Duke Energy Progress LLC
(South Carolina Only)

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TERMS AND CONDITIONS FOR THE PURCHASE OF ELECTRIC POWER

1. PURCHASE POWER AGREEMENT

These "Terms and Conditions" provide a mechanism through which Duke Energy Progress, LLC, hereafter called "Company," will agree to purchase energy or capacity or both from an Eligible Qualifying Facility as defined in the Purchased Power Schedule PP. The Purchase Power Agreement is solely for the purchase of electricity produced by Seller's generation, net of generator auxiliary requirement, and does not provide for the sale of any electric service by Company to Seller.

(a) Description - The Purchase Power Agreement (hereinafter sometimes termed "Agreement") shall consist of (1) Company's form of Purchase Power Agreement when signed by Seller and accepted by Company, (2) the applicable Schedule for the purchase of electricity as specified in the Purchase Power Agreement, and (3) these Terms and Conditions for the Purchase of Electric Power (hereinafter referred to as "Terms and Conditions"), and all changes, revisions, alterations therein, or substitutions therefor lawfully made.

(b) Application of Terms and Conditions and Schedules - All Purchase Power Agreements in effect at the effective date of this tariff or that may be entered into in the future, are made expressly subject to these Terms and Conditions, and subject to all applicable Schedules as specified in the Purchase Power Agreement, and any changes therein, substitutions thereof, or additions thereto lawfully made, provided no change may be made in rates or in essential terms and conditions of this contract except by agreement of the parties to this contract or by order of the state regulatory authority having jurisdiction (hereinafter "Commission").

(c) Conflicts - In case of conflict between any provision of a Schedule and of these Terms and Conditions, the provision of the Schedule shall prevail.

(d) Waiver - The failure of either Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

(e) Assignment of Agreement - A Purchase Power Agreement between Company and Seller may be transferred and assigned by Seller to any person, firm, or corporation purchasing or leasing and intending to continue the operation of the plant or business which is interconnected under such Agreement, subject to the written approval of Company. A Purchase Power Agreement shall not be transferred and assigned by Seller to any person, firm, or corporation that is party to any other purchase agreement under which a party sells or seeks to sell power to Company from another Qualifying Facility that is located within one-half mile, as measured from the electrical generating equipment. Company will grant such approval upon being reasonably satisfied that the assignee will fulfill the terms of the Agreement and if, at Company's option, a satisfactory guarantee for the payment of any applicable bills is furnished by assignee. However, before such rights and obligations are assigned, the assignee must first obtain necessary approval from all regulatory bodies including, but not limited to, the Commission.

(f) Notification of Assignment, Transfer or Sale - In the event of an assignment of the rights and obligations accruing to Seller under this Agreement, or in the event of any contemplated sale, transfer or assignment of the Facility, Seller shall, in addition to obtaining the approvals hereof, provide a minimum of 30 days prior written notice advising Company of any plans for such an assignment, sale or transfer.

(g) Suspension of Sales Under Agreement at Seller's Request - If Seller is temporarily unable to produce the electricity contracted for due to physical destruction of, or damage to, his premises, Company will, upon written request of Seller, and for a period Company deems as reasonably

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required to replace or repair such premises, suspend billing under the Agreement, exclusive of any Monthly Facilities Charges, effective with the beginning of the next sales period.

(h) Termination of Agreement at Seller's Request - If Seller desires to terminate the Agreement, Company will agree to such termination if all bills for services previously rendered to Seller including any termination or other charges applicable under any Interconnection Agreement, plus any applicable termination charges, have been paid. Termination charges shall consist of any applicable termination charges for premature termination of capacity as set forth in paragraphs 4 and 6 of these Terms and Conditions. Company may waive the foregoing provision if Company has secured or expects to secure from a new occupant or operator of the premises an Agreement satisfactory to Company for the delivery of electricity to Company for a term not less than the unexpired portion of Seller's Agreement.

(i) Company's Right to Terminate or Suspend Agreement - Company, in addition to all other legal remedies, may either terminate the Agreement or suspend purchases of electricity from Seller based on any of the following: (1) default or breach of the Agreement by Seller, (2) any fraudulent or unauthorized use of Company's meter, (3) failure to pay any applicable bills when due and payable, (4) any Material Alteration to the Facility without Company's consent, (5) any condition on Seller's side of the point of delivery actually known by Company to be, or which Company reasonably anticipates may be, dangerous to life or property, or (6) Seller's failure to deliver energy to Company for six (6) consecutive months. Termination of the Agreement shall be at Company's sole option and is only appropriate when Seller either cannot or will not cure its default.

No such termination or suspension, however, will be made by Company without written notice delivered to Seller, personally or by mail, stating what in particular in the Agreement has been violated, except that no notice need to be given in instances set forth in 1(i)(2) or 1(i)(5) above. For violations of Section 1(i)(1) and 1(i)3-4, Seller shall have thirty (30) calendar days after Seller's receipt of Company's written notice to cure the violation; for violations of Section 1(i)(6) Seller shall have five (5) calendar days after Seller's receipt of Company's written notice to cure the violation.

Failure of Company to terminate the Agreement or to suspend the purchase of electricity at any time after the occurrence of grounds therefor, or to resort to any other legal remedy or to exercise any one or more of such alternative remedies, shall not waive or in any manner affect Company's right later to resort to any one or more of such rights or remedies on account of any such ground then existing or which may subsequently occur.

Any suspension of the purchase of electricity by Company or termination of the Agreement upon any authorized grounds shall in no way operate to relieve Seller of Seller's liability to compensate Company for services and/or facilities supplied, nor shall it relieve Seller (1) of Seller's liability for the payment of minimum monthly charges during the period of suspension, nor (2) of Seller's liability for damages, if the Agreement has been terminated, in the amount of (a) the minimum monthly charges which would have been payable during the unexpired term of the Agreement plus (b) the Early Contract Termination charge as set forth in these Terms and Conditions.

(j) Seller's Failure to Fulfill Commitment – Seller's that fail to fulfill the commitment to deliver electric power established in either a Legally Enforceable Obligation to Purchase or an executed Purchase Power Agreement shall be precluded from executing a new Agreement at a higher rate at the same location for the full term of the original contractual commitment.

2. CONDITIONS OF SERVICE

(a) Company is not obligated to purchase electricity from Seller unless and until: (1) Company's form of Purchase Power Agreement is executed by Seller and accepted by Company; (2) in cases where

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it is necessary to cross private property to accept delivery of electricity from Seller, Seller conveys or causes to be conveyed to Company, without cost to Company, a right-of-way easement, satisfactory to Company, across such private property which will provide for the construction, maintenance, and operation of Company's lines and facilities, necessary to receive electricity from Seller; provided, however, in the absence of a formal conveyance, Company nevertheless, shall be vested with an easement over Seller's premises authorizing it to do all things necessary including the construction, maintenance, and operation of its lines and facilities for such purpose; and (3) any inspection certificates or permits that may be required by law in the local area are furnished to Company. Where not required by law, an inspection by a Company-approved inspector shall be made at Seller's expense. In the event Seller is unable to secure such necessary rights of way, Seller shall reimburse Company for all costs Company may incur for the securing of such rights of way.

The obligation of Company in regard to service under the Agreement is dependent upon Company securing and retaining all necessary rights-of-way, privileges, franchises, and permits, for such service. Company shall not be liable to any Seller in the event Company is delayed or prevented from purchasing power by Company failure to secure and retain such rights-of-way, privileges, franchises, and permits.

(b) Seller shall operate its Facility in compliance with all: (i) System Operator Instructions provided by Company, including any Energy Storage Protocols provided to Seller which have been approved by the Commission, if applicable; (ii) applicable operating guidelines established by the North American Electric Reliability Corporation ("NERC"); and (iii) the SERC Reliability Corporation ("SERC") or any successor thereto.

(c) Seller shall submit an Interconnection Request as set forth in the South Carolina Generator Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Interconnections. Company shall not be required to install facilities to support interconnection of Seller's generation or execute the Purchase Power Agreement until Seller has signed an Interconnection Agreement as set forth in the South Carolina Generator Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Interconnections, as may be required by Company.

(d) If electricity is received through lines which cross the lands of the United States of America, a state, or any agency or subdivision of the United States of America or of a state, Company shall have the right, upon 30 days' written notice, to discontinue receiving electricity from any Seller or Sellers interconnected to such lines, if and when (1) Company is required by governmental authority to incur expenses in the relocation or the reconstruction underground of any portion of said lines, unless Company is reimbursed for such expense by Sellers or customers connected thereto, or (2) the right of Company to maintain and operate said lines is terminated, revoked, or denied by governmental authority for any reason.

3. <u>DEFINITIONS</u>

(a) "Auxiliary Load" shall mean power used to operate auxiliary equipment in the Facility necessary for power generation (such as pumps, blowers, fuel preparation machinery, and exciters).

(b) "Company's conductors" shall mean Company's wires extending from the point of connection with Company's existing electric system to the point of delivery.

(c) "Energy Storage Protocol" shall have the meaning specified in the Purchase Power Agreement.

(d) "Facility" shall have the meaning specified in the Purchase Power Agreement.

(e) "Interconnection" shall mean the connection of Company's conductors to Seller's conductors.

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(f) "Material Alteration" as used in this Agreement shall mean a modification to the Facility which renders the Facility description specified in this Agreement inaccurate in any material sense as determined by Company in a commercially reasonable manner including, without limitation, (i) the addition of a Storage Resource; (ii) a modification which results in an increase to the Contract Capacity, Nameplate Capacity (in AC or DC), generating capacity (or similar term used in the Agreement) (collectively the "Existing Capacity"), or (iii) a modification which results in a decrease to the Existing Capacity by more than five (5) percent. Notwithstanding the foregoing, the repair or replacement of equipment at the Facility (including solar panels) with like-kind equipment, which does not increase Existing Capacity or decrease the Existing Capacity by more than five percent (5%), shall not be considered a Material Alteration.

(g) "Nameplate Capacity" shall mean the manufacturer's kW_{AC} nameplate rated output capability of the Facility as measured at the delivery point specified in AC. For multi-unit generator facilities, the "Nameplate Capacity" of the Facility shall be the sum of the individual manufacturer's kW_{AC} nameplate rated output capabilities of the generators. The Nameplate Capacity shall also include the DC rating of the Facility. For inverted-based generating facilities, the "Nameplate Capacity" shall be the manufacturer's rated kW_{AC} output on the inverters.

(h) "Prudent Utility Practice" means those practices, methods, equipment, specifications, standards of safety, and performance, as the same may change from time to time, as are commonly used in the construction, interconnection, operation, and maintenance of electric power facilities, inclusive of delivery, transmission, and generation facilities and ancillaries, which in the exercise of good judgement and in light of the facts known at the time of the decision being made and activity being performed are considered: (i) good, safe, and prudent practices; (ii) are in accordance with generally accepted standards of safety, performance, dependability, efficiency, and economy in the United States; (iii) are in accordance with generally accepted standards of professional care, skill, diligence, and competence in the United States; and, (iv) are in compliance with applicable regulatory requirements and/or reliability standards. Prudent Utility Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of others, but rather are intended to include acceptable practices, methods and acts generally accepted in the energy generation and utility industry.

(i) "Purchase" or "Purchase of electricity" shall be construed to refer to the electricity supplied to Company by Seller from the Facility.

(j) "Seller's conductors" shall mean Seller's wires extending from the point of delivery to the switch box or other point where Seller's circuits connect for the purpose of supplying the electricity produced by Seller.

(k) "Storage Resource" means battery storage or other energy storage device installed at or connected behind the meter of the Facility.

(l) "System Operator Instruction" means any order, action, requirement, demand, or direction, from the system operator in accordance with Prudent Utility Practice, and delivered to Seller in a non-discriminatory manner, to operate, manage and/or otherwise maintain safe and reliable operations of the system, including, without limitation, an order to suspend or interrupt any operational activity due to an emergency condition or force majeure event; provided however, a System Operator Instruction in response to an emergency condition, force majeure event, or operational condition relating specifically to or created by the Facility shall not be deemed or considered discriminatory.

4. <u>CONTRACT CAPACITY</u>

(a) The Contract Capacity shall be specified in the Purchase Power Agreement and shall not exceed the capacity specified in Seller's Interconnection Agreement. This term shall mean the maximum

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continuous electrical output capability expressed on an alternating current basis of the generator(s) at any time, at a power factor of approximately unity, without consuming VARs supplied by Company, as measured at the Point of Delivery and shall be the maximum kW_{AC} delivered to Company during any billing period. Seller shall not exceed the Contract Capacity unless and until the increase has been agreed to in an amendment executed by Company and Seller and Seller's facilities have been upgraded to accept the actual or requested increase as may be required by Company in its commercially reasonable discretion.

(b) Seller shall not change the Contract Capacity (AC or DC), without adequate notice to Company, and without receiving Company's prior written consent, and if such unauthorized increase causes loss of or damage to Company's facilities, the cost of making good such loss or repairing such damage shall be paid by Seller.

(c) Company may require that a new Contract Capacity be determined when it reasonably appears that the capacity of Seller's generating facility or annual energy production will deviate from contracted or established levels for any reason, including, but not limited to, a change in water flow, steam supply, or fuel supply.

(d) Seller may apply to Company to increase the Contract Capacity during the Contract Period and, upon approval by Company and execution of an amendment to implement the change by Company and Seller, future Monthly delivered capacities shall not exceed the revised Contract Capacity. If such increase in Contract Capacity results in additional costs associated with redesign or a resizing of Company's facilities, such additional costs to Seller shall be determined in accordance with the Interconnection Agreement.

(e) Any Material Alteration to the Facility, including without limitation, an increase in the Existing Capacity or a decrease in the Existing Capacity by more than five (5) percent or the addition of energy storage capability shall require the prior written consent of Company, which may not be unreasonably withheld, conditioned or delayed, and shall not be effective until memorialized in an amendment executed by Company and Seller.

5. ESTIMATED ANNUAL ENERGY PRODUCTION

The estimated annual energy production from the Facility specified in the Purchase Power Agreement shall be the estimated total annual kilowatt-hours registered or computed by or from Company's metering facilities for each time period during a continuous 12-month interval.

6. EARLY CONTRACT TERMINATION

Early Contract Termination - If Seller terminates the Agreement, or the Agreement is terminated by Company as permitted in Section 1(i) prior to the expiration of the initial (or extended) term of the Purchase Power Agreement, the following payment shall be made to Company by Seller:

Seller shall pay to Company the total Energy and/or Capacity credits received in excess of the sum of what would have been received under the Variable Rate for Energy and/or Capacity Credits applicable at the initial term of the contract period and as updated every two years, plus interest. The interest should be the weighted average rate for new debt issued by Company in the calendar year previous to that in which the Agreement was commenced.

7. CONTRACT RENEWAL

This Agreement shall be subject to renewal for subsequent term(s) at the option of Company on substantially the same terms and provisions and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration Company's then avoided cost rates and other relevant factors, or (2) set by arbitration.

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8. QUALITY OF ENERGY RECEIVED

(a) Seller has full responsibility for the routine maintenance of its generating and protective equipment to insure that reliable, utility grade electric energy is being delivered to Company.

(b) The Facility shall be operated in such a manner as to generate reactive power as may be reasonably necessary to maintain voltage levels and reactive area support as specified by Company. Any operating requirement is subject to modification or revision if warranted by future changes in the distribution or transmission circuit conditions.

(c) Seller may operate direct current generators in parallel with Company through a synchronous inverter. The inverter installation shall be designed such that a utility system interruption will result in the removal of the inverter infeed into Company's system. Harmonics generated by a DC generator-inverter combination must not adversely affect Company's supply of electric service to, or the use of electric service by Company's other customers, and any correction thereof is the full responsibility of Seller.

(d) In the event Company determines, based on calculations, studies, analyses, monitoring, measurement or observation, that the output of the Facility will cause or is causing Company to be unable to provide proper voltage levels to its customers, Seller shall be required to comply with a voltage schedule and/or reactive power output schedule as prescribed by Company.

(e) All Material Alterations to the Facility shall require the prior written consent from Company, which shall not be unreasonably withheld, conditioned or delayed, and Seller shall provide Company written notification of any requested changes to the Facility, support equipment such as inverters, or interconnection facilities as soon as reasonably possible to allow Company adequate time to review such requested changes to ensure continued safe interconnection prior to implementation.

(f) Failure of Seller to comply with either (a), (b), (c), (d) or (e) above will constitute grounds for Company to cease parallel operation with Seller's generation equipment and constitute grounds for termination or suspension of the Agreement as set forth under paragraph 1, above.

9. BILLING

(a) Meters will be read and bills rendered monthly. Readings are taken each month at intervals of approximately thirty (30) days.

(b) If Company is unable to read its purchase meter for any reason, Seller's production may be estimated by Company on the basis of Seller's production during the most recent preceding billing period for which readings were obtained, unless some unusual condition is known to exist. A bill or payment rendered on the basis of such estimate shall be as valid as if made from actual meter readings.

(c) The term "Month" or "Monthly", as used in Company's Schedules and Riders, refers to the period of time between the regular meter readings by the Company, except that if the period covered by an initial or final bill, or due to rerouting of the meter reading schedule, is more than 34 or less than 28 days, the bill will be prorated based on a 30-day billing month.

(d) Payments for capacity and/or energy will be made to Seller based on the rate schedule stated in the Purchase Power Agreement.

(e) Company reserves the right to set off against any amounts due from Company to Seller, any amounts which are due from Seller to Company, including, but not limited to, unpaid charges pursuant to the Interconnection Agreement or past due balances on any accounts Seller has with Company for other services.

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10. RECORDS

In addition to the regular meter readings to be taken monthly for billing purposes, Company may require additional meter readings, records, transfer of information, etc. as may be agreed upon by the Parties. Company reserves the right to provide to the Commission or the FERC or any other regulatory body, upon request, information pertaining to this Agreement, including but not limited to: records of the Facility's generation output and Company's purchases thereof (including copies of monthly statements of power purchases and data from load recorders and telemetering installed at the Facility); copies of this Agreement. Company will not provide any information developed solely by Seller and designated by Seller in writing to be "proprietary" unless required to do so by order of the Commission or the FERC or any other regulatory body or court, in which event, Company will notify Seller prior to supplying the proprietary information.

Seller shall provide to Company, on a monthly basis within ten (10) days of the meter reading date and in form to be mutually agreed upon by the Parties, information on the Facility's fuel costs (coal, oil, natural gas, supplemental firing, etc.), if any, for the power delivered to the Company during the preceding month's billing period.

11. METER STOPPAGE OR ERROR

In the event a meter fails to register accurately within the allowable limits established by the state regulatory body having jurisdiction, Company will adjust the measured energy for the period of time the meter was shown to be in error, and shall, as provided in the rules and regulations of the state regulatory body having jurisdiction, pay to Seller, or Seller shall refund to Company, the difference between the amount billed and the estimated amount which would have been billed had the meter accurately registered the kilowatt hours provided by Seller. No part of any minimum service charge shall be refunded.

12. POINT OF DELIVERY

The point of delivery is the point where Company's conductors are, or are to be, connected to Seller's conductors. Seller shall do all things necessary to bring its conductors to such point of delivery for connection to Company's conductors, and shall maintain said conductors in good order at all times. If Seller chooses to deliver power to Company through a point of delivery where Seller presently receives power from Company, then the point of delivery for the purchase of generation shall be the same point as the point of delivery for electric service.

13. INTERCONNECTION FACILITIES

If Seller is not subject to the terms and conditions of the South Carolina Generator Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Interconnections, as approved by the Commission in Docket No. 2015-362-E, Order No. 2016-191 the following conditions shall apply to Interconnection Facilities necessary to deliver Seller's electricity to Company. Otherwise, the terms and conditions of the South Carolina Generator Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Interconnections, as approved by the Commission in Docket No. 2015-362-E, Order No. 2016-191 govern.

(a) By Company: Company shall install, own, operate, maintain, and otherwise furnish all lines and equipment located on its side of the point of delivery to permit parallel operation of Seller's facilities with Company's system. It shall also install and own the necessary metering equipment, and meter transformers, where necessary, for measuring the electricity delivered to Company, though such meter may be located on Seller's side of the point of delivery. Interconnection facilities, installed by either Company or Seller, solely for such purpose, include, but are not limited to connection, line extension, transformation, switching equipment, protective relaying, metering, telemetering, communications, and appropriate safety equipment.

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Any interconnection facilities installed by Company necessary to receive power from Seller shall be considered Interconnection Facilities and shall be provided, if Company finds it practicable, under the following conditions:

(1) The facilities will be of a kind and type normally used by or acceptable to Company and will be installed at a place and in a manner satisfactory to Company.

(2) Seller will pay to Company a Monthly Interconnection Facilities Charge based on 1.0 percent of the estimated original installed cost and rearrangement cost of all facilities, including metering, required to accept interconnection, but not less than $25 per month; however, the $25 minimum will not apply when the Interconnection Facilities consist only of the meter. The monthly charge for the Interconnection Facilities to be provided under this Agreement is subject to the rates, Service Regulations and conditions of Company as the same are now on file with the Commission and may be changed or modified from time to time upon approval by the Commission. Any such changes or modifications, including those which may result in increased charges for the Interconnection Facilities to be provided by Company, shall be made a part of this Agreement to the same effect as if fully set forth herein.

(3) If Company increases its investment in interconnection facilities or other special facilities required by Seller (including conversion of Company's primary voltage to a higher voltage), the Monthly Interconnection Facilities Charge for providing the additional facilities will be adjusted at that time. If the Monthly Interconnection Facilities Charge increases, Seller may terminate the Interconnection Facilities in accordance with the applicable termination paragraph 1 above, or continue Interconnection Facilities under the changed conditions.

(4) In lieu of the Monthly Interconnection Facilities Charge of 1.0 percent, Seller may elect to make a contribution equal to the total interconnection facilities investment, plus associated tax gross-ups. After such payment, the Monthly Interconnection Facilities Charge for the interconnection facilities will be 0.3 percent of said payment.

(5) The Monthly Interconnection Facilities Charge as determined shall continue regardless of the term of the Agreement until Seller no longer has need for such facilities. In the event Seller's interconnection facilities should be discontinued or terminated in whole or in part, such discontinuation or termination should be calculated in accordance with 1, above.

(6) Seller's wiring and appurtenant structures shall provide for the location, connection, and installation of Company's standard metering equipment or other equipment deemed necessary by Company for the metering of Seller's electrical output. Company shall, at its expense, be permitted to install, in Seller's wiring or equipment, any special metering devices or equipment as deemed necessary for experimental or monitoring purposes.

(7) Company shall furnish and install the Interconnection Facilities no later than the date requested by Seller for such installation. Seller's obligation to pay the Interconnection Facilities charges shall begin upon the earlier of (1) completion of the installation but no earlier than the requested in-service date specified in the Interconnection Agreement or (2) the first date when energy is generated and delivered to Company, and such charges shall apply at all times thereafter during the term of this Agreement, whether or not Seller is actually supplying electric power to Company.

(b) By Seller: Seller shall install, own, operate, and maintain all lines, and equipment, exclusive of Company's meter and meter transformers, on Seller's side of the point of delivery. Seller will be the owner and have the exclusive control of, and responsibility for, all electricity on Seller's side

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of the point of delivery. Seller must conform to the South Carolina Generator Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Interconnections. Seller's wiring shall be arranged such that all electricity generated for sale can be supplied to one point of delivery and measured by a single meter. Company's meter may be located on Seller's side of the point of delivery, and when it is to be so located, Seller must make suitable provisions in Seller's wiring, at a place suitable to Company, for the convenient installation of the type of meter Company will use. All of Seller's conductors installed on Company's side of the meter and not installed in conduit must be readily visible.

Seller shall install and maintain devices adequate to protect Seller's equipment against irregularities on Company's system, including devices to protect against single-phasing. Seller shall also install and maintain such devices as may be necessary to automatically disconnect Seller's generating equipment, which is operated in parallel with Company, when service provided by Seller is affected by electrical disturbances on Company's or Seller's systems, or at any time when Company's system is de-energized from its prime source.

(c) Access to Premises: The duly authorized agents of Company shall have the right of ingress and egress to the premises of Seller at all reasonable hours for the purpose of reading meters, inspecting Company's wiring and apparatus, changing, exchanging, or repairing Company's property on the premises of Seller, or removing such property at the time of or at any time after suspension of purchases or termination of this Agreement.

(d) Protection: Seller shall protect Company's wiring and apparatus on Seller's premises and shall permit no one but Company's agents to handle same. In the event of any loss of or damage to such property of Company caused by or arising out of carelessness, neglect, or misuse by Seller or Seller's employees or agents, the cost of making good such loss or repairing such damage shall be paid by Seller. In cases where Company's service facilities on Seller's premises require abnormal maintenance due to Seller's operation, Seller shall reimburse Company for such abnormal maintenance cost.

14. CONTINUANCE OF PURCHASES AND LIABILITY THEREFOR

The Parties do not guarantee continuous service but shall use reasonable diligence at all times to provide for uninterrupted acceptance and supply of electricity. Each Party shall at all times use reasonable diligence to provide satisfactory service for the acceptance or supply of electricity, and to remove the cause or causes in the event of failure, interruption, reduction or suspension of service for the acceptance or supply of electricity, but neither Party shall be liable for any loss or damage resulting from such failure, interruption, reduction or suspension of service, nor shall same be a default hereunder, when any interruption of service for the acceptance or supply of electricity is due to any of the following:

(a) An emergency condition or action due to an adverse condition, event, and/or disturbance on Company's system, or on any other system directly or indirectly interconnected with it, which requires automatic or manual interruption of the supply of electricity to some customers or areas, or automatic or manual interruption, reduction, or cessation of the acceptance of electricity into Company's electrical system in order to limit the occurrence of or extent or damage of the adverse condition or disturbance to Company's system or capability to reliably provide service in compliance and accordance with prudent practices, regulatory requirements, and/or reliability standards, or to prevent damage to generating or transmission facilities, or to expedite restoration of service, or to effect a reduction in service to compensate for an emergency condition on an interconnected system. An emergency condition or action shall include any circumstance that requires action by Company to comply with any electric reliability organization or NERC/SERC regulations or standards, including without limitation

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actions to respond to, prevent, limit, or manage loss or damage to Seller's Facility, reliability impairment, loss or damage to Company's system, disruption of generation by Seller, disruption of reliability or service on Company's system, an abnormal condition on the system, and/or endangerment to human life or safety.

(b) An event or condition of force majeure, as described below.

(c) Making necessary adjustments to, changes in, or repairs on Company lines, substations, and facilities, and in cases where, in its opinion, the continuance of service from Seller's premises would endanger persons or property.

Seller shall be responsible for promptly taking all actions requested or required by Company to avoid, prevent, or recover from the occurrence and/or imminent occurrence of any emergency condition and in response to any emergency condition or condition of force majeure, including without limitation installing and operating any equipment necessary to take such actions.

Seller shall be responsible for ensuring the safe operation of its equipment at all times, and will install and maintain, to Company's satisfaction, the necessary automatic equipment to prevent the back feed of power into, or damage to Company's de-energized system, and shall be subject to immediate disconnection of its equipment from Company's system if Company determines that such equipment is unsafe or adversely affects Company's transmission/distribution system or service to its other customers.

Seller assumes responsibility for and shall indemnify, defend, and save Company harmless against all liability, claims, judgments, losses, costs, and expenses for injury, loss, or damage to persons or property including personal injury or property damage to Seller or Seller's employees on account of defective construction, wiring, or equipment, or improper or careless use of electricity, on Seller's side of the point of delivery.

15. FORCE MAJEURE

Circumstances beyond the reasonable control of a Party which solely cause that Party to experience delay or failure in delivering or receiving electricity or in providing continuous service hereunder, including: acts of God; unusually severe weather conditions; earthquake; strikes or other labor difficulties; war; riots; fire; requirements shall be deemed to be "events or conditions of force majeure". It also includes actions or failures to act on the part of governmental authorities (including the adoption or change in any rule or regulation or environmental constraints lawfully imposed by federal, state or local government bodies), but only if such requirements, actions or failures to act prevent or delay performance; or transportation delays or accidents. Events or conditions of force majeure do not include such circumstances which merely affect the cost of operating the Facility.

Neither Party shall be responsible nor liable for any delay or failure in its performance hereunder due solely to events or conditions of force majeure, provided that:

(a) The affected Party gives the other Party written notice describing the particulars of the event or condition of force majeure, such notice to be provided within forty-eight (48) hours of the determination by the affected Party that an event or condition of force majeure has occurred, but in no event later than thirty (30) days from the date of the occurrence of the event or condition of force majeure;

(b) The delay or failure of performance is of no longer duration and of no greater scope than is required by the event or condition of force majeure, provided that in no event shall such delay or failure of performance extend beyond a period of twelve (12) months;

(c) The affected Party uses its best efforts to remedy its inability to perform;

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(d) When the affected Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party prompt written notice to that effect; and,

(e) The event or condition of force majeure was not caused by or connected with any negligent or intentional acts, errors, or omissions, or failure to comply with any law, rule, regulation, order or ordinance, or any breach or default of this Agreement.

16. INSURANCE

Seller shall obtain and retain, for as long as the generation is interconnected with Company's system, either the applicable home owner's insurance policy with liability coverage of at least $100,000 per occurrence or the applicable comprehensive general liability insurance policy with liability coverage in the amount of at least $300,000 per occurrence, which protects Seller from claims for bodily injury and/or property damage. This insurance shall be primary for all purposes. Seller shall provide certificates evidencing this coverage as required by Company. Company reserves the right to refuse to establish, or continue the interconnection of Seller's generation with Company's system, if such insurance is not in effect.

17. GOVERNMENTAL RESTRICTIONS

This Agreement is subject to the jurisdiction of those governmental agencies having control over either party or over this Agreement. This Agreement shall not become effective until all required governmental authorizations are obtained. Certification of receipt of all permits and authorizations shall be furnished by Seller to Company upon Company's request. This Agreement shall not become effective unless it and all provisions thereof are authorized and permitted by such governmental agencies without change or conditions.

This Agreement shall at all times be subject to changes by such governmental agencies, and the parties shall be subject to conditions and obligations, as such governmental agencies may, from time to time, direct in the exercise of their jurisdiction, provided no change may be made in rates or in essential terms and conditions of this contract except by agreement of the parties to this contract. Both parties agree to exert their best efforts to comply with all of the applicable rules and regulations of all governmental agencies having control over either party or this Agreement. The parties shall take all reasonable action necessary to secure all required governmental approval of this Agreement in its entirety and without change.

The delivery date, quantity, and type of electricity to be accepted for purchase by Company, from Seller, are subject to changes, restrictions, curtailments, or complete suspensions by Company as may be deemed by it to be necessary or advisable (a) on account of any lawful order or regulation of any municipal, State, or Federal government or agency thereof, or order of any court of competent jurisdiction, or (b) on account of any emergency due to war, or catastrophe, all without liability on the part of Company therefor.