the Term had this Agreement remained in effect. Seller, on behalf of itself and on behalf of any other entity on whose behalf it may act, hereby waives its rights to require Buyer to do so.

4. **Cumulative Remedies.** The rights and remedies provided to Buyer hereunder are cumulative and not exclusive of any rights or remedies of Buyer.

5. **Duty/Right to Mitigate.** Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance hereof. In the event Net Output is not purchased or accepted by Buyer, "commercially reasonable efforts" by Seller shall require Seller to use commercially reasonable efforts to maximize the price for energy received by Seller from third parties.

15.
DISPUTE RESOLUTION

1. **Negotiation of Disputes and Disagreements.** The Parties shall attempt in good faith to resolve all disputes arising out of, related to or in connection with this Agreement promptly by negotiation, as follows. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business ("**Dispute Notice**"). Executives of both Parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) days after delivery of such Dispute Notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within sixty (60) days after the referral of the dispute to such senior executives, or if no meeting of such senior executives has taken place within thirty (30) days after such referral, either Party may initiate litigation as provided hereinafter if neither Party has requested that the dispute be mediated in accordance with Section 15.2. All negotiations pursuant to this clause are confidential.

2. **Mediation.** If the dispute is not resolved within thirty (30) days after the referral of the dispute to senior executives, or if no meeting of senior executives has taken place within fifteen (15) days after such referral, either Party may request that the matter be submitted to nonbinding mediation. If the other Party agrees, the mediation will be conducted in accordance with the rules of the American Arbitration Association (the "AAA"), as amended and effective on July 1, 2003 (the "Mediation Procedures"), notwithstanding any Dollar amounts or Dollar limitations contained therein.

(a) The Party requesting the mediation, may commence the mediation process with AAA by notifying AAA and the other Party in writing ("Mediation Notice") of such Party's desire that the dispute be resolved through mediation, including therewith a copy of the Dispute Notice and the response thereto, if any, and a copy of the other Party's written agreement to such mediation.

(b) The mediation shall be conducted through, by and at the office of AAA located in the Mediation Location.

(c) The mediation shall be conducted by a single mediator. The Parties may select any mutually acceptable mediator. If the Parties cannot agree on a mediator within five (5)

days after the date of the Mediation Notice, then the AAA's Arbitration Administrator shall send a list and resumes of three (3) available mediators to the Parties, each of whom shall strike one name, and the remaining person shall be appointed as the mediator. If more than one name remains, either because one or both Parties have failed to respond to the AAA's Arbitration Administrator within five (5) days after receiving the list or because one or both Parties have failed to strike a name from the list or because both Parties strike the same name, the AAA's Arbitration Administrator will choose the mediator from the remaining names. If the designated mediator shall die, become incapable or, unwilling to, or unable to serve or proceed with the mediation, a substitute mediator shall be appointed in accordance with the selection procedure described in this Section 15.2 and such substitute mediator shall have all such powers as if he or she has been originally appointed herein.

(d) The mediation shall consist of one or more informal, nonbinding meetings between the Parties and the mediator, jointly and in separate caucuses, out of which the mediator will seek to guide the Parties to a resolution of the Dispute. The mediation process shall continue until the resolution of the dispute, or the termination of the mediation process pursuant to Section 15.2. The costs of the mediation, including fees and expenses, shall be borne equally by the Parties.

(e) All verbal and written communications between the Parties issued or prepared in connection with this Section 15.2 shall be deemed prepared and communicated in furtherance, and in the context, of dispute settlement, and shall be exempt from discovery and production, and shall not be admissible in evidence (whether as admission or otherwise) in any litigation or other proceedings for the resolution of the dispute.

(f) The initial mediation meeting between the Parties and the mediator shall be held within twenty (20) days after the Mediation Notice. Either Party may terminate the mediation process upon or after the earlier to occur of (A) the failure of the initial mediation meeting to occur within twenty (20) days after the date of the Mediation Notice, (B) the passage of thirty (30) days after the date of the Mediation Notice without the dispute having been resolved, or (C) such time as the mediator makes a finding that there is no possibility of resolution through mediation.

(g) All deadlines specified in this Section 15.2 may be extended by mutual agreement.

3. **Pendency of Dispute.** Seller and Buyer acknowledge and agree that this Agreement has been made and entered into as of the date first set forth above. Each Party irrevocably consents and agrees that any legal action or proceeding arising out of this Agreement or the actions of the Parties leading up to the Agreement shall be brought exclusively in the United States District Court for the Western District of Texas, or if such court does not have jurisdiction, in the Potter County District Court in Texas. By execution and delivery hereof, each Party (a) accepts the exclusive jurisdiction of such courts and waives any objection that it may now or hereafter have to the exercise of personal jurisdiction by such courts over each Party for the purpose of any proceeding related to this Agreement, (b) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such courts arising out of this Agreement, (c) irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceedings arising out of this Agreement brought in such courts (including any claim that any such suit, action or proceeding

has been brought in an inconvenient forum) in connection herewith, and, (d) agrees that service of process in any such action may be effected by mailing a copy thereof by registered or certified mail, postage prepaid, to such Party at its address as set forth herein, and (e) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law.

4. **Settlement Discussions.** No statements of position or offers of settlement made in the course of the dispute process described in this Section 15.1 may be offered into evidence for any purpose in any litigation between the Parties, nor will any such statements or offers of settlement be used in any manner against either Party in any such litigation. Further, no such statements or offers of settlement shall constitute an admission or waiver of rights by either Party in connection with any such litigation. At the request of either Party, any such statements and offers of settlement, and all copies thereof, shall be promptly returned to the Party providing the same.

5. **Waiver of Jury Trial.** EACH PARTY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO EACH OF THE PARTIES FOR ENTERING HERETO. EACH PARTY HEREBY WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY MATTER ARISING HEREUNDER OR THEREUNDER, WITH ANY PROCEEDING IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED.

6. **Specific Performance.** Each Party shall be entitled to seek and obtain a decree compelling specific performance or granting injunctive relief with respect to, and shall be entitled, to enjoin any actual or threatened breach of any material obligation of the other Party hereunder. The Parties agree that specific performance (including temporary and preliminary relief) and injunctive relief are proper in the event of any actual or threatened breach of any material obligation of the other Party, and that any liability limits contained herein shall not operate to limit the exercise of Buyer's remedies in equity to cause Seller to perform its obligations hereunder. Seller agrees that it will not assert as a defense to Buyer's action for specific performance of, or injunctive relief relating to, Seller's obligations hereunder that the amounts payable or paid by Seller in respect of liquidated damages constitute an adequate remedy for the breach of such obligation, and Seller hereby conclusively waives such defense. Seller (or Facility Owners) shall at all times during the Term, own, lease, control, hold in its own name or be signatory to (as the case may be) all assets and Required Facility Documents relating to the Facilities to the extent necessary to prevent a material adverse effect on Buyer's right to specific performance or injunctive relief.

16.
INDEMNITIES

1. **INDEMNITY BY SELLER.** TO THE EXTENT PERMITTED BY THE REQUIREMENTS OF LAW AND SUBJECT TO SECTION 16 , SELLER SHALL DEFEND, RELEASE, INDEMNIFY AND HOLD HARMLESS BUYER, ITS AFFILIATES AND MEMBERS, AND EACH OF ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (COLLECTIVELY, THE “BUYER INDEMNITEES”) AGAINST AND FROM ANY AND ALL LOSSES, FINES, PENALTIES, CLAIMS, DEMANDS, DAMAGES, LIABILITIES, ACTIONS OR SUITS OF ANY NATURE WHATSOEVER (INCLUDING LEGAL COSTS AND ATTORNEY’S FEES, BOTH AT TRIAL AND ON APPEAL, WHETHER OR NOT SUIT IS BROUGHT) (COLLECTIVELY, “LIABILITIES”) TO THE EXTENT ACTUALLY OR ALLEGEDLY RESULTING FROM, OR ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE PERFORMANCE OR DEFAULT BY SELLER OF ITS OBLIGATIONS HEREUNDER, OR RELATING TO THE FACILITIES, FOR OR ON ACCOUNT OF (I) ENVIRONMENTAL CONTAMINATION, (II) INTERFERENCE WITH OR DEATH OR INJURY TO BIRDS OR BATS, OR (III) INJURY, BODILY OR OTHERWISE, TO, OR DEATH OF, OR DAMAGE TO, OR DESTRUCTION OR ECONOMIC LOSS OF PROPERTY OF, ANY PERSON OR ENTITY, EXCEPTING ONLY TO THE EXTENT SUCH LIABILITIES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY PERSON OR ENTITY WITHIN THE BUYER INDEMNITIES. SELLER SHALL BE SOLELY RESPONSIBLE FOR (AND SHALL DEFEND AND HOLD BUYER INDEMNITIES HARMLESS AGAINST) ANY DAMAGE THAT MAY OCCUR AS A DIRECT RESULT OF SELLER’S BREACH OF A GENERATION INTERCONNECTION AGREEMENT.

2. **INDEMNITY BY BUYER.** TO THE EXTENT PERMITTED BY REQUIREMENTS OF LAW AND SUBJECT TO SECTION 16, BUYER SHALL DEFEND, RELEASE, INDEMNIFY AND HOLD HARMLESS SELLER, ITS AFFILIATES AND MEMBERS, AND EACH OF ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (COLLECTIVELY, THE “SELLER INDEMNITEES”) AGAINST AND FROM ANY AND ALL LIABILITIES TO THE EXTENT RESULTING FROM, OR ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE PERFORMANCE OR DEFAULT BY BUYER OF ITS OBLIGATIONS HEREUNDER FOR OR ON ACCOUNT OF (I) INJURY, BODILY OR OTHERWISE, TO, OR DEATH OF, OR (II) FOR DAMAGE TO, OR DESTRUCTION OR ECONOMIC LOSS OF PROPERTY OF, ANY PERSON OR ENTITY WITHIN THE SELLER INDEMNITIES, EXCEPTING ONLY TO THE EXTENT SUCH LIABILITIES AS MAY BE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY PERSON OR ENTITY WITHIN THE SELLER INDEMNITIES.

3. **Additional Cross Indemnity.** Without limiting Sections 16.1 and 16.2, and subject to Section 16, Seller shall release, indemnify and hold harmless the Buyer Indemnities

from and against all Liabilities related to Net Output prior to its delivery by Seller at the Points of Delivery, and, except as provided in Section 16.1, Buyer shall release, indemnify and hold harmless the Seller Indemnities from and against all Liabilities related to Net Output once delivered to Buyer at the Points of Delivery as provided herein, except in each case to the extent such Liabilities are attributable to the gross negligence or willful misconduct or a breach of this Agreement by any Buyer Indemnities if a member of the Buyer Indemnities is seeking indemnification under this Section 16 or by any member of the Seller Indemnities if a member of the Seller Indemnities is seeking indemnification under this Section 16.

4. **Defense.** Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Section 16 may apply, the indemnified Party shall notify the indemnifying Party in writing of such fact. The indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the indemnified Party, provided, however, that if the defendants in any such action include both the indemnified Party and the indemnifying Party and the indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the indemnifying Party, the indemnified Party shall have the right to select and be represented by separate counsel, at the indemnifying Party's expense.

5. **Failure to Defend.** If the indemnifying Party fails to assume the defense of a claim meriting indemnification, the indemnified Party may at the sole expense of the indemnifying Party, contest, settle, or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of the indemnifying Party or, absent such consent, written opinion of the indemnified Party's counsel that such claim is meritorious or warrants settlement and, if a prospective settlement is reached, that the prospective settlement is reasonable.

6. **No Dedication.** Nothing herein shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party hereto. No undertaking by one Party to the other under any provision hereof shall constitute the dedication of Buyer's Facilities or any portion thereof to Seller or to the public, nor affect the status of Buyer or Seller as an independent individual or entity.

7. **Consequential Damages.** **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, EXCEPT TO THE EXTENT OF A PARTY'S INDEMNIFICATION OF THE OTHER PARTY FOR THIRD PARTY DAMAGES, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.**

8. **Limitation on Liability.** **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, EXCEPT TO THE EXTENT OF A PARTY'S INDEMNIFICATION OF THE OTHER PARTY FOR THIRD PARTY DAMAGES, THE TOTAL CUMULATIVE LIABILITY OF ONE PARTY TO THE OTHER FOR ANY AND ALL CLAIMS OR DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT**

(WHETHER STATED IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LAW OR EQUITY) AT ANY TIME SHALL NOT EXCEED FIFTY THOUSAND DOLLARS (\$50,000), PROVIDED THAT THE LIMITATION SET FORTH HEREIN SHALL NOT APPLY TO ANY DIRECT DAMAGES SUSTAINED BY THE OTHER PARTY AS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LIABLE PARTY OR ITS EMPLOYEES OR AUTHORIZED AGENTS.

17.
MISCELLANEOUS PROVISIONS

1. **Several Obligations.** Nothing contained herein shall be construed to create an association, trust, partnership or joint venture or to impose a trust, partnership or fiduciary duty, obligation or liability on or between the Parties.

2. **Choice of Law.** This Agreement shall be interpreted and enforced in accordance with the laws of the state of Texas, excluding any choice of law rules that may direct the application of the laws of another jurisdiction.

3. **Partial Invalidity.** The Parties do not intend to violate any laws governing the subject matter hereof. If any of the terms hereof are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms hereof shall remain in effect. The Parties shall use commercially reasonable efforts to amend this Agreement to reform or replace any terms determined to be invalid, illegal or void, such that the amended terms (a) comply with and are enforceable under applicable law, (b) give effect to the intent of the Parties in entering hereinto, and (c) preserve the balance of the economics and equities contemplated by this Agreement in all material respects.

4. **No Waiver.** No waiver of any provision hereof shall be effective unless the waiver is set forth in a writing that (a) expressly identifies the provision being waived, and (b) is executed by the Party waiving the provision. A Party's waiver of one or more failures by the other Party in the performance of any of the provisions hereof shall not be construed as a waiver of any other failure, whether of a like kind or different nature.

5. **Counterparts.** This Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by both Parties.

6. **Survival.** The Cancellation, expiration, or earlier termination of this Agreement shall not relieve the parties of the obligations that by their nature should survive such cancellation, expiration or termination, prior to the expiration of the applicable statute of limitations, including warranties, remedies or indemnities, which shall survive for the period of the applicable statute of limitations, and obligations under law. Neither termination nor expiration

of this Agreement shall affect or excuse the fulfillment of any obligation arising from acts or events that occurred while this Agreement was in effect.

7. **Further Assurances.** Each Party agrees to execute and deliver all further instruments and documents, and take all further action not inconsistent with the provisions of this Agreement that may be reasonably necessary to perform the Services and to effectuate the purposes and intent of this Agreement.

8. **Governmental Jurisdiction and Authorization.** This Agreement is subject to the jurisdiction of those Governmental Authorities having control over either Party or this Agreement. During the Term, Seller shall maintain all Permits required, as applicable, for the construction, operation, or ownership of the Facilities.

9. **Successors and Assigns.**

a. **Restriction on Assignments.** Except as expressly provided in this Section 20, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.

b. **Permitted Assignments.** Notwithstanding this Section 17.9, either Party may, without the need for consent from the other Party (but with notice to the other Party, including the names of the assignees), (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds therefrom in connection with any financing or other financial arrangements; (b) transfer or assign this Agreement to an Affiliate of such Party; or (c) transfer or assign this Agreement to any party succeeding to all or substantially all of the assets or generating assets of such Party (and, with respect to Seller, Seller shall be required to transfer or assign this Agreement to any party succeeding to all or substantially all of the assets of Seller); provided, however, that Seller shall not transfer, sell, encumber or assign this Agreement or any interest herein to any Affiliate of Seller without the prior written consent of Buyer. Except with respect to collateral assignments for financing purposes and also except as otherwise provided above in the immediately preceding sentence, in every assignment hereof, the assignee must (x) agree in writing to be bound by the terms and conditions hereof, (y) possess the same or similar experience, and possess the same or better creditworthiness, as the assignor, and (z) the assignor shall remain liable for its obligations hereunder. Buyer may assign this Agreement in whole or in part without the consent of Seller to any person or entity in the event that Interconnection Provider ceases to be a load-serving entity, in which event Buyer shall be released from liability hereunder if its assignee meets the requirements of clauses (x) and (y) in the immediately preceding sentence and the requirement of clause (z) in the immediately preceding sentence shall not apply to such assignment. The Party seeking to assign or transfer this Agreement shall be solely responsible for paying all costs of assignment

10. **Notices/Changes of Address.** All notices, requests, statements or payments shall be made to the addresses set forth in Exhibit B. Notices required to be in writing

shall be delivered by letter, facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been given when received or hand delivered. Notice by overnight mail or courier shall be deemed to have been given on the date and time evidenced by the delivery receipt. The Parties may change any of the persons to whom notices are addressed, or their addresses, by providing written notice in accordance with this Section 17.10.

11. **General Operations.** At all times, the Seller shall operate, maintain, and repair its facilities in accordance with the terms of this Agreement, and any applicable ERCOT or NERC procedures or requirements, Prudent Utility Practice(s) and the General Interconnection Agreement. The Seller shall bear its own costs of operating, maintaining, and repairing facilities. Additionally, the Seller shall provide the Buyer with a dispatch control interface necessary to manage output as required for reliability. In the alternative, the Seller shall staff and operate its facility as required to be responsive to the Buyer's or ERCOT's request to curtail deliveries of non-firm energy.

12. **Duties.** Buyer and Seller incorporate the following duties into this Agreement: Seller and Buyer agree to cooperate and communicate to the extent required to ensure reliable operation of the Facility and the delivery system elements used to deliver Seller's output to Buyer's load; Each Party shall have a duty of good faith and fair dealing in the performance of the obligations in this Agreement; Each Party agrees that it has a duty to mitigate damages and to use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

AGREEMENT EXECUTION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first set forth above by their duly authorized representatives as follows:

Buyer:

Seller:

Golden Spread Electric Cooperative, Inc., a
Texas cooperative corporation
(“*Buyer*”)

[SELLER Name] a [state of incorporation]
limited liability company (“*Seller*”)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Buyer's Initial Designated Representatives

Golden Spread Electric Cooperative, Inc. Representative:

Matt Moore

Director, Market Operations

Suite 300

905 South Fillmore

Amarillo, TX 79101-3541

Phone: 806-349-6557

Email: mmoore@gsec.coop

EXHIBIT B

Contact Information for Notice Requirements

If to Buyer:	If to Customer:
Senior Vice President, Commercial Operations Golden Spread Electric Co-op, Inc. 905 S. Fillmore, Suite 300 Amarillo, TX 79101 Telephone: Fax:	
With copies to:	With a copy to:
Director, Market Operations Golden Spread Electric Co-op, Inc. 905 S. Fillmore, Suite 300 Amarillo, TX 79101 Telephone: Fax:	
And:	And:
Electric Trading Analyst Golden Spread Electric Co-op, Inc. 905 S. Fillmore, Suite 300 Amarillo, TX 79101 Telephone: Fax:	

EXHIBIT C

LOAD SHEDDING, CURTAILMENTS, AND REDISPATCH

§25.200. Load Shedding, Curtailments, and Redispatch.

(a) **Procedures.** The Electric Reliability Council of Texas (ERCOT) shall direct non-discriminatory emergency load shedding and curtailment procedures for responding to emergencies on the transmission system in accordance with ERCOT protocols.

(b) **Congestion management principles.** ERCOT shall develop and implement market mechanisms to manage transmission congestion in accordance with ERCOT protocols.

(c) **Transmission constraints.** During any period when ERCOT determines that a transmission constraint exists on the transmission system, and such constraint may impair the reliability of a transmission service provider's (TSP's) system or adversely affect the operations of either a TSP or a transmission service customer, ERCOT will take actions, consistent with good utility practice and the ERCOT protocols, that are reasonably necessary to maintain the reliability of the TSP's system and avoid interruption of service. ERCOT shall notify affected TSPs and transmission service customers of the actions being taken. In these circumstances, TSPs and transmission service customers shall take such action as ERCOT directs.

- (1) Service to all transmission service customers shall be restored as quickly as reasonably possible.
- (2) To the extent ERCOT determines that the reliability of the transmission system can be maintained by redispatching resources, or when redispatch arrangements are necessary to facilitate generation and transmission transactions for a transmission service customer, a transmission service customer will initiate procedures to redispatch resources, as directed by ERCOT.
- (3) To the greatest extent possible, any redispatch shall be made on a least-cost non-discriminatory basis. Except in emergency situations, any redispatch under this section will provide for equal treatment among transmission service customers.
- (4) ERCOT shall keep records of the circumstances requiring redispatch and the costs associated with each redispatch and file annual reports with the commission, describing costs, frequency and causes of redispatch. Costs for relieving capacity constraints shall be allocated in a manner consistent with the ERCOT protocols.

(d) **System reliability.** Notwithstanding any other provisions of this section, a TSP may, consistent with good utility practice and on a non-discriminatory basis, interrupt transmission service for the purpose of making necessary adjustments to, changes in, or repairs to its lines, substations and other facilities, or where the continuance of transmission service would endanger persons or property. In exercising this power, a TSP's liability shall be governed by §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities). In addition, notwithstanding any other provisions of this section, ERCOT may cause the interruption of transmission service for the purpose of maintaining ERCOT system stability and safety. In exercising this power, ERCOT shall not be liable for its ordinary negligence but may be liable for its gross negligence or intentional misconduct when legally due.

- (1) In the event of any adverse condition or disturbance on the TSP's system or on any other system directly or indirectly interconnected with the TSP's system, the TSP, consistent with good utility practice, may interrupt transmission service on a non-discriminatory basis in order to limit the extent of damage from the adverse condition or disturbance, to prevent damage to generating or transmission facilities, or to expedite restoration of service. The TSP shall consult with ERCOT concerning any interruption in service, unless an emergency situation makes such consultation impracticable.
- (2) The TSP will give ERCOT, affected transmission service customers, and affected suppliers of generation as much advance notice as is practicable in the event of an interruption.
- (3) If a transmission service customer fails to respond to established emergency load shedding and curtailment procedures to relieve emergencies on the transmission system, the transmission service customer shall be deemed to be in default. Any dispute over a transmission service customer's default shall be referred to alternative dispute resolution under §25.203 (relating to Alternative Dispute Resolution (ADR)) and may subject the transmission service customer to an assessment of an administrative penalty by the commission under Public Utility Regulatory Act §15.023.

- (4) ERCOT shall report interruptions to the commission, together with a description of the events leading to each interruption, the services interrupted, the duration of the interruption, and the steps taken to restore service.
- (e) **Transition provision on priority for transmission service and ancillary services.** Subsection (b) of this section is effective upon implementation of a single control area in the ERCOT region. Until that date, the current rules for priority of planned transmission service will continue, as provided by this subsection.
- (1) Any redispatch under this section will provide for equal treatment among transmission service customers, subject to the priorities set out by this paragraph. Planned transmission service shall have priority over unplanned transmission service, and annual planned transmission service shall have priority over planned transmission service of a shorter duration.
- (A) Subject to the foregoing priorities, for applications for planned or unplanned transmission service, complete applications filed earlier with the independent system operator shall have priority over applications that are filed later. Timely requests for annual planned transmission service will be accorded equal priority.
- (B) Where a transmission service customer is using annual planned transmission service for a resource that becomes unavailable due to an unplanned outage or the expiration of a power supply contract, the transmission service customer shall have priority, in using the same transmission capacity to transmit power from a replacement resource, over other requests for unplanned transmission service or planned transmission service of a shorter duration.
- (2) The price for redispatch services for annual planned transactions shall be based on the cost of providing the service, which shall be allocated among transmission service customers in proportion to each customer's share of the transmission cost of service, as determined by the commission under §25.192 of this title (relating to Transmission Service Rates). For redispatch required to accommodate an annual planned transaction, the electric utility providing the redispatch service shall provide information documenting the costs incurred to provide the service to the independent system operator. This information shall be available to affected persons.
- (3) The cost of redispatch services for other transactions (including planned transmission service of a duration of less than a year) shall be borne by the transmission service customer for whose benefit the redispatch is made. Electric utilities shall provide binding advance bids for redispatch services for unplanned transactions. The participants in unplanned transactions shall be promptly notified by the independent system operator that their transactions may be or have been continued through redispatch; shall be informed of the cost of the redispatch measures; and shall have the opportunity to abandon or curtail their transactions to avoid additional redispatch costs.
- (4) Electric utilities that have tariffs for ancillary services on the effective date of this section shall continue to provide services under those tariffs until ERCOT implements a single control area in the ERCOT region.
- (5) The following words and terms, when used in this subsection, shall have the following meanings unless the context indicates otherwise:
- (A) **Planned resources** — Generation resources owned, controlled, or purchased by a transmission customer, and designated as planned resources for the purpose of serving load.
- (B) **Planned transmission service** — A service that permits a transmission service customer to use the transmission service providers' transmission systems for the delivery of power from planned resources to loads on the same basis as the transmission service providers use their transmission systems to reliably serve their native load customers.
- (C) **Unplanned transmission service** — A service that permits a transmission service customer to use the transmission service providers' transmission systems to deliver energy to its loads from resources that have not been designated as the transmission service customer's planned resources.

EXHIBIT D
METHOD OF PAYMENT ELECTION

Choose one of the following:

_____ Payments due under this Agreement shall be paid by electronic funds transfer.

_____ Payments due under this Agreement shall be paid by wire transfer.

EXHIBIT E

Environmental Attributes

[To be filled in].

EXHIBIT F

Description of Facilities and Premises

[Insert full description of the Premises]

EXHIBIT G

Points of Delivery/ Interconnection Facilities/ Metering

Point of Delivery:

The Point of Delivery shall be the interconnection of the facilities of Seller with the electrical facilities owned by [Owner],[specific location (transformer, facility id, etc.)]

Metering:

1. Metering shall be performed at the Point of Delivery. Seller shall install, own, operate and maintain or cause to be installed, operated, and maintained interval data metering and communication equipment of revenue quality and of a type that will allow measurement of data in sufficient detail to meet the requirements of this Agreement. If requested by Buyer at Buyer's discretion, Seller shall install, own, operate and maintain or cause to be installed, operated, and maintained a dedicated phone circuit to the metering equipment to allow Buyer to remotely download settlement data.
2. In the event that the metering equipment is out of service, the Parties shall utilize the SCADA data recorded with respect to the Point of Delivery, and in the event that such SCADA data is not available, the Parties shall promptly meet and negotiate in good faith a method for determining the amount of Net Output delivered that is consistent with Section 11.1 and fair and reasonable in the circumstances.

